

## FACT SHEET 8

### PRIOR LAW RECIPIENT ENTITLEMENTS

#### Reclamation Reform Act of 1982 (RRA)

This fact sheet details the acreage limitation entitlements for a **prior law recipient**. A prior law recipient is:

“ . . . an individual or legal entity that has not become subject to the discretionary provisions.” (43 CFR<sup>1</sup> part 426.2; Regulations)

If you are not a prior law recipient or are unsure, see Fact Sheet 2 (Acreage Limitation Status) for additional assistance in determining your acreage limitation status. If you are unsure of the information discussed in this fact sheet, contact your district or the appropriate Bureau of Reclamation office, or see the **Sources for more information** section at the end of this fact sheet.

#### What are acreage limitation entitlements?

Each acreage limitation status (qualified recipient, limited recipient, and prior law recipient) has two applicable entitlements under the RRA, which are the **ownership** entitlement and **nonfull-cost** entitlement.

- **Ownership entitlement** is the maximum acreage a landholder may directly or indirectly own and irrigate with Reclamation irrigation water.
- **Nonfull-cost entitlement** is the maximum acreage a landholder may irrigate with Reclamation irrigation water at the nonfull-cost rate (which includes any rate other than the full-cost rate).

#### What is the ownership entitlement for a prior law recipient?

**The ownership entitlement for a prior law recipient varies from one recipient to another, depending on the form of ownership.** The table below lists the **maximum** amount of **directly or indirectly owned**, nonexempt land (irrigation land or irrigable land that is subject to the acreage limitation provisions) on which each type of prior law recipient can receive Reclamation irrigation water.

Landholder	Maximum Ownership Entitlement	Requirements and Additional Information
Individual	160 acres	An individual is one natural person, and does not include a spouse or dependents
Husband and wife	320 acres	Land jointly owned, provided each spouse holds an <b>equal interest</b> in the land

<sup>1</sup> Code of Federal Regulations

Landholder	Maximum Ownership Entitlement	Requirements and Additional Information
Surviving spouse	Up to 320 acres	<p>Until remarriage, a surviving spouse is entitled to receive Reclamation irrigation water on land that was owned jointly in marriage, up to 320 acres, until the surviving spouse remarries or disposes of the land.</p> <p>For example, if 320 acres were owned jointly during marriage, then 320 acres would be the ownership entitlement of the surviving spouse until remarriage. However, until remarriage, if the surviving spouse were to sell 100 acres or transfer title to 100 acres to another entity (such as a trust), then the surviving spouse's ownership entitlement will be reduced accordingly (to 220 acres) until remarriage or further disposal of the land.</p>
Children	160 acres	Per child, regardless of whether they are independent or dependent. The title to such land must be in the name of the child.
Tenancies-in-common and joint tenancies	160 acres	Per tenant, provided each tenant holds an <b>equal interest</b> in the tenancy.
Partnerships	160 acres	<p>Per partner, provided each partner holds an <b>equal interest</b> in the partnership. Each partner must also have a separable interest in the partnership and the right to alienate that interest.</p> <p>In other words, a partner must be able to identify specific acres that are attributable to that partner through that partner's interest in the partnership. <b>Otherwise, the partnership (not each partner) will have a 160-acre ownership entitlement.</b> It is suggested that partnership agreements be submitted to Reclamation for a determination of the entity's prior law ownership entitlement.</p>
Corporations	160 acres	Includes any land held by subsidiaries. The 160-acre ownership entitlement applies equally to corporations solely owned by a single family or surviving spouse and those that are owned by multiple individuals and/or entities.
Nonresident aliens and foreign entities	160 acres	Nonresident aliens and foreign entities begin with a 160-acre ownership entitlement. This entitlement can be increased, provided certain criteria are met and certain actions are taken. See Fact Sheet 16 (Nonresident Aliens and Foreign Entities) for more information.
Indirect landholders	Based on landholder type shown above	There are certain circumstances where landholders who own land <b>only indirectly</b> (do not own any land directly in their own name) can remain subject to the prior law provisions even if the land is indirectly held in a discretionary provisions district. See Fact Sheet 3 (How to Become Subject to the Discretionary Provisions) for more information.

Prior law ownership entitlements are applied either **district-by-district**, or **westwide** (to all land in the 17 Western States where Reclamation has projects), depending on when land was acquired.

- If the land was acquired **on or before** December 6, 1979, by the landowner in question, the ownership entitlement is applied on a district-by-district basis. In other words, one prior law landholder can directly or indirectly own up to the maximum applicable ownership entitlement in each of multiple districts that are subject to the acreage limitation provisions, if the land was acquired on or before December 6, 1979.

- If the land was acquired **after** December 6, 1979, the ownership entitlement is applied on a westwide basis. In other words, one prior law landholder can directly or indirectly own up to the maximum applicable ownership entitlement in all districts that are subject to the acreage limitation provisions.
  - For example, Landholder A is an unmarried prior law individual that purchased 100 acres each in District 1, District 2, and District 3 on January 1, 1970. All districts are prior law districts. Because Landholder A bought land in all three districts **prior to** December 6, 1979, Landholder A can own and receive Reclamation irrigation water on up to 160 acres in **each** of the three districts. In other words, Landholder A's 300 total acres can receive Reclamation irrigation water because the 100 acres owned in each district do not exceed Landholder A's 160-acre ownership entitlement in each district.
  - Building on the same example, Landholder A buys an additional 100 acres in District 4 (also a prior law district) on January 1, 1990. At that point Landholder A's entire landholding (including land owned in Districts 1, 2, and 3) will be factored in when determining whether the land in District 4 can receive Reclamation irrigation water, because Landholder A's westwide landholding now includes land that was purchased **after** December 6, 1979. The land in Districts 1, 2, and 3 can still receive Reclamation irrigation water because Landholder A's ownership entitlement is applied on a **district-by-district** basis for land purchased **prior to** December 6, 1979, in those districts. However, the newly purchased land in District 4 cannot receive Reclamation irrigation water because Landholder A's ownership entitlement is applied on a **westwide** basis for land purchased **after** December 6, 1979. Landholder A owns 400 total acres westwide, which exceeds his 160-acre ownership entitlement in District 4. Landholder A's 100 acres in District 4 will be considered to be excess land that is ineligible to receive Reclamation irrigation water. See Fact Sheet 17 (Excess Land) for more information on excess land.
- A prior law entity can have part owners that are subject to the discretionary provisions, and vice versa.
  - See the section below regarding the impact of an irrevocable election on entities and part owners for more information on how and when prior law ownership entitlement is affected by an irrevocable election

### **Important things to know about the prior law recipient ownership entitlement**

- The ownership entitlement includes all directly or indirectly owned land, **regardless of whether that land receives Reclamation irrigation water.**
- Any land that you own indirectly through an interest in an entity must be taken into consideration when determining if you are within your ownership entitlement.
- Land directly owned by a subsidiary entity is counted against the ownership entitlement of its **parent entity.**
- Land directly leased from a public entity is counted against the **lessee's** ownership entitlement.
- A prior law entity can have part owners that are subject to the discretionary provisions, and vice versa. For more information, see the section below regarding the impact of an irrevocable election on entities and part owners.
- Land owned by a prior law recipient beyond the applicable ownership entitlement is generally not eligible to receive Reclamation irrigation water.

- Land owned beyond the applicable ownership entitlement is considered **excess land** and can receive Reclamation irrigation water **only** under very specific circumstances. See Fact Sheet 17 (Excess Land) for more information on excess land and how to designate land as excess.
- A prior law entity **may not be able to utilize** its full ownership entitlement because of its part owners and their landholdings.
  - A part owner has his/her/its own applicable ownership entitlement and cannot receive Reclamation irrigation water on land that is owned in excess of that personal ownership entitlement. The part owner's landholding can include land the part owner directly owns or leases, in addition to land attributed to the part owner through interest in the entity.
  - A part owner that has excess land in his/her/its personal ownership entitlement may need to have all or some of the land that is held through the entity designated as excess by the entity in order to comply with the limits of their personal ownership entitlement.
    - In that case, the entity (as the direct landowner) must designate enough of its directly owned land as excess so the part owner is attributed with the correct number of excess acres to show compliance with the part owner's personal ownership entitlement.
    - In other words, to satisfy the part owner's needs, the entity designated some of its land as excess even though the entity itself did not exceed its ownership entitlement. The entity's excess designation on behalf of the part owner made some of the entity's land ineligible to receive Reclamation irrigation water because that land is now designated as excess.
  - For example, Part Owner A needs Entity B to designate enough excess acres so that Part Owner A is attributed with 20 excess acres. Because Part Owner A holds a 50-percent interest in Entity B, then Entity B must designate 40 total acres as excess in order for Part Owner A to be attributed with 20 excess acres. Once the 40 acres are designated as excess, Entity B will be able to receive Reclamation irrigation water on only 120 acres of its 160 acres because 40 acres have been designated as excess.
- Trusts and estates do not have acreage limitation entitlements. The amount of trust or estate land that can receive Reclamation irrigation water is determined by the ownership entitlements of those to whom the trust's or estate's land is attributed (for example, beneficiaries), provided certain criteria are met. See Fact Sheet 12 (Trusts and Estates) for more information.
- Public entities do not have acreage limitation entitlements (including an ownership entitlement) as long as certain criteria are met. Contact your district or the appropriate Reclamation office for more information.

### **What is the nonfull-cost entitlement for a prior law recipient?**

**The nonfull-cost entitlement for a prior law recipient is equal to the applicable ownership entitlement.** In other words, a prior law recipient that has a 160-acre ownership entitlement (for example, an individual) can receive Reclamation irrigation water at the nonfull-cost rate on a maximum of 160 acres of **directly or indirectly owned or leased** nonexempt land.

- Any land that you own or lease indirectly through an interest in an entity must be taken into consideration when determining if you are within your nonfull-cost entitlement.
- A prior law entity can have part owners that are subject to the discretionary provisions, and vice versa.
  - See the section below regarding the impact of an irrevocable election on entities and part owners for more information on how and when prior law nonfull-cost entitlement is affected by an irrevocable election.

### **Important things to know about the prior law recipient nonfull-cost entitlement**

- The nonfull-cost entitlement includes all directly or indirectly owned or leased land **regardless of whether that land receives Reclamation irrigation water.**
- The nonfull-cost entitlement is applied **westwide.**
- Land directly owned or directly leased by a subsidiary entity is counted against the nonfull-cost entitlement of its **parent entity.**
- Land directly leased from a public entity is counted against the **lessee's** nonfull-cost entitlement.
- Selection of land parcels for which the **nonfull-cost rate** (versus the full-cost rate) will be paid is made using a "Selection of Full-Cost Land" (Form 7-21FC).
  - Generally, any combination of eligible directly or indirectly owned or leased land can be selected as nonfull-cost land.
    - However, nonfull-cost land cannot be any land that is determined to be ineligible excess land, or land that is required by law to be subject to the full-cost rate.
  - **Full-cost** land is land that is directly or indirectly owned or leased, that exceeds the applicable nonfull-cost entitlement, and may receive Reclamation irrigation water **only** at the full-cost rate.
    - This applies even if the direct landholder should lease the land to someone who does not exceed their own nonfull-cost entitlement.
- Once the total nonfull-cost land has been selected and has received Reclamation irrigation water, that land will be considered to be nonfull-cost land for the **entire water year.**
  - This applies even if you terminate Reclamation irrigation water deliveries to the selected nonfull-cost land.
  - Additional land purchased or leased during the water year that is eligible to receive Reclamation irrigation water may receive such water only at the **full-cost rate.**
  - A nonfull-cost selection can be changed **prior to** receiving Reclamation irrigation water each year. However, changes to a nonfull-cost selection during a water year can be made only under very specific circumstances.
- Land that is subject to a recordable contract, or was involuntarily acquired within the last 5 years and designated as excess by the involuntarily acquiring party, is **generally not considered** when determining if the prior law recipient has exceeded the applicable nonfull-cost entitlement.
- Trusts and estates do not have acreage limitation entitlements. The amount of trust or estate land that can receive Reclamation irrigation water at the nonfull-cost rate is determined by the nonfull-cost entitlements of those to whom the trust's or estate's land is attributed (for example, beneficiaries), provided certain criteria are met. See Fact Sheet 12 (Trusts and Estates) for more information.

- Public entities do not have acreage limitation entitlements (including a nonfull-cost entitlement) as long as certain criteria are met. Contact your district or the appropriate Reclamation office for more information.

### What is the impact of an irrevocable election on entities and part owners?

- If an entity has chosen to conform to the discretionary provisions on its own behalf by executing an irrevocable election, it does not necessarily mean the entity’s part owners are also subject to the discretionary provisions.
- Conversely, a part owner’s irrevocable election to conform to the discretionary provisions does not necessarily mean the entity is also subject to the discretionary provisions.
- A part owner, stockholder, or beneficiary of a prior law recipient entity generally may not receive Reclamation irrigation water on more than 160 acres of owned land unless the part owner, stockholder, or beneficiary is subject to the discretionary provisions.
- A part owner, stockholder, or beneficiary of a prior law recipient entity generally may not receive Reclamation irrigation water at the nonfull-cost rate on more than 160 acres of directly or indirectly owned or leased land unless the part owner, stockholder, or beneficiary is subject to the discretionary provisions.
- See Fact Sheet 3 (How to Become Subject to the Discretionary Provisions) for more information on conforming to the discretionary provisions.

### Sources for more information

More information for your landholding situation and the corresponding acreage limitation entitlements can be found in the following documents. Contact your district or the appropriate Reclamation office for further guidance.

<b>Form 7-21INFO</b>	General Information About the RRA Forms	The RRA Fact Sheets and the current water year’s RRA forms and instructions are available online and at your district or the appropriate Reclamation office.
Separate instructions to each RRA form applicable to your landholding situation		
<b>RRA Fact Sheet 2</b>	Acreage Limitation Status	
<b>RRA Fact Sheet 3</b>	How to Become Subject to the Discretionary Provisions	
<b>RRA Fact Sheet 4</b>	Qualified Recipient Entitlements	
<b>RRA Fact Sheet 5</b>	Qualified Recipient RRA Forms	
<b>RRA Fact Sheet 6</b>	Limited Recipient Entitlements	
<b>RRA Fact Sheet 7</b>	Limited Recipient RRA Forms	
<b>RRA Fact Sheet 9</b>	Prior Law Recipient RRA Forms	
<b>RRA Fact Sheet 12</b>	Trust and Estates	
<b>RRA Fact Sheet 17</b>	Excess Land	<a href="http://www.usbr.gov/rra">www.usbr.gov/rra</a>
<b>RRA website</b> (including the RRA forms, District Reference Sources, and the text of the RRA and its associated Regulations)		