

D-5640

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To: All Irrigation Districts Subject to the Reclamation Reform Act of 1982

Subject: Treatment of Land Held in Receiverships or Subject to Court Orders (RRA)

Enclosed are guidelines for treating land that is held in receiverships or is subject to requirements in a court order. The guidelines have been prepared because we understand districts are encountering these types of situations and neither the Reclamation Reform Act of 1982 nor the Acreage Limitation Rules and Regulations address these topics.

If you have additional questions about these matters, please contact the Bureau of Reclamation project office responsible for your area.

Sincerely,



J. William McDonald  
Assistant Commissioner  
Resources Management

Enclosure

GUIDELINES FOR TREATING LAND HELD  
IN RECEIVERSHIPS OR  
SUBJECT TO COURT ORDERS  
RECLAMATION REFORM ACT OF 1982 (RRA)

Question: What is a "receivership?"

Response: Briefly, a receivership is the condition wherein a court has appointed an agent (receiver) to manage property that is in litigation. The purpose of a receivership is to preserve the status quo and maintain the property. When a receivership is established, the court assumes control of the property in question, even though title to the land generally remains with the party that held it before litigation proceedings began. Since the court cannot actually manage the property itself, it appoints a receiver to manage the property for the benefit of the parties to the litigation. The type of management activities receivers may perform include executing leases, paying bills, collecting rent, distributing profits, etc. Receiverships are most common in conjunction with lawsuits involving bankruptcies, estates, and divorces.

Question: How is land under a receivership to be treated for RRA purposes?

Response: Basically, land in receivership is to be treated the same as it was immediately before the situation giving rise to the receivership. In other words, the status quo applies to such land. As an example, suppose 960 acres of the 1,000 acres owned by a qualified recipient are eligible to receive project irrigation water at the contract rate; the remaining 40 acres are excess and ineligible. If the land held by the qualified recipient was subsequently placed in receivership, the same number of acres would continue to be eligible, and the same water rate would apply during the time the receivership was in effect.

Question: What effect does an irrevocable election have on land in receivership?

Response: Because the status quo applies to land in receivership, an irrevocable election by either a receiver or parties that hold title to the land would not affect the land in receivership; that is, an irrevocable election could not be used to change the status of land in receivership from excess to nonexcess. Such an election would only affect land owned or leased by the parties outside the receivership.

Question: Who is responsible for reporting/certifying lands in receivership?

Response: During the time a receivership is in effect, the Bureau of Reclamation's (Reclamation) current policy is to request that the receiver report/certify the land that is under the court's control. The receiver should also be requested to include with the first

forms submittal a copy of the court order placing the land under receivership. The receiver should indicate on the forms that he/she is a receiver and identify the landholder(s) that held the land immediately before it was placed in receivership.

Question: What form(s) should be filed?

Response: If the land in a receivership is identical to the land reported on the latest RRA basic form(s) of the involved landholders, the receiver should submit a verification form. A copy of the most recently completed RRA basic form(s) submitted by the party(ies) that actually holds (hold) title to the land should be attached to the verification form.

If the land in the receivership has not previously been reported or the land is not identical to the land reported on the involved landholders' latest RRA basic form(s), the receiver should complete a multiple ownership form. Since this form was not designed specifically for receiverships, some items on the form may not be applicable. However, the form should be completed to the fullest extent possible. The receiver should also submit additional information if the form does not contain sufficient information for a determination to be made as to the status of the land immediately before the receivership was established. Preferably, the receiver will provide this information by attaching a copy of the latest RRA basic form(s) submitted by the involved landholders; however, it is also acceptable for the receiver to provide this information on a separate sheet of paper.

Question: Is land in receivership to be disclosed on RRA forms submitted by the record title holder?

Response: Because land in a receivership is under the control of the court, it is not to be attributed to the parties that actually retain title to it. Therefore, such parties are not required to disclose land in receiverships on RRA forms. However, they still must report or certify as to any land they own or lease outside the receivership. In addition, lessees of land that is in receivership are subject to the same RRA forms and pricing requirements that would have applied had the land not been placed in receivership.

Question: What actions are to be taken if a court issues an order that conflicts with the provisions in the RRA or 43 CFR Part 426?

Response: Both Reclamation and court-appointed receivers are required to obey the directives in a court order, even if those directives conflict with the RRA or the rules. In such situations, Reclamation will request the court to amend the order so that it will be in conformance with Reclamation law and the rules.

Question: Are districts required to inform Reclamation about receivership situations?

Response: Districts are not required to inform Reclamation about receivership situations unless the court order conflicts with the requirements of Reclamation law. In such cases, districts should forward the court order, applicable RRA forms, and other relevant information to Reclamation for resolution.

Situations may be encountered where the above information is not compatible with a specific court order or State law or does not address the circumstances of a particular receivership. Such situations will need to be addressed on a case-by-case basis.

If you have questions on this matter, please contact the Reclamation project office responsible for your area.