



# 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

**MAR 10 2006**

Dear Ladies and Gentlemen:

The purpose of this letter is to provide further guidance regarding what land counts against a landholder's acreage limitation entitlements, and what land must be included on Reclamation Reform Act of 1982 (RRA) forms.

## **Definitions**

There are three terms applicable to land that is subject to the acreage limitation provisions. These terms are defined as follows in the Acreage Limitation Rules and Regulations (43 CFR<sup>1</sup> part 426; specifically, section 426.2):

*"Irrigable land* means land so classified by Reclamation under a specific project plan for which irrigation water is, can be, or is planned to be provided, and for which facilities necessary for sustained irrigation are provided or are planned to be provided."

*"Irrigation land* means any land receiving water from a Reclamation project facility for irrigation purposes in a given water year, except for land that has been specifically exempted by statute or administrative action from the acreage limitation provisions of Federal reclamation law."

*"Nonexempt land* means either irrigation land or irrigable land that is subject to the acreage limitation provisions. Areas used for field roads, farm ditches and drains, tailwater ponds, temporary equipment storage, and other improvements subject to change at will by the landowner, are included in the nonexempt acreage. Areas occupied by and currently used for homesites, farmstead buildings, and corollary permanent structures such as feedlots, equipment storage yards, permanent roads, permanent ponds, and similar facilities, together with roads open for unrestricted use by the public are excluded from nonexempt acreage." [Emphasis added.]

## **Side-by-Side Comparison of Terms**

Because there is often a great deal of overlap among these three terms, careful comparison proves beneficial:

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

IRRIGABLE LAND	IRRIGATION LAND	NONEXEMPT LAND
<ul style="list-style-type: none"> <li>• Includes land where project facilities are already in place <b>and</b> land that will be capable of receiving Reclamation irrigation water if a currently planned project facility is completed (even if Reclamation irrigation water cannot currently be delivered to that land<sup>2</sup>).</li> <li>• Land in this category must be classified (through the land classification process) as class 1, class 2, class 3, or class 4 land.</li> <li>• Class 6 land that has been specified as <b>not capable</b> of supporting sustained irrigation is <b>not</b> in this category.</li> <li>• Land for which classification has not been performed or finalized <b>is</b> in this category in accordance with 43 CFR 426.11(c)(2), which states that unclassified land will be considered to be class 1 land.</li> </ul>	<ul style="list-style-type: none"> <li>• Includes land that is currently receiving Reclamation irrigation water from or through a project facility for which a construction repayment obligation exists.</li> <li>• Land in this category is often also considered to be irrigable land.</li> <li>• Class 6 land, land that is located outside of a project boundary, etc., that receives Reclamation irrigation water <b>is</b> in this category.</li> </ul>	<ul style="list-style-type: none"> <li>• Excludes very specific uses of land from application of the acreage limitation provisions, even though such land could be considered to be “irrigable” or “irrigation” land. See the list of exclusions provided in the definition for “nonexempt land” on page 1 of this letter.</li> </ul>

### What land is subject to the acreage limitation provisions?

Based on the definitions of the three terms above, certain land uses will be subject to the acreage limitation provisions all of the time, some of the time (provided certain criteria are met), or not at all. When land is considered to be subject to the acreage limitation provisions, that land (1) must be counted against the applicable acreage limitation entitlements, (2) must be considered in determining if RRA forms must be submitted, and (3) must be included on the RRA forms.

*Land that is **always** subject to the acreage limitation provisions:*

- All irrigable land that meets the definition of “nonexempt land.”
- All land receiving Reclamation irrigation water that meets the definition of “nonexempt land” (including unclassified land, golf courses, parks, cemeteries, etc.)

<sup>2</sup> A project facility that is in the planning stages is considered to be a “planned” facility regardless of when (or if) a planned project completion date will occur. A “planned” facility loses its “planned” status only when the facility is deauthorized, which usually requires congressional action.

*Land that is subject to the acreage limitation provisions **only** if it is receiving Reclamation irrigation water:*

- Class 6 land.
- Land outside district or project boundaries.

*Land that is **not** subject to the acreage limitation provisions:*

- Land for which the construction repayment obligation has been paid pursuant to section 213 of the RRA.
- Land that has been legislatively exempted from application of the acreage limitation provisions.
- Land that has been administratively exempted from the application of the acreage limitation provisions.
- Land that is excluded from the definition of “nonexempt land” (e.g., barns, feedlots, roads open for unrestricted use by the public, etc.).
- Indian trust or restricted land as provided by 43 CFR 426.16(f).
- Fish farms<sup>3</sup>. (Please contact the appropriate Reclamation office for further guidance regarding fish farms.)

### Examples

The enclosure to this letter provides questions and answers that illustrate the concepts of “irrigable land” and “irrigation land,” particularly when used with the map and key that is included in the enclosure. Please contact the appropriate Reclamation office if you have any questions regarding the material in this letter.

Sincerely,



Richard W. Rizzi, Manager  
Land Resources Office

Enclosure

cc: PN-3327, MP-440 (Bishop, Coleman), UC-444, GP-3100 (Downs)  
BCOO-4430  
(w/encl to each)

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<sup>3</sup> For RRA purposes, the definition of a fish farm is the same as the definition used by the Internal Revenue Service. This definition identifies a fish farm as “an area where fish and other marine animals are grown or raised and artificially fed, protected, etc. It does not include an area where they are merely caught or harvested.”

## ILLUSTRATION OF IRRIGABLE LAND VS. IRRIGATION LAND

The following questions and answers, when used with the attached map and map key, illustrate the concepts associated with irrigable land and irrigation land and how to determine what land (1) must be counted against acreage limitation entitlements, (2) is considered in determining if RRA forms must be completed, and (3) is required to be included on RRA forms.

**Question 1:** Mr. Brown holds 630 acres in and around ABC Water District. Of the 630 acres, how many are inside the district's boundaries?

*Answer:* There are 450 acres inside the district boundaries, as shown by counting the squares above the solid, diagonal line indicating the district's boundaries.

**Question 2:** How many acres does Mr. Brown hold outside the district boundaries and how many of them are considered to be irrigable land?

*Answer:* Mr. Brown holds 180 acres outside the boundaries, as shown by the squares below the solid, diagonal line indicating the district's boundaries. While some of the land is irrigation land as indicated by the shaded squares, none of the 180 acres is considered irrigable land for acreage limitation purposes.

**Question 3:** How many acres that are classified as class 6 land does Mr. Brown hold?

*Answer:* Mr. Brown has 75 class 6 acres, as shown by the "honeycomb" squares.

**Question 4:** How many irrigable acres does Mr. Brown hold?

*Answer:* Mr. Brown holds 375 irrigable acres. This number can be derived by subtracting the 75 class 6 acres located within the district from the 450 total acres Mr. Brown holds within the district.

**Question 5:** How many irrigable acres does Mr. Brown hold that are not being irrigated?

*Answer:* Mr. Brown holds 100 irrigable acres that are not being irrigated, as shown by the plain white squares. Although these acres are not being irrigated, they must be identified on Mr. Brown's RRA form, because the land is irrigable.

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**Question 6:** How many irrigable acres does Mr. Brown hold that are being irrigated?

*Answer:* Mr. Brown holds 275 acres that are being irrigated, as shown by the solid, shaded squares.

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**Question 7:** On how many acres located outside the district's boundaries is Mr. Brown receiving Reclamation irrigation water?

*Answer:* Mr. Brown is receiving Reclamation irrigation water on 40 acres located outside of the district's boundaries, as shown by the striped, shaded squares that are below the solid, diagonal line. This land meets the definition of "irrigation land" and (1) must be counted against acreage limitation entitlements, (2) is considered in determining if RRA forms must be completed, and (3) is required to be included on RRA forms.

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**Question 8:** On how many class 6 acres is Mr. Brown receiving Reclamation irrigation water?

*Answer:* Mr. Brown is receiving Reclamation irrigation water on 20 class 6 acres, as shown by the shaded "honeycomb" squares. This land meets the definition of "irrigation land" and (1) must be counted against acreage limitation entitlements, (2) is considered in determining if RRA forms must be completed, and (3) is required to be included on RRA forms.

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**Question 9:** How many acres of irrigation land does Mr. Brown hold?

*Answer:* As shown by the shaded squares, 335 acres are receiving Reclamation irrigation water. Therefore, Mr. Brown holds 335 acres of irrigation land.

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**Question 10:** How many acres must Mr. Brown include on his RRA forms?

*Answer:* Mr. Brown must include 435 acres on his RRA form. This includes:

- 375 irrigable acres (see question 4)
- + 20 class 6 acres that are receiving Reclamation irrigation water (see question 8)
- + 40 acres held outside the district boundaries that are receiving Reclamation irrigation water (see question 7).

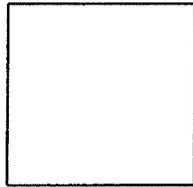
Note: The 20 class 6 acres and 40 acres outside the district boundaries must be included on the RRA form, because those acres are irrigation land subject to acreage limitation. However, the irrigation of such land may be a contract violation.

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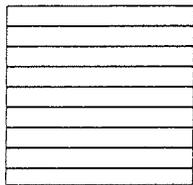
**Question 11:** What land does Mr. Brown not have to include on his RRA form?

*Answer:* Mr. Brown does not need to include 195 acres consisting of the 55 class 6 acres not receiving Reclamation irrigation water (as shown by the “honeycomb” squares that are not shaded) and the 140 acres outside the district boundaries that are not receiving Reclamation irrigation (as shown by the unshaded striped squares located below the diagonal line). This is because those particular acres do not meet the definition of “irrigable land” or “irrigation land.”

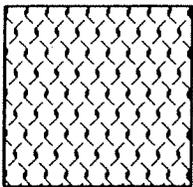
# Key for map of Farmer Brown's landholdings.



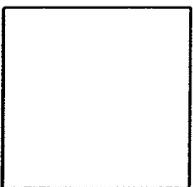
In general, 10 acres.



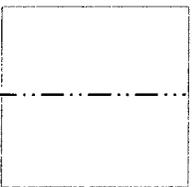
Land located outside of ABC Water District.



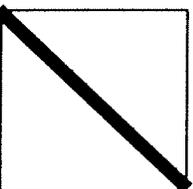
Class 6 land.



Land receiving Reclamation irrigation water.



The North Canal.



ABC Water District boundaries.

