FORM 7-21XS
2005 Instructions

(7-04)

INSTRUCTIONS FOR DESIGNATION OF EXCESS LAND

(For Landholders Subject to Certification and Reporting Requirements of the Reclamation Reform Act of 1982)

Bureau of Reclamation

OMB Control No.: 1006-0005

Do not use this form after December 31, 2005

Paperwork Reduction Act

This information is being collected to establish landholder compliance with Federal reclamation law. Response to this request is mandatory in accordance with Public Law 97-293 and 43 CFR 426.18. Public reporting burden for this form is estimated to average 30 minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. Direct comments regarding the burden estimated or any other aspect of these forms to Manager, Reclamation Law and Revenues Management Office, Code D-5200, U.S. Bureau of Reclamation, PO Box 25007, Denver CO 80225.

GENERAL INFORMATION

"General Information About RRA Forms" (Form 7-21INFO) provides basic instructions on using Reclamation Reform Act of 1982 (RRA) forms. Ask your district office for this form each year to keep current. Refer to the definitions at the end of Form 7-21INFO whenever the meaning of a term is not clear to you. Please note, some terms such as "irrigable land," "irrigation land," and "irrigation water" have special definitions when used in these forms which differ from their common meaning. Other terms and corresponding definitions that are specific to the RRA forms are:

- "**Land**" or "**acres**" means irrigable or irrigation land.
- "**You**" or "**your**" means all types of landholders -- individuals, entities, religious or charitable organizations, trusts, estates, etc.
- "**We**," "**us**," "**our**," or "**Reclamation**" means the Bureau of Reclamation.

As used in the RRA forms, the term "actual acres" refers to all irrigable and irrigation acres with no adjustment applied for Class 1 equivalency. The term "Class 1 equivalent acres" refers to the resulting number of acres when an adjustment is made to actual acres for Class 1 equivalency.

Visit www.usbr.gov/rra for more information.

WHO MUST SUBMIT THIS FORM

You must submit a "Designation of Excess Land" (Form 7-21XS) if you are:

- A landholder (individual or entity) who exceeds your ownership entitlement. All land over your ownership entitlement must be designated as excess whether you want to irrigate the land or not.
- A landholder who has excess land even if that landholder does **not** currently exceed his/her/its ownership entitlement.
- An entity who agrees to designate some land as excess when a part owner is over their ownership entitlement. Your entity's part owners do not have to submit Form 7-21XS if your entity designates excess land but the part owner still does not exceed his/her/its ownership entitlement (including all indirectly owned land).
- A landholder who purchases land that was designated as excess by the seller without our sales price approval. **Note:** This applies even if you do not exceed your ownership entitlement.
- A landholder who involuntarily acquires excess land.
- A landholder who involuntarily acquires nonexcess land and then designates that land as excess. Such a landholder must complete Form 7-21XS even if the landholder still has ownership entitlement available.

- Any party attributed with the land held (directly or indirectly owned or leased) by the trust or estate who exceeds his/her/its own entitlement. In this instance, the trust or estate must designate excess land even though trusts and estates do not have a set limitation on the amount of land they can own. We will determine all land held by you to be ineligible to receive Reclamation irrigation water if you exceed your westwide ownership entitlement and you do not submit Form 7-21XS to designate your excess acres. Your land will remain ineligible until the appropriate excess designation is made.

WHERE TO SUBMIT FORMS

If you must complete a Form 7-21XS, then you must submit a Form 7-21XS along with your standard form to **each district** in which you own land subject to the acreage limitation provisions. You must submit the original form to one district and you may submit copies to the others if you hold land in more than one district.

WHEN THIS FORM IS REQUIRED

You must submit Form 7-21XS each and every year you exceed your ownership entitlement or when you agree to designate land as excess due to a part owner who exceeds his/her/its ownership entitlement. You do not need to submit Form 7-21XS for this water year if there is no change to your most recently submitted Form 7-21XS **and** you are eligible to submit a "Verification of Landholdings" (Form 7-21VERIFY). Once you file a designation, it remains in full force and effect until you submit a written request for redesignation to your district office and it is approved by us. You must only submit a request for redesignation whenever there is a change in land designated as excess. Your request for redesignation must be accompanied by a new standard form and a new Form 7-21XS, and we must approve it in writing prior to being filed with the district office. Merely submitting a Form 7-21XS with a redesignation of excess land will not change your prior designation.

Your entity has two options if it owns land that is alienable and separable, and a part owner of your entity requests the entity to designate excess land because the part owner exceeds his/her/its ownership entitlement:

(1) Your entity may designate enough land to attribute to the part owner the number of acres equal to what the part owner needs to designate as excess land. For example, a part owner owns 50 percent of a legal entity and he needs to designate 50 acres as excess land. The part owner asks the legal entity to designate excess land. The entity must designate 100 acres as excess land in order for the part owner to have 50 excess acres attributed to him; or

(2) Your entity can amend the deed to the owned land to provide the part owner "title" to the specific amount of land needed to be designated as excess land by the part owner. With this option, only 50 acres would need to be designated as excess land instead of the 100 acres in the example provided in option 1.

The second option does not apply to owned land if the land is not alienable and separable nor to leased land under any circumstances.

If you are an indirect landholder, you may apply Class 1 equivalency to your designation of nonexcess land if the direct landholder has already utilized Class 1 equivalency on his/her/its Form 7-21XS. You should obtain a copy of the direct landholder's form, and indicate the same acreage as excess as the direct landholder. If after taking that action you still exceed your ownership entitlement, then apply one of the following:

(1) <u>If you hold land both directly and indirectly</u>, then apply the Class 1 equivalency to your directly held land.

(2) <u>If you hold no land directly (or you do not want to designate such land as excess) and the direct landholder does not exceed the applicable entitlement</u>, then use the applicable Class 1 factors to determine how much land to request the direct landholder to designate as excess land. Once the direct landholder has completed Form 7-21XS, obtain a copy of that form and indicate the same acreage as excess as the direct landholder.

GENERAL INSTRUCTIONS

Type or print in ink all answers. You must initial and date any crossouts and corrections. You may attach continuation sheets to list information. Please contact your district office or the appropriate Reclamation office if you have any questions.

ITEM BY ITEM INSTRUCTIONS

Landholder Information

1. Enter the landholder's name.

2. Enter the spouse's name if the landholder is married.

3. (a) Enter the landholder's, trustee's, administrator's or executor's street address or rural route number, city, state, and ZIP code. An attorney's address, "c/o" address, etc., is not acceptable in place of a street address. Post office box numbers may be used only if no other address exists.

   (b) Enter the landholder's mailing address if it is different from the street address.

4. (a) Enter the telephone number where questions can be directed.

   (b) Enter the name of a contact person at that telephone number.

5. Check the box that best identifies the landholder's ownership entitlement. Fill in the number of acres on the line provided if you check "Other." Check the box marked "Trust or Estate" instead of checking an entitlement if you are completing this form for a trust or estate.

6. (a) **For entities only:** Enter the name(s) of the part owner(s) causing the entity to complete this form. Your entity may not exceed its ownership entitlement, but it may complete this form solely because one (or more) of your entity's part owners exceeds his/her/its ownership entitlement and your entity has agreed to designate all or part of its land as excess.

   (b) **For trusts or estates only:** Identify the attributed direct or indirect landowner(s) who exceed his/her/its ownership entitlement, causing the trust or estate to complete this form.

Directly Owned Nonexcess Land

7. Complete this section if the landholder directly owns land and either a portion or all of that land is to be designated as nonexcess. Identify which parcels of the directly owned land will count against the landholder's ownership entitlement.

   If you are unsure of the meaning of the terms "actual acres" or "Class 1 equivalent acres," please see the "GENERAL INFORMATION" section of these instructions and the definitions provided in Form 7-21INFO.

   (a) Name of district in which the land parcel is located.

   (b) Provide an accurate legal description or an assessor's parcel number. Be sure to break down land parcels as far as necessary to ensure accurate identification. Group parcels by district if you are listing parcels located in more than one district.

   (c) Number of actual acres in the land parcel.

   For direct landholders with a Class 1 equivalency factor: The following instructions explain how to calculate the maximum number of acres you may designate as nonexcess.

   If all of your land is of one class other than Class 1 and has a Class 1 equivalency factor of less than 1.0, you can divide your ownership entitlement by that equivalency factor to determine the number of acres you may designate as **nonexcess**. If your equivalency factor is more than 1.0, you will need to multiply your ownership entitlement by that equivalency factor.

   Example: If you own 1,200 acres and if your ownership entitlement is 960 acres and all your land is Class 2 with a Class 1 equivalency factor of 0.8, you will enter 1,200 **nonexcess acres** in column 7(c) (960) 0.8 = 1,200).

   If you have multiple classes of land and need assistance completing this item on your form, please contact your district office or the appropriate Reclamation office.

   (d) If appropriate, enter the Class 1 equivalency factor for the district in which the land parcel is located. You may use this column only if you are subject to the discretionary provisions and only for land you own in those districts listed in column 7(a) that have Class 1 equivalency factors. Leave this column blank if you are not subject to the discretionary provisions or if none of the districts listed in column 7(a) have Class 1 equivalency factors. Again, Class 1 equivalency can only be applied to acres in those districts that have Class 1 equivalency factors.

   (e) If you completed column 7(d), enter the Class 1 equivalent acres by dividing item 7(c) by item 7(d) if your Class 1 equivalency factor is more than 1.0, or by multiplying item 7(c) by item 7(d) if your Class 1 equivalency factor is less than 1.0.

Example: If you have 1,200 actual Class 2 acres with a Class 1 equivalency factor of 0.8, you will enter 960 acres in column 7(e) (1,200 H 0.8 = 960).

The total acres in column 7(e) cannot exceed your ownership entitlement.

This column can be used only by landholders subject to the discretionary provisions and only for those districts listed in column 7(a) that have Class 1 equivalency factors. Leave this column blank if you are not subject to the discretionary provisions or if none of the districts listed in column 7(a) have Class 1 equivalency factors. All land you directly own must be designated on this form as either **nonexcess or excess**. You can verify this by adding the total of column 7(c) and item 12. This total should equal the total number of directly owned acres on your standard form.

Indirectly Owned Nonexcess Land

8. Complete this section if you exceed your ownership entitlement and you are a part owner, beneficiary, trustee, or grantor who is attributed with land owned by an entity, trust, or estate and a portion of such indirectly owned land is designated as nonexcess by the direct owner of such land. **Only direct landowners** can designate nonexcess land.

   Determine which of the following situations applies to you;

   - If you have asked a direct landowner to complete a Form 7-21XS and the landowner has done so, or the direct landowner has completed a Form 7-21XS for other reasons, you must use the direct landowner's Form 7-21XS to complete this section. Any applicable Class 1 equivalency calculations will be preformed on the direct landowner's Form 7-21XS.

   - OR, if the direct landowner has not completed a Form 7-21XS, then all land you indirectly own through that landowner must be included here.

   If you are unsure of the meaning of the terms "actual acres" or "Class 1 equivalent acres," please see the "GENERAL INFORMATION" section of these instructions and the definitions provided in Form 7-21INFO.

   An indirect landholder who meets the following criteria must also note in column 8(b) what action was taken (e.g., I am not over my ownership entitlement because when the available Class 1 equivalency factor is used I only have Class 1 equivalent acres) if the indirect landholder:

   (1) Exceeds his/her/its ownership entitlements;

   (2) Only holds land through entities that are under their entitlements; **and**

   (3) Finds that when Class 1 equivalency is available in the district(s) and applied by the direct landholder, it results in the indirect landholder also being under entitlement.

   (a) Name of district in which the land parcel is located.

   (b) Name of the direct landowner (i.e., the entity that owns land in which you own an interest, or the name of the trust or estate in which the land is held).

   (c) Number of actual or Class 1 equivalent acres designated as nonexcess by the direct landowner (entity, trust, or estate). You must obtain this number from item 7(c) if no Class 1 equivalency factor is used, or from 7(e) if Class 1 equivalency is used, on the direct landowner's Form 7-21XS.

   (d) What type of acres were included in item 8(c): actual acres or Class 1 equivalent acres. You must indicate "actual acres" if the acreage you are using was obtained from item 7(c) of the direct landowner's Form 7-21XS. You must indicate "Class 1 equivalent acres" if the acreage you are using was obtained from item 7(e) of the direct landowner's Form 7-21XS.

   (e) The percentage of interest in the entity, trust, or estate that is attributed to this landholder.

   (f) Multiply item 8(c) by item 8(e) in decimal form. This is the number of indirectly owned nonexcess acres attributable to this landholder by the entity, trust, or estate.

9. For calculation purposes only, please complete the steps specified below and enter your total for each step in the space provided to the right of the written instruction:

(a) Total column 7(c) for those land parcels where Class 1 equivalency is not applicable, or. . . . . 9(a) _____

(b) Total column 7(e) for those land parcels where Class 1 equivalency is applicable. . . . . 9(b) _____

(c) Total column 8(f). . . . . 9(c) _____

(d) Add the totals you calculated above. This is the number of acres westwide that you designate as nonexcess. Enter this total in item 9 on the form. . . . . 9(d) _____

Total acres in item 9 cannot exceed your ownership entitlement.

Directly Owned Excess Land

10. Enter the landholder's name again. (These forms are often photocopied, so it is necessary to have the landholder identified on each page.)

11. Complete this section if you directly own land and all or a portion of that land is to be designated as excess. You must identify which parcels of your directly owned land you want to be considered in excess of your ownership entitlement.

    If you are unsure of the meaning of the terms "actual acres" or "Class 1 equivalent acres," please see the "GENERAL INFORMATION" section of these instructions and the definitions provided in Form 7-21INFO.

    (a) Name of district in which the land parcel is located.

    (b) Provide an accurate legal description of the land parcel or an assessor's parcel number.

    (c) Indicate if the land is receiving water, and if so, what type.

    (d) If the land is receiving Reclamation irrigation water, list the reason why (e.g., land under recordable contract, involuntarily acquired, etc.).

    You must provide the following information on an "Attachment Sheet for Form 7-21XS" (Form 7-21XSINAQ) or on a separate sheet of paper and attach it to your Form 7-21XS if you involuntarily acquired eligible land and designated that land as excess:

    Note: If you involuntarily acquire nonexcess land and designate it as excess, in general, the land will be eligible to receive Reclamation irrigation water for 5 years from the date of acquisition, or in the case of inheritance, from the date of the previous landholder's death.

    (1) Identify which nonexcess land parcel you involuntarily acquired and designated as excess in item 11(c) by providing the legal description of the land parcel or an assessor's parcel number.

    (2) The name of the landholder from whom each parcel was involuntarily acquired;

    (3) The date each parcel was involuntarily acquired;

    (4) The status of the parcel when it was acquired (e.g., nonexcess or excess; subject to a deed covenant requiring our sales price approval for 10 years, etc.);

    (5) If the land was excess when it was involuntarily acquired, why is the land eligible to receive Reclamation irrigation water (e.g., placed under recordable contract, nonexcess land involuntarily acquired and designated excess by the previous landholder, etc.);

    (6) The acreage limitation status of the landholder from whom the land was involuntarily acquired (i.e., subject to the discretionary provisions or prior law); and

    (7) The water rate applicable for Reclamation irrigation water delivered to the previous landholder (i.e., contract rate, full operation and maintenance rate, or full-cost rate).

    (e) Number of actual excess acres in the land parcel. **Note:** Any Class 1 equivalent acres must be reconverted to actual acres.

12. Total column 11(e). This is the number of actual excess acres you directly own westwide.

Indirectly Owned Excess Land

13. Complete this section if you exceed your ownership entitlement and you are a part owner, beneficiary, trustee, or grantor who is attributed with land owned by an entity, trust, or estate and all or a portion of your indirectly owned land is designated as excess by the direct owner of such land. Using information obtained

from the direct landowner's Form 7-21XS, you must identify which parcels of your indirectly owned land will be considered in excess of your ownership entitlement.

If you are unsure of the meaning of the terms "actual acres" or "Class 1 equivalent acres," please see the "GENERAL INFORMATION" section of these instructions and the definitions provided in Form 7-21INFO.

(a) Name of district in which the land parcel is located.

(b) Name of the direct landowner (i.e., the entity that owns land in which you own an interest, or the name of the trust or estate in which the land is held).

(c) Number of actual acres designated as excess by the direct landowner (entity, trust, or estate). Since only direct landowners can designate excess land, you must obtain this number from the direct landowner's Form 7-21XS, item 12.

(d) The percentage of interest in the entity, trust, or estate that is attributed to you.

(e) Multiply item 13(c) by item 13(d) in decimal form. This is the number of indirectly owned excess acres attributable to you by the entity, trust, or estate.

14. Total column 13(e). This is the number of excess acres you indirectly own westwide.

15. Total item 12 and item 14. This is the total excess acreage you own directly and indirectly, westwide.

Signatures

16. Sign the form in ink. Both you and your spouse, if married, must sign the form. This requirement applies even if the land is not jointly held. All partners, joint tenants, or co-tenants must sign the form if the landholder is a partnership, joint tenancy, or tenancy-in-common. However, you may use a written signature authorization to permit one spouse to sign for the couple, or to permit one natural person to sign for the entity and a copy must be submitted to each district you submit RRA forms. All trustees, executors, or administrators must sign this form unless the trust or a power of attorney authorizes one individual to sign for the trust or estate. The district office must keep any signature authorization on file.