

# Reclamation Manual

## Policy

### **TEMPORARY RELEASE**

*(Expires 05/16/2017)*

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|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Subject:</b>            | Use of Reclamation Water or Facilities for Activities Prohibited by the Controlled Substances Act of 1970                                                                                                                                   |
| <b>Purpose:</b>            | The purpose of this Policy is to provide a clear statement of the Bureau of Reclamation's intent to operate consistently with the CSA with respect to the potential use of Reclamation water or facilities for the production of marijuana. |
| <b>Authority:</b>          | Reclamation Act of 1902 (ch. 1093, 32 Stat. 388); Controlled Substances Act of 1970 (Pub. L. 91-513, 84 Stat. 1236; codified as amended in various sections of 21 U.S.C.)                                                                   |
| <b>Approving Official:</b> | Commissioner                                                                                                                                                                                                                                |
| <b>Contact:</b>            | Director, Policy and Administration                                                                                                                                                                                                         |

1. **Introduction.** The Controlled Substances Act of 1970 (CSA) and its implementing regulations prohibit the cultivation of marijuana, as defined at subsection 102(16) of the CSA (codified at 21 U.S.C. 802(16))<sup>1</sup>. Reclamation's obligation as a Federal agency to uphold Federal law prohibits it from approving the use of Reclamation water or facilities to facilitate activities prohibited by the CSA. Although the CSA's relevant prohibitions have not changed, the legalization of marijuana's cultivation and distribution under some state laws necessitates a clear statement of Reclamation's obligations under the CSA.
2. **Applicability.** This Policy applies to Reclamation staff involved in the administration of Reclamation water-related contracts.
3. **Definitions.** The definitions cited in PEC P05 apply to this Policy (see especially the terms "Contract Water" and "Water-Related Contract" at Paragraphs 3.D. and 3.R.).
4. **Responsibilities.**
  - A. **Commissioner.** The Commissioner will ensure that appropriate Policy on compliance with the CSA and other laws is issued and kept current.
  - B. **Director, Policy and Administration (Director).** The Director will issue D&S as necessary to provide additional support for implementation of the Commissioner's policies.

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<sup>1</sup>Spelled "marihuana" in the statute.

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- C. **Regional Directors.** Regional directors are responsible for the implementation of this Policy within their regions in accordance with authority delegated to them by the Commissioner. Along with complying with relevant laws and delegated authority, regional directors are responsible for ensuring that contracts are administered in a manner that protects the interests of the United States and ensures Reclamation's compliance with applicable law. Regional directors are responsible for the reporting required in Paragraph 5.A. of this Policy, and for designating the Reclamation employee responsible for compiling and maintaining the record described in Paragraph 5.C.
5. **Policy.** Reclamation will operate its facilities, make available contract water, execute and administer its water-related contracts, and otherwise perform its contractual and legal duties in a manner that is consistent with the CSA. Specifically:
- A. Reclamation will not approve use of Reclamation facilities or water in the cultivation of marijuana.
  - B. Should Reclamation employees become aware that Reclamation facilities or the water they supply are being used to facilitate cultivation of marijuana, they will, through their line management, bring this to the attention of their regional director, who will report such use to the Department of Justice and document the reporting action(s).
  - C. Throughout this process, a designated Reclamation employee will compile and maintain a record documenting all activities and communications regarding known or potential uses of Reclamation water or facilities to cultivate marijuana. These records will include all relevant memos, emails, letters, records of telephone conversations, etc. about known or potential uses of Reclamation water or facilities to cultivate marijuana, including responses by Reclamation employees.
  - D. Reclamation does not have a responsibility or designated role in actively seeking enforcement of the CSA.
6. **Commingled Water.** This Policy does not apply to non-contract water commingled with contract water in non-Federal facilities.

## RECLAMATION MANUAL TRANSMITTAL SHEET

Effective Date: \_\_\_\_\_

Release No. \_\_\_\_\_

Ensure all employees needing this information are provided a copy of this release.

### Reclamation Manual Release Number and Subject

### Summary of Changes

NOTE: This Reclamation Manual release applies to all Reclamation employees. When an exclusive bargaining unit exists, changes to this release may be subject to the provisions of collective bargaining agreements.

### Filing instructions

Remove Sheets

Insert Sheets

All Reclamation Manual releases are available at <http://www.usbr.gov/recman/>

Filed by: \_\_\_\_\_

Date: \_\_\_\_\_