United States Department of the Interior

BUREAU OF RECLAMATION
PO Box 25007
Denver, Colorado 80225-0007

IN REPLY REFER TO:

D-5300
LND-9.00

JAN 5 2006

Dear Ladies and Gentlemen:

The purpose of this letter is to present information concerning the 2006 Reclamation Reform Act of 1982 (RRA) forms and to inform you about changes we are implementing in 2006 concerning RRA program administration.

2006 RRA Forms

On February 4, 2005, the Bureau of Reclamation distributed a letter to all districts subject to the acreage limitation provisions. That letter transmitted copies of the February 1, 2005, Federal Register Notices initiating a 60-day public comment period for the proposed 2006 RRA forms. Enclosed is a list of the comments Reclamation received in response to the 60-day public comment period and Reclamation's response to each comment. Please note, the changes to the RRA forms as shown in the enclosure are changes that resulted from the public comments received. Additional changes that were made in order to derive the 2006 version of the RRA forms were distributed as enclosure 2 of Reclamation's February 4, 2005, letter.

Reclamation's February 4, 2005, letter specifically requested comments regarding a request Reclamation received to devise a way to more efficiently track limited recipients that hold less than 40 acres (specifically, those legal entities that do not submit RRA forms because their westwide landholdings do not exceed the applicable RRA forms submittal threshold) and the full-cost and excess land held by such limited recipients. In an effort to address this comment, Reclamation drafted a proposed new Tabulation H form[1] that would be required to accompany each district's annual RRA district summary form submittal. Reclamation's February 4, 2005, letter stated that implementation of the proposed Tabulation H would be based upon the public comments received. The comments received presented significant opposition to the proposed Tabulation H. Therefore, Tabulation H **will not** become a mandatory annual submittal nor has it been distributed for optional completion.

Form 7-21PE

Substantial changes were made to Form 7-21PE (Declaration of Public Entity's Landholdings) starting with the forms for the 2006 water year. Accordingly, for the 2006 water year, all public entities that are required to submit RRA forms must submit Form 7-21PE. This includes all

1 The complete title of the proposed Tabulation H was "Tabulation H of Limited Recipients That Hold Less Than 40 Acres, and Full-cost Landholders and Excess Landowners That Are Below the RRA Forms Submittal Threshold."

public entities that hold more than 40 acres westwide. Public entities cannot submit Form 7-21VERIFY (Verification of Landholdings) for the 2006 water year even if they experienced no landholding change since their latest Form 7-21PE was submitted. There will be no exceptions to this requirement. Public entities will again be permitted to submit Form 7-21VERIFY starting in the 2007 water year if they meet the criteria for submitting that form.

We would like to call your attention to the instructions for Form 7-21PE, specifically to the examples used for line items 23(c), 23(e), and 25(c). Anybody completing this portion of Form 7-21PE for a public entity has determined that some or all of the land held by the public entity does not meet the criteria for that land to be exempted from application of the acreage limitation entitlements. Each of the subject examples refers to 960-acre entitlements being applicable to public entities. However, the maximum entitlements for a public entity that does not meet the criteria and is subject to the discretionary provisions, are a 640-acre ownership entitlement and either a 320-acre or zero-acre nonfull-cost entitlement, depending on whether the public entity received Reclamation irrigation water on or before October 1, 1981. Under the prior law provisions, public entities that do not meet the criteria have 160-acre ownership and nonfull-cost entitlements. We apologize for any confusion the references to 960-acre entitlements in the examples may cause.

RRA Forms on the Internet

The 2006 RRA forms are now available on the RRA website at www.usbr.gov/rra. All forms on the website can be completed electronically, or they can be printed for manual completion. At this time, there is no electronic submittal of RRA forms. Completed hard copies of the RRA forms must still be signed and submitted to the appropriate district or Reclamation office.

Program Changes

The Commissioner of Reclamation has tasked this office to find ways to reduce the burden on districts with regard to the administration and enforcement of the acreage limitation provisions of Federal reclamation law. Our initial efforts have resulted in a decision to have only Reclamation send the following forms directly to landholders for completion, rather than requiring such action by district staff: Form 7-2536 (Limited Recipient Identification Sheet); Form 7-2537 (Trust Information Sheet); and Form 7-2565 (Public Entity Information Sheet). These forms, which are only completed once by selected landholders, are used by Reclamation to determine the acreage limitation status of those landholders and if those landholders are required to submit the standard, annual RRA forms. This change in program administration will start in 2006, and we ask your cooperation in providing any needed and available addresses to Reclamation staff to accomplish this task.

A more important program adjustment is a change to the RRA program evaluation cycle from 3 years to 5 years. What this means is that a water district review will be conducted in each district that is subject to the acreage limitation provisions at least once every 5 years, instead of at least once very 3 years. This should reduce the burden on every district in terms of getting ready

for such reviews. However, due to the forms retention cycle, our RRA staff will no longer have the flexibility to reschedule a planned water district review to occur in another year. We are asking Reclamation staff to notify districts as far in advance as possible of upcoming water district reviews so any needed changes in the dates (month and/or day[s]) of the visit can be accommodated within the calendar year in question. We are asking for your cooperation in this endeavor so this program adjustment can be successfully implemented.

If you have any questions concerning the matters discussed in this letter, please contact the appropriate Reclamation office.

Sincerely,

/s/ LILAS V. LINDELL

ACTING FOR

Roseann Gonzales, Director
Office of Program and Policy Services

Enclosure

LIST OF CHANGES FOR THE 2006 RRA FORMS
(with comments from 60-day comment period)
Landholder RRA forms -- OMB Control No. 1006-0005
District summary RRA forms -- OMB Control No. 1006-0006

- Proposed changes are provided in italics, listed by form number.
- Justification for each change is provided in regular font.
- Suggested changes were implemented unless otherwise specified.
- Suggested changes pertain to both the instructions and form for a particular form number, unless otherwise specified.

Form	Proposed Change
7-21INFO	*Page 10, definition for "lease:" Remove reference to "term of lease" because the definition for "term of lease" has been removed from page 12.* Improves accuracy of form and makes the lease definition consistent with proposed changes.
7-2181	*Item 2(b) – Should the statement about religious or charitable organizations be the first item for this section? Should religious or charitable organizations be asked to check the corporation or partnership box?* This comment will be incorporated by inverting the two sentences in item 2(b). This will allow religious or charitable organizations to skip this item and avoid the confusion of having to try to identify themselves as a corporation or a partnership.
7-2190	*Should the instructions for item 6(a)(3) say that the entity type should reflect how the entity is taxed? Otherwise, is there a risk that a landholder will identify the entity as an LLC, which doesn't specify if Reclamation should treat the entity as a partnership or a corporation.* This comment will not be incorporated. Item 6(a) pertains to wholly-owned entities of the prior law individual completing the form. Any land held by the wholly-owned entity, regardless of how it is taxed by the IRS, counts against the acreage limitation entitlements of the individual completing the form. Furthermore, the instructions for item 6(a) state that all prior law corporations must complete a Form 7-2191; i.e., if the wholly owned entity is a corporation, it will be asked to identify itself as such on a standard RRA form.
7-2191	*Item 2(b) – Should the statement about religious or charitable organizations be the first item for this section? Should religious or charitable organizations be asked to check the corporation or partnership box?* This comment will be incorporated by inverting the two sentences in item 2(b). This will allow religious or charitable organizations to skip this item and avoid the confusion of having to try to identify themselves as a corporation or a partnership.
7-2191	*Should the instructions for item 7(a) say that the entity type should reflect how the entity is taxed? Otherwise, is there a risk that a landholder will identify the entity as an LLC, which doesn't specify if Reclamation should treat the entity as a partnership or a corporation.* This comment will not be incorporated. Item 7(a) pertains to wholly-owned subsidiaries of the prior law entity completing the form. Any land held by the wholly-owned subsidiary, regardless of how it is taxed by the IRS, counts against the acreage limitation entitlements of the parent entity completing the form.

Form	Proposed Change
7-21TRUST Instructions	*"Parties Attributed With Trust or Estate Land" section, "For an estate" subsection -- The current wording implies a choice between attribution to the administrator or the beneficiaries if no beneficiaries are identified: "The land is attributed to the beneficiary of the estate who obtains an interest in the land or to the administrator of the estate." Suggest adding "if no beneficiaries are identified" to the end of the sentence.* Clarifies the form; makes wording consistent with documentation provided at a November 2002 RRA westwide training session.
7-21PE	*Although this is an existing form, the proposed version of it has been significantly modified from its existing appearance and structure. As such, several comments were submitted that pertained to (a) correction of cross references amongst item numbers, and (b) editorial matters such as word choice. These changes will be made where appropriate to improve the accuracy of this form, but are minor and too numerous to list here. Substantive comments on this form are listed below.*
7-21PE	*Items 13 – 19: Add clarification where appropriate that the ownership or lease of the land being listed in these items must have commenced after December 31, 2004.* As currently worded, land that the public entity continued to own or lease after December 31, 2004, would also be listed.
7-21PE	*Item 38 and 39: Reword instructions to pull requested acreage information from items 4, 6, and 9 instead of items 17 and 20.* As currently worded, the instructions would result in a number of acres that is only a portion of that which is required.
7-21PE-IND	*Reword heading of column 3(b) to read "Percentage of Public Entity's Ownership in the Partially Owned Legal Entity" and relocate it to column 3(e)'s position (renumber the existing columns 3(c) through 3(e) accordingly). Reword heading of column 3(f) to read, "Number of Acres Ownedand Leased by the Partially Owned Legal Entity." Add new column 3(g) for "Acreage Attributable to the Public Entity Through Owned Interest in the Partially Owned Legal Entity (e X f)."* This change will clarify that item 3 refers to acreage the public entity holds through owned interest in a legal entity. As currently worded, item 3 could be construed to pertain to acreage owned by the legal entity in which the public entity owns interest.
7-21XS Instructions	*Item 7(e), example: Change wording to read [where bold words represent added text] "* * * application of Class 1 equivalency to 1,200 of your actual **1,400** Class 2 acres * * * designate the remainder of your actual Class 2 acres **(200 acres)** as excess * * *."* Clarifies the provided example.
7-21XSINAQ Instructions	*Item 1: Change wording to read [where bold words represent added text]" * * * as excess in item 11(c) **of Form 7-21XS** * * *."* Clarifies the instructions.
7-21FC Instructions	*Item 7(e), example: Change wording to read [where bold words represent added text] "* * * application of Class 1 equivalency to 1,200 of your actual **1,400** Class 2 acres* * * select the remainder of your actual Class 2 acres **(200 acres)** as full-cost * * *."* Clarifies the provided example.

For	oposed Change
7-21FC	*Items 16(b) and 16(c): Should these columns also allow identification of indirect landholders to accommodate the cases in which the direct landholder is several organizational layers up in the company hierarchy from the organizational layer of the person/entity completing the form?* This comment will not be incorporated. Although some may find it helpful to have a list of intermediate entities, only the direct landholder can select land as full-cost. Therefore, Reclamation must collect the name of the direct landholder. In some cases, an intermediate entity may not always know the names of other intermediate entities; however, an entity should know the name of its parent entity.
Programmatic concerns	*Also submitted during the comment period were two comments of a programmatic nature that pertained to whether or not landholders agreed with disclosing certain, specific lease matters such as lease costs and the kind of crop that will be planted from year to year.* This kind of information is not collected by the RRA forms in this information collection, and as such, cannot be addressed through the OMB approval process.
7-21SUMM-C Instructions	*Page 6, left column, item 4(c) - Change wording to read [where bold words represent added text]* ***"Obtain this information from the "TOTAL" column (far right column) of item 16*** * * *." This change will clarify the instruction provided.
7-21SUMM-R Instructions	*Page 6, left column, item 4(c) - Change wording to read [where bold words represent added text]* ***"Obtain this information from the "TOTAL" column (far right column) of item 16*** * * *." This change will clarify the instruction provided.
7-21SUMM-C 7-21SUMM-R Proposed Tabulation H	*Create a new Tabulation H for limited recipient landholders that hold less than 40 acres AND (a) hold full-cost land, and/or (b) own excess land.* Responds to specific comments received since the RRA forms last received a renewal of Office of Management and Budget approval. However, due to the negative public comments received (as listed below), the proposed new Tabulation H will not be implemented.
	"The proposed collection of this information will have no practical use for the District and will be very expensive to complete. We have many (approximately 1500) accounts that will need to be individually listed and entered on this form to be in compliance with this request. * * * The District can submit to the Bureau of Reclamation a print out from our own program with this same information. Property ownership has been changing at a rapid pace * * * and what would be the grace period for correct ownership? We are not informed by the County Records Department of these ownership changes and do not automatically receive information on new owners through sale closures. Land is being developed and removed from the rolls at an alarming rate, how exacting would this information need to be?
	"The District is opposed to this change because of the burden on staff time that the District can ill afford. The District feels that the information that they provide the USBR is sufficient to enable the USBR to perform their needed function."
	"We feel the current annual summary and tabulation sheets provide sufficient information on landholders. An addition of yet another form represents an escalation in requirements that we feel accomplishes no more adherence to the RRA and further deteriorates our customer relations. * * * We feel the current reporting requirements provide adequate information on our landholders. It is the District's responsibility to ensure no ineligible landholder uses project water, and requiring Tabulation H creates an additional burden on the Districts that is not warranted."

Fo	roposed Change
	"In the annual district summary Form 7-21SUMM-R and Form 7-21SUMM-C, it is already a requirement to submit acreage directly owned, acreage leased, excess acreage, and full-cost acreage for all landholders below the applicable RRA forms submittal threshold. In evaluating the use and effectiveness of the newly proposed form, it is apparent that since the landholders are not required to submit RRA forms due to the form submittal threshold, Reclamation cannot effectively audit the accuracy of the proposed Tabulation H. Therefore, the proposed new form does not efficiently track limited recipients that hold less than 40 acres. We fail to see what purpose this additional information serves, and believe it is unreasonable to place this additional burden on all districts on the basis of one request."
	"[We] dedicate significant administrative efforts to annual compliance with the reporting requirements under the Reclamation Reform Act of 1982 * * * the contemplated new form (Tabulation H) for 'limited recipients that hold less than 40 acres, and full-cost landholders and excess landowners that are below the RRA forms submittal threshold' is an unnecessary and overly burdensome new reporting requirement for reclamation project administrating entities * * * much of the water delivered [by the project] ultimately reaches individual users and entities which [the district] has little, if any,relationship with – let alone any contractual connection. In many cases, [project] water is delivered from and through [project] facilities to [district] shareholders, which inturn, deliver water through various means to additional entities * * * These additional entities may ultimately deliver [project] waters to a wide assortment of end-users – far from [district] control, responsibility, or even knowledge. This contemplated new Tabulation H would effectively require [the district] to locate an unreasonable amount of information from this far-reaching and large amount of [project water] end users. Quite frankly, even with extraordinary administrative time, research and effort much of this potentially required information is not available to [the district]."
	"* * * the contemplated increased reporting requirement seems to apply to commingled water as well * * * Given the [project] was intended as a supplemental water supply, a significant amount of non-project water commingles with [project] water in [project] facilities. Therefore, the contemplated reporting requirement becomes all the more onerous and burdensome in this regard."
	"[The district] sees little, if any 'practical use' for the additional information gathered * * * the contemplated reporting requirement will significantly elevate the RRA administrative burden and cost to [the district] and its staff. As such, it is [the district's] belief the 'burden estimate' significantly underestimates the costs and burden to PRWUA and other districts as well."
	"We find the proposed new form * * * to be redundant, ineffectual, unnecessary and unreasonable. Form 7-21SUMM-C already requires submittal of acreage directly owned, acreage directly leased, excess acreage and full-cost acreage for all landholders below the applicable RRA forms submittal threshold. While we find the forms submittal threshold to be entirely reasonable, because it does not require these landholders to submit RRA forms, we see no way to track or audit the accuracy of the proposed Tabulation H. Furthermore, we find this proposed new requirement to be an unreasonable additional burden on the District."
	"With respect to Tabulation H, the annual gathering of information will have no practical use for this District, but will greatly increase the labor burden on District staff. This District already maintains and updates its database of under 40-acre landholders and does not need to duplicate the work in a different format. This District already has an accurate tracking system requiring very little time and effort on the part of District Staff * * * [Tabulation H] would move the District from reporting 40 limited recipients to reporting 248 recipients, 208 of which are under the 40-acre threshold * * * The Tabulation H form is not in a practical format for the filing of 207 [sic] names of limited recipients holding less than 40 acres * * * The RRA has established the 40-acre "Threshold" for reporting. This threshold for reporting does not need to be changed, and [Tabulation H] does not appear to be the way to efficiently track limited recipients that hold less than 40 acres."