



United States Department of the Interior

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

IN REPLY REFER TO:

84-53000
LND-9.00

JUN 25 2013

Subject: Criteria for Gift Transfers of Excess Land Without Sales Price Approval

Dear Ladies and Gentlemen:

The purpose of this letter is to provide information concerning the application of the acreage limitation provisions to gift transfers of excess land without sales price approval that are not specifically addressed by the Reclamation Reform Act of 1982 (RRA) or the Acreage Limitation Rules and Regulations (43 CFR¹ part 426; Regulations).

In general, if land has been designated as “excess” under the acreage limitation provisions of Federal reclamation law, the land is ineligible to receive Bureau of Reclamation irrigation water unless it is sold or transferred to an eligible buyer at a price approved by Reclamation. However, if certain criteria are met, land transferred as a gift would be eligible to receive Reclamation irrigation water in the landholding of the recipient of the gift without sales price approval.

Criteria

Any process to successfully transfer excess land as a gift and have that land be eligible to receive Reclamation irrigation water needs to address two concerns: (1) proof that the gift transfer is legitimate, and (2) verification that a gift transfer, not a sale of the land, has occurred. In general, if a landholder should want to transfer his, her, or its excess land as a gift and not go through the sale price approval process, you should contact the appropriate Reclamation office for assistance. We are providing you the following so that you have the information to provide the landholder who may ask about the option.

If excess land is to be transferred as a gift to a landholder who intends and is able to designate the land as nonexcess, sales price approval will not be required if the following criteria are **all** met:

1. The gift transfer must be in compliance with 26 CFR §301.6501(c), including the requirement to file Internal Revenue Service (IRS) Form 709 (United States Gift Tax Return), if applicable.
2. The parties gifting the land and the receiver of said gift must submit to Reclamation any documentation provided to the IRS concerning the gifted land, including IRS Form 709, if applicable, by May 1 of the year following the gift transfer. Any amended filings concerning the gift transfer must be submitted to Reclamation within 60-calendar days of the submittal to the IRS.

¹ Code of Federal Regulations

3. The parties must notify appropriate state and/or local agencies of the gift transfer and provide Reclamation with documentation of such notification. For example, in California it would be the California Documentary Transfer Tax designating the transfer as a gift.
4. Place in the deed transferring title to the land to the receiving party the covenant specified in 43 CFR 426.12(i) (deed covenant restricting future sales or transfer prices for 10 years).
5. The deed transferring title of the land to the acquiring party must be signed by **all** parties involved in the gift transfer. The signatures must be notarized and the deed must be recorded at the appropriate local county government clerk or recorder's office. A copy of the recorded deed must be forwarded to appropriate Reclamation office.
6. Using a document to be provided by Reclamation, the current landowner and the future landowner must acknowledge in writing the requirements of 43 CFR §426.12(g) and 43 CFR 428.9, which address former owners of excess land who sell or transfer excess land at an approved price and then become again the owner of the land or a lessee or farm operator of such land, both apply to the land transferred as a gift. The completed document must be forwarded to the appropriate Reclamation office.
7. All forms normally required by the RRA and implementing Regulations must be completed and submitted to the appropriate Reclamation office by the current landowner making the gift and the recipient of the gift transfer, where necessary and appropriate.
8. The following information must be provided to the appropriate Reclamation office:
 - a. Name and address of the landowner (donor) making the gift;
 - b. Name and address of the landholder receiving the gift; and
 - c. Legal description of the land being gifted, which must be the same as that included on the deed for the land and on any RRA forms that must be submitted.

The land in question will **not** be eligible to receive Reclamation irrigation water until it is demonstrated that the receiver of the gift has ownership entitlement available that would make the land nonexcess in his/her landholding, without having to redesignate any currently owned nonexcess land as excess, and the documents and information specified above have been properly recorded and provided to Reclamation.

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

Sincerely,



Roseann Gonzales
Director, Policy and Administration