

## Reclamation Manual (RM) Directive and Standard, *Project Use Power* (FAC 04-06)

Reclamation responses to external comments received per the draft FAC 04-06 public comment period announced in February 2018.

C #	D&S Section	Section Header	Comment	Reclamation Response
1	General	N/A	First, A&B joins in the comments submitted by the National Water Resource Association (NWRA) and the Family Farm Alliance (FFA). A&B is a member of the Idaho Water Users Association (a member of NWRA) and is also a member of FFA. A&B has reviewed the comments to be submitted by those entities and fully supports the proposed revisions. A&B is not alone in relying upon reserved power a several other irrigation districts in Idaho also use project power to deliver water to their landowners.	Thank you for the comment.
2	5.B.3.	Project Use Power Usage - Irrigation	Next, A&B requests Reclamation to revise the D&S to ensure that “project use power” is not limited to “Reclamation project facilities.” For example, where Reclamation may transfer title or operation and maintenance responsibilities to an individual district or entity, “project use power” may still be provided to ensure continued delivery of water to such lands. The draft D&S is written in a way that it appears such power can only be used for irrigation projects “where Reclamation holds title.” Reclamation should revise this language accordingly, including specifically Section 5.b.3 (“The use of Project Use Power is restricted to facilities and equipment wholly owned by Reclamation”). Again, where a district or entity takes title to certain facilities, provision of project use power may still be authorized through Congress or contract with Reclamation.	<p>Thank you for the comment. Paragraph 5.B.3. has been revised to clarify that project use power is restricted to facilities and equipment wholly owned by Reclamation - unless congressionally authorized otherwise. This clarification reiterates a point made in Paragraph 1, “Congressional authorizations for Project Use Power vary across Reclamation Projects; to the extent this D&amp;S can be interpreted to conflict with such congressional authorizations, the congressional authorization control.”</p> <p>To your comment – the execution of title-transfer requires congressional authorization. In effect, title transfer servers Reclamation’s relationship to the asset, including management responsibilities and liability. Whereas the terms and conditions of each transfer may be unique, in general, title-transferred assets are no longer federal assets, serving federal project purposes, and are therefore no longer eligible to receive project use power benefits. With that said, Reclamation would implement the terms and conditions of the congressional action authorizing the transfer, including any congressional directive related to project use power. Further - a deviation for the title-transferred asset may be pursued in accordance with Paragraph 5.B.3 and the Appendix.</p>

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3	5.B.2.	Project Use Power Usage - Irrigation	Section 5.b.2 should further be revised to clarify that “Project Use Power” is available to “pump from wells” when authorized by Congress or by contract with Reclamation. Notably, A&B delivers water to it landowners from over 180 wells on the District. The use of such wells was authorized by Congress and through the repayment contract with Reclamation.	Authorized pumping from wells for Reclamation Project purposes - as well as any other authorized, use of Project Use Power not explicitly addressed in Paragraph 5.B.2. - is covered under "... other authorized loads directly associated with Reclamation Project operations." Paragraph 5.B.2. defines "principal uses" or project use power and is not intended to be an all-encompassing list. The concern in identifying all authorized project use loads, which vary from project to project, is that an omission of any authorized load type would imply that the omitted load type is not authorized for Project Use Power.
4	5.B.3.	Project Use Power Usage - Irrigation	Finally, Reclamation should clarify that a “deviation” is not necessary where project use power is reserved by Congress or through a contract with Reclamation. Again, there may be circumstances where project use power is provided to an entity or facility that is not “wholly owned by Reclamation” through specific authorization or contract. Those situations would not require further approval or a deviation requirement.	Thank you for the comment. Agreed, a deviation is not necessary for any loads specifically authorized by Congress to receive project use power. Language has been added to Paragraph 5.B.3. to clarify this point as it relates to non-federal equipment and facilities, noting that existing Paragraph 1. Introduction language does address this circumstance - "This D&S describes such authorized uses as “Project Use Power.” Congressional authorizations for Project Use Power vary across Reclamation Projects; to the extent this D&S can be interpreted to conflict with such congressional authorizations, the congressional authorizations control."
5	5.B.3.	Project Use Power Usage - Irrigation	Certain of our members who rely on project power have already expressed concern over some of the proposed changes in the draft D&S. The newly released version is written a bit more clearly, but both versions of the draft D&S limit the use of project power to facilities owned by the United States. Although there is a "deviation" process in the draft D&S, the policy ultimately requires specific Congressional authorization to use project power at facilities where the Federal title has been transferred to irrigation districts. Such a policy would prevent title transfers – even those with no impact on the power use status quo.	Thank you for the comment. See response to comment 2 regarding title transfer.
6	5.B.3.	Project Use Power Usage - Irrigation	The 2017 draft D&S acknowledged that Project Use Power could be used to move water in facilities that do not belong to the United States because of a transfer of title. However, the most recent draft D&S appears to contradict this by stating that “The use of Project Use Power is restricted to facilities and equipment wholly owned by Reclamation.” Paragraph 5.B(3). Although the	Thank you for the comment. See response to comment 2 regarding title transfer.

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			<p>provision does say that Reclamation might deviate from this requirement and refers to Appendix A for the deviation criteria, the negative tone of the current text and Appendix is of concern to our organizations.</p> <p>The Administration, including Reclamation, has repeatedly expressed its support title transfers for facilities like delivery canals. This change in tone seems counterintuitive to that policy. Appendix, Paragraph A.3 speaks in terms of a non-federal load consistent with the underlying Reclamation Project. That may be part of the problem. In most of these situations, an irrigation district or water users' association takes title to canal delivery systems that it already manages as transferred works. Historically, the operation of those systems has required some electrical load. Importantly, in most instances following title transfer, Project Use Power would continue to be used to move the same Reclamation water to the same irrigable lands within the same Reclamation Project. In other words, title transfer would have no impact on the power use status quo. In such instances, the irrigation district or water users' association should continue to have access to Project Use Power.</p> <p>As one of 8 conditions, all of which must be met, Appendix A, Paragraph 3.1 requires that: "Specific authority exists to deliver Project Use Power to facilities and equipment regardless of ownership." We do not believe that general project authorizations contemplated this issue when the projects were initially authorized (Congress has, at least once, specifically provided that project power continue to be available after a title transfer. Wellton-Mohawk Title Transfer Act, P.L. 106-221, Section 3.). Thus, imposing this condition likely blocks the title transfer of the most ordinary kind, water delivery facilities. Here again, this seems counter to Administration policy supporting title transfer.</p>	
7	3.A.	Definitions. Project Use Power	Section 3. Definitions. A - If this paragraph said "minimum electrical service using the most economical methods ("minimum electric service")" and then used the short definition thereafter, the consistency would improve the document.	Thank you for the comment. Definition has been revised, short definition created and applied to Paragraphs 3.A., 5., 5.A., 5.B.1., and 5.C.

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8	4.B.1.	Responsibilities. Regional Directors	Section 4. Responsibilities. B(1) - The Regional Directors make rate decisions but there is no process for reconciling different interpretations of common provisions in this D&S that could end up creating internal conflict in implementing it.	As the Approving Official, the Senior Advisor, Hydropower is responsible for providing guidance to the regions on compliance with the laws, policies, D&S (including FAC 04-06), and other authorities that apply to Project Use Power (this specific responsibility is assigned in Paragraph 4.A.). Accordingly, the Senior Advisor, Hydropower is responsible for reconciling different FAC 04-06 interpretations and resolving any internal conflict in implementing FAC 04-06, as with any Reclamation Manual release wherein the Senior Advisor, Hydropower is the Approving Official.
9	5.A.	Project Use Power Usage - Reclamation Facilities	Section 5. Project Use Power Usage – Transferred works should be added to provision “A”. It is referred to later in the D&S. In Section B(3), the negative language in this provision as compared to the 2017 draft version is not explained. Nor does this appear to reconcile with Administration policy concerning title transfer or the provisions of S. 2560 or H.R. 3281.	Thank you for the comment. Paragraph 5 language has been revised to address transferred works.  See response to comment 2 regarding title transfer.
10	6	Energy Obligations Resulting from Exchanges	Section 6. Energy Obligations Resulting from Exchanges - In considering an exchange, where will the Project Use Power come from? Is it an amount of power held in reserve at each project? Is any such use - either temporary or permanent - depending on circumstance?	In this instance, the requisite Project Use Power would come from the entity contracted to provide the exchange. The contracted entity would vary, given the unique circumstances of the project use load. Exchanges may be temporary or permanent depending on the unique circumstances of the project use load. Ultimately, the Secretary would only enter into an energy exchange contract if in his or her judgement the contracted exchange was necessary for the purposes of orderly and economical construction or operations and maintenance (O&M) of the Reclamation Project and in the interests of the United States and the project, in accordance with the Reclamation Project Act of 1939, Section 14.
11	7	Cost Recovery/Rate Setting Methodology for Project Use Power	Section 7. Cost Recovery/Rate Setting Methodology for Project Use Power. There appears to be no rate process or opportunity to comment in any formal way in this rate setting. We also note in Subparagraph A(2), that there is a reference to the private market as a parameter for rate setting for government quarters. Some areas – particularly in the Southwest - are now experiencing market rates that are below cost-based rates at Reclamation facilities. This particular provision could result in Reclamation not recovering its full costs for this use.	Per Paragraph 7, the Assistant Secretary establishes the cost recovery and rate setting methodology associated with Project Use Power, as required per Department Manual, Part 255, Chapter 1.2.I. Regional Directors are delegated the authority to adjust Project Use Power rates, so long as the methodology employed to adjust said Project Use Power rate has been approved by the Assistant Secretary, per Department Manual, Part 255, Chapter 1.2.I. Project Use Power rate setting - which

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			<p>Under “B”, the reference to preference rates is insufficiently detailed. There can be a number of different preference rates.</p> <p>Under “C”, it is not clear what is meant by stating that the rate for M&amp;I uses “will be consistent with the preference rate”. Is this a firm electric service rate, or something else?</p> <p>Section E, Subparagraph (1) uses the terms “low voltage”, “intermediate voltage”, and “full voltage” without definition or reference to some other document that would define these terms.</p>	<p>is done on a project-by-project basis and in coordination with applicable Project Use Power beneficiaries.</p> <p>Paragraph 7.A.2. states that Department policy requires that rates assigned to 'government-owned quarters' be comparable to the prevailing community or locality private market. The referenced Departmental Quarters Handbook policy (or any policy for that matter) would not result in Reclamation failing to abide by our statutory requirement to recoup appropriate, allocated costs.</p> <p>Revised Paragraph 7.B. states "... the Assistant Secretary - Water and Science has established a uniform cost recovery/rate methodology to be, in general, no more than the preference rates the Federal power marketing administrations charge preference customers for that project (255 DM 1.2.I)." Agreed that preference rates vary by project - which is addressed in existing language.</p> <p>The term "preference rate" as used in throughout FAC 04-06 refers to the firm electric service rate assigned to Reclamation preference customers by Department of Energy Power Marketing Administrations.</p> <p>Per Paragraph 7.E. (1), "Reclamation considers distribution lines and pumping plant electrical facilities, constructed solely for the purpose of supplying Reclamation Project irrigation pumping plants, as part of the irrigation plant, and as such, in the noninterest-bearing investment category." Assigning kilovolt threshold examples will not impact or undermine the meaning of Paragraph 7.E.(1).</p>
12	8	Transmission	<p>Section 8. Transmission. There is a footnote reference to master agreements with the PMAs and a reference is made to one with the Western Area Power Administration. It would be important for us to be able to access and review that document if it is a continuing control, as it appears to be in references found in many contracts.</p>	<p>The Agreement between Water and Power Resources Service Department of the Interior and Western Area Power Administration Department of Energy is available upon request.</p> <p>The Flood Control Act of 1944, Section 5 is</p>

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			<p>Footnote 2 references Section 5 of the Flood Control Act of 1944 as the standard for cost based rates as if it applied directly to Reclamation law. That is not the case. Before World War II, the then Solicitor opined that Section 5, along with Section 6 of the Northwest Power Planning Act, had to be read in pair materia with Section 9(c) of the Reclamation Project Act of 1939. It is the 1939 Act, read together with these other two provisions, that applies the standard of “lowest possible cost consistent with sound business principles.”</p>	<p>referenced in Footnote 2 to communicate the congressional mandate applied to the delivery of Reclamation hydropower - the cited section reads, "... the Secretary of the Interior, who shall transmit and dispose of such power and energy in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles." To your point, provisions relating to power marketing and power rates in Section 9(c) of the Reclamation Project Act of 1939, Section 5 of the Flood Control Act of 1944, and Section 6 of the Bonneville Project Act are in pari materia and each may be examined to shed light on the congressional intent with respect to the others. The three statutes can be read together and interpreted as establishing identical criteria for power rates and delivery. For additional information see the Flood Control Act of 1944 Notes of Opinions, available here: <a href="https://www.usbr.gov/power/legislation/fldcntra.pdf">https://www.usbr.gov/power/legislation/fldcntra.pdf</a>. See p. 801.</p> <p>Footnote 2 has been revised to reference these additional Acts that collectively establish said mandate.</p>
13	Appendix	Appendix	<p>Appendix A Paragraph 3 - consider inserting “directly associated with Reclamation Project operations” at the end of the first sentence. The quote is from Subsection 5.B(2) of the draft D&amp;S.</p>	<p>Accepted. Thank you for the comment.</p>
14	Appendix	Appendix	<p>Appendix A Subparagraph 3.1 – Subparagraph 3.1 should be amended because no such general authority in project authorizations seems to exist. The provision could be revised to say: “Using Project Use Power will create no new adverse operational or economic impacts on other existing Project Use Power uses or existing firm electric service contract deliveries.” This amended language allows the status quo to be maintained if title to a delivery facility that requires electrical use (such as a lift pump) is transferred.</p> <p>In this scenario, the irrigation district or water users’ association would continue to use project use power because the lands being served remain a Reclamation project and the water begin delivered remains Reclamation water. The Project Use Power involved is the same regardless of who has title to the facility. No</p>	<p>Thank you for the comment. See response to comment 2 regarding title transfer.</p> <p>In regards to the appendix, final sentence exists to ensure Reclamation staff evaluate any additional factors - not foreseen in the development of, and documented in, the current appendix - that may impact the deviation deliberation. In all cases, the provision of project use power will be administered in accordance with applicable Reclamation law and all deviations will require Senior Advisor, Hydropower approval.</p>

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			<p>entity will be harmed by maintaining the status quo with regard to electrical use and the overarching purpose of the Reclamation project will continue to be achieved.</p> <p>Finally, the last sentence in Appendix A should be deleted. Allowing consideration of “any mitigating factors or considerations” is a provision without a standard.</p>	
15	3.A.	Definitions. Project Use Power	3) Definitions -a definition of Reclamation Facilities should be included, or other clarity should be provided, for federal facilities (Reclamation Facilities?) that are transferred to contractors (project irrigation districts). Use of Project Use Power for transferred works needs to be included.	<p>Reclamation Facilities are addressed in Paragraph 3.B., which defines Reclamation Project.</p> <p>Transferred Works are defined in Paragraph 3.D. Paragraph 5 has been revised to address transferred works.</p>
16	5.A.	Project Use Power Usage - Reclamation Facilities	5.A.) Reclamation Facilities describes Project Use Power for reserved works, but do not mention transferred works. There are Reclamation Facilities that are not irrigation delivery facilities; i.e., offices and shops, that are transferred works and are eligible for Project Use Power. 5. B. only mentions minimum irrigation delivery.	Paragraph 5 language has been revised to address transferred works.
17	7.A.	Cost Recovery/Rate Setting Methodology for Project Use Power - Reclamation Facilities	7. A.) With recognition of changes requested in 5.A.) above, all costs to be recovered by Reclamation for Reclamation Facilities needs to exclude recovery of costs that are borne and paid by a contractor operating and maintaining Reclamation Facilities.	Thank you for the comment.
18	8.A.	Transmission - Transmission on Non-Federal Systems	8.A.) Please provide more clarity on "Federal power marketing administration will generally negotiate and contract". In what conditions will they or won't they? Is there a requirement or other agreement to refer to?	Exceptions may include instances wherein a wheeling contract was in place between the non-federal system owner and beneficiary prior to the Department of Energy Organization Act of 1977, which supported the assignment of these responsibilities to Power Marketing Administrations. In this instance, the terms of that contract may have been inherited by the Power Marketing Administration and not necessarily negotiated and contracted by the Power Marketing Administration.

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19	8.C.1.	Transmission - Transmission on Federal Systems	8.C.1.) There is a concern about the reference to the "step-up transformer". In our district we have understood our operation and maintenance responsibilities to occur at the "step-down transformer"; i.e., a transformer taking reserved power delivered at 13.2KV down to the pump plant's use of 4160V. Clarity of what is intended is needed to determine if the "step-up transformer" you reference is the same as the "step-down transformer" described above. Referring to up or down will have different connotations if the facility pump voltage is higher or lower than the incoming distribution voltage. At all of our existing facilities voltage is stepped down. "Step-up transformers" are used at our hydropower generation facilities to transmit power to the electrical "grid". Since the point of demarcation is the lower power bushing on the transformer the difference between a "step-up transformer" at a substation and the "step-down transformer" at a plant is significant and a difference of miles of transmission facilities.	Thank you for the comment. Paragraph has been revised to address unique contractual arrangements and now references the step-down transformer. Revised language reads, "Unless applicable law or contractual language provides otherwise, the point will be at the connection to the lower power bushing of the step-down transformer for the project use load, as defined in existing agreements with the Federal power marketing administrations."
20	8.C.2.	Transmission - Point of Demarcation	8.C.2.) The responsibilities of the contracted operators of federally-owned facilities needs to be mentioned here.	Reclamation Manual releases exist to establish internal requirements for Reclamation staff in implementing our statutory authorities. Releases cannot establish requirements for the public or contractors. Responsibilities of the contracted operators of federally-owned facilities would be addressed in applicable formal operations and maintenance transfer contracts.
21	5.B.3.	Project Use Power Usage - Irrigation	First, and foremost, the draft last spring acknowledged that Project Use Power could be used for moving water in facilities that do not belong to the United States because of a transfer of title. In this year's draft, we find the sentence: "The use of Project Use Power is restricted to facilities and equipment wholly owned by Reclamation." Paragraph 5.B.(3). The paragraph goes on to say that Reclamation might deviate from this requirement and refers to Appendix A for the criteria for such deviation. In last year's draft, the reference to Appendix A puts you in the same place, that is, looking at proposed criteria for delivering water using Project Use Power when the facility is not owned by the United States, but the negativity of the current text and Appendix concern me. I mentioned this because I am under the impression that it is the Administration's position to support title transfers for facilities like delivery canals. The change in tone seems counterintuitive to that policy.	Thank you for the comment. See response to comment 2 regarding title transfer.



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22	Appendix	Appendix	Let me point out a second provision, that of the Appendix, Paragraph A.3. This provision speaks in terms of a non-federal load consistent with the underlying Reclamation Project. That may be part of the problem. In most of these situations, an irrigation district or water users' association is taking title to canal delivery systems it already manages as transferred works. Some electrical load in operating those systems already has been required and thus, to continue delivering Reclamation water to project lands, Project Use Power now will go to a power using non-federal facility (like a lift pump). However, in most instances, the need for electricity is in order to move the same Reclamation water to the same irrigable lands within a Reclamation Project. Thus, the title transfer has no impact on the power use status quo.	Thank you for the comment. See response to comment 2 regarding title transfer.
23	Appendix	Appendix	Appendix A, Paragraph 3.1 requires that: "Specific authority exists to deliver Project Use Power to facilities and equipment regardless of ownership." This is one of 8 conditions, all of which must be met. I have been around a fair amount of time and I am struggling to think of a situation in which Congress has specifically made such a general authorization. Indeed, title transfer has only recently been emphasized as a program. Although I may be missing something, I don't believe that general project authorizations contemplated this issue when the projects were authorized (Congress has, at least once, specifically provided that project power continue to be available after a title transfer. Wellton-Mohawk Title Transfer Act, P.L. 106-221, Section 3.). Thus, imposing that condition likely blocks title transfer of the most ordinary kind, water delivery facilities. Here again, this seems counter to Administration policy.	Thank you for the comment. See response to comment 2 regarding title transfer.
24	3.A.	Definitions. Project Use Power	3. Definitions. A. This paragraph uses the term "minimum electrical service" to establish a standard for the quantity of Project Use Power to be used for any particular requirement. Unfortunately, different language on this same subject can be found in Section 5 (minimum service requirements using the most economical methods) and in Subsections 5.A. (electric requirements), 5.B. (minimum irrigation delivery), but no limiting language is found in 5.C. Since it would appear from Section 7 that the Regional Director sets these rates without the kind of formal process utilized by the Power Marketing Administrations, getting the standards right in this Directive & Standard would prevent misunderstanding. If this paragraph said "minimum electrical service using the most economical methods ("minimum electric	Thank you for the comment. See response to comment number 7.

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			service”)” and then used the short definition thereafter, the consistency would improve the document.	
25	4.B.1.	Responsibilities. Regional Directors	4. Responsibilities. B.(1) The Regional Directors make rate decisions but there is no process for reconciling different interpretations of common provisions in this D&S that could end up creating internal conflict in implementing it.	Thank you for the comment. See response to comment 8.
26	5.B.3.	Project Use Power Usage - Irrigation	5. Project Use Power Usage. A. Transferred Works should be added to this provision. It is referred to later on anyway. B.(3) The negative language in this provision as compared to the version last year is not explained. Nor does this appear to reconcile with Administration policy concerning title transfer or the provisions of S. 2560 or H.R. 3281.	Thank you for the comment. Paragraph 5 language has been revised to address transferred works.  See response to comment 2 regarding title transfer.
27	6	Energy Obligations Resulting from Exchanges	6. Energy Obligations Resulting from Exchanges. In considering an exchange, where will the Project Use Power come from? Is it an amount of power held in reserve at each project? Is it withdrawn from firm electric service contractors’ allocations? Is any such use either temporary or permanent, depending on circumstance?	Thank you for the comment. See response to comment 10.
28	7	Cost Recovery/Rate Setting Methodology for Project Use Power	7. Cost Recovery/Rate Setting Methodology for Project Use Power. There appears to be no rate process or opportunity to comment in any formal way in this rate setting. We also note in Subparagraph A.(2), that there is a reference to the private market as a parameter for rate setting for government quarters. We are now experiencing market rates, at least in the Southwest, that are below cost based rates at Reclamation facilities. This particular provision could end up in Reclamation not recovering its full costs for this use. B. The reference here to preference rates is insufficiently detailed. There can be a number of different preference rates. C. What does it mean when you say that the rate for M&I uses “will be consistent with the preference rate”? Is this a firm	Thank you for the comment. See response to comment 11.

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			<p>electric service rate, or something else?  E. Subparagraph (1) uses the terms “low voltage”, “intermediate voltage”, and “full voltage” without definition or reference to some other document that would define these terms.</p>	
29	8	Transmission	<p>8. Transmission.  There is a footnote reference to master agreements with the PMAs and a reference is made to one with the Western Area Power Administration. It would be important for us to be able to access and review that document if it is a continuing control, as it appears to be in references found in many contracts.</p> <p>Footnote 2 references Section 5 of the Flood Control Act of 1944 as the standard for cost based rates as if it applied directly to Reclamation law. That is not the case. Before World War II, the then Solicitor opined that Section 5, along with Section 6 of the Northwest Power Planning Act, had to be read in pari materia with Section 9c of the Reclamation Project Act of 1939. It is the 1939 Act, read together with these other two provisions, that applies the standard of “lowest possible cost consistent with sound business principles.”</p>	Thank you for the comment. See response to comment 12.
30	Appendix	Appendix	<p>Appendix A  3. Consider inserting “directly associated with Reclamation Project operations” at the end of the first sentence. The quote is from Subsection 5.B.(2) of the draft D&amp;S.</p>	Thank you for the comment. See response to comment 13.
31	Appendix	Appendix	<p>Appendix A  3.1 Based on my reading of the rest of the document and what Congress is working on in terms of authority, it would seem prudent to delete Subparagraph 3.1 because no such general authority in project authorizations seems to exist, at least to the best of my ability to research. Instead, a substitute 3.1 could say “Using Project Use Power will create no new adverse operational or economic impacts on other existing Project Use Power uses or existing firm electric service contract deliveries.”</p> <p>The above reference merely means that the status quo will be maintained if a delivery facility that requires electrical use such as a lift pump is transferred to the local irrigation district or water users’ association. The project remains a Reclamation project. The water remains Reclamation water. Lands remain lands eligible to be served within a Reclamation project. The Project Use Power involved is the same regardless of who has title to the facility. If the status quo with regard to electrical use is not</p>	See response to comment 2 regarding title transfer.

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			<p>disturbed, no one is harmed and the overarching purpose of the Reclamation project continues to be achieved.</p>	
32	Appendix	Appendix	<p>Appendix A. Finally, the last sentence in Appendix A should be deleted. Allowing consideration of “any mitigating factors or considerations” is a provision without a standard and is a direct threat to other Project Use Power customers as well as project firm electric service customers who pay most of the bills of the project. This is a “chancellor’s foot” provision and has no business in this D&amp;S.</p>	<p>Final sentence exists to ensure Reclamation staff evaluate any additional factors - unforeseen in the development of, and documented in, the current appendix - that may impact the deviation deliberation. In all cases, the provision of project use power will be administered in accordance with applicable Reclamation law and all deviations will require Senior Advisor, Hydropower approval.</p>
33	General	N/A	<p>Sidney Water Users Irrigation District (SWUID) is an agricultural irrigation project located on the Yellowstone River near Sidney, Montana. SWUID serves five sub-districts and 4,825 acres of irrigated farmland. SWUID began life as a Works Progress Administration (WPA) project in the 1930s, and began operations in 1938. Up until 1995, SWUID was state-owned by the Montana Department of Natural Resources Conservation, when it was transferred to SWUID as a public entity. Since 1946, SWUID has contracted for and received Project Use Power (PUP) under the Pick-Sloan Missouri Basin Program from the United States Bureau of Reclamation (USBR) and from the Western Area Power Administration (WAPA). SWUID’s first PUP contract was entered into in 1946, and was renewed in 1967, 1977, 1983, 1997, and 2000. Recently, SWUID was notified that USBR no longer believes that SWUID is legally entitled to contract for PUP, despite over 70 years of precedent to the contrary.</p> <p>SWUID opposes adoption of Draft Reclamation Manual D&amp;S FAC 04-06 because it appears to put into agency rule USBR’s newly-taken position regarding SWUID’s legal entitlement to contract for and receive PUP. Adopting such new rules would be arbitrary and capricious, not to mention extremely detrimental to SWUID and the large number of agricultural families that depend</p>	<p>The proposed Reclamation Manual Directive and Standard, Project Use Power (FAC 04-06) release aligns with long-standing Reclamation policy regarding the provision of project use power to non-federal entities.</p>

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			on this project for their livelihoods. Therefore, SWUID hereby opposes adoption of Draft Reclamation Manual D&S FAC 04-06.	
34	3.B.	Definitions. Reclamation Project	Section 3 - Definitions. Subsection (8) - Reclamation Project WAPA suggests simplifying "Reclamation Project" to "Project" as the definition provides a sufficiently clear explanation. There are numerous references to "Reclamation Project" throughout the document which can be simplified with a reference to "Project." Accepting this suggested revision would require conforming edits in various other sections and subsections.	The qualifier "Reclamation" is helpful in clarifying if the term "project" is referring to a comprehensive, congressionally authorized Reclamation water resource project (e.g. the Colorado River Storage Project) - or a single project work (e.g. the Glen Canyon Dam).
35	5.A.	Project Use Power Usage - Reclamation Facilities	Section 5 - Project Use Power Usage Subsection A- Reclamation Facilities WAPA suggests removing the first sentence: "Reclamation facilities include reserved works which are wholly owned, operated, and maintained by Reclamation." WAPA suggests moving the reserved works reference to subsection 5(B)(1) may provide more clarity.	Thank you for the comment. Language has been revised.
36	5.B.1	Project Use Power Usage - Irrigation	Subsection B - Irrigation - subsection ( 1) WAPA suggests adding the reference to reserved works in the first sentence with the following suggested language, as shown in underline: " <u>Project Use Power may be used for irrigation projects, both Reserved Works and Transferred Works</u> , where Reclamation holds title.	Paragraph 5 language has been revised to address transferred works.
37	5.B.3.	Project Use Power Usage - Irrigation	Subsection B - Irrigation- subsection (3) WAPA suggests adding qualifying language at the beginning of the sentence to allow exceptions by Congress, with suggested language shown in underline: " <u>Unless authorized by Congress</u> , [t]he use of Project Use Power is restricted to facilities and equipment wholly owned by Reclamation."	Thank you for the comment. Language has been revised.

C #	D&S Section	Section Header	Comment	Reclamation Response
38	6	Energy Obligations Resulting from Exchanges	<p>Section 6 - Energy Obligations Resulting from Exchanges. WAPA suggests an additional sentence, as shown in underline, be added at the end of the existing language to provide for additional coordination with respective Power Marketing Administrations:</p> <p>"The Reclamation Project Act of 1939, Section 14, grants authority to the Secretary of the Interior to enter into contracts for the exchange or replacement of water, water rights, or electric energy, as in his or her judgment are necessary for the purposes of orderly and economical construction or O&amp;M of any Reclamation Project and in the interests of the United States and the project. Per Section 14, Reclamation may utilize Project Use Power to fulfill obligations resulting from these exchanges. <u>Any exchange of power must be coordinated with Federal power marketing administrations to ensure it may be delivered and will not create any adverse impacts.</u>"</p>	Recommended language is redundant as the proposed coordination requirement already exists per established Reclamation/PMA operating agreements.
39	7	Cost Recovery/Rate Setting Methodology for Project Use Power	<p>Section 7 - Cost Recovery/Rate Setting Methodology for Project Use Power</p> <p>Subsection A - Reclamation Facilities - subsection 1</p> <p>WAPA suggests deleting the reference to "system loss" as this term has multiple meanings which may cause confusion and the remaining language provides sufficient guidance. WAPA suggests the following redaction as shown: "Power consumed at Reclamation facilities directly connected to the Federal transmission system (i.e. station service) is considered a cost to the power system <del>and treated as a system loss.</del>"</p>	Accepted. Thank you for the comment.

C #	D&S Section	Section Header	Comment	Reclamation Response
40	7	Cost Recovery/Rate Setting Methodology for Project Use Power	<p>Section 7 - Cost Recovery/Rate Setting Methodology for Project Use Power  Subsection B - Irrigation Pumping  WAPA agrees that the rate charged for irrigation pumping should strive to be no more than the preference power rates the Federal power marketing administrations charge. However, WAPA has noted that in certain circumstances the irrigation pumping rate can be higher, such as when specific capital investments are needed for a Project. WAPA suggests the following edits, shown in underline, be made to allow for such circumstances:</p> <p>"However, the Secretary has established, <u>in general</u>, a uniform cost recovery/rate methodology to be no more than the preference rates the Federal power marketing administrations charge preference customers for that project (255 DM 1.2.1). Unless applicable law provides otherwise, the cost recovery/rate will cover the average cost per kilowatt-hour of OM&amp;R expenses of the power system and applicable capital repayment <u>obligations, which may require setting a rate above that established by a Federal power marketing administration for its preference customers.</u>"</p>	Thank you for the comment. The qualifier, "in general" has been added to Paragraph 7.B. The referenced section now reads, "However, the Assistant Secretary – Water and Science has established a uniform cost recovery/rate methodology to be, in general, no more than the preference rates the Federal power marketing administrations charge preference customers for that project (255 DM 1.2.1)."
41	7	Cost Recovery/Rate Setting Methodology for Project Use Power	<p>Section 7 - Cost Recovery/Rate Setting Methodology for Project Use Power  Subsection E - Distribution Lines and Pumping Plant Electrical Facilities Constructed for Irrigation - subsection 2  WAPA suggests an additional sentence, as shown in underline, be added to avoided misinterpretation: "Transmission system substations, however, permanently remain a part of the Federal power system even though such substations feed only the pumping distribution <u>lines; except that the OM&amp;R substation costs remain with the irrigation plant and, as such, those costs remain the responsibility of the irrigators.</u>"</p>	Thank you for the comment. Language has been revised to reflect your comment.
42	8	Transmission	<p>Section 8-Transmission  Subsection C -Point of Demarcation - subsection I  WAPA suggests adding the following language, shown in underline, to allow for exceptions and historic practice. "Unless <u>contractual language</u> or applicable law provides otherwise, the point will be at the connection to the lower power bushing of the step-up transformer for the project use load, as defined in existing agreements with the Federal power marketing administrations."</p>	Accepted. Thank you for the comment - see additional paragraph edits in response to comment 19.

C #	D&S Section	Section Header	Comment	Reclamation Response
43	8	Transmission	<p>Section 8-Transmission Footnote No. 2 as referenced in Section 8 WAPA suggests that the current footnote language, which states: "In accordance with Section 5 of the Flood Control Act of 1944, the cost of such transmission service should be at the lowest cost possible consistent with sound business principles." be replaced with the following to provide additional information about the authorizing and controlling legislation for transmission service:</p> <p><u>"Power marketing administrations set rates for transmission service on the Federal Transmission System in accordance with applicable laws, such as Section 9(c) of the Reclamation Project Act of 1939, Section 5 of the Flood Control Act of 1944, and specific Project authorizations. In the event power marketing administrations enter into Wheeling contracts, the costs for Wheeling will be negotiated by the power marketing administrations and if the counter party is a jurisdictional utility, the contracts will be filed with the Federal Energy Regulatory Commission under Section 205 of the Federal Power Act."</u></p>	Footnote language has been revised to address additional statutes establishing criteria for power rates and delivery. For additional information see response to comments 12 and 29.