

Department of the Interior

Departmental Manual

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Chapter 1: Program Delegations

Originating Office: Bureau of Reclamation

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1.1 Delegation. Subject to the exceptions in Section 1.2, the Commissioner of Reclamation (Commissioner) is delegated the authority of the Assistant Secretary – Water and Science to:

A. Manage, develop, and protect water and related resources, and to design, construct, operate, maintain, and replace water resources development projects and manage the associated lands, as authorized by the Reclamation Act of 1902, June 17, 1902 (ch. 1093; 32 Stat. 388), and all acts amendatory thereof and supplementary thereto; by the Small Reclamation Projects Act of August 6, 1956 (Pub. L. 84-984; 70 Stat. 1044); by the Water Conservation and Utilization Act of August 11, 1939 (Pub. L. 76-398; 53 Stat. 1418); and by any acts which direct the Secretary to act by and through the Commissioner or the Bureau of Reclamation.

B. Take the following actions, either directly or by providing financial assistance to non-Federal parties, pursuant to the Conservation of Wild Life, Fish and Game Act of March 10, 1934 (Pub. L. 73-121; 48 Stat. 401) as amended by the Fish and Wildlife Coordination Act of August 14, 1946 (Pub. L. 85-624; 72 Stat. 563; 16 U.S.C. 661-666c); Section 5 of the Endangered Species Act of 1973, December 28, 1973 (Pub. L. 93-205; 87 Stat. 884; 16 U.S.C. 1534); and Section 7(a) of the Fish and Wildlife Coordination Act of 1956, August 8, 1956 (70 Stat. 1122; 16 U.S.C. 742f(a)), regarding the construction and/or continued operation and maintenance of any Federal reclamation project:

(1) plan, design, and construct, including acquiring lands or interest therein as needed for:

(a) fish passage and screening facilities at any non-Federal water diversion or storage project; or

(b) projects to create or improve instream habitat.

(2) acquire or lease water or water rights from willing sellers or lessors; or

(3) monitor and evaluate the effect of Reclamation actions on Endangered Species Act-listed species.

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1.2 Delegation Exceptions. The following authorities are retained by the Assistant Secretary – Water and Science and are not delegated to the Commissioner:

A. Approving land classification studies of proposed new project lands pursuant to Section 4, Subsection D of the Second Deficiency Appropriation Act for 1924, December 5, 1924 (Pub. L. 67-292; 43 Stat. 702; 43 U.S.C. 462).

B. Making the findings of feasibility of a new project, new division of a project, or supplemental works of a project, pursuant to Section 9(a) of the Reclamation Project Act of 1939, August 4, 1939 (Pub. L. 76-260; 53 Stat. 1193; 43 U.S.C. 485h(a)).

C. Approving and adopting project feasibility reports, including initial project construction cost allocations pursuant to Sections 9(a)(3), (4), and (5), for submission to the President and to the Congress pursuant to Section 9(a) of the Reclamation Project Act of 1939, August 4, 1939 (Pub. L. 76-260; 53 Stat. 1193; 43 U.S.C. 485h(a)) and other authorities (e.g., Title I of the Rural Water Supply Act of 2006, December 22, 2006 (Pub. L. 109-451; 120 Stat. 3345)).

D. Approving the Annual Operating Plan for Colorado River Reservoirs pursuant to Section 602 of the Colorado River Basin Project Act of September 30, 1968 (Pub. L. 90-537; 82 Stat. 885; 43 U.S.C. 1552), as amended, and the 1970 Criteria for Coordinated Long-Range Operation of Colorado River Reservoirs.

E. Making final decisions pursuant to Title I, Section 107(e) and Title IV, Section 403(i)(2)(B) for the Department to waive the applicability of Federal regulations for agreements entered into pursuant to Title I, Section 102 and Title II, Section 204 of the Indian Self-Determination and Education Assistance Act of January 4, 1975 (Pub. L. 93-638; 88 Stat. 2206), as amended by the Indian Self-Determination Act Amendments of 1994, October 25, 1994 (Pub. L. 103-413; 108 Stat. 4250). Any contract or proposed studies awarded must be reviewed by the Office of the Solicitor.

F. Executing and administering water-related contracts with repayment obligations exceeding \$50 million or 100,000 acre feet.

G. Executing and issuing Public Notices opening lands to homestead entry and Public Announcements offering lands for sale; however, this limitation shall not prohibit the amendment of such Public Notices or Public Announcements and their publication in the Federal Register by the Commissioner when, in his/her judgment, adjustments in provisions thereof are in the best interest of sound project development and such adjustments do not modify the basic requirements for homestead entry on public lands of the United States.

H. Withdrawing public lands.

I. Establishing rates for project use power and energy.

1.3 Further Delegation. Subject to the limitations set forth in Section 1.4, the Commissioner may, in writing, further delegate to officers and employees of Reclamation the authorities that are delegated to the Commissioner in this chapter; such further delegations may also be withdrawn by the Commissioner at any time in writing. Such further delegations of authority by the Commissioner may be further delegated by such officers and employees in writing to their subordinates.

1.4 Limitations on Further Delegation. The authority of the Commissioner to delegate as provided in Section 1.3 is limited as follows:

A. The Commissioner may only delegate to the Upper Colorado and Great Plains Regional Directors the authority to perform the functions, exercise the authority, and receive reports pursuant to Senate Document 80 (75th Congress, First Session, June 15, 1937) and the decrees in the action *United States v. Northern Colorado Water Conservancy District et al.* (U.S.D.C. for the District of Colorado, Civil Nos. 2782, 5016, 5017).

B. The Commissioner may only delegate to the Lower Colorado Regional Director the authority to renew or extend the June 14, 1972, contract with Mexico for delivery of part of Mexico's Colorado River water entitlement to the City of Tijuana, Baja California, Mexico, in amounts specified in Minute No. 240, dated June 13, 1972, of the International Boundary and Water Commission, United States and Mexico.

C. The Commissioner may not delegate the authority provided in Title IV, Section 403(i)(2)(B) of the Indian Self-Determination and Education Assistance Act of January 4, 1975 (Pub. L. 93-638; 88 Stat. 2206), as added by Title II, Section 204 of the Indian Self-Determination Act Amendments of 1994, October 25, 1994 (Pub. L. 103-413; 108 Stat. 4250).

D. The Commissioner may not delegate the authority to issue rules in Title 43 of the Code of Federal Regulations (i.e., rules to implement the Reclamation Reform Act of 1982, October 24, 1982, and the Law Enforcement Authority at Bureau of Reclamation Facilities Act of November 12, 2001).