



United States Department of the Interior

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

IN REPLY REFER TO:

D-5200
LND-9.00

SEP 5 2003

Subject: Application of Acreage Limitation Provisions to Public Entities, Reclamation Reform Act of 1982

Dear Ladies and Gentlemen:

This letter details the actions that must be taken with respect to Reclamation Reform Act of 1982 (RRA) administration when applied to legal entities (partnerships, corporations, tenancies, etc.) that are wholly or partially owned by public entities. This information that is being provided was effective starting with the 2003 water year.

INFORMATION CONCERNING LEGAL ENTITIES THAT ARE OWNED BY PUBLIC ENTITIES

Public entities that meet the criteria specified in 43 CFR¹ 426.10(a) of the Acreage Limitation Rules and Regulations will be counted as one-part owner when determining if the legal entity is a qualified or limited recipient. The following example shows the application:

Example 1: Beehive State, Inc., is an equal partnership with two-part owners, the City of Gold and the State of Utah. Both of these public entities meet the criteria specified in 43 CFR 426.10 (a). Beehive State, Inc., was formed in January 2002 and shortly thereafter purchased 900 acres in Alpha Irrigation District, which has conformed to the discretionary provisions. In determining if Beehive State, Inc., is a qualified or limited recipient, the number of natural persons benefitting must be determined. Although there are millions of natural persons who benefit from the two public entities that are the part owners of Beehive State, Inc., for acreage limitation purposes only two-part owners will be counted. Therefore, Beehive State, Inc., will be a qualified recipient with 960-acre ownership and nonfull-cost entitlements.

WHAT RRA FORMS ARE REQUIRED TO BE SUBMITTED TO DISTRICTS?

Legal entities that are wholly owned by a public entity

If a legal entity is **wholly owned** by one public entity, then the legal entity will be treated as a wholly-owned subsidiary of that public entity and will not be required to submit an RRA form. However, the fact that the legal entity does not have to submit an RRA form does not negate the

¹ Code of Federal Regulations

fact that the acreage limitations apply to that legal entity. Whether or not the legal entity has exceeded those limitations will be disclosed from the information the public entity has provided with its RRA form.

Public entities that wholly own legal entities and are required to submit RRA forms, because their westwide landholdings are greater than 40 acres, are required to provide the following information.

- The land in question will be reported as directly-owned or directly-leased land on the public entity's Form 7-21PE (Declaration of Public Entity's Landholding).
- The name of the legal entity that the public entity wholly owns is to be provided on the public entity's Form 7-21PE. The land the public entity holds through the legal entity must be specified.

Legal entities that are partially owned by a public entity or are wholly-owned by multiple public entities

If a legal entity is only **partially owned** by a public entity or is owned by more than one public entity, the legal entity will be required to submit RRA forms like any other legal entity. This includes identifying on its form the public entities that are its part owners. In the example provided earlier, Beehive State, Inc., would have to submit a Form 7-2181 (Certification of Entity's Landholding) because its westwide landholding exceeds the RRA forms submittal threshold applicable to qualified recipients. On its Form 7-2181, Beehive State, Inc., would be required to list both the City of Gold and the State of Utah as part owners.

Public entities that partially own legal entities and are required to submit RRA forms, because their westwide landholdings are greater than 40 acres, will be required to provide the following:

- The public entity should document on a separate sheet of paper the land it indirectly owns or leases through legal entities. Included will be the number of acres and appropriate legal descriptions. (This will be done on a separate form starting with the 2004 water year; see next page.)
- The public entity must specify the name of the legal entity of which it is a part owner and through which it indirectly owns or leases land.
- This information should be submitted with the public entity's Form 7-21PE.

Lessees of legal entities that are wholly owned by a public entity

If a public entity **wholly owns** a legal entity and the land owned by that legal entity is leased to another landholder, then that lessee will have to count all of that land against **both** his/her/its ownership and nonfull-cost entitlements in the same manner as if the public entity owned the land directly.

Lessees of legal entities that are partially owned by a public entity or are owned by multiple public entities

If the public entity only **partially owns** a legal entity and the land owned by that legal entity is leased to another landholder, then that lessee will only have to count a percentage of the leased land against **both** his/her/its ownership and nonfull-cost entitlements. The remainder of the land will only count against the lessee's nonfull-cost entitlement.

FORM 7-21PE-IND, "ATTACHMENT SHEET FOR FORM 7-21PE (IDENTIFICATION OF INDIRECTLY-HELD LAND)"

A special form, Form 7-21PE-IND, has been created that starting with the 2004 water year will need to be completed by public entities that wholly or partially own legal entities and are required to submit RRA forms. The instructions to Form 7-21PE have also been adjusted starting with the 2004 water year to instruct users as to what must be done to account for such landholdings.

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

Sincerely



Luis Maez
Manager, Reclamation Law and Revenues
Management