



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF RECLAMATION

Commissioner's Office
PO Box 25007
Denver Federal Center
Denver, Colorado 80225-0007

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

Subject: Issues Relating to Religious or Charitable Organizations – Reclamation Reform Act of 1982

In a May 21, 1998, transmittal, districts were provided guidance for implementing the new provisions in the Acreage Limitation Rules and Regulations for religious or charitable organizations (section 426.9). Since that time, Reclamation has addressed several additional religious and charitable issues. For your information, the decisions on these issues are explained in the attachment to this memorandum in question-and-answer format.

Some of the questions and answers contained in the attachment refer to the provisions in section 219 of the Reclamation Reform Act of 1982 (RRA). These provisions are summarized below.

Section 219 of the RRA

Section 219 provides special application of the acreage limitation provisions to organizations that are exempt from taxation under section 501 of the Internal Revenue Code, provided the following criteria are met:

- (1) The organization's (or subdivision's) agricultural produce and proceeds from the sales of such produce are directly used only for charitable purposes.
- (2) The organization (or subdivision) operates the land.
- (3) No part of the net earnings of the organization (or subdivision) inures to the benefit of any private shareholder or individual.

Under the discretionary provisions, organizations and each of their subdivisions will have a separate qualified recipient status if they meet all of the section 219 criteria. Under prior law, such organizations and each of their subdivisions will be treated as separate prior law corporations if they meet all of the section 219 criteria.

If you need further assistance regarding the acreage limitation provisions for religious or charitable organizations, please contact the appropriate Bureau of Reclamation office.

Sincerely,

Elizabeth Cordova-Harrison
Deputy Director, Office of Policy

Attachment

IMPLEMENTATION OF THE ACREAGE LIMITATION PROVISIONS FOR RELIGIOUS OR CHARITABLE ORGANIZATIONS

This attachment provides additional guidance for implementing the provisions in section 219 of the Reclamation Reform Act of 1982 (RRA) and section 426.9 of the Acreage Limitation Rules and Regulations (Regulations; 43 CFR part 426). These provisions address religious and charitable organizations (organizations). The specific topics addressed in this attachment are:

Organizations And RRA Forms
Owner Of Record
Different Acreage Limitation Statuses Within The Same Organization
Number Of Natural Persons In Organizations That Are Part Owners

(In this attachment, the three criteria in section 219 of the RRA are referred to as "the section 219 criteria." The criteria are listed in the memorandum to which this document is attached.)

ORGANIZATIONS AND RRA FORMS

Question 1: If an organization that meets the section 219 criteria is structured in a hierarchical manner so that there are several layers of subdivisions, which level(s) is (are) required to submit RRA Form 7-2184 or Form 7-2194?

Answer: As explained below, organizations that meet the section 219 criteria and that have a hierarchical structure have two options for completing the RRA forms.

OPTION 1: Each Division (Subdivision) of the Organization Submits an RRA Form

Under Option 1, each separate division (subdivision) of an organization submits an RRA form if the land considered to be in its landholding exceeds the applicable RRA forms submittal threshold. The following applies to organizations that wish to take this approach.

1.A - Forms submittal threshold. The RRA forms submittal threshold for an organization that meets the section 219 criteria is determined as follows: If an organization (or subdivision) is subject to the discretionary provisions and holds land in a district with a "category 1" status, its forms submittal threshold is 240 acres because that organization (or subdivision) is considered to be a qualified recipient. If the same organization (or subdivision) holds land in a district with a "category 2" status, it has an 80-acre forms submittal threshold in that district. If an organization (or subdivision) is subject to prior law, its forms submittal threshold is 40 acres, regardless of the district's forms submittal category.

1.B - Each part of the organization discloses its own landholding. Once it is determined that a division (subdivision) exceeds the RRA forms submittal threshold, the division

(subdivision) places its name in the item on the form that asks for the organization's name and discloses on the form only the land considered to be in its landholding.

1.C - Attribution of land. The land on each division's (subdivision's) RRA form is attributed only to that division's (subdivision's) acreage limitation entitlements.

1.D - No subdivisions are to be listed. The division (subdivision) submitting the RRA form is NOT to list any subdivisions in the item on the form that requests subdivision information. (Other subdivisions are required to submit their own forms, as applicable.)

1.E - Signatures. RRA forms must be signed by an officer or an authorized agent from the division (subdivision) of the organization that is submitting the form.

1.F - Divisions and subdivisions need to coordinate. Divisions (subdivisions) of organizations that choose Option 1 need to coordinate with each other with respect to which land is considered to be within which division's (subdivision's) landholding. Otherwise, the same land could be reported more than once and unnecessarily be attributed to more than one division (subdivision). Conversely, land could be under-reported, which could lead to form submittal violations.

OPTION 2: Organizations Choose Which Levels Are to Submit RRA Forms

Under Option 2, organizations can reduce the number of forms that need to be submitted by combining the landholding information for more than one part of the organization on just one form. The following applies to organizations that wish to take this approach.

2.A - Combine information for divisions and subdivisions. A division (subdivision) of an organization may submit an RRA form and disclose on it (i) information about the land considered to be in its landholding and (ii) information about land considered to be in the landholding of a subdivision (or subdivisions) under it. If a higher level of an organization includes landholding information about a lower level subdivision on its form, the lower level subdivision is not required to submit a separate form of its own. In no case may a division (subdivision) include on its form information about land considered to be in the landholding of a higher level of the organization.

Example: Level 1 is the central organization of a Church and it has Level 2 and Level 3 subdivisions under it. The central organization (*Level 1*) chooses to submit an RRA form and disclose landholding information for the central organization and for all the Level 2 and Level 3 subdivisions under it. As another option, the organization could decide that each Level 2 subdivision would submit a form disclosing landholding information for that subdivision and all the Level 3 subdivisions under it. The Level 2 subdivisions would not be permitted to include on their forms land that is considered to be in the central organization's landholding.

2.B - Attribution of land. If a division (subdivision) decides to disclose on its RRA form landholding information for a subdivision(s) of it, Reclamation will view the division

(subdivision) that is submitting the form and all the subdivisions that are included on its form as one qualified recipient (discretionary provisions) or corporation (prior law), assuming the section 219 criteria have been met. Accordingly, the division (subdivision) that is submitting the form will be attributed with all the land considered to be in its landholding and all the land considered to be in the landholdings of the subdivisions included on its form.

2.C - Failure to meet section 219 criteria. If a division (subdivision) decides to disclose on its RRA form landholding information for a subdivision(s) of it, and Reclamation should find that one of the non-reporting subdivisions does not meet the section 219 criteria,

- (i) Under prior law, the entire organization, including the central organization and all its subdivisions, will be treated as one prior law corporation.
- (ii) Under the discretionary provisions, the division (subdivision) that submitted the form and ALL the subdivisions of it will be treated as one legal entity. The phrase "ALL the subdivisions" in the preceding sentence includes any subdivisions that may complete their own forms rather than being combined on a form with other subdivisions.

2.D - Same acreage limitation status required. A division (subdivision) of an organization may include landholding information for a subdivision(s) of it on its RRA form, only if the division (subdivision) submitting the form and the subdivision(s) to be included on the form all have the same acreage limitation status. That is, all the divisions (subdivisions) included on the form must be subject to the discretionary provisions, or they all must be subject to prior law.

2.E - Forms submittal threshold. The part of the organization that will be submitting the RRA form must determine if it exceeds the forms submittal threshold. (*See paragraph 1.A under Option 1 above.*) To do so, the division (subdivision) that is submitting the form must add all the land considered to be in its landholding and all the land considered to be in the landholdings of the subdivisions that will be included on the form.

2.F - Westwide consistency not required. An organization does not need to be consistent westwide with respect to which level of the organization submits RRA forms. For example, the Boy Scouts of America may submit forms at the Council Level in Utah and at the Troop Level (*a lower level*) in Montana.

2.G - Consistency with irrevocable election not required. The level of the organization that submits RRA forms does not need to coincide with the level at which an organization has made (or will make) an irrevocable election to conform to the discretionary provisions.

2.H - Names of divisions and subdivisions need to be listed. If a division (subdivision) is including landholding information for a subdivision(s) of it on its RRA form, the division (subdivision) submitting the form must list on the form the name(s) of the lower level subdivision(s).

2.I - Signatures. RRA forms must be signed by an officer or an authorized agent from the division (subdivision) of the organization that is submitting the form.

2.J - Decisions on reporting levels are binding. If a division (subdivision) decides to disclose on its RRA form landholding information for a subdivision(s) of it, the organization is to view this decision as permanent.

Question 2: When do the two options for completing RRA forms, as set forth in the answer to Question 1, become effective?

Answer: Reclamation made the decisions contained in those two options in 2000. However, those decisions did not become effective for organizations until the 2001 water year.

Question 3: Which level of an organization is not considered to be in compliance with the RRA form requirements in a case where a division (subdivision) has not submitted an RRA form for the water year in question and the division (subdivision) has also not been included on the form submitted by a higher level of the organization?

Answer: If there is evidence to indicate that the division (subdivision) was responsible for submitting its own RRA form, then this would be a form submittal violation for the division (subdivision) whose landholding has not been disclosed on a form. Accordingly, the \$260 administrative fee would be assessed, and the division (subdivision) would be ineligible to receive Reclamation irrigation water in future water years until the proper forms have been submitted.

If there is no such evidence, Reclamation would consider the form submitted by the higher level of the organization to contain an eligibility error. Accordingly, it would be required to correct the error within 60 days of Reclamation's notification. If the error is not corrected within that time frame, the \$260 administrative fee would be assessed, and it would not be eligible to receive Reclamation irrigation water in future water years until the error is corrected.

OWNER OF RECORD

Question 4: If a **central organization** is the owner of record for land (holds title to land), what effect does this have on the statutory and regulatory provisions for religious and charitable organizations? Conversely, if a **subdivision** of an organization is the owner of record for land, what effect does this have on these provisions?

Answer: Section 219 of the RRA provides that if subdivisions of an organization meet the criteria set forth in that section, each subdivision, "... shall be treated as an individual . . . regardless of whether or not the individual entity is the owner of record . . ." (Emphasis added.) Based on this provision, Reclamation does not take into consideration the part of an organization that is the owner of record when implementing the provisions in section 219 of the RRA and section 426.9 of the Regulations.

DIFFERENT ACREAGE LIMITATION STATUSES WITHIN THE SAME ORGANIZATION

Question 5: Some subdivisions of an organization may be subject to prior law while other subdivisions of that same organization may be subject to the discretionary provisions. If a

subdivision that is subject to prior law does not meet the section 219 criteria, does this affect the subdivisions that are subject to the discretionary provisions?

Answer: Reclamation will look at the acreage limitation status of the part of the organization that does not meet the section 219 criteria and apply the corresponding section of the Regulations. If the subdivision that does not meet the section 219 criteria is subject to prior law, section 426.9(c)(2) of the Regulations applies. Accordingly, the entire organization (including all subdivisions) will be treated as a single prior law corporation. If the subdivision that does not meet the section 219 criteria is subject to the discretionary provisions, section 426.9(b)(2)(ii) of the Regulations applies. Pursuant to that section, the division (subdivision) that submitted the form and ALL subdivisions of it will be treated as one legal entity.

NUMBER OF NATURAL PERSONS IN ORGANIZATIONS THAT ARE PART OWNERS

Question 6: An organization is a part owner of a legal entity that is subject to the discretionary provisions. When determining whether the direct landholder (the legal entity) is a qualified or limited recipient, how should the number of natural persons benefitting from the organization be counted?

Answer: The following table shows how to count the number of natural persons in an organization that is a part owner of such a legal entity.

Type of Organization That Is The Part Owner	Number To Count
Discretionary provisions organization (or subdivision) that meets the section 219 criteria	If the part owner is the central organization, count one for it and one for each of its subdivisions that are considered to be qualified recipients. If the part owner is a subdivision, count one for it and one for each of its subdivisions that are considered to be qualified recipients.
Prior law organization (or subdivision) that meets the section 219 criteria	If the part owner is the central organization, count one for it and one for each of its subdivisions that is considered to be a separate prior law corporation. If the part owner is a subdivision, count one for it and one for each of its subdivisions that is considered to be a separate prior law corporation.
(i) Discretionary provisions organization (or subdivision) that does not meet the section 219 criteria and is considered to be a limited recipient (ii) Discretionary provisions organization (or subdivision) that does not meet the section 219 criteria and is considered to be a qualified recipient	(i) Count as 26 natural persons. (ii) Count the number of persons that Reclamation has determined to be "members" of the organization (or subdivision).
Prior law organization (or subdivision) that does not meet the section 219 criteria	Regardless if the part owner is the central organization or a subdivision, count the number of "members" in the central organization and any subdivisions under it.