



# United States Department of the Interior

BUREAU OF RECLAMATION  
P.O. Box 25007  
Denver, Colorado 80225-0007  
SEP 23 2010

IN REPLY REFER TO:

84-53000  
LND-9.00

**Subject: Double-Counting Adjustments (Leasebacks) When Parties Directly or Indirectly Lease Land in Which They Have a Direct or Indirect Ownership Interest**

Dear Ladies and Gentlemen:

The purpose of this letter is to provide guidance for applying the Reclamation Reform Act of 1982 (RRA) acreage limitation provisions and form requirements as they pertain to landholders who directly or indirectly lease land in which they have a direct or indirect ownership interest.

After you have reviewed this letter and the enclosures, insert it at the end of the letters in your "RRA Reference Sources" binder. A new binder and any additional updates including the replacement pages for the "Contents" and "List of Westwide District Mailings" will be sent to you in the near future.

The following table details the enclosures to this letter:

Enclosure	Description
1	Questions and answers regarding leasebacks
2	Examples of leaseback situations, and completed RRA forms showing the resulting double-counting adjustments

The examples provided identify the most common types of double-counting adjustments. However, they are not intended to be all inclusive. While each of the examples is based on the assumption that the landholders are qualified recipients whose direct and indirect landholdings are located in a district subject to the discretionary provisions, prior law recipients and limited recipients would reflect their double-counting adjustments in the same manner.

The examples of the double-counting adjustments provided with this letter address the following situations:

**Example 1:** Landholder directly owns land AND leases that same land to an entity in which he has an ownership interest.

**Example 2:** Landholder directly leases land from an entity in which he has an ownership interest.

**Example 3A:** Landholder has an ownership interest in two entities; land held by one entity is leased to the other entity.

**Example 3B:** Landholder has an ownership interest in two entities and one estate. The estate and the landholder share ownership interest in the entity that owns land and leases it to the other entity.

**Example 3C:** Landholder has an ownership interest in two entities and one estate. The estate and the landholder share ownership interest in the entity that owns land. The estate and the landholder share ownership interest in the entity that leases the land held by the first entity.

The completion of RRA forms electronically may not result in fully accurate acreage calculations. The use of the minus sign before acreage amounts on the form should result in that acreage being deducted. As a reminder, the landholder is responsible for the accuracy of the information, including acreage totals.

Though not required, an attachment to the RRA forms may be used to identify the indirect landholders, direct owners and lessees, and any other clarification notes necessary to explain calculations used.

In order to ensure westwide consistency, any double-counting adjustment questions not addressed in this document should be directed to the appropriate Bureau of Reclamation office.

Sincerely,

A handwritten signature in black ink that reads "Richard W. Rizzi". The signature is written in a cursive style with a prominent flourish at the end.

Richard W. Rizzi  
Manager, Land Resources Division

Enclosures - 2

# **ENCLOSURE 1**

## **Questions and Answers Regarding Leasebacks**

## List of RRA Forms Discussed in Questions and Answers Regarding Leasebacks

<b>Form Number</b>	<b>Name</b>
Form 7-2180	Certification of Individual's Landholdings (Discretionary Provisions)
Form 7-2180EZ	"EZ" Certification of Individual's Landholdings (Discretionary Provisions)
Form 7-2181	Certification of Entity's Landholdings (Discretionary Provisions)
Form 7-2190	Report of Individual's Landholdings (Prior Law Provisions)
Form 7-2190EZ	"EZ" Report of Individual's Landholdings (Prior Law Provisions)
Form 7-2191	Report of Entity's Landholdings (Prior Law Provisions)
Form 7-21FC	Selection of Full-Cost Land
Form 7-21TRUST	Declaration of Trust's or Estate's Landholdings
Form 7-21XS	Designation of Excess Land
Form 7-21XSINAQ	Attachment Sheet for Form 7-21XS

## Questions and Answers Regarding Leasebacks

*Question 1:* What is a leaseback?

*Response:* As defined in the Acreage Limitation Rules and Regulations (Regulations, 43 CFR<sup>1</sup> part 426.4[e]): “Any land a landholder directly or indirectly owns and that is directly or indirectly leased back will only count once against that particular landholder’s nonfull-cost entitlement.”

*Question 2:* What is a double-counting adjustment?

*Response:* A double-counting adjustment is an adjustment to the total acreage held. When a leaseback situation occurs, a double-counting adjustment is made to prevent counting the same land twice against a particular landholder’s nonfull-cost entitlement. Landholders who do not exceed their nonfull-cost entitlements are not required to use the leaseback adjustment. However, if they obtain more land they could risk being in a full-cost situation.

Additionally, if you encounter a leaseback situation not covered by this memorandum, please contact the appropriate Bureau of Reclamation office.

*Question 3:* Do the Reclamation Reform Act of 1982 (RRA) forms allow for double-counting adjustments?

*Response:* Yes. The “standard” RRA forms (such as Form[s] 7-2180, 7-2181, 7-2190, 7-2191 and 7-21TRUST) allow for such adjustments. Several columns in the “Land You (Your Entity, Your Organization, Your Trust or Estate, [sic]) Indirectly Own or Lease Through Other Entities” section of the RRA forms are provided for making an adjustment. Non-standard RRA forms (such as Form[s] 7-21FC, 7-21XS and 7-21XSINAQ) do not allow for this adjustment.

*Question 4:* Can a double-counting adjustment be used in any other section of the RRA forms?

*Response:* Yes. A double-counting adjustment can be used in the “Land You (Your Entity, Your Trust) **Directly Lease From Another Party**” section of Form(s) 7-2180, 7-2181, 7-21TRUST, 7-2190, and 7-2191. Special columns are not provided on the form for the adjustments; therefore, please refer to the examples provided.

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<sup>1</sup> Code of Federal Regulations, part 426

*Question 5:* Can a double-counting adjustment be used on Form 7-2180EZ and Form 7-2190EZ?

*Response:* No. The Form 7-2180EZ and Form 7-2190EZ are only for individuals who directly own or lease land. Double-counting adjustments are made only when the landholder directly or indirectly leases land they directly or indirectly own. The Form 7-2180EZ and Form 7-2190EZ do not include indirectly held land; therefore, double-counting adjustments cannot be made on these forms.

*Question 6:* If a leaseback situation occurs and the landholder elects not to take advantage of the double-counting adjustment, is this a “form error?”

*Response:* No. The double-counting adjustments are included on the forms as a benefit to the landholder. Failure by the landholder to utilize a double-counting adjustment will not be considered a “form error.” However, if a landholder has made double-counting adjustments in error and the total landholdings claimed are less than what should have been claimed, a “form error” has occurred and failure to make the appropriate corrections in accordance with 43 CFR part 426.20 will result in application of the administrative fee. Eligibility will not be affected if Reclamation is able to determine whether the landholder is within the applicable ownership and nonfull-cost entitlements despite the fact the adjustment was calculated incorrectly.

*Question 7:* What should districts do if a leaseback situation occurs, the landholder exceeds their nonfull-cost entitlement, and elects not to take advantage of the double-counting adjustment?

*Response:* The district should advise the landholder that such an adjustment could reduce the applicable full-cost charges. A landholder will be provided 60-calendar days to make the adjustment to their RRA forms prior to Reclamation assessing/collecting full-cost, as applicable. If the landholder elects not to make the adjustment, Reclamation will have no option except to assess/collect full-cost from the district based on the number of full-cost acres selected by the landholder, as applicable.

## **ENCLOSURE 2**

### **Examples of Leaseback Situations and the Resulting Double-Counting Adjustments**

## Examples of Leaseback Situations and the Resulting Double-Counting Adjustments

- Example 1:** Landholder directly owns land AND leases that same land to an entity in which he has an ownership interest.
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