



United States Department of the Interior

BUREAU OF RECLAMATION
P.O. Box 25007
Denver, CO 80225-0007

JUN 25 2012

IN REPLY REFER TO:
84-53000
LND-9.00

Subject: Transmittal of Three Revised Irrevocable Election Forms (Standard, Nonresident Aliens and Foreign Entities, and Religious or Charitable Organizations) and Related Documents

Dear Ladies and Gentlemen:

The Bureau of Reclamation has revised the three irrevocable election forms currently used to provide some clarified instructions. Copies of each of these irrevocable election forms and the related documents are enclosed for your use. This letter and its enclosures supersedes the July 18, 2002, letter from Reclamation pertaining to the same subject and all previous versions of the irrevocable election forms.

After you have reviewed this letter and the enclosures, insert it at the end of the letters in your "Reclamation Reform Act of 1982 (RRA) Reference Sources" binder. Remove the old July 18, 2002, letter and its enclosures from the binder. Replacement pages for the "Contents" and "List of Westwide District Mailings" will be sent to you in the near future. Also, a current "List of Westwide District Mailings" and "Index of District Letters" may be found on the RRA website at www.usbr.gov/rra.

Enclosures:

Document Name	Enclosure Cover Sheet Color
"Irrevocable Election Form Exercised Under Reclamation Reform Act of 1982 (RRA)" (For Individuals and Entities) This form is also referred to as "Standard Form"	1 <i>Pink</i>
"Irrevocable Election Form to Be Used Only by Religious or Charitable Organizations"	2 <i>Light green</i>
"Irrevocable Election Form to Be Used Only by Nonresident Aliens and Entities Not Established Under State or Federal Law (Foreign Entities)" This form is also referred to as "Nonresident Alien Form"	3 <i>Yellow</i>
"Documents Required for Irrevocable Election Form Used by Nonresident Aliens and Entities Not Established Under State or Federal Law (Foreign Entities)"	4 <i>Coral</i>
"Instructions for Using the Irrevocable Election Forms"	5 <i>Blue</i>

When should the district start using the revised irrevocable election forms?

The revised irrevocable election forms that are enclosed are to be used immediately. While there is no need to have previously submitted irrevocable election forms resubmitted, the enclosed versions of the irrevocable election forms are to now be exclusively used. Please discard any copies of the previously issued irrevocable election forms.

What revisions have been made?

- The word “signature” was added where a signature is required on all irrevocable election forms.
- The “Standard Form” was changed to make it clear that the form only applies to **current** wholly owned subsidiaries, but not to wholly owned subsidiaries that are created or acquired in the future.
- The “Standard Form” was changed to emphasize that new entities created by existing landholders must also file new irrevocable election forms.
- A list of documents was created that nonresident aliens and foreign entities must submit with the “Nonresident Alien Form.”
- Minor editorial changes were made for clarification in completing the irrevocable election forms.

Any irrevocable election questions should be directed to the appropriate Reclamation office.

Sincerely,



Richard W. Rizzi
Manager, Land Resources Division

Enclosures - 5

Enclosure 1

Irrevocable Election Form
Exercised Under
Reclamation Reform Act of 1982 (RRA)
(For Individuals and Entities)

Also referred to as
“Standard Form”

IRREVOCABLE ELECTION FORM
EXERCISED UNDER RECLAMATION REFORM ACT OF 1982 (RRA)
(PUBLIC LAW 97-293, TITLE II)

The undersigned, _____ (hereinafter elector), a recipient of
(name)
Federal Bureau of Reclamation (hereinafter Reclamation) irrigation water in the _____
(district[s] name)

(hereinafter District[s]), in the absence of an amendatory repayment or water service contract entered into by the District(s) as provided in the RRA, desires to execute this irrevocable election to obtain the benefits of said law.

The Elector Understands and Agrees That:

- For an entity and its part owners: The entity and each part owner must file separate irrevocable elections.
 - An election completed by an entity will apply only to the entity.
 - An election completed by an entity's part owner will apply only to that part owner.
 - Each part owner of the entity will remain subject to the prior law provisions of Federal reclamation law, unless and until a separate irrevocable election is filed by that part owner.
 - The entity will remain subject to the prior law provisions of Federal reclamation law, unless and until a separate irrevocable election is filed by the entity.
 - An entity (e.g., corporation, tenancy, etc.) created in the future by a landholder must file its own separate irrevocable election at the time of creation if it is to be subject to the discretionary provisions, even if the landholder had previously filed an irrevocable election.
- For individuals, married couples, or surviving spouses who hold 100-percent interest in one or more entities: This election will apply to their wholly owned entities identified below. **Any wholly owned entity(ies) not identified on this election by the elector will remain subject to the prior law provisions of Federal reclamation law, unless and until a separate irrevocable election is filed by the entity.** Mark the appropriate wholly owned entity(ies) to which this election should apply and list the name of the entity(ies) on the lines below. *Corporation* *Partnership* *Tenancy* *Other*

- Parent entities and wholly owned subsidiaries: A parent entity's irrevocable election has no effect upon its wholly owned subsidiary, and a wholly owned subsidiary's irrevocable election has no effect on its parent entity.
 - The parent entity and the wholly owned subsidiary must file separate irrevocable elections.
 - This signed irrevocable election applies only to the current wholly owned subsidiary or parent entity. A wholly owned subsidiary that is created or acquired in the future must file its own irrevocable election. A new parent entity must also file its own irrevocable election.
- All irrigable and irrigation land (as defined in 43 CFR 426.2) directly or indirectly owned or leased (held) by the elector is accurately described on the certification form(s) attached to this document.
- Reclamation irrigation water delivered to all irrigable and irrigation land held by the elector as described on the certification form(s) attached to this document shall be subject to the Acreage Limitation Rules and Regulations (43 CFR part 426), including the pricing provisions specified in 43 CFR 426.6 and 43 CFR 426.23.
- This election is permanent and, once executed, may not be revoked or withdrawn under any circumstances.
- This election is binding only to the elector and not to the land held by the elector; that is, this election will not be binding on a subsequent landholder (owner or lessee) of the land.
- This election must be signed by the appropriate parties.
 - Irrevocable elections submitted by partnerships and tenancies (including married couples) must be signed by all members included in the partnership or tenancy. All electors, except for corporations, are to sign in signature block 1 on page 2; this election must be signed in front of a notary public or similar public official.
 - Corporations must complete signature block 2 on page 2; they are not required to have the signatures notarized. Individuals, married couples, and surviving spouses who intend to have this election apply to both themselves and any wholly owned corporation must sign in **both** signature blocks 1 and 2. Corporations must attach a copy of their corporate resolution to this election.
 - A power of attorney may be used when signing an irrevocable election form **provided** that the power of attorney document does not specify applicability to signing only the RRA certification or reporting forms. The power of attorney must be specific to making an irrevocable election or be generally applicable to all acreage limitation documents requiring a signature(s). A copy of the power of attorney document must accompany the irrevocable election.
 - Spousal and entity signature authorizations may **not** be used to satisfy the irrevocable election signature requirements.
- The original election document (and attached original certification form[s]) must be filed with Reclamation. Copies of the election document and attached certification form(s) must be filed concurrently with each district where the elector holds land subject to the acreage limitation provisions.
- This election becomes effective on the date Reclamation receives it; however, this election is subject to approval by Reclamation.

The Elector Certifies That (He/She/It) Meets All the Conditions to be Treated as a (Check One):

 Qualified Recipient...(1) An individual who is a citizen of the United States or resident alien thereof or (2) a legal entity established under State or Federal law benefitting 25 or fewer natural persons. In the case of a married couple, the term “qualified recipient” includes husband, wife, and dependents. A qualified recipient may not be a dependent within the meaning of the Internal Revenue Code of 1954 (26 U.S.C. 152).

 Limited Recipient ..A legal entity established under State or Federal law benefitting more than 25 natural persons.

SIGNATURE BLOCK 1 (for Individuals, Partnerships, and Tenancies Only) (Corporations Must Use Signature Block 2)
A copy of the power of attorney document (if used) is attached to this irrevocable election document.

_____ Elector’s Signature	_____ Date	_____ Elector Spouse’s Signature	_____ Date
_____ Elector’s Signature	_____ Date	_____ Elector’s Signature	_____ Date
_____ Elector’s Signature	_____ Date	_____ Elector’s Signature	_____ Date
_____ Elector’s Signature	_____ Date	_____ Elector’s Signature	_____ Date



The Following Section is to be Completed by a Notary Public or Similar Public Official

STATE OF _____)

COUNTY OF _____),

On this _____ day of _____, 20____, before me,

_____ a Notary Public or Similar Public Official in and for the County and State aforesaid,

personally appeared _____ personally (**mark one**) *known to me*

 proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (**mark one**) *is* *are*

subscribed to this instrument, and acknowledged that (**mark one**) *he/* *she/* *they* executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

Notary Public or Similar Public Official’s Signature

Residing at: _____

Notary’s Commission Expires: _____

SIGNATURE BLOCK 2 (for Corporations)

Elector (Name of Corporation) _____
Date

By _____
Name and Title of Officer or Authorized Representative _____
Date

I, _____ (*name*), certify that I **am an officer or** authorized representative of the Corporation, named as Elector herein, that _____ (*name*) who signed this Irrevocable Election on behalf of the Elector was then _____ (*title*) of said Corporation and that said Irrevocable Election was duly signed for and in behalf of said Corporation by authority of its governing body and is within the scope of its corporate powers.

Certification form(s) and a copy of the Elector’s executed corporate resolution(s) are attached to this document.

By _____
Officer or Authorized Representative’s Signature _____
Date

THE FOLLOWING IS TO BE COMPLETED BY RECLAMATION

Date Application for Election Received by Regional Office: _____

Irrevocable Election Approved by: _____
Contracting Officer’s Signature _____
Date

Enclosure 2

Irrevocable Election Form
to Be Used Only by
Religious or Charitable Organizations

June 2012

IRREVOCABLE ELECTION FORM
TO BE USED ONLY BY RELIGIOUS OR CHARITABLE ORGANIZATIONS
EXERCISED UNDER RECLAMATION REFORM ACT OF 1982 (RRA)
PUBLIC LAW 97-293, TITLE II

The undersigned, for _____
(name of religious or charitable organization)

(hereinafter elector) a recipient of Federal Bureau of Reclamation (hereinafter Reclamation) irrigation water in the _____ (hereinafter District[s]) desires to execute this

_____ (district[s] name)
irrevocable election to obtain the benefits as provided in the RRA.



Please Provide the Following Information (the electing organization must ensure the answer to the following question is also true for all of its subdivisions):

Does the elector have tax exemption under Internal Revenue Code (IRC) section 501? Yes No

If the answer to this question is "no," or if upon request proof of the electing organization's tax exempt status cannot be provided, this is not the proper election form to complete. Please contact the appropriate Reclamation office for further guidance.

The Elector Understands and Agrees That:

- This election applies to the organization making the election (the elector) **and all of its subdivisions**. For example, School A and School B are subdivisions of Parish C, which is a subdivision of Archdiocese D. If Parish C makes an irrevocable election, Parish C and all of its subdivisions (Schools A and B) will become subject to the discretionary provisions; however, Archdiocese D will remain unaffected. If Archdiocese D makes an irrevocable election, Archdiocese D and all of its subdivisions (Schools A and B, and Parish C) will become subject to the discretionary provisions.
- In addition to having tax exemption under Internal Revenue Code (IRC) section 501, the elector must also meet all the criteria of section 219 of the RRA in order to fully benefit from that provision. These criteria are specified in items 8(a) through 8(c) of the "Certification of Religious or Charitable Organization's Landholdings" (Form 7-2184) that must accompany this election. The elector's answers to items 8(a) through 8(c) of RRA Form 7-2184 must all be "no" in order to demonstrate that the elector and its subdivisions meet the RRA section 219 criteria. If the elector answers "yes" to item 8(a), 8(b), or 8(c) of Form 7-2184, the elector and its subdivisions will be treated as a single entity. This may result in a determination that the entity is a limited recipient with a nonfull-cost entitlement of zero acres, unless the elector can prove that it benefits 25 or fewer natural persons.
- All irrigable and irrigation land (as defined in 43 CFR 426.2) directly or indirectly owned or leased (held) by the elector is accurately described on the certification form(s) attached to this document.
- Reclamation irrigation water delivered to all irrigable and irrigation land held by the elector as described on the certification form(s) attached to this document shall be subject to the Acreage Limitation Rules and Regulations (43 CFR part 426), including the pricing provisions specified in 43 CFR 426.6 and 426.23.
- This election is permanent and, once executed, may not be revoked or withdrawn under any circumstances.
- This election is binding only to the elector and not to the land held by the elector; that is, this election will not be binding on a subsequent landholder (owner or lessee) of the land.
- This election must be signed by an officer or authorized representative of the electing organization(s) in front of a notary public or similar public official. Signature authorizations may **not** be used.
- The original election document (and attached original certification form[s]) must be filed with Reclamation. Copies of the election document and attached certification form(s) must be filed concurrently with each district where the elector holds land subject to the acreage limitation provisions.
- This election becomes effective on the date Reclamation receives it; however, this election is subject to approval by Reclamation.

SIGNATURE BLOCK

Officer or Authorized Representative of the Electing Organization(s) Signature

Date



The Following Section is to be Completed by a Notary Public or Similar Public Official

STATE OF _____)

COUNTY OF _____),

On this _____ day of _____, 20____, before me, _____ a Notary Public or Similar Public Official in and for the County and State aforesaid, personally appeared _____ personally (**mark one**) ___ *known to me* ___ *proved to me* on the basis of satisfactory evidence to be the person(s) whose name(s) (**mark one**) ___ *is* ___ *are* subscribed to this instrument, and acknowledged that (**mark one**) ___ *he/* ___ *she/* ___ *they* executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

Notary Public or Similar Public Official's Signature

Residing at: _____

Notary's Commission Expires: _____

THE FOLLOWING IS TO BE COMPLETED BY RECLAMATION

Date Application for Election Received by Regional Office: _____

Irrevocable Election Approved by: _____

Contracting Officer's Signature

Date

Enclosure 3

Irrevocable Election Form
to Be Used Only by
Nonresident Aliens and Entities
Not Established
Under State or Federal Law
(Foreign Entities)

Also referred to as
“Nonresident Alien Form”

IRREVOCABLE ELECTION FORM
TO BE USED ONLY BY NONRESIDENT ALIENS AND
ENTITIES NOT ESTABLISHED UNDER STATE OR FEDERAL LAW (FOREIGN ENTITIES)
EXERCISED UNDER RECLAMATION REFORM ACT OF 1982 (RRA; PUBLIC LAW 97-293, TITLE II)

The undersigned, _____ (hereinafter elector), a recipient of Federal Bureau of Reclamation (hereinafter Reclamation) irrigation water in the _____ (district[s] name) (hereinafter District[s]) desires to execute this irrevocable election to obtain the benefits as provided in the RRA.

Please Provide the Following Information:

Nonresident Aliens (indicate elector's country of citizenship): Husband _____ Wife _____

Foreign Entities (indicate elector's country of establishment): _____

Nonresident Aliens AND Foreign Entities: Is any of the land directly owned or leased by the elector in a prior law district? Yes No
*If the "United States" is indicated as the country of citizenship or establishment or it is indicated that the land is directly owned or leased in prior law district(s) by the elector, **DO NOT COMPLETE** the remainder of this election. Contact the elector's district office(s) for further instructions.*

The Elector Understands and Agrees That:

- This irrevocable election will not be approved unless the elector is a citizen of, or is established in, a country that meets the criteria provided in 43 CFR 426.8(d) of the Acreage Limitation Rules and Regulations.
- For an entity and its part owners: An election completed by an entity will apply only to the entity. Each part owner of the entity will remain subject to the prior law provisions of Federal reclamation law, unless and until a separate irrevocable election is filed by each part owner. An election completed by an entity's part owner will apply only to that part owner. The entity will remain subject to the prior law provisions of Federal reclamation law, unless and until a separate irrevocable election is filed by the entity.
- For individuals, married couples, or surviving spouses who hold 100-percent interest in one or more entities: **This election will not apply to their wholly owned entities. Such entities must file separate irrevocable elections to conform to the discretionary provisions.**
- All irrigable and irrigation land (as defined in 43 CFR 426.2) directly or indirectly owned or leased (held) by the elector is accurately described on the certification form(s) attached to this document.
- None of the land described in the attached certification form(s) is directly owned or leased by the elector in a district that remains subject to the prior law provisions.
- Any land directly owned or leased by the elector in a district subject to the discretionary provisions will remain ineligible to receive Reclamation irrigation water.
- Reclamation irrigation water delivered to all irrigable and irrigation land held by the elector as described on the certification form(s) attached to this document shall be subject to the Acreage Limitation Rules and Regulations (43 CFR part 426), including the pricing provisions specified in 43 CFR 426.6 and 426.23.
- This election is permanent and, once executed, may not be revoked or withdrawn under any circumstances.
- This election is binding only to the elector and not to the land held by the elector; that is, this election will not be binding on a subsequent landholder (owner or lessee) of the land.
- This election must be signed by the appropriate parties.
 - Irrevocable elections submitted by partnerships and tenancies (including married couples) must be signed by all members included in the partnership or tenancy. All electors, except for corporations, are to sign in signature block 1 on page 2; this election must be signed in front of a notary public or a similar public official in the elector's country of citizenship or establishment as the case may be.
 - Corporations must complete signature block 2 on page 2; they are not required to have the signatures notarized. Corporations must attach a copy of their corporate resolution to this election.
 - A power of attorney may be used when signing an irrevocable election form **provided** that the power of attorney document does not specify applicability to signing only the RRA certification or reporting forms. The power of attorney must be specific to making an irrevocable election or be generally applicable to all acreage limitation documents requiring a signature(s). A copy of the power of attorney document must accompany the irrevocable election.
 - Spousal and entity signature authorizations may **not** be used to satisfy the irrevocable election signature requirements.
- The original election document (and attached original certification form[s]) must be filed with Reclamation. Copies of the election document and attached certification form(s) must be filed concurrently with in each district where the elector holds land subject to the acreage limitation provisions. See "Documents Required for Irrevocable Election Form Used by Nonresident Aliens and Entities Not Established Under State or Federal law (Foreign Entities)" page.
- This election becomes effective on the date Reclamation receives it; however, this election is subject to approval by Reclamation.

Elector Certifies That He/She/It Meets All the Conditions to be Treated as a (Check One):

 Qualified Recipient..(1) An individual or (2) a legal entity benefitting 25 or fewer natural persons. In the case of a married couple, the term “qualified recipient” includes husband, wife, and dependents. A qualified recipient may not be a dependent within the meaning of the Internal Revenue Code of 1954 (26 U.S.C. 152).

 Limited Recipient ..A legal entity benefitting more than 25 natural persons.

SIGNATURE BLOCK 1 (for Individuals, Partnerships, and Tenancies Only) (Corporations Must Use Signature Block 2)
A copy of the power of attorney document (if used) is attached to this irrevocable election document.

_____	_____	_____	_____
Elector’s Signature	Date	Elector Spouse’s Signature	Date
_____	_____	_____	_____
Elector’s Signature	Date	Elector’s Signature	Date
_____	_____	_____	_____
Elector’s Signature	Date	Elector’s Signature	Date
_____	_____	_____	_____
Elector’s Signature	Date	Elector’s Signature	Date

The Following Section is to be Completed by a Notary Public or Similar Public Official

STATE OF _____)
COUNTY OF _____),
or
COUNTRY OF _____),

On this _____ day of _____, 20____, before me, _____ a Notary Public or Similar Public Official in and for the County and State or Country aforesaid, personally appeared _____ personally (**mark one**) known to me proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (**mark one**) is are subscribed to this instrument, and acknowledged that (**mark one**) he/ she/ they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

Notary Public or Similar Public Official’s Signature
Residing at: _____

Notary’s Commission Expires: _____

SIGNATURE BLOCK 2 (for Corporations)

Elector (Name of Corporation) _____ Date _____
By _____ Date _____
Name and Title of Officer or Authorized Representative

I, _____ (name), certify that I am an officer or authorized representative of the Corporation, named as Elector herein, that _____ (name) who signed this Irrevocable Election on behalf of the Elector was then _____ (title) of said Corporation and that said Irrevocable Election was duly signed for and in behalf of said Corporation by authority of its governing body and is within the scope of its corporate powers.

Certification form(s) and a copy of the Elector’s executed corporate resolution(s) are attached to this document.

By _____
Officer or Authorized Representative’s Signature _____ Date _____

THE FOLLOWING IS TO BE COMPLETED BY RECLAMATION

Date Application for Election Received by Regional Office: _____

Irrevocable Election Approved by: _____
Contracting Officer’s Signature _____ Date _____

Enclosure 4

Documents Required
for
Irrevocable Election Form
Used by Nonresident Aliens and Entities
Not Established
Under State or Federal Law
(Foreign Entities)

DOCUMENTS REQUIRED
for
Irrevocable Election Form
Used By Nonresident Aliens and Entities Not Established
Under State or Federal Law (Foreign Entities)
Exercised under Reclamation Reform Act of 1982 (RRA)

Submit the required documents listed below to all districts in which the elector holds land.

1. Complete the appropriate irrevocable election form(s).
2. Complete and attach to the irrevocable election form the appropriate blue certification RRA form:
 - “Certification of Individual’s Landholdings” (Form 7-2180) for individuals, or
 - “Certification of Entity’s Landholdings” (Form 7-2181) for entities.*(Landholders that are below the district’s RRA forms submittal threshold must still complete a certification form when making an irrevocable election.)*
3. If required, attach to the irrevocable election form any corporate resolutions or power of attorney documents used to make the irrevocable election. (Signature authorizations may **not** be used.)
4. Attach to the irrevocable election form documentation regarding country of citizenship or country of establishment¹:
 - For nonresident aliens, acceptable documentation includes:
 - A copy of a currently valid passport that includes name, picture, signature, etc; or
 - A copy of a birth certificate.
 - For a foreign entity, acceptable documentation includes:
 - A copy of the articles of incorporation or other document creating the entity, if the country of establishment is clearly identified within that document. Included must be proof that such documents have been submitted to the applicable governing unit in the country indicated, or a notarized statement concerning the authenticity of the document.
 - A letter from the embassy of the country in question attesting to the fact that the foreign entity is established in their country.

Contact the appropriate Bureau of Reclamation office for details regarding the footnote below.

¹ In order to make an irrevocable election, the Acreage Limitation Rules and Regulations require a nonresident alien’s or foreign entity’s country of citizenship or establishment to (1) have a Friendship, Commerce and Navigation Treaty with the United States, (2) have a Bilateral Investment Treaty with the United States, (3) be a party to the North American Free Trade Agreement, (4) be a party to the Canada - United States Free Trade Agreement, or (5) be a member of the Organization for Economic Cooperation and Development (OECD).

Enclosure 5

Instructions for
Using the
Irrevocable Election Forms

INSTRUCTIONS FOR USING THE IRREVOCABLE ELECTION FORMS (Revised June 2012)

What Changes Have Been Made to the Irrevocable Election Forms?

1. A revision date has been added to all three irrevocable election forms (upper left corner) in order to ensure that the proper version is in use at any given time.
2. Added the word “signature” everywhere where signatures were required on the forms.
3. Changed the standard irrevocable election form to make it clear that the irrevocable election form only applies to:
 - Current wholly owned subsidiaries that are named on the irrevocable election form, but not to wholly owned subsidiaries that are created or acquired in the future, and
 - Current entities, but not to entities created in the future, even if that landholder had previously filed an irrevocable election. (Example: a tenancy that is created in the future by a landholder.)
4. A list of the documents that nonresident aliens and foreign entities must submit with their irrevocable forms has been created to assist those landholders in filing an irrevocable election.

Frequently Asked Questions:

GENERAL

1. *When should I begin using the new election forms?*

The revised forms are to be used immediately. Please discard existing supplies of previously issued irrevocable election forms.

2. *Must an original certification form be submitted to Bureau of Reclamation concurrently with the original irrevocable election?*

Yes. This is required by 43 CFR¹ 426.3(f)(2) of the Acreage Limitation Rules and Regulations. Districts that are concerned about releasing an original certification form from their landholder files should note that 43 CFR 426.3(f)(2)(iv) requires Reclamation to return the original certification form to the applicable district if the irrevocable election is approved.

¹ Code of Federal Regulations

WHOLLY OWNED ENTITIES

3. *Must a wholly owned entity submit its own irrevocable election?*

No. In situations where an entity is wholly owned by an individual or another entity, the individual or entity with 100-percent interest in the entity in question must (1) submit an irrevocable election for himself/herself/itself and any applicable wholly owned entities, (2) complete the section requesting names of wholly owned entities to which the irrevocable election applies, and (3) attach any required documents (e.g., a Reclamation Reform Act of 1982 [RRA] “Certification of Individual’s Landholdings” [Form 7-2180] or “Certification of Entity’s Landholdings” [7-2181] as applicable, power of attorney document, corporate resolution, etc.). (However, this does not apply to nonresident aliens. See Question 10 below.)

4. *What if the single family’s or surviving spouse’s wholly owned entity is not identified on their election?*

If the entity is not identified by both type and name, Reclamation cannot be sure that the elector intended the entity to become subject to the discretionary provisions of Federal reclamation law. In accordance with 43 CFR 426.3(f), any wholly owned entities, including partnerships, tenancies, and corporations, not identified on the election will remain subject to prior law until an irrevocable election is submitted by the entity on its own behalf. In addition, the entity will be required to file a “Report of Entity’s Landholdings” (Form 7-2191) annually. Since the entity and its part owners will be subject to differing provisions of Federal reclamation law upon submittal of the election, the single family or surviving spouse may no longer report the entity’s landholdings on their Form 7-2180.

5. *Must the elector(s) complete both signature blocks 1 and 2 if the election covers both themselves and their wholly owned corporation?*

Yes. Even though the corporation in question is 100-percent owned by the single family or surviving spouse, it is a separate entity with corporate requirements outside those associated with the RRA. As such, it must conduct business on its own behalf in accordance with State and Federal requirements and its own bylaws. Signature block 1 only covers the elector(s) as an individual(s) acting on his/her/their own behalf. Signature block 2 requires the elector(s) to sign as an authorized representative(s) of the corporation acting on behalf of the corporation.

6. *Must a corporate resolution be submitted with the irrevocable election?*

Yes. A corporation is not bound by the actions of its shareholders. The corporate resolution provides evidence to Reclamation that it is the intent of the corporation to become subject to the discretionary provisions. The election must be accompanied by a certification form in accordance with section 426.3(f)(2) of the Acreage Limitation Rules and Regulations.

SIGNATURE REQUIREMENTS

7. *What are the signature and form requirements for wholly owned partnerships and tenancies identified on the individual's election?*

The notarized signature of the elector and spouse (if applicable) in signature block 1 of the election is sufficient. A completed certification form for these entities is not required; however, they must be identified in the appropriate block on page 1 of the accompanying Form 7-2180.

8. *Can a power of attorney be used to sign an irrevocable election form?*

Yes. A power of attorney may be used when signing an irrevocable election form **provided** that the power of attorney document does not specify applicability to signing only the RRA certification or reporting forms. The power of attorney must be specific to making an irrevocable election or be generally applicable to all acreage limitation documents requiring a signature(s). A copy of the power of attorney document must accompany the irrevocable election.

9. *Can a signature authorization be used to sign an irrevocable election form?*

No. Spousal and entity signature authorizations may **not** be used to satisfy the irrevocable election signature requirements.

NONRESIDENT ALIENS

10. *Can a nonresident alien couple in a prior law district who also own 100-percent interest in an entity established under State or Federal law in a prior law district use one election form to irrevocably elect for themselves and their wholly owned entity?*

No. The couple and the wholly owned entity must file separate irrevocable election forms. The couple must use the irrevocable election form for nonresident aliens and foreign entities, and their wholly owned entity must use the standard irrevocable election form.

RELIGIOUS OR CHARITABLE ORGANIZATIONS

11. *When a religious or charitable organization makes an irrevocable election, to what levels of that organization does the irrevocable election apply?*

The primary reason for having a separate irrevocable election form for religious or charitable organizations is to clarify the application of an irrevocable election to a particular religious or charitable organization's subdivision(s). While any level within a particular organization may irrevocably elect to become subject to the discretionary provisions, such an election will apply to the electing religious or charitable organization and all of its subdivisions. It is important to note that if a religious or charitable organization is not tax exempt under Internal Revenue Code section 501, they are not to use the irrevocable election form for religious or charitable organizations. A "Certification of Religious or Charitable Organization's Landholdings" (Form 7-2184) must accompany an organization's irrevocable election. The electing religious or charitable organization's eligibility for full special application of the acreage limitation provisions under the discretionary provisions is based in part on attestations provided on the organization's Form 7-2184.

12. *If a religious or charitable organization submits an irrevocable election, does that election also apply to its subdivisions?*

Yes. An organization's irrevocable election applies to that organization and all of its subdivisions.

13. *If a religious or charitable organization does not meet certain criteria, what irrevocable election form should be used?*

If a religious or charitable organization should answer "no" to the question of whether it has tax exemption under Internal Revenue Code section 501, it should use the standard irrevocable election form. If a religious or charitable organization is tax exempt under Internal Revenue Code section 501, but does not meet one or more of the other criteria under section 219 of the RRA (see section 426.9[b] of the Acreage Limitation Rules and Regulations), it should use the irrevocable election form for religious or charitable organizations.