

## Supporting Statement for Paperwork Reduction Act Submissions

### INDIVIDUAL LANDHOLDER=S CERTIFICATION AND REPORTING FORMS FOR ACREAGE LIMITATION 43 CFR PART 426 AND 43 CFR PART 428 CURRENT OMB APPROVAL NO. 1006-0005

**Terms of Clearance: None**

#### **General Instructions**

A Supporting Statement, including the text of the notice to the public required by 5 CFR 1320.5(a)(i)(iv) and its actual or estimated date of publication in the Federal Register, must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified in Section a below. If an item is not applicable, provide a brief explanation. When item 17 of the OMB Form 83-I is checked "Yes," Section B of the Supporting Statement must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

#### **A. JUSTIFICATION**

**1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The **Reclamation Act of 1902** established a policy of Federal assistance through irrigation development. Among other requirements, the Reclamation Act of 1902 provided that federally developed water (irrigation water) could not be delivered to more than 160 acres per individual ownership. The delivery of irrigation water to leased land was not restricted.

These provisions were amended on October 12, 1982, when President Reagan signed into law the **Reclamation Reform Act of 1982 (RRA)**. The RRA permits individual landholders and irrigation districts (districts) the option of remaining subject to the ownership and pricing provisions of prior law (prior law) or becoming subject to the ownership and pricing provisions of the new law (discretionary provisions). The discretionary provisions, found in sections 203 through 208 [except for section 203(b)], of the RRA allow for the delivery of irrigation water to up to 960 acres owned by an individual or an entity benefiting 25 or fewer persons and up to 640 acres owned by an entity benefiting more than 25 persons. The new law also sets forth conditions for charging a full-cost rate for irrigation water deliveries.

The discretionary provisions apply only to districts that enter into new or amendatory water service or repayment contracts with the United States. Districts that had existing contracts with the United States as of the date of the RRA and that do not amend their contracts to conform to

the discretionary provisions are subject to prior law. In districts that do not amend their contracts to conform to the discretionary provisions, landowners or lessees (landholders) may individually elect to comply with the discretionary provisions. Certain provisions of the RRA apply to all districts, regardless of whether they amend their contracts to conform to the discretionary provisions or remain subject to prior law.

**Section 206 of the RRA** requires that as a condition to receiving irrigation water, each landholder in a district that is subject to the discretionary provisions A . . shall furnish the district in a form prescribed by the Secretary, a certificate that they are in compliance . . .@ with the provisions of the Act. They must also include a statement of the number of acres leased, the term of any lease, and a certification that the rent paid reflects the reasonable value of the irrigation water to the productivity of the land.

**Section 228 of the RRA** further requires that any district subject to the acreage limitation provisions of Federal reclamation law must compile and maintain such records and information as the Secretary deems reasonably necessary to implement the provisions of Federal reclamation law. Every district is to provide, in a form suitable to the Secretary, such reports on the above matters as the Secretary may require. These sections are further codified by **section 224(c)**, which requires the Secretary to A . . . collect all data necessary to carry out the provisions of this title and other provisions of Federal reclamation law.@ **Section 426.18 of the Acreage Limitation Rules and Regulations (43 CFR part 426) (regulations)** describes forms submittal requirements.

**Section 5302 of the Omnibus Budget Reconciliation Act of 1987** contains amendments to the RRA which affect this information collection in two ways: (a) the Bureau of Reclamation (Reclamation) is required to audit all farm operations larger than 960 acres, and (b) land held by revocable trusts (as defined by the RRA) in certain cases must be attributed to the trusts= grantors.

In 1988, the Natural Resources Defense Council (NRDC) filed a lawsuit challenging the validity of the 1987 version of the regulations and the 1988 revisions to those regulations. On July 26, 1991, the United States District Court for the Eastern District of California (Court) ruled that the current regulations were unlawful because of Reclamation=s failure to prepare an environmental impact statement prior to the adoption of the regulations. The Court issued an order on March 10, 1993, declaring among other things that the current regulations would remain in effect on an interim basis pending completion of a new rulemaking. In 1993, a Settlement Contract was executed resolving the lawsuit, which required Reclamation to propose new regulations implementing the RRA. The regulations were finalized and published in the Federal Register in December 1996 (61 FR 66754, Dec. 18, 1996). In the finalized regulations, **section 426.10** was revised and became effective January 1, 1997. The rest of the revisions to 43 CFR part 426 became effective on January 1, 1998, at which time **section 426.10 was renumbered as section 426.18** (as referenced at the top of this page).

During the above rulemaking process, Reclamation received a number of comments regarding the compliance of certain large trusts with the acreage limitation provisions of Federal reclamation law. Comments expressed a variety of viewpoints, including the assertion that some

trusts with landholdings (owned or leased land) in excess of 960 acres circumvent the requirements of Federal reclamation law. Because of this, Reclamation published an advanced notice of proposed rulemaking (ANPR) in the Federal Register (61 FR 66827, Dec. 18, 1996) that asked the public to comment on various issues concerning trusts and the delivery of Reclamation irrigation water to trusts.

Based on the comments received during the ANPR and the previous rulemaking process, Reclamation published a final rule in the Federal Register (65 FR 4324, Jan. 26, 2000) entitled: Information Requirements for Certain Farm Operations in Excess of 960 Acres and the Eligibility of Certain Formerly Excess Land. This rule added a new part (**43 CFR part 428**) to Reclamation's regulations to supplement the Acreage Limitation Rules and Regulations in 43 CFR part 426. This rule was effective on January 1, 2001, except for those districts whose water year began prior to January 1<sup>st</sup>; in such cases the effective date was October 1, 2000.

Forms submittal requirements were established for certain farm operators in **43 CFR 428.4 through 428.8**. In considering the issues associated with certain farm operators being required to submit RRA forms (specifically, farm operators providing services to more than 960 acres westwide held in trusts or by legal entities), Reclamation also requested comments on whether current RRA forms should be modified to accommodate the additional information requirements applicable to farm operators, or if an entirely new form should be developed for farm operators. Based on the comments received, it was decided that a separate form should be completed by the applicable farm operators and Reclamation developed a new form for such farm operators to use. The farm operators' form received OMB approval in the year 2000 under the current OMB approval number (1006-0005) in anticipation of finalization of 43 CFR part 428; however, this form was not used until 43 CFR part 428 became effective for the 2001 water year.

In accordance with the requirements of the RRA, an information collection has taken place since 1984 to administer and enforce the acreage limitation provisions of Federal reclamation law. The RRA forms included in this information clearance package are a revision of the current forms, and reflect the requirements of **43 CFR 426.18** that became effective January 1, 1998, and **43 CFR 428.4 through 428.8** that generally became effective January 1, 2001.

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. [Be specific. If this collection is a form or a questionnaire, every question needs to be justified.]**

The RRA forms described below are to be completed and submitted to districts by landholders and certain farm operators subject to the acreage limitation provisions of Federal reclamation law. Districts and Reclamation use the data included on the landholders' and farm operators' forms to (a) identify all landholders and farm operators in the district required to submit RRA forms, (b) determine the acres on which each landholder or farm operator is entitled to receive Reclamation irrigation water, pursuant to Federal reclamation law, and (c) determine the rate to be charged for such water deliveries. Historically, a landholder whose entire westwide landholding totals 40 acres or less is exempt from the requirement to submit these

forms. As of January 1, 1997, qualified recipients were provided RRA forms submittal exemptions of 80 acres or less, or 240 acres or less, depending on their district=s RRA forms submittal category. As of January 1, 2001 (generally), farm operators were provided an RRA forms submittal exemption on 960 acres or less when land is entirely held by trusts or legal entities. Land held by individuals is not considered in determining if a farm operator must submit a form.

The forms and instructions to the forms were extensively revised for the 2000 water year to meet the requirements of President Clinton=s June 1, 1998, memorandum which stated that all forms to be completed by the public must be written in Aplain language@ by the year 2001. Since then, further revisions have been made to promote this objective and enhance the clarity and consistency of the forms. The changes made to the currently approved forms in order to obtain the draft forms proposed for approval are predominantly editorial and typographical in nature, with the intent to facilitate the respondents' ease in form completion and increase the clarity of the forms for the respondents. Such changes were also designed to improve the specificity of the information provided by the respondents so that Reclamation can ensure proper administration of the acreage limitation provisions. The item number requesting Social Security Numbers (SSNs) and Individual Taxpayer Identification Numbers (ITINs) was recently evaluated within the RRA program. The provision of SSNs and ITINs has always been identified as optional on the RRA forms; however, because these identifiers have been determined to be of limited use, the request for these identifiers has been removed from the forms in this information collection.

#### List of forms

Following is a list of the landholder forms and a brief discussion of the purpose of each form. A detailed discussion of the purpose of each question on the forms is provided in Attachment 1.

Form 7-2180EZ, AEZ Certification of Individual=s Landholdings.@ This form allows certain individuals with uncomplicated landholdings to complete a simplified form. To be eligible to complete Form 7-2180EZ, the landholder=s entire landholding must be located in only one district, the acreage must not exceed 960 acres, the entire landholding must be held directly (i.e., no legal entities may be involved), the landholder is not claimed as a dependent within the meaning of the Internal Revenue Code, either the landholder or the landholder=s spouse (if married) is a U. S. citizen or a resident alien, and the landholder must be subject to the discretionary provisions.

Form 7-2180, "Certification of Individual=s Landholdings." This form is to be used by individuals and single families who are subject to the discretionary provisions to certify their landholdings. This form is also to be used by part owners and beneficiaries of entities and trusts that are subject to the discretionary provisions to indicate their interest in the holdings of those entities or trusts.

Form 7-2181, "Certification of Entity=s Landholdings." This form is to be used by all types of multiple ownerships that are subject to the discretionary provisions, including, but not limited

to, tenancies-in-common, partnerships, and corporations, to certify their landholdings. However, it is not to be used by trusts.

Form 7-2184, “Certification of Religious or Charitable Organization=s Landholdings.” This form is to be used by religious or charitable organizations that are subject to the discretionary provisions to certify their landholdings. A separate form is needed for these organizations because the acreage limitation provisions of Federal reclamation law applicable to land held by religious and charitable organizations differ from those covering other types of landholders.

Form 7-2190EZ, “EZ Report of Individual=s Landholdings.” This form allows certain individuals with uncomplicated landholdings to complete a simplified form. To be eligible to complete Form 7-2190EZ, the landholder=s entire landholding must be located in only one district, the acreage must not exceed 160 acres (320 acres for a married couple), the entire landholding must be held directly (i.e., no legal entities may be involved), the landholder is not claimed as a dependent within the meaning of the Internal Revenue Code, and the landholder must be subject to the prior law provisions.

Form 7-2190, “Report of Individual=s Landholdings.” This form is to be used by individuals and single families who are subject to prior law provisions to report their landholdings. This form is also to be used by part owners and beneficiaries of entities and trusts that are subject to the prior law provisions to indicate their interest in the holdings of those entities or trusts.

Form 7-2191, “Report of Entity=s Landholdings.” This form is to be used by all types of multiple ownerships that are subject to the prior law provisions, including, but not limited to, tenancies-in-common, partnerships, and corporations, to report their landholdings. However, it is not to be used by trusts.

Form 7-2194, “Report of Religious or Charitable Organization=s Landholdings.” This form is to be used by religious or charitable organizations that are subject to the prior law provisions to report their landholdings. A separate form is needed for these organizations because the acreage limitation provisions of Federal reclamation law applicable to land held by religious and charitable organizations differ from those covering other types of landholders.

Form 7-21PE, “Declaration of Public Entity=s Landholdings.” This form is to be used by public entities to declare their holdings in districts subject to discretionary provisions or prior law provisions. A separate form is needed because the acreage limitation provisions of Federal reclamation law applicable to land held by public entities differ from those applicable to other types of landholders.

Form 7-21PE-IND, “Attachment Sheet for Form 7-21PE.” This form is to be used by public entities that hold land (either wholly or partially) through a legal entity. Form 7-21PE-IND was developed in lieu of modifying Form 7-21PE due to the isolated occurrence of public entities that own or lease land through a wholly or partially owned legal entity. The one-page Form 7-21PE-IND is completed in conjunction with Form 7-21PE.

Form 7-21TRUST, A Declaration of Trust=s or Estate=s Landholdings. This form is to be completed by all trusts. In general, trusts are exempted from application of the acreage limitation provisions of Federal reclamation law; however, land held in trust must be attributed to a landholder(s) and the amount of land eligible to receive water when held by a trust can be limited by the entitlements of the parties to whom the land held in trust is attributed. Therefore, a separate form is needed for trusts because it is necessary to gather information regarding the trust, the land held in trust, and the parties to whom the land is attributed.

Form 7-21VERIFY, A Verification of Landholdings. This form is to be completed annually by landholders who are required to submit RRA forms but have no change in their landholdings from the previous year. Annual verification is necessary to satisfy the RRA requirement for annually providing information on landholdings to ensure that Reclamation and district(s) information on individual landholdings remains accurate and up to date. Landholders may also use this form to report renewals or extensions of leases with terms of 1 year or less, provided no other aspects of the leases have changed, or to report a change in a farm operator.

Form 7-21FARMOP, A Declaration of Farm Operator Information. This form is to be completed by farm operators who provide services to more than 960 nonexempt acres westwide, that are held by a single trust or legal entity or any combination of trusts and legal entities. In addition, this form is to be completed by part owners of legal entities that are farm operators if that farm operator is providing services to land the part owner formerly owned as Aexcess and sold at a price approved by Reclamation.

Form 7-21FC, A Selection of Full-Cost Land. This form allows discretionary or prior law provision landholders whose total landholdings exceed their nonfull-cost entitlements to select land which is subject to full-cost pricing. The only exception is for public entities – full-cost land information is included on Form 7-21PE.

Form 7-21XS, A Designation of Excess Land. This form allows discretionary or prior law provision landowners whose total ownerships exceed their ownership entitlements to designate land which is to be considered excess. The only exception is for public entities – excess land information is included on Form 7-21PE.

Form 7-21XSINAQ, A Information Sheet for Involuntarily Acquired Eligible Land Designated As Excess Land. This form may be completed by landholders who involuntarily acquire nonexcess land then designate that land as excess. Landholders are instructed that they may use a separate sheet of paper instead of this form. This form (or a similar, separate sheet of paper) is considered to be a part of Form 7-21XS for landholders that involuntarily acquire eligible excess land.

Form 7-21INFO, A General Information About the RRA Forms. This document provides general information including definitions of terms used in the RRA forms. This form is strictly an informational form. There is no information collected by this form; therefore, there are no respondents or burden hours associated with this form number.

The following three forms are optional forms that landholders may choose to use if more space (than what is provided on a particular RRA form) is required to list certain types of land. The availability of these forms also allows Reclamation to provide landholders with an electronically fillable and printable option for a continuation sheet. There are no additional burden hours or respondents associated with these forms that have not already been included in the burden hour and respondent figures of the forms for which these forms provide more space or information.

Form 7-21CONT-I, AContinuation Sheet for Indirectly Held Landholdings.@ This continuation sheet may be used by landholders that require additional space for listing land indirectly held through other entities. This continuation sheet may be used with Forms 7-2180, 7-2181, 7-2184, 7-2190, 7-2191, 7-2194, and 7-21TRUST. Landholders are instructed that they may use their own similar continuation sheet instead of this form.

Form 7-21CONT-L, AContinuation Sheet for Directly Leased Landholdings.@ This continuation sheet may be used by landholders that require additional space for listing land directly leased from another party. This continuation sheet may be used for Forms 7-2180EZ, 7-2180, 7-2181, 7-2184, 7-2190EZ, 7-2190, 7-2191, 7-2194, 7-21PE, and 7-21TRUST. Landholders are instructed that they may use their own similar continuation sheet instead of this form.

Form 7-21CONT-O, AContinuation Sheet for Directly Owned Landholdings.@ This continuation sheet may be used by landholders that require additional space for listing land the landholder directly owns. This continuation sheet may be used with Forms 7-2180EZ, 7-2180, 7-2181, 7-2184, 7-2190EZ, 7-2190, 7-2191, 7-2194, 7-21PE, and 7-21TRUST. Landholders are instructed that they may use their own similar continuation sheet instead of this form.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden [and specifically how this collection meets GPEA requirements].**

Reclamation has made all of the RRA forms in this information collection and the associated instructions available on the Internet for either printing and manual completion, **or** electronic completion, and manual submission. This effort was fully accomplished in October 2004. These forms can be found at [www.usbr.gov/rra](http://www.usbr.gov/rra). The next phase of Reclamation's effort to make the RRA forms compliant with Government Paperwork Elimination Act implementation is to investigate electronic RRA forms completion and submittal, and the electronic retention of such forms. The prevailing issues currently under investigation are (a) the Department of the Interior currently does not have protocols in place for authenticating electronic signatures, (b) it will be a formidable effort for Reclamation to assess the approximately 235 water districts electronic capabilities, and (c) Reclamation has no authority to require water districts to obtain the necessary technology to become electronically capable. To elaborate on the latter two issues, we must reiterate that in almost all cases Reclamation does **not** collect the RRA forms included in this information collection. Rather, the districts that have a contract to deliver Reclamation irrigation water collect the RRA forms included in this information collection from the landholders receiving such water. The acreage limitation provisions of Federal reclamation law provide statutory and regulatory authority for Reclamation to require landholders' submission of RRA forms that gather information pertinent to the lawful delivery of Reclamation irrigation water, and the retention requirements associated with such forms. There is, however, no statutory or regulatory provision in the acreage limitation provisions for Reclamation to require that the submission and retention of RRA forms be in electronic format. Based on initial research, Reclamation suspects that only the very large water districts are equipped with the necessary staff and electronic hardware/software to meet the demands of electronic RRA forms submittal and retention. It will very likely be an unreasonable burden to require the remaining water districts to overcome equipment, staffing, and financial issues in order to collect and retain RRA forms electronically, or to even offer the electronic RRA forms option to landholders. However, to the maximum extent possible at this time, Reclamation has made electronic completion of the RRA forms available for those districts and landholders that are electronically capable.

Since 1997, Reclamation has offered landholders and districts the opportunity to develop their own electronic RRA forms. In 1997 Reclamation developed standards for computerized RRA forms which several districts and companies have used to develop substitute forms in word processing, database, and spreadsheet files. Reclamation's standards require Reclamation's inspection and approval of such electronic, substitute RRA forms prior to their use. While the districts use the automated substitute RRA forms they have developed to complete forms for their landholders and the district's summary forms, at least one private company has developed a software package of substitute RRA forms that they have marketed to the public.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.**

The acreage limitation provisions of Federal reclamation law apply only to certain Reclamation projects that provide irrigation water for agricultural purposes; consequently, similar data are neither collected nor available through any other Federal agency, State or local government, or private organization. An attachment to a letter from Mr. Scott J. Cameron,



Deputy Assistant Secretary for Performance and Management (Department of the Interior), to U.S. Representative Doug Ose regarding an April 11, 2002, hearing on Paperwork Reduction Act issues (specifically, pages two and three of the attachment to Mr. Cameron's letter) detail the following general findings:

- a. Not all of Reclamation's customers participate in USDA programs, and most of USDA's customers do not receive Reclamation irrigation water.
- b. Reclamation and USDA do not use the same categories of program respondents due to statutory and regulatory program requirements.

- c. The level and nature of detail in USDA and Reclamation information collections differs in such ways that it is clear USDA data would not be sufficient to allow Reclamation to properly administer and enforce the acreage limitation provisions of Federal reclamation law.
- d. RRA forms are filed at the local (district) level; USDA forms are filed at county offices with little centralization of that data.

For the foregoing reasons, it has been determined that there is no duplication with regard to this particular data collection.

**5. If the collection of information impacts small businesses or other small entities (item 5 of OMB Form 83-I), describe any methods used to minimize burden.**

Small organizations, such as farms and small family corporations, are among the respondents to this requirement. Reclamation has carefully analyzed this requirement to ensure that the information requested of small organizations and all other potential respondents is the minimum necessary to implement and enforce the acreage limitation provisions of Federal reclamation law. As a result, and as discussed in item 2, Reclamation has exempted all landholders who hold 40 acres or less from forms submittal requirements. In addition, as of January 1, 1997, qualified recipients had RRA forms submittal thresholds of at least 80 acres, and more often 240 acres.

Also, in 1991 Reclamation introduced Forms 7-2180EZ and 7-2190EZ which are relatively simple to complete for individual and family holdings. In addition, the very brief Form 7-21VERIFY may be used by landholders to verify their landholdings instead of submitting new standard forms if they do not have a landholding change from the previous year. Starting in 1997, the Form 7-21VERIFY could even be used in situations where the only landholding change is the renewal or extension of a lease with a term of 1 year or less or a change in the farm operator.

There are no special provisions in the RRA for small organizations.

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

Because basic landholding data have already been collected, landholders must fully certify or report again only when changes in their landholdings occur; however, they must verify annually that their previously submitted information remains accurate. Annual reporting (through the submission of either a standard RRA form or a verification form) is required by sections 206 and 228 of the RRA and sections 426.18 and 428.4 of the regulations. This eliminates the possibility of not conducting the information collection, or conducting it less frequently. Furthermore, if the information were collected and verified on a less frequent basis, enforcement of the law would be weakened, and landholders would become less aware of the continuing requirement for compliance with acreage limitation provisions of Federal reclamation law.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner:**

**a. Requiring respondents to report information to the agency more often than quarterly.**

Landholders who have a landholding change more than quarterly will be required to report more than quarterly. Each time a landholder has a landholding change, the landholder must submit a new form within 60 calendar days. This is a requirement of section 426.18 of the regulations.

**b. Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it.**

This would occur only if a party becomes a landholder subject to the acreage limitation provisions of Federal reclamation law and wishes to receive Reclamation irrigation water within 30 calendar days. Forms must be submitted before irrigation water is delivered to a landholder.

**c. Requiring respondents to submit more than an original and two copies of any document.**

This would occur if a landholder holds land in more than three districts. A landholder is required to submit a form to each district where land is held. The landholder must submit an original to one district and may submit copies to the other districts.

**d. Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than 3 years.**

As of January 1, 1998, the retention period for RRA forms increased from 3 to 6 years as provided by revisions to section 426.19 of the regulations. As stated before, landholders may annually submit Form 7-21VERIFY stating that their landholdings have not changed instead of submitting new standard RRA forms. However, the district must keep all standard RRA forms for which a verification form is on file. The length of time such standard forms must be retained may well exceed the 6-year retention period for superseded certification and reporting forms. In rare instances, Reclamation may specifically request a district to retain superseded forms beyond 6 years.

**e. In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study.**

The landholder forms will not be used this way.

**f. Requiring the use of a statistical data classification that has not been reviewed and approved by OMB.**

Statistical data classification will not be used.

**g. That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use.**

A pledge of confidentiality is not used.

**h. Requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

The forms are protected by the Privacy Act of 1974, system of records INTERIOR/WBR-31.

**8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize the public comments received in response to that notice [and in response to the PRA statement associated with the collection over the past three years] and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

Notice was given in the Federal Register on March 6, 2007 (72 FR 9965, Mar. 6, 2007). No comments were received on this information collection.

**a. Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any) and on the data elements to be recorded, disclosed, or reported. [Please list the names, titles, addresses, and phone numbers of persons contacted.]**

Public hearings were held in 1982 after the RRA was enacted. Comments were received from individual farmers, corporations, and organizations representing various farming and nonfarming interests. Among the comments received were those that specifically addressed the certification requirement of the RRA. Comments expressing that forms not be required from every landholder resulted in the then proposed regulations exempting landholders of 5 acres or less from forms requirements. After publication of the proposed regulations in the Federal Register in 1983, more public hearings were held, where draft forms were displayed to the public. Based on comments received, the draft forms were extensively revised, and the exemption threshold was increased to 40 acres. In 1983, Reclamation officials met with representatives of water user organizations and irrigation districts to review the forms, resulting in further revisions. A pretest of the draft forms was conducted during December 1983 and

January 1984. Based on the results of the pretest, some modifications were made to the forms before they were implemented for the 1984 water year.

Public hearings on revised regulations were held in 1986. The forms were further revised as a result of comments received during those hearings and as a result of experiences with the first and second generation of forms.

In 1994, public scoping meetings were held to receive public input regarding a revised rulemaking. Proposed revised regulations were published in the Federal Register on April 3, 1995. Public hearings were held in May 1995. The public comment period ran from April 3 through June 26, 1995. These comments were considered in developing the final regulations, including those affecting the RRA forms requirements.

To consider revisions to the RRA forms, a team was established in September 1995. This team included two members who were representatives of districts. The other members included two persons from Reclamation's Program Analysis Office, two from Reclamation's area offices, and two from Reclamation's regional offices. This team met in 1995 and 1996 to revise the forms. Initially the revisions were to incorporate the changes in the draft final rulemaking that would revise the then current regulations. However, when it became apparent the final rulemaking would not be completed in time for printing of the forms for the 1997 water year, the forms were revised to reflect the then current regulations.

A notice of request for comments was published in the Federal Register on March 8, 1996, for the information collection revisions. Reclamation sent a package of the proposed revised forms to each district that is subject to acreage limitation provisions of Federal reclamation law seeking comments on the forms. In addition, Reclamation also sent the proposed revised forms to any party who previously expressed an interest in the revised forms.

Final regulations were published December 18, 1996, with effective dates of January 1, 1997 (amendment to section 426.10 of the then current regulations), and January 1, 1998 (complete revision and renumbering of the then current regulations). The new regulations changed the requirements and the instructions on the forms. A notice of a 60-day public comment period was published January 29, 1997, regarding revisions to the RRA forms. In addition, a copy of the comments and responses resulting from the 1996 forms approval process was sent to all districts subject to acreage limitation and all other persons who submitted comments as part of that process.

A proposed new rulemaking requiring the submittal of forms by certain farm operators was published on November 18, 1998 (63 FR 64154). The Federal Register notice provided a 60-day comment period for the public to comment on the proposed rulemaking and the proposed information collection this rule would require. The comment period was to end January 19, 1999, but because several people requested an extension of that deadline, we accepted comments until February 18, 1999. After the close of the extended comment period, we again received requests for an extension. The comment period was reopened until April 12, 1999 (64 FR 12141, March 11, 1999).

As with previous revisions to the forms, copies of the revised year 2000 RRA forms and instructions to those forms were sent to all districts subject to acreage limitation and to all other persons who requested copies. Since then, the RRA forms and instructions have not been distributed to all districts subject to the acreage limitation provisions of Federal reclamation law because Reclamation considered the revisions to be minor, especially when compared to the RRA forms changes made in years 1997 and 2000. However, every year that Reclamation renews OMB approval for its information collections, all districts subject to acreage limitation receive a letter from Reclamation that announces the start of the public comment period. In that letter is a copy of the corresponding Federal Register notice, a list of the proposed changes to the RRA forms, a draft copy of any proposed new form (if any), and an announcement regarding the availability of copies of the draft forms upon request. Regarding the current request for information collection approval, all districts subject to acreage limitation received such a letter from Reclamation dated March 26, 2007.

**b. Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years – even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.**

This information collection contains forms that are completed by landholders. These completed forms are submitted by the landholders to the appropriate district offices as a condition for the receipt of Reclamation irrigation water. Reclamation does not collect, retain, or dispose of the forms in this information collection. Rather, the district offices perform these functions under their contract with Reclamation and the statutory and regulatory requirements associated with that contract. As such, Reclamation does not have ready access to contact information for specific landholders for consultation purposes. Furthermore, the burden hour estimate associated with each form is an average figure because a particular landholder must only complete the section of the applicable form that is pertinent to the type of land held by that landholder. For example, a discretionary provisions landholder that directly owns, directly leases, and indirectly owns land in one district must complete 3 different landholding sections on his/her “Certification of Individual’s Landholdings” (Form 7-2180) and will likely utilize the full one burden hour estimated for the Form 7-2180 to do so. However, another discretionary provisions landholder in the same district that only directly owns land must complete only one landholding section on his/her Form 7-2180, and will therefore not utilize the full burden hour estimated for the Form 7-2180. Throughout each year, Reclamation conducts regularly scheduled water district reviews at district offices that are subject to the acreage limitation provisions. Discussions between Reclamation RRA staff and district staff are held at those reviews during which burden hour feedback is addressed. In other words, Reclamation continually assesses burden hour estimates for the RRA forms through discussions with district staff that are in direct contact with the respondents of the forms in this information collection, and has done so since these forms were first drafted in 1983.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

No payments or gifts will be provided to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.**

Personal and financial information collected on these forms is protected under the Privacy Act of 1974. The Privacy Act system of records notice associated with this information collection is INTERIOR/WBR-31, Acreage Limitation.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the question necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

No questions of a private or sensitive nature will be asked.

**12. Provide estimates of the hour burden of collection of information. The statement should:**

**a. Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**

See response to item 12(b) [next paragraph].

**b. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in item 13 of OMB Form 83-I.**

As a result of routine oversight activities, we determined that approximately 17,358 landholders are currently required to submit RRA forms. This represents a net decrease of 517 respondents from previous years. The reduction is due to the fact that several districts either (a) were legislatively exempted, or (b) completed requirements in order to be exempt from the acreage limitation provisions of Federal reclamation law. Consequently, landholders who held land in only these districts also became exempt.

The estimated number of responses per respondent is 1.02 annually, or 17,706 total annual responses (17,358 respondents multiplied by 1.02 responses per respondent). This represents a net decrease of 527 total annual responses from previous years.

The total estimated annual burden hours for this information collection are 13,085 hours. The estimated annual burden hours per form are listed below:

<b>Form No.</b>	<b>Estimated No. of Respondents</b>	<b>Frequency of Response</b>	<b>Total Annual Responses</b>	<b>Burden Estimate Per Form (in minutes)</b>	<b>Total Burden Hours</b>
Form 7-2180	4,686	1.02	4,780	60	4,780
Form 7-2180EZ	483	1.02	493	45	370
Form 7-2181	1,369	1.02	1,396	78	1,815
Form 7-2184	36	1.02	37	45	28
Form 7-2190	1,841	1.02	1,878	60	1,878
Form 7-2190EZ	109	1.02	111	45	83
Form 7-2191	879	1.02	897	78	1,166
Form 7-2194	4	1.02	4	45	3
Form 7-21PE	166	1.02	169	75	211
Form 7-21PE-IND*	5	1.02	5	12	1
Form 7-21TRUST	1,002	1.02	1,022	60	1,022
Form 7-21FARMOP	196	1.02	200	78	260
Form 7-21VERIFY	6,175	1.02	6,299	12	1,260
Form 7-21FC*	243	1.02	248	30	124
Form 7-21XS*	164	1.02	167	30	84
Form 7-21XSINAQ**	0	0	0	0	0
Form 7-21CONT-O**	0	0	0	0	0
Form 7-21CONT-L**	0	0	0	0	0
Form 7-21CONT-J**	0	0	0	0	0
Form 7-21INFO**	0	0	0	0	0
<b>TOTAL</b>	<b>17,358</b>	<b>1.02</b>	<b>17,706</b>		<b>13,085</b>

\* These forms are completed and submitted in conjunction with other forms listed in the table. Additional time is involved with completing these forms; therefore, the number of burden hours and number of respondents for these three forms have been added to the table.

\*\* These forms are (1) used when more space is required for listing certain kinds of land, or (2) provided strictly for informational purposes. There are no additional burden hours or respondents associated with these forms that have not already been included in the burden hour and respondent figures of the forms for which these forms provide more space or information.



The average annual hour burden per response is 50 minutes (0.83 hours). The total annual hour burden to all landholders is estimated at 13,085 hours. This represents a net decrease of 505 burden hours from previous years resulting from existing legislation which gradually reduces the number of respondents over time.

**c. Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in item 14.**

The average annual cost per response is estimated to be \$12.45. This is based on the wage rate of \$15 per hour multiplied by 0.83 hours per response. The total annual cost is \$196,275 (13,085 hours multiplied by \$15). This represents a net decrease of \$7,575 from previous years.

**13. Provide an estimate of the total annual [non-hour] cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in item 12 and 14.)**

**a. The cost estimate should be split into two components: (1) a total capital and start-up cost component (annualized over its expected useful life), and (2) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information [including filing fees paid]. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.**

The estimated total capital and start-up cost to respondents is \$0.00. The estimated total operation and maintenance and purchase of services component is estimated to be \$0.00.

**b. If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.**

Cost estimates will not vary.

**c. Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with this information collection, (3) for reasons other**

**than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

Cost estimates do not include these purchases.

**14. Provide estimates of annualized cost to the Federal Government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operation expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from items 12, 13, and 14 in a single table.**

Annual cost to the Federal Government is estimated as follows:

Item	Costs
Printing	\$33,750
Personnel	\$36,000 (1,500 person-hours x \$24 per hour)
Miscellaneous administrative costs	\$ 1,875
<b>TOTAL</b>	<b>\$71,625</b>

**15. Explain the reasons for program changes or adjustments reported in items 13 or 14 of the OMB Form 83-I.**

We are reporting through this document a decrease in the hour burden of the information collection budget due to the exemption (from the acreage limitation provisions of Federal reclamation law) of the landholders in several districts through exemption actions taken by such districts and legislative activities. In general, the acreage limitation provisions of Federal reclamation law do not apply once construction repayment obligations are completed. At that time, the RRA forms requirements are no longer applicable.

**16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.**

The results of this information collection are not intended for publication.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

Because these forms are to be submitted annually, Reclamation would like to print the year to which the forms apply on the forms and instructions. If Reclamation also displays the

OMB expiration date on the forms, we feel it may confuse the respondents as to which date reflects the water year and therefore signifies a current form. This is a particular problem because before 1996, Reclamation did not print the year for which the form was applicable, and the districts relied solely on the OMB expiration date to determine if it was using a current form. Therefore, Reclamation is requesting an exemption to not display the expiration date of OMB approval of the form. This exemption request has been continuously granted since it was first approved as part of the approval process completed in 1996 and 1997.

In addition, we are requesting the expiration date of the OMB approval to coincide with the closure date of Reclamation's water year, (December 31, 2009) instead of the usual 3 years from the date of approval.

**18. Explain each exception to the certification statement identified in item 19, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.**

No exceptions to the certification statement are being requested.

**B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS**

This information collection itself will not utilize statistical sampling techniques, since it will be a full enumeration as required by law.

# **ATTACHMENT 1**

List of information collection questions and justifications