



403 FW 1, Policy, Objectives, and Responsibilities

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1.1 Purpose. The purpose is to promulgate policies, roles, and responsibilities applicable to the Service's water rights management program.

1.2 Objectives. Objectives are to obtain water supplies of adequate quantity and quality, and the legal rights to use that water, for development, use, and management of Service lands and facilities, and for other congressionally authorized objectives such as protection of endangered species and maintenance of instream flows. These objectives can be achieved by:

- A.** Reviewing and documenting the need for and use of water at field stations and research laboratories.
- B.** Identifying and evaluating water rights appurtenant to, or which may be applied to beneficial use on, lands proposed for protection, restoration, enhancement, development, or acquisition.
- C.** Asserting appropriative, riparian, vested, and reserved water rights in proper administrative and judicial forums.
- D.** Submitting applications for new State appropriative water rights and changes to existing State appropriative water rights according to State law.
- E.** Providing technical and evaluation data to the Solicitor and Department of Justice to resolve water rights controversies through negotiation and litigation.
- F.** Identifying and pursuing opportunities to acquire water through mitigation, settlement of litigation, legislation, or other means to satisfy Service objectives.
- G.** Communicating water rights technical and policy guidance to project leaders and Service managers.

1.3 Policy. It is the Service's policy to comply with State laws, regulations, and procedures in obtaining and protecting water rights, both for Service facilities and for trust fish and wildlife

resources on lands not owned by the United States, except where application of State statutes and regulations does not permit Federal purposes to be achieved. Federal reserved water rights will be quantified and asserted when necessary to accomplish the primary purpose of the reservation. Water rights shall be purchased if essential to Service activities and not otherwise available. Water rights appurtenant to lands proposed for protection, restoration, enhancement, development, or acquisition will be identified and evaluated early in the planning process, and proposed actions will not proceed until water rights have been acquired. All water rights associated with water uses by permittees will be secured in the name of the United States, Fish and Wildlife Service, and permittees may be issued special use permits allowing the use. Service water rights shall be managed to ensure that they are not lost and water use/distribution systems will be designed and operated for efficient use of water. The Service shall cooperate with the States on all matters related to water use and water rights and will seek to resolve conflicts through negotiation, in coordination with the Solicitor's Office, as appropriate. However, if negotiations prove unproductive, other courses of action, including litigation, will be pursued.

1.4 Responsibilities. This section defines the water rights responsibilities of various organizational levels of the Service.

A. Director. The Director has the authority to acquire, perfect, and protect water rights pursuant to the provisions of State and Federal law and in conformity with applicable interstate compacts and international treaties, and to take the necessary steps, including litigation, to maintain such water rights in good standing.

B. Regional Director. The Regional Director establishes Regional water rights policy. The Regional Director designates a Regional Water Rights Manager who has management responsibility for the water rights program.

C. Assistant Regional Director. At the discretion of the Regional Director, the appropriate Assistant Regional Director provides technical assistance and management support for the water rights management program. The Assistant Regional Directors for Refuges and Wildlife, Fisheries and Federal Aid, and Ecological Services ensure that use of water under the Service's water rights program is consistent with laws and regulations.

D. Regional Water Rights Manager. The Regional Water Rights Manager is appointed by the Regional Director. The Regional Water Rights Manager is responsible for managing Service water rights in the Region. Duties may include:

- (1) Providing guidance on policy and technical issues that may affect the Service's water rights.
- (2) Coordinating water rights issues with the Solicitor's Office, Federal and State agencies, and private entities.
- (3) Providing the Solicitor's Office and the Department of Justice with water rights data for administrative proceedings, litigation, and negotiation as needed.

- (4) Representing the Regional Director in meetings, hearings, and negotiation sessions on water rights issues.
- (5) Identifying and quantifying Federal reserved water rights, in consultation with the Solicitor's Office.
- (6) Filing applications required to obtain new water rights or make changes to existing water rights administered under State law.
- (7) Filing objections and protests with the appropriate authority when other appropriators file applications for new water rights or changes to existing water rights that may adversely affect Service water rights.
- (8) Reviewing annual water management plans and other reports, as necessary, to ensure that water use at Service facilities is in accordance with each facility's water rights.
- (9) Recommending changes in water management practices, as appropriate.
- (10) Preparing and/or reviewing and submitting all legally required water rights/use reports, documents, and data.
- (11) Identifying and evaluating water rights proposed for acquisition.

E. Project Leader. The Project Leader is responsible for the management and documentation of all water use applicable to, or on, the field station (and at research laboratories). The Project Leader:

- (1) Advises the Regional Water Rights Manager, and the appropriate Assistant Regional Director, of the need for new water rights, the need to change existing rights, threats to the facility's water rights or water supply, and any other water rights activities which could impact the facility's water resources.
 - (2) Maintains records of water use sufficient to document beneficial use of water.
 - (3) Ensures that water use is in accordance with the terms of the water right.
 - (4) Submits an annual water use report and management plan to the appropriate Assistant Regional Director. The Regional Water Rights Manager reviews the report/plan to ensure compliance with the facility's water rights.
 - (5) Submits draft water rights applications, State-required water use reports, and other water rights documents through the appropriate Assistant Regional Director to the Regional Water Rights Manager.
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