



United States Department of the Interior

BUREAU OF RECLAMATION
Great Plains Region
Eastern Colorado Area Office
11056 West County Road 18E
Loveland, CO 80537-9711

IN REPLY REFER TO:

EC-1000
WTR-4.03

JAN 11 2017

Subject: Use of Reclamation Project Water or Federal Facilities for Hemp and Marijuana Cultivation, Fryingpan-Arkansas Project, Colorado-Big Thompson Project, and Trinidad Project, Colorado

To Bureau of Reclamation Contractors:

Recently, there have been several inquiries regarding the use of Reclamation Project water or federal facilities for the cultivation of hemp and marijuana. Therefore, we felt it was prudent to remind our Contractors that the use of Reclamation Project water or federal facilities for the cultivation of hemp or marijuana is not permissible. Hemp and marijuana cultivation, while legal in Colorado, is currently subject to the Federal Controlled Substances Act, codified in various sections of Title 21, U.S.C. and Reclamation policy, PEC TRMR 63. For your convenience, enclosed is the subject policy.

Where applicable, Reclamation suggests that you send a letter to your customers reminding them of federal law. If you have any questions please contact your legal counsel.

Sincerely,


J. Signe Snortland
Area Manager

Enclosure

Reclamation Manual

Policy

TEMPORARY RELEASE

(Expires 05/16/2017)

Subject: Use of Reclamation Water or Facilities for Activities Prohibited by the Controlled Substances Act of 1970

Purpose: 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.

Authority: 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.)

Approving Official: Commissioner

Contact: 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))¹. 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.

¹Spelled “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.