



IN REPLY REFER TO:

# United States Department of the Interior

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

D-5300  
LND-9.00

APR 13 2004

Subject: Application of the Acreage Limitation Provisions to Nominee Partnerships -  
Reclamation Reform Act of 1982

Dear Ladies and Gentlemen:

The purpose of this letter is to provide guidance for applying the Reclamation Reform Act of 1982 (RRA) acreage limitation provisions and forms requirements to nominee partnerships. Nominee partnerships are not addressed in the RRA or the Acreage Limitation Rules and Regulations (43 CFR part 426), but nonetheless may hold land in districts that are subject to the acreage limitation provisions of Federal reclamation law.

## Characteristics of a Nominee Partnership

- A nominee partnership is set up solely (a) to hold (directly or indirectly own or lease) property for a trust, and (b) act as an undisclosed agent for the trustees of the trust. The purposes of the partnership are stated in a *partnership agreement*.
- A nominee partnership is not a true partnership because it does not have capital and does not have a reason to engage in activities for profit.
- A nominee partnership has two or more partners, which generally are the same parties that are the trustees of the trust. These partnerships are oftentimes set up for estate planning purposes.
- A nominee agreement between the nominee partnership and the trust provides that the partnership will hold property on behalf of the trust, and the partnership is controlled by the terms of the trust.
- A nominee partnership has its own Employer Identification Number (formerly known as Taxpayer Identification Number); however, it is not taxed on income. The partnership passes the income received as nominee through to the actual owner of the income; specifically, the trust.

## Criteria for Being Considered a Nominee Partnership (for Acreage Limitation Purposes)

For acreage limitation purposes, the key to nominee partnerships is that they act in a fiduciary capacity. That means they hold property that is not for their own benefit, but for the benefit of another party, usually a trust.

Partnerships that meet the following criteria are to be treated as **nominee partnerships** for acreage limitation purposes:

- (a) hold property on behalf of a trust (as set forth in a nominee agreement),
- (b) act solely as an agent for the trust,
- (c) are controlled by the terms of the trust,
- (d) do not have capital, and
- (e) are not taxed on income.

### **Attribution of Land Held by a Nominee Partnership**

For a partnership that meets all the above criteria, we will basically *ignore* the nominee partnership. That means the **trust** will be treated as the direct landholder if the land is owned or leased in the name of a nominee partnership. Therefore, the land held by a nominee partnership is to be attributed based on the attribution provisions applicable to the **trust**.

### **Forms Requirements for a Nominee Partnership That Meets the Criteria**

A trust that has set up a nominee partnership to be its agent must disclose on its Form 7-21TRUST (Declaration of Trust's or Estate's Landholdings) any land held by its nominee partnership. Such land is to be reported as directly owned or directly leased by the trust. (This assumes the land is held in the name of the nominee partnership, rather than the nominee partnership being a part owner of another entity.) The nominee partnership is **not** required to complete a separate RRA Form 7-2181 (Certification of Entity's Landholdings) or Form 7-2191 (Report of Entity's Landholdings).

The trust form and the instructions were revised starting with the 2004 water year to better accommodate situations in which a trust is affiliated with a nominee partnership.

### **Nominee Partnership That Does Not Meet the Established Criteria**

The **partnership** (rather than the trust) is to be considered the direct landholder if land is owned or leased in the name of a nominee partnership and the partnership arrangement *does not* meet all the criteria established above. Attribution is to the partnership (as the direct landholder) and its part owners (as indirect landholders) in proportion to the interests they hold in the partnership.

Such partnerships are required to complete a Form 7-2181 or Form 7-2191, if the applicable RRA forms submittal threshold has been exceeded. Those part owners of the partnership that exceed the applicable forms submittal threshold are also subject to the forms requirements.

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

Sincerely,

/s/ Richard Rizzi

Richard Rizzi  
Manager, Land Resources Office

---