



# 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

JUN 27 2003

Subject: Application of the Acreage Limitation Provisions to Expired Lease Situations;  
Reclamation Reform Act of 1982

Dear Ladies and Gentlemen:

Section 227 of the Reclamation Reform Act of 1982 (RRA) outlines the requirements that leases must meet. They must be in writing and for a term not to exceed 10 years, including exercisable options. However, leases for the production of perennial crops having an average life span of more than 10 years may be for a period of the average life of the crop, but not more than 25 years. This letter details the steps the Bureau of Reclamation will take with respect to the administration of the RRA when a lease arrangement has "expired," but the land continues to be farmed under the terms of that lease.

An expired lease is one in which the current date is after the termination date specified in the lease agreement. The following is an example of a situation where a lease has expired, but parties to the lease continue to farm the land.

Mr. Jones, the landowner, enters into a 5 year lease agreement with Mr. Smith, the lessee. The effective date of the lease is January 1, 2000, so the expiration, or ending date, of the lease will be December 31, 2004. During an August 2007 water district review, it is determined that both Mr. Jones and Mr. Smith have submitted "Verification of Landholding" forms (Form 7-21 VERIFY) for all water years, including the 2007 water year, verifying the standard forms they submitted for the 2000 water year. Since the standard RRA forms they are both verifying indicate the lease in question should have expired on December 31, 2004, a problem is identified.

The landholders in the preceding example have taken one of the following actions:

1. **Mr. Jones and Mr. Smith have (a) extended the lease in question (b) entered into a new lease, or (c) Mr. Smith is really no longer leasing that land.** If any of these actions have been taken, a landholding change has occurred. Accordingly, incorrect RRA forms were submitted by both landholders for at least the 2005 water year, creating a forms corrections problem. It is also likely that corrections will be needed on the 2006 and 2007 RRA forms. If Mr. Jones and Mr. Smith have extended their lease it will be necessary to determine if the extended lease meets the length of lease restrictions under the acreage limitation provisions.

**2. The lease has actually expired, but Mr. Smith is continuing to farm the leased land under the terms of the expired lease agreement.** If you should encounter a situation where a lease has expired, but the RRA forms indicate the land is continuing to be farmed under the expired lease agreement, you should contact the appropriate Reclamation office immediately. It is our goal to minimize any possible compensation (full-cost) billing that may result from the continued farming of land under an expired lease. But we can only do so if we are made aware of the situation as soon as possible.

In general, we will provide the lessor and lessee with an opportunity to extend the term (length) of the original lease to cover all or a portion of the period of time the land was being farmed under the expired lease. However, this can only be done if the length of the original lease, plus any extensions, is less than the maximum length allowed under the RRA (e.g., 10 years for annual crops). In addition, the following actions are associated with expired leases where the lessee has continued to farm the land under the terms of the expired agreement:

1. Corrections to RRA forms will likely be required to account for the change in length of the lease, if we determine the lease can be extended and the lessor and lessee agree to extend the lease.

2. The compensation rate will be applied to all Reclamation irrigation water delivered to the leased land in those cases where the lease cannot or is not extended after the opportunity is provided. This is due to the fact that the land was ineligible to receive Reclamation irrigation water after the lease expired and either no action can be taken to adjust the lease to meet the lease criteria for the entire period of time in question, or the lessor and lessee have chosen not to take action that would address the problem.

3. Reclamation will not approve any new or renewed lease that is entered into by the lessee and lessor after-the-fact as an attempt by both parties to try to apply such a lease retroactively to cover the period of time between when the original lease expired and the new or renewed lease was finalized.

4. In general, the leased land will be ineligible to receive Reclamation irrigation water in the future until (a) a new lease between the lessee and lessor is in place, (b) the land is leased to a different lessee, or (c) the landowner farms the land. There is an exception if the original lease can be extended into the future and not exceed the maximum RRA length of lease restriction.

### What can districts do to minimize the occurrence of expired leases?

There are many actions a district can take to minimize the occurrence of expired leases. Some suggested actions to accomplish this are as follows:

- Check RRA forms as they are submitted to the district for reported effective dates and terms of leases.
- Set up a tickler file containing lease expiration dates.
- Cross check lessee and lessor files to assure their RRA forms contain the same leasing information.
- For each "Verification of Landholding" (Form 7-21VERIFY) that is submitted to the district, check the standard form being verified for any leasing information. Although verification forms can be submitted indefinitely as long as there have been no landholding changes, an extension or renewal of an existing lease (except for annual leases) is considered to be a landholding change that requires the submission of a new standard RRA form. Such a change cannot be verified on a Form 7-21VERIFY even if the land involved is the same.

If you have any questions, please contact your appropriate Reclamation office.

Sincerely,



Luis Maez, Manager  
Reclamation Law and Revenues Management Office