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MEMORANDUM

To: All Irrigation Districts Subject to the Acreage Limitation Provisions of Reclamation Law

From: ^{FOR} J. Austin Burke
Director, Program Analysis Office *Margaret W Sche*

Subject: Upcoming Changes Affecting Involuntarily Acquired Lands

On January 1, 1998, revisions to the Acreage Limitation Rules and Regulations (rules; 43 CFR Part 426) will be effective. Some of these changes affect involuntarily acquired land. We would like to bring to your attention how these changes may affect landholders in your district.

Eligibility to Receive Reclamation Irrigation Water on Involuntarily Acquired Land

The first change affecting involuntarily acquired eligible land limits the availability of Bureau of Reclamation (Reclamation) irrigation water to be delivered to such land, if the landholder declares the involuntarily acquired land as excess and wants to receive such water on it for the 5 years, as provided in section 426.14(e) of the revised rules. Starting on January 1, 1998, if the involuntarily acquiring party previously held such land as ineligible excess or under a recordable contract, and that landholder is not a financial institution as defined in section 426.14(a) of the revised rules, the landholder will not be able to take advantage of the provisions provided in section 426.14(e) (specifically, be eligible to receive Reclamation irrigation water for 5 years on the involuntarily acquired land) unless one of the following exceptions apply:

1. The landholder who involuntarily acquires the otherwise eligible land acquired it prior to December 18, 1996;
2. The landholder pays the full-cost rate for any irrigation water delivered to the otherwise eligible land in question; or
3. The deed covenant associated with the sale has expired. (§426.14[e][1][iii])

Contacting Landholders

For your district it will be important that excess land forms on file are reviewed to identify all involuntarily acquired land that has (1) been declared excess and (2) received Reclamation irrigation water under the involuntarily acquisition provisions for less than 5 years. If you have any landholders whose landholdings meet that criteria you should contact those landholders immediately to determine if the full-cost rate will apply. Following are questions you should ask these landholders:

1. Is the landholder a financial institution as defined in the revised rules?
2. Did the landholder involuntarily acquire the land in question before December 18, 1996?
3. Did the landholder previously own the land as ineligible excess or under recordable contract?
4. Has the deed covenant associated with the land when it was sold to an eligible buyer at an approved price, if any, expired?

If the answer to questions 1, 2, or 4 is yes or the answer to question 3 is no, then the full-cost rate will not apply. If the answers to questions 1, 2, and 4 are no and the answer to question 3 is yes, then the only way the landholder may continue to receive Reclamation irrigation water under the involuntary acquisition provisions is if the landholder pays the full-cost rate for such deliveries.

The attached flowchart will help you determine if the full-cost rate applies to Reclamation irrigation water deliveries to the land in question.

Eligibility to Redesignate Excess Land to Nonexcess

The second change is found in section 426.14(f) of the revised rules. Basically landholders will still be able to involuntarily acquire eligible land, declare such land as excess, and receive Reclamation irrigation water on it for up to 5 years from the date of acquisition at the water rate paid by the former landowner, assuming the conditions discussed earlier in this letter are met. Through December 31, 1997, most of these landholders will be able to redesignate such land as nonexcess, if they have sufficient ownership entitlement available, with no major repercussions. However, starting on January 1, 1998, eligible land involuntarily acquired and declared as excess by the acquiring party will not be eligible for redesignation to nonexcess at some later date by that landholder unless two conditions are met:

1. The process to redesignate land specified in section 426.12(b)(2) of the revised rules must be used; and

2. The landholder in question must pay Reclamation, through the district, any difference between the water rates paid while the land was declared excess and the rate that would have applied if the land had been declared nonexcess when it was involuntarily acquired.

For example, Farmer A, who is subject to the discretionary provisions, involuntarily acquired 500 acres of eligible land in a prior law district. Farmer A had never previously held this land. In that prior law district, the contract rate is \$2 per acre-foot for prior law recipients; however, in order to cover the full operation and maintenance costs, the rate applicable to discretionary provision recipients is \$10 per acre-foot. Farmer A declares the involuntarily acquired 500 acres as excess and receives 1,000 acre-feet of water per year on the land for 5 years. For these deliveries, Farmer A has paid \$10,000 (1,000 acre-feet times 5 years times \$2 per acre-foot).

On January 2, 1998, Farmer A requests to redesignate the 500 acres to nonexcess. Farmer A has ownership entitlement available because he had only 200 acres of nonexcess owned land attributed to him westwide when he requested to redesignate the land. However, Reclamation will not approve that request for redesignation unless Farmer A first pays \$40,000; that is the difference between what he had already paid for the water delivered to the 500 acres while it was excess (\$10,000) and what Farmer A would have owed if he had declared the land nonexcess when it was originally involuntarily acquired (1,000 acre-feet times 5 years times \$10 per acre-foot minus \$10,000). This assessment would not have applied if Farmer A had submitted his redesignation request to Reclamation before January 1, 1998.

Landholder Notification

A review of excess land forms on file submitted by your landholders should alert you to any involuntarily acquired land in your district that (1) has been declared excess by the involuntarily acquiring party and (2) is receiving or has received Reclamation irrigation water. If you have any landholders with land that meets these criteria, we strongly urge you to contact such landholders to notify them of this upcoming change well in advance of the effective date of the revised rules (January 1, 1998). If such landholders originally declared the involuntarily acquired land as excess and intend to eventually ask to redesignate such land, the district's notification will inform them of the impact of waiting until after December 31, 1997, to request the redesignation.

Reclamation Reform Act of 1982 (RRA) Fact Sheet

The RRA Fact Sheet concerning involuntary acquisitions will address the issues presented in this letter when that fact sheet is revised and distributed. When that fact sheet becomes available, it should be provided to all landholders who involuntarily acquire eligible land, want to declare it as excess, and want to receive Reclamation irrigation water on it for 5 years from the date of acquisition.

If you have any questions concerning the matters discussed in this letter, please contact you local Reclamation office.

ELIGIBILITY OF INVOLUNTARILY ACQUIRED LAND TO RECEIVE RECLAMATION IRRIGATION WATER IF IT IS DECLARED EXCESS BY THE INVOLUNTARILY ACQUIRING PARTY

