

Reclamation Manual

Directives and Standards

Subject:	Payments in Lieu of Taxes (PILT)
Purpose:	The purpose of this Directive and Standard (D&S) is threefold: (a) to define the responsibility of the Bureau of Reclamation for reporting those PILT entitlement acres located within Reclamation's project boundaries, where appropriate; (b) to ensure there is no multiple reporting or lack of reporting of PILT entitlement acres by Reclamation or between Reclamation and other Federal agencies; and (c) to outline how various land categories must be coded in Foundation Information for Real Property Management (FIRM) to meet Reclamation's reporting requirements under the PILT Act and its regulations. The benefit of this D&S is that project land will be properly identified and categorized so that Reclamation can meet its statutory requirements for reporting PILT entitlement acres associated with its Federal water and related projects.
Authority:	Act of October 20, 1976 (Pub. L. 94-565; 90 Stat. 2662; 31 U.S.C. 160, et. seq.) (PILT Act), as amended; Act of September 13, 1982 (Pub. L. 97-258; 96 Stat 877; 31 U.S.C. 6901, et. seq.), as amended; Act of October 22, 1994 (Pub. L. 103-397; 108 Stat. 4156; 31 U.S.C. 6901, et. seq.); and the PILT Regulations (43 CFR 44 Subpart 1881).
Approving Official:	Director, Policy and Administration (Policy)
Contact:	Land Resources Division, 84-53000

1. **Introduction.** PILT are Federal payments to states or counties (referred to as "units of general local government" in the PILT Act) that help offset losses in property taxes due to the nontaxable status of Federal lands within state or county boundaries. Reclamation must comply with the PILT Act by properly identifying and reporting annually, by state and county, those acres of land owned by the United States under Reclamation's jurisdiction that are used for water resource development projects or mitigation activities and which are reportable under the PILT Act. This land is referred to as "entitlement land."¹
2. **Applicability.** This D&S applies to land resources management staff responsible for determining the eligibility of land to be reported as PILT entitlement land. Reclamation must evaluate its land to determine whether the acres must be classified as entitlement land and whether it is the responsibility of Reclamation or another Federal agency to report the entitlement land to the Department of the Interior.

¹See 31 U.S.C. 6901(1)(C), which states that entitlement land means land "dedicated to the use of the Government for water resource activities."

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3. **Definitions.** For the purposes of this D&S, the following terms apply:
- A. **Entitlement Land.** Refers to acquired fee title and withdrawn land (including mitigation land) over which Reclamation or another Federal agency exercises jurisdictional authority. The counties containing such land are “entitled” to receive PILT payments under the PILT Act.
 - B. **FIRM.** Refers to Reclamation’s sanctioned land inventory system utilized to maintain and report inventory of Reclamation’s land including, but not limited to, acquired fee title land, withdrawn land, and easements or other interests in land. In addition to other data elements, FIRM contains information by parcel on the state, the county, and the PILT entitlement classification for all Reclamation land holdings. FIRM information is used to generate the annual PILT entitlement acreage report for the Department.
 - C. **Jurisdiction.** Refers to situations where Reclamation is the agency that exercises authority over acquired and withdrawn Federal land required for project purposes or for mitigation or settlement purposes. There may be situations where other agencies, including managing partners, perform day-to-day management functions on the land, but on which Reclamation retains the responsibility and authority.
 - D. **Land Categories.** Refers to the following types of Reclamation project land:
 - (1) acquired fee title, annotated in FIRM by “A”, and in some cases acquired jurisdiction, annotated in FIRM by “AJ”²;
 - (2) easement rights, annotated in FIRM by “E”, and in some cases easement jurisdiction, annotated in FIRM by “EJ”³; and
 - (3) withdrawn from the public domain, annotated in FIRM by “W”, and in some cases withdrawal overlap annotated in FIRM by “W2”⁴.
 - E. **Non-Entitlement Land.** Refers to any easements or other interests in land and any land acquired by Reclamation for project or mitigation purposes from a church, a school district, or other tax-exempt entity.
 - F. **Overlapping Jurisdiction.** Refers to situations where Reclamation holds jurisdiction over the land for operation of a project but another Federal agency has concurrent or

²The “AJ” (acquired jurisdiction) land category is used when Reclamation holds title to project land and the title was purchased with non-Reclamation funds. The cost for this land was not recorded in Reclamation’s financial system; however, Reclamation carries the inventory of the AJ acres in FIRM. AJ acres are fee title and are entitlement land.

³The “EJ” (easement jurisdiction) land category is used when Reclamation holds an easement right to project land and the right was purchased with non-Reclamation funds. The cost for this easement was not recorded in Reclamation’s financial system; however, Reclamation carries the inventory of the EJ acres in FIRM. EJ acres are easements and therefore not entitlement land.

⁴The use of the “W2” land category is explained in Paragraph 5.A.2 of this D&S.

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overlapping jurisdiction to carry out its mission subject to Reclamation's jurisdictional requirements for its project. Examples of overlapping jurisdiction: the National Park Service administers public recreation at Reclamation's Lake Powell reservoir; or the U.S. Forest Service manages resources at various Reclamation projects under specific legislative authorities and jurisdictions.

- G. **PILT Reported By.** Refers to the data field on the Land screen of FIRM that corresponds with (1) which agency has taken responsibility for reporting the particular PILT entitlement acres, or (2) status of acres as non-entitlement acres.
- H. **Reclamation Project Land.** Reclamation project land means any land under the jurisdiction of, or administered by, Reclamation and may include, but is not limited to the following: (1) all land acquired by Reclamation through purchase, condemnation, exchange, or donation for Reclamation project and water related purposes; (2) all land withdrawn by Reclamation from the public domain for Reclamation purposes; and (3) all interests in land acquired by Reclamation, including easements and rights exercised by the United States under the 1890 Canal Act (43 U.S.C. 945).
- I. **Withdrawal Overlap.** Describes situations where there have been intentional and valid individual withdrawals over time for an authorized Reclamation project. A portion of these various withdrawals superimpose acres on top of one another and potentially result in land inventory overlaps. As a result, the same Reclamation PILT entitlement acres may be counted more than once and result in an overstatement of the total PILT entitlement acres reported by Reclamation in the respective counties wherein those withdrawal overlaps have occurred.

4. **Responsibility for Reporting PILT Entitlement Acres.**

- A. **Regional Director.** Each regional director, or their designee, is responsible for:
 - (1) ensuring land within their regional office boundaries and projects is properly coded in FIRM in accordance with this D&S;
 - (2) identifying, inventorying, and resolving overlapping jurisdiction issues with other Federal agencies and correctly coding any withdrawal overlaps among Reclamation projects; ensuring that the agency taking responsibility for reporting the PILT entitlement acres is properly recorded in FIRM's "PILT Reported By" and "Notes" fields; and ensuring written documentation is completed stating which agency will be responsible for reporting PILT on the overlapping jurisdictional acres; and
 - (3) submitting to Policy, on an annual basis, the results of the regional review and verification of regional project land qualifying as PILT entitlement acres.

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- B. **Regional Realty Officer.** Each regional realty officer, or their designee, is responsible for:
- (1) overseeing the PILT regional review process and serving as a technical liaison to the regional director, area managers, regional and area realty staff, and Policy on regional PILT issues;
 - (2) working with their area office staff, as appropriate, to ensure that either multiple reporting of or failure to report PILT entitlement acres does not occur; and
 - (3) correcting the “PILT Reported By” code if an error is discovered during normal land records management activities.
- C. **Policy.** Policy is responsible for:
- (1) providing FIRM reports to the regions, as requested;
 - (2) compiling periodic and annual PILT reports;
 - (3) coordinating regional comments on the annual PILT reports and maintaining a centralized file containing regional variance explanations on significant changes to PILT entitlement acres; and
 - (4) compiling Reclamation’s annual PILT report from FIRM, and submitting the report under the signature of the Director of Policy to the Department by the date required.
5. **PILT Reported By Codes.** One of the following codes must be assigned to all land inventory records for properly recording the PILT reportable status. These FIRM codes designate specific parcels of land used to compile the PILT entitlement acres by state and county for Reclamation’s annual PILT report to the Department:
- A. **R - Entitlement Land that is Reportable by Reclamation.** Acquired fee title (“A”), withdrawn (“W”), and acquired jurisdiction (“AJ”) project lands are generally PILT entitlement land. All such entitlement land shall be coded with an “R” in the “PILT Reported By” field. Exceptions to this requirement are as follows:
- (1) If land was owned or administered by a state or county and was exempt from real estate taxes at the time the land was conveyed to the United States, the land is not entitled to PILT payments and will be coded with an “N” in the “PILT Reported By” field. Except: PILT entitlement payments may be made under the following special circumstances:
 - (a) If a state or county acquires land from a private party and donates that land to the United States within 8 years of acquisition, the land is considered

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entitlement land⁵ and Reclamation will code that land with an “R” in the “PILT Reported By” field.

- (b) If a state obtains Reclamation project land through an exchange and that land was considered Reclamation PILT entitlement land prior to the acquisition, the land is still considered entitlement land⁶ and Reclamation will code that land with an “R” in the “PILT Reported By” field. (See also Paragraph 6.B., Land Disposal.)
 - (c) If Reclamation acquires State of Utah land in exchange for Federal land, royalties, or other assets, and if at the time of acquisition, the county was entitled under state law to receive payments from the State of Utah “payment in lieu of taxes” program for the same land, the Federal PILT payment to the county shall not exceed the payment the state would have disbursed had the land not been acquired by the United States.⁷ The land is considered entitlement land and Reclamation will code that land with an “R” in the “PILT Reported By” field.
- (2) If there are withdrawal overlaps within Reclamation projects involving PILT entitlement acres, only one set of PILT entitlement acres shall be reported by Reclamation. To avoid what would otherwise be an over-reporting of Reclamation PILT entitlement acres to the Department and overpayment of PILT to the associated states or counties, three actions must occur:
- (a) All overlapping withdrawn acres will be coded as “R” in the “PILT Reported By” field under the respective projects because they are, in fact, entitlement lands.
 - (b) However, only one set of overlapping withdrawn acres in any one project will be coded as “W” (for withdrawn acres) in the “Land Category” field of FIRM’s Acquisition screen. (These will be the acres actually reported for PILT purposes.)
 - (c) All other overlapping withdrawn acres in the project will be coded with a “W2” (for withdrawal overlap) in the “Land Category” field on the Acquisition screen so that these acres can be excluded for PILT reporting purposes.
- (3) If a public land order (PLO) has been published in the *Federal Register* by the Bureau of Land Management (BLM) revoking the withdrawal in response to a request for relinquishment submitted by Reclamation, until the effective date of

⁵See 31 U.S.C. 6902 (b)(1).

⁶See 31 U.S.C. 6902 (b)(2).

⁷See 31 U.S.C. 6902 (b)(3).

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the PLO, Reclamation will continue to report the acres coded as “**R.**” After the effective date of the PLO, the acres will be disposed in FIRM and no longer reported by Reclamation.

- B. N – Non-Entitlement Land.** Any land acquired from a church, school district, or other tax-exempt entity by Reclamation for a project or for mitigation purposes, or any land use authorized under easement or other interest in land granted to Reclamation (including land categorized as “EJ”) is not entitled to receive PILT payments. These acres will be coded with “N” in the “PILT Reported By” field because they are not entitlement land, and they are not reportable by any agency.
- C. Overlapping Jurisdiction with Other Agencies.**
- (1) In addition to “R” for PILT entitlement land reportable by Reclamation, FIRM also contains the “PILT Reported By” codes listed in Paragraph 5.C.(2) below, for other possible jurisdictional scenarios of Reclamation project land. These codes will generally remain unchanged in FIRM unless there is a change in withdrawal or land status, or a future agreement or determination is made that an agency or bureau other than Reclamation will report specific project entitlement land for PILT purposes⁸.
 - (2) The “PILT Reported By” field will reflect the following codes depending upon which agency has the PILT reporting responsibilities for specific parcels of Reclamation project land:
 - (a) **C** - Entitlement land that is reportable by U.S. Army Corps of Engineers.
 - (b) **F** - Entitlement land that is reportable by U.S. Forest Service.
 - (c) **L** - Entitlement land that is reportable by BLM.
 - (d) **P** - Entitlement land that is reportable by National Park Service.
 - (e) **R** – Entitlement land that is reportable by Reclamation.
 - (f) **W** - Entitlement land that is reportable by U.S. Fish and Wildlife Service.
 - (g) **X** - Entitlement land that is reportable by any agency other than listed above, such as Department of Energy (Western Area Power Administration and Bonneville Power Administration).

⁸If there is legislation, regulation, Executive Order, or Secretarial Order that requires another Federal agency to report the land included in the overlapped acres as their PILT entitlement land, then that other Federal agency is required to report both Reclamation’s PILT entitlement land and their land as that agency’s PILT entitlement acres.

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- (3) For all project land where other agencies or bureaus have jurisdictional responsibilities or are involved, Reclamation will take reasonable steps to coordinate with the other agencies or bureaus to ensure that land is reported appropriately, and that entitlement land reportable by Reclamation is neither overlooked nor duplicative. Changes in the “PILT Reported By” code in FIRM will be supported by written documentation, retained at the regional office, of the agreement or determination upon which the change is based.

- D. **Reclamation Land Managed by a Non-Federal Entity.** As the landholding agency with jurisdiction, Reclamation will retain the responsibility for reporting PILT entitlement acres under the requirements of this D&S, and the FIRM records for Reclamation land managed by a non-Federal entity will contain the “PILT Reported By” code “**R**.”

6. Land Disposal.

- A. If Reclamation PILT entitlement land is disposed through sale, withdrawal revocation, transfer to another Federal agency, exchange with any entity other than a state, or title transfer,⁹ the land will no longer be reportable by Reclamation as PILT entitlement acres. Such land will carry a “Disposal Status” code of “**02**” and will be excluded from Reclamation’s PILT report.
- B. When Reclamation PILT entitlement land is deeded to a state in exchange for other state land and the deeded land continues to be eligible for PILT payments, the deeded Reclamation land will be disposed with the unique “Disposal Status” code of “**04**.” The deeded land will continue, however, to be coded with an “**R**” in the “PILT Reported By” field along with the following requirements:
- (1) The “Notes” field in the System’s Disposal screen will be annotated that this is an “Exchange action under 31 USC 69, Section 6902(b)(2).” In this situation, Reclamation is required by the PILT Act to continue to “carry” the exchanged land in its inventory as Federal PILT entitlement land until it is sold by the state to a private entity. In this event, PILT entitlement eligibility will cease and the “Disposal Status” code will be changed to “**02**.”
 - (2) The conveyance deed to the state shall include a clause requiring the state to notify Reclamation when the exchanged PILT entitlement acres, or any part thereof, are sold into private ownership.¹⁰

⁹Reclamation will discontinue reporting transferred land for PILT, except if the title transfer legislation explicitly states that the land will continue to be reportable as PILT entitlement acres by Reclamation.

¹⁰This state notification requirement is promulgated in the Reclamation policy letter, dated March 25, 1995, from Division of Finance to the Program Analysis Office. (It is normally not appropriate in a D&S to state responsibility of entities outside of Reclamation; however, Paragraph 5.B.(2) is provided to alert Reclamation staff that the deed covenants must include a requirement for the state to notify Reclamation when the transferred or exchanged land leaves the state or county ownership and moves into private hands.)

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7. PILT Annual Reporting Process.

- A. Near the end of each fiscal year, Policy will create preliminary reports comparing the PILT entitlement acres reported to the Department in the prior fiscal year with those in FIRM for the fiscal year to be reported. The reports will reflect: (1) the total PILT entitlement acres by region, state, and county, and (2) comparison of the differences between the year being reported and prior year PILT entitlement acres. These reports will be forwarded to the regions for review.
- B. The regional offices will review the comparison reports and provide brief explanations where there are significant decreases or increases. Variance explanations will be returned to Policy with sufficient time to meet the Department reporting deadline. The regional offices will notify Policy of any changes to PILT entitlement codes that must be made in FIRM.
- C. Agency PILT reports are typically due to the Department in November. When forwarding Reclamation's annual PILT report to the Department, Policy will describe, where appropriate, significant variations (primarily decreases) of PILT entitlement acres by county between the prior year and the reporting year.