REPORT TO THE CONGRESS

Congress Should Reevaluate The 160-Acre Limitation On Land Eligible To Receive Water From Federal Water Resources Projects

B-125045

Bureau of Reclamation
Department of the Interior

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

NOV. 30, 1972

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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To the President of the Senate and the
Speaker of the House of Representatives

This report presents the results of our review of the administration by the Bureau of Reclamation, Department of the Interior, of the provision of reclamation law limiting the use of water from Federal water resources projects to 160 acres of irrigable land of any one landowner.

Our review was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

Copies of this report are being sent to the Director, Office of Management and Budget, and to the Secretary of the Interior.

Comptroller General
of the United States

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ABBREVIATIONS

CVP Central Valley project

GAO General Accounting Office

USDA U.S. Department of Agriculture

COMPTROLLER GENERAL'S REPORT TO THE CONGRESS

CONGRESS SHOULD REEVALUATE THE 160-ACRE LIMITATION ON LAND ELIGIBLE TO RECEIVE WATER FROM FEDERAL WATER RESOURCES PROJECTS

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D I G E S T

WHY THE REVIEW WAS MADE

The Bureau of Reclamation, Department of the Interior, plans, constructs, and operates multipurpose water resources projects, primarily to provide irrigation water to arid and semiarid lands in the Western States. The Reclamation Act of 1902 limits to 160 acres the land on which any one owner is entitled to receive water from a Federal water resources project. Objectives of the limitation are:

--To break up large, private landholdings to provide an opportunity for a maximum number of settlers on the land and to promote homebuilding.

--To spread the benefits of the subsidized irrigation program to the maximum number of people.

--To promote the family-size farm as a desirable form of rural life.

Some Federal water resources projects have been exempted from the 160-acre limitation by the Congress and/or by the Secretary of the Interior.

The General Accounting Office (GAO) reviewed the Central Valley project in California, the largest Bureau of Reclamation project, to determine how the Bureau was administering the acreage limitation and to provide information to the Congress for its use in considering the type of bills recently introduced relating to the acreage limitation.

FINDINGS AND CONCLUSIONS

The 160-acre reclamation law limitation has not resulted in preventing, in the Central Valley project:

--Large landowners and farm operators from benefiting under the subsidized irrigation program.

--Landowners and farm operators from retaining or acquiring large landholdings.

The impact of modern technology and techniques on farming raises a question as to the practicability of limiting the use of water from Bureau water resources projects to a landowner's 160 acres of irrigable land. (See p. 16.)

A GAO analysis showed that the subsidy to irrigation users of water from the Central Valley project over the prescribed repayment period will amount to about $1.5 billion. (See p. 10.)

GAO found that, of the 502,499 acres receiving project water in seven irrigation districts, about 14 percent--71,645 acres--was owned

and/or leased by the seven largest farm operators. The size of the individual farm operations ranged from 1,774 acres to 40,404 acres. (See p. 11.)

These farm operators and landowners received project water on large holdings of eligible land by:

--Leasing eligible land from the individual owners. (See p. 10.)

--Retaining or controlling eligible land through establishment of corporations, partnerships, and trusts. (See p. 10.)

Project water has been provided to landowners for up to 160 acres in as many irrigation districts as they own land in. (See p. 12.) In addition, enforcement of the requirement that landowners reside on their lands to be eligible to receive project water has been discontinued. (See p. 13.)

The issues discussed in this report represent questions of national policy for resolution by the Congress.

Recently proposed legislation

During the 92d Congress, 1st session, a number of bills were introduced dealing with the acreage limitation. Two of the bills proposed that the 160-acre limitation be increased to 640 acres and that a premium payment be charged for water delivered to lands in excess of 640 acres.

Other bills proposed the creation of a Government corporation and the transfer to it of the authority relating to the acreage limitation vested in the Secretary of the Interior. These bills also would permit the corporation to purchase and resell lands in excess of the acreage limitation. (See p. 18.)

RECOMMENDATIONS OR SUGGESTIONS

GAO's recommendation to the Congress that the 160-acre limitation provisions of reclamation law be reevaluated was offered for comment to the Department of the Interior.

AGENCY ACTIONS AND UNRESOLVED ISSUES

The Department generally agreed with GAO's findings and stated that there was good reason to undertake the difficult task of restating, consolidating, and modernizing the acreage limitation provisions of reclamation law and that it was earnestly endeavoring to develop a proposal for that purpose. (See app. I.)

MATTERS FOR CONSIDERATION BY THE CONGRESS

The Congress should reevaluate the provision of reclamation law limiting the use of water from Bureau-subsidized water resources projects to 160 acres of irrigable land of any one landowner.

Should the Congress determine that the restriction on the use of project water to 160 acres is still appropriate to encourage the establishment of family-size farms, it should enact legislation which would preclude large landowners and farm operators from benefiting under the subsidized irrigation program by controlling numerous 160-acre tracts through corporations, partnerships, and trusts and/or by leasing 160-acre tracts.

Should the Congress, on the other hand, determine that restriction on

the use of project water to 160 acres is no longer appropriate to encourage the establishment of family-size farms, it should enact legislation which would

--establish a family-size farm's area of irrigable land eligible to receive Federal project water at subsidized rates;

--preclude large landowners and farm operators from benefiting under the subsidized irrigation program by controlling numerous eligible tracts through corporations, partnerships, and trusts and/or by leasing such tracts; and

--require the payment of the full cost of Federal project water provided for use on farmlands of greater acreage than that established for family farms.

CHAPTER 1

INTRODUCTION

The Bureau of Reclamation, Department of the Interior, plans, constructs, and operates multipurpose water resources projects, primarily to provide irrigation water to arid and semiarid lands in the Western States. The construction of the projects is financed with Federal funds, and the bulk of the water from the projects is generally sold to irrigation districts--organizations created under State law to contract with the Bureau for the purchase of water and to distribute the water to farmers.

The estimated cost of constructing the 151 multipurpose water resources projects that either have been completed or have been authorized amounted to about $11 billion. Of this amount, $5.8 billion was allocated to irrigation and was repayable to the Federal Government from revenues derived from the irrigation districts and from power or other project revenues.

Information provided to us by the Bureau showed that water from Federal water resources projects was available to irrigate about 10 million acres. About 8 million of these 10 million acres, or 80 percent, were subject to the 160-acre limitation--a requirement of reclamation law that limits the acreage for which water from Federal water resources projects may be provided to landowners for irrigation purposes. Information on Bureau projects exempted from the 160-acre limitation is included in chapter 3.

Under reclamation law irrigation users of water from Federal multipurpose water resources projects are subsidized as the result of (1) not requiring interest (a) during construction to be included in the Government's investment in the irrigation facilities and (b) to be paid annually on the Government's unrepaid investment in the facilities and (2) providing for using revenues from power and other project purposes to repay the part of the Government's investment in the facilities that is determined to be beyond the ability of the irrigation users to repay.

Our examination into the application of the 160-acre limitation was conducted at the Bureau's Central Valley project (CVP) in California. We selected CVP because it is one of the Bureau's largest projects, consisting of 16 dams and related canals and conveyance systems. As of June 30, 1971, the Bureau estimated that the cost of the authorized and completed main features of CVP would amount to $2.3 billion, of which $1.1 billion would be for the costs allocated to irrigation and repayable to the Federal Government.

At the time of our review, the Bureau had entered into long-term irrigation contracts with 75 irrigation districts and individual users within the area served by CVP. These contracts provide for the delivery of irrigation water to about 2.3 million acres, or 29 percent of the 8 million acres to be served by the Bureau's irrigation facilities and subject to the 160-acre limitation.

We made our review at the Bureau of Reclamation's office in Sacramento, California; at several irrigation districts in California that purchased irrigation water from CVP; and at the Office of the Commissioner of Reclamation in Washington, D.C. Our review included an examination of legislation, Bureau policies and procedures relating to the administration of the 160-acre limitation, and other records and correspondence pertaining to the acreage limitation. We also interviewed officials of the Department of the Interior and of several water districts.

CHAPTER 2

EVOLUTION OF THE ACREAGE LIMITATION

The Reclamation Act of 1902 (43 U.S.C. 391), as amended, is the basic legislation governing the sale of water from Bureau water resources projects for irrigation purposes. Several laws were enacted prior to 1902 to promote the settlement and irrigation of public lands. Each of these acts provided for distribution of public land to qualified persons and limited the acreage of land that a person could acquire. The Reclamation Act of 1902 (43 U.S.C. 434), as amended, limited the acreage of public land that a person could acquire, and section 5 of the act provided that:

> "No right to the use of water for land in private ownership shall be sold for a tract exceeding one hundred and sixty acres to any one landowner, and no such sale shall be made to any landowner unless he be an actual bona fide resident on such land, or occupant thereof residing in the neighborhood of said land ***."

The legislative history of the above provision indicates that the Congress wanted to

- --break up large, private landholdings in order to provide opportunity for a maximum number of settlers on the land and to promote homebuilding;
- --spread the benefits of the subsidized irrigation program to the maximum number of people; and
- --promote the family-size farm as a desirable form of rural life.

The act did not, however, require a landowner to sell his excess lands and thus did not insure the achievement of the above objectives. A step in that direction was taken by the enactment of the 1914 Reclamation Extension Act (43 U.S.C. 418) which stated, in part, that:

"Before any contract is let or work begun for the construction of any reclamation project adopted after August 13, 1914, the Secretary of the Interior shall require the owners of private lands thereunder to agree to dispose of all lands in excess of the area which he shall deem sufficient for the support of a family upon the land in question, upon such terms and at not to exceed such price as the Secretary of the Interior may designate; and if any landowner shall refuse to agree to the requirements fixed by the Secretary of the Interior, his land shall not be included within the project if adopted for construction."

After World War I, a committee was appointed by the Secretary of the Interior to study reclamation problems. Its report led to the enactment of the Omnibus Adjustment Act of 1926 (43 U.S.C. 423e), which provides that no water be delivered from a new project until a contract, providing for the payment of construction and operation and maintenance costs, has been entered into by the Secretary of the Interior with an irrigation district.

Specifically, with regard to acreage limitation, section 46 of the Omnibus Adjustment Act of 1926, as amended, states, in part, that:

"Such contract or contracts with irrigation districts *** shall further *** provide that all irrigable land held in private ownership by any one owner in excess of one hundred and sixty irrigable acres shall be appraised in a manner to be prescribed by the Secretary of the Interior and the sale prices thereof fixed by the Secretary on the basis of its actual bona fide value at the date of appraisal without reference to the proposed construction of the irrigation works; and that no such excess lands so held shall receive water from any project or division if the owners thereof shall refuse to execute valid recordable contracts for the sale of such lands under terms and conditions satisfactory to the Secretary ***."

Although the 1914 and 1926 acts have the same intent, the 1926 act specifically requires a landowner to contractually agree to dispose of his lands in excess of the 160-acre limitation before he is eligible to receive water from Bureau water resources projects for use on his lands. Since 1926 the acreage limitation has remained unchanged.

CHAPTER 3

PROBLEMS IN IMPLEMENTING THE 160-ACRE LIMITATION

The 160-acre reclamation law limitation has not resulted in preventing

--large landowners and farm operators from benefiting under the subsidized irrigation program or

--landowners and farm operators from retaining or acquiring large landholdings.

Also the impact of modern technology and techniques on farming raises a question as to the practicability of limiting the use of water from Bureau water resources projects to a landowner's 160 acres of irrigable land.

LARGE LANDHOLDERS AND FARM OPERATORS ARE BEING SUBSIDIZED

Our review at seven irrigation districts served by CVP showed that the 160-acre limitation had not prevented the subsidization of large landholders and farm operators because they were being provided with water from CVP for use on more than 160 acres by leasing eligible lands[1] and were controlling eligible lands through corporations, family partnerships, and trusts.

We estimate that the subsidy to irrigation users of water from CVP for the period 1948 through 2031 will amount to about $1.5 billion comprising (1) Federal financing costs of about $1.2 billion based on the interest rates--2.5 to 3.01 percent--in effect at the time of construction of CVP and (2) power and other project revenues of about $300 million to repay that part of the Government's investment in the irrigation facilities determined to be beyond the ability of the irrigation users to repay. We estimated also that

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[1] Land not in excess of 160 acres or land in excess of 160 acres for which the owners have entered into recordable contracts as provided for in the 1926 act. (See p. 8.)

the subsidy was equivalent to about $4.68 an acre-foot of water.

Although the amount of water required for successful farming varies within the area served by CVP, it averages about 3 acre-feet per acre per year. Thus the average annual subsidy amounts to about $14 an acre. Because the rates charged the irrigation districts for water range from $1.15 to $8 an acre-foot, the value of the subsidy to specific districts or farm operators may vary significantly from the above average.

In the seven irrigation districts included in our review, CVP provided water for use on 502,499 acres in 1971. as shown in the following table, 71,645 of the 502,499 acres, or about 14 percent, were owned or leased by the seven largest farm operators. Their farms ranged from 1,774 to 40,404 acres.

District	Total acres provided with project water in calendar year 1971	Largest farm operator in each district — Acres			Ten largest farm operators in each district — Acreage			Estimated subsidy
		Total	Owned	Leased	Total	Owned	Leased	
1	35,503	17,338	1,728	15,610	31,794	(a)	(a)	$ 445,100
2	30,188	2,820	2,105	715	16,505	6,293	10,212	231,100
3	17,119	2,471	1,778	693	10,437	5,129	5,308	146,100
4	232,440	40,404	23,436	16,968	127,162	73,572	53,590	1,780,300
5	45,945	4,359	3,809	550	18,439	15,777	2,662	258,100
6	44,865	1,774	304	1,470	11,467	3,423	8,044	160,500
7	96,439	2,479	1,205	1,274	14,721	10,125	4,596	206,100
Total	502,499	71,645	34,365	37,280	230,525	114,319	84,412	$3,227,300

[a]Not available.

FACTORS CONTRIBUTING TO LARGE LANDHOLDINGS

The 1902 act and the pertinent legislative history indicate that the Congress intended that water from Bureau water resources projects be provided for use on the acreage of land needed to support a family and that the Secretary of the Interior determine how much land--not less than 40 acres nor more than 160 acres--a family would require.

Project water, however, has not been limited to a family's 160 acres. Under a secretary's ruling in 1904, a landowner could transfer land in excess of 160 acres to his wife or children, which would enable the family to receive project water for use on 320 acres. In 1945 the Secretary ruled that a husband and wife could receive project water for use on 320 acres.

Also under Bureau procedures landowners are permitted to receive project water for use on up to 160 acres of land owned in each of the various irrigation districts served by a Federal water resources project. We noted that several families had received project water from CVP for use on more than 160 acres because they owned land in more than one irrigation district served by CVP. For example, three brothers and their wives received water from CVP for use on a total of about 2,000 acres of land owned in three contiguous districts: 710 acres in one district, 960 acres in another, and 330 acres in a third district. We noted also that a corporation had received water from CVP for use on about 1,500 acres of land, not more than 160 acres of which were located in each of 11 irrigation districts.

The 1926 act, as previously discussed on page 8, provides that a landowner who owns more than 160 acres not receive water from a Bureau water resources project for use on the excess land unless he enters into a recordable contract agreeing to dispose of his excess land at a price not to exceed the approved appraised value of the land under preproject conditions. The intent of this act was to break up large landholdings and to prevent land speculation.

The contracts provide that a landowner have up to 10 years to dispose of his excess land; that during that period he be provided with project water; and that, if he does not dispose of his excess land by the end of the 10-year period, the Secretary dispose of it for him.

Following are typical examples of disposal transaction by 76 landowners.

--During 1969 a corporation sold 4,450 acres of excess land. Of the 4,450 acres, 2,460 were sold to stockholders of a corporation and to its employees who owned extensive holdings in irrigation districts within CVP. The purchasers of the land took title to the land as tenants in common; each person received a beneficial interest in no more than 160 acres. According to the Bureau, this title arrangement met the ownership requirements of reclamation law.

--A company disposed of 354 acres of excess land by transferring title to parts of the excess land to the company's president and to his father, mother, and sister. Thus the land became eligible for project water.

--A corporation contracted to dispose of 1,906 acres of excess land but did not dispose of the land within the prescribed 10-year period. At the corporation's request, the Bureau allowed an additional "reasonable period" for its disposition. Later the corporation notified the Bureau that it had met the requirements of the contract by disposing of all the excess land and that the corporation would be dissolved. The corporation transferred its land and other assets to 26 newly formed corporations in return for all the issued and outstanding stock of the 26 corporations and distributed the stock to its stockholders. Although the stockholders are owners of the stock of the 26 corporations, no single stockholder has an interest in more than 160 acres and thus all the excess land is eligible for project water.

Although the Reclamation Act of 1902 required that no project water be sold to a landowner for use on his land unless he was an actual bona fide resident on the land, the residency requirement was enforced less and less over the years and finally its enforcement was discontinued.

In 1971 a suit[1] was brought before a U.S. district court to compel the Secretary of the Interior to enforce

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[1] Yellen et al. v. Hickel, individually and as Secretary of the Interior, et al. (S.D. Calif. 1971).

the residency requirement within the Imperial Irrigation District in California. The court upheld the residency requirement in an interlocutory decision dated November 22, 1971. This decision was affirmed by the court in a final judgment entered October 2, 1972.

A recent study by the Bureau of selected areas of CVP indicates that about one-third of the land in those areas is owned by nonresidents.

EXEMPTION OF PROJECTS FROM 160-ACRE LIMITATION

Certain Bureau water resources projects have been exempted from the 160-acre limitation by the Congress and/or by the Secretary of the Interior. For example, the act of November 29, 1940, chapter 922, 54 Stat. 1219, authorizing the Humboldt project in Nevada, provides that the excess land provision is not applicable to lands of the Washoe County Conservation District. In the case of the Boulder Canyon project, All-American Canal, the Secretary of the Interior ruled in February 1933 that land in the Imperial Irrigation District was not subject to the 160-acre limitation.

For those projects specifically exempted from the 160-acre limitation by the Congress, the exemptions were based primarily on unfavorable conditions relating to climate and soil which made application of the limitation economically unsound or were made because the projects provided only supplemental water to areas which already had a developed agricultural economy. Legislation permits the Bureau, in equating the productive potential of irrigable land, to give consideration to (1) the inherent deficiencies of various classes of land and (2) the crop limitations imposed by extremes of elevation and climate. Appendix II lists 16 projects which are not subject to the basic acreage limitation provisions of reclamation law.

The Congress has also enacted general legislation which modifies the basic acreage limitation provision for particular types of water resources projects. For example, the act of August 6, 1956, chapter 972, 70 Stat. 1044, which authorizes loans for the development of "small reclamation projects," provides that a landowner may obtain project

water on land in excess of 160 acres provided that he pays not only a charge based on recovering the reimbursable costs attributable to providing irrigation benefits to lands in excess of 160 acres but also interest applicable to such costs.

VIEWS ON IMPACT OF MODERN FARMING TECHNOLOGY AND TECHNIQUES ON PRACTICABILITY OF 160-ACRE LIMITATION

In 1964 the Department of the Interior issued a report, "Acreage Limitation Policy," based on its review of 41 projects. The Department's report, which dealt with many of the problems that are discussed in this report, recommended that the Congress consider legislative measures to (1) authorize the general use of the land-equivalency concept[1] in determining a landowner's excess acreage in areas served by reclamation projects and (2) establish a fund for the purchase and resale of excess land by the Federal Government.

Public Law 88-606, dated September 19, 1964, established the Public Land Law Review Commission to review existing public land laws and regulations and to recommend revisions therein. The Commission was made up of Members of the Congress and prominent citizens outside the Federal Government who were appointed by the President.

The Commission's report issued in 1970 included a discussion of the acreage limitation and concluded that:

--The changes which had taken place in the size of farms in the 17 Western States from about 1935 were not consistent with the acreage limitation in the land laws.

--Residence on farms should not be a condition for agricultural use of Federal lands as it would result in inefficient farming.

In a 1970 report, "Contours of Change," the U.S. Department of Agriculture (USDA) stated that since the 1920s the Nation had seen three full-scale revolutions in U.S. agriculture--mechanical, technological, and business management--which, together, were changing the nature of farming.

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[1]The Bureau's method of equating the productive potential of various land classes. Under this concept the Bureau limits delivery of water to 160 acres of good land and to 267 acres of less productive land.

The report stated also that:

--The real beginning of the mechanical revolution in farming was marked by the advent in the late 1920s of the general-purpose tractor. Mechanical equipment had permitted each worker to grow more acres of crops and to perform each task more precisely and more promptly.

--The technological revolution got its start with the advent of corn hybrids. Associated with this came increased production through the use of fertilizers and chemical herbicides.

--The business management revolution was marked by the farmer's being highly commercial and thoroughly market oriented. The farmer was highly conscious of commodity prices, and he was capable of producing commodities according to specification--formula-fed broilers of a specified age and weight, cattle fed to an exact weight and finish, and wheat grown to a minimum protein.

Changes in farming patterns are shown in a statistical analysis of farms, published by USDA, which indicates that during the period 1960-71 there had been a 27-percent decline in the number of farms in the United States and a 31-percent increase in the size of the average farm. The following USDA schedule shows the number and size of farms in 1960-71.

Year	Farms (000 omitted)	Acres in farms (000 omitted)	Acres in average-size farm
1960	3,962	1,176,946	297
1961	3,821	1,169,899	306
1962	3,685	1,161,383	315
1963	3,561	1,153,072	324
1964	3,442	1,146,806	333
1965	3,340	1,141,536	342
1966	3,239	1,137,161	351
1967	3,146	1,131,982	360
1968	3,054	1,127,567	369
1969	2,971	1,123,984	378
1970	2,924	1,120,725	380
1971(note a)	2,876	1,117,835	389

[a]Preliminary.

RECENTLY PROPOSED LEGISLATION

During the 92d Congress, 1st session, 10 bills dealing with acreage limitation were introduced in the Congress.

Two of the bills--House bills 1180 and 2311--provided for (1) increasing the 160-acre limitation to 640 acres and (2) assessing a premium charge for water delivered to lands in excess of the 640 acres.

The other eight bills--House bills 5236, 6597, 6758, 6900, 7615, 7863, and 9633 and Senate bill 2863--would create a Reclamation Lands Authority as a Government corporation and would transfer to it all the authority and the power relating to the acreage limitation now vested in the Secretary of the Interior. These bills provide for the establishment of a fund for the purchase and resale of excess land and would authorize the Authority to acquire excess land through condemnation, if necessary.

CHAPTER 4

CONCLUSIONS, AGENCY COMMENTS, AND MATTERS FOR CONSIDERATION BY THE CONGRESS

CONCLUSIONS

Reclamation law objectives of (1) breaking up large private landholdings to provide opportunity for maximum number of settlers on the land and to promote homebuilding, (2) spreading the benefits of the subsidized irrigation program to the maximum number of people, and (3) promoting the family-size farm as a desirable form of rural life are not being achieved in CVP.

Large landowners and farm operators are benefiting significantly under the subsidized irrigation program. Also large landowners and farm operators have continued to retain, or control through various means, large landholdings. Further, the impact of modern technology and techniques on farming raises a question as to the practicability of limiting the use of water from Bureau water resources projects to a landowner's 160 acres of irrigable land.

AGENCY COMMENTS

In commenting on a draft of this report (see app. I), the Department of the Interior stated that:

> "We concur that large farm operators and, for limited periods of time, large landowners can benefit significantly from subsidization of the irrigation program as do small landowners, and that the impact of modern technology, techniques and perhaps other factors, raises a question as to whether the excess land laws should be revised, consolidated and modernized. In fact, this has been the subject of considerable concern, attention and developmental effort in the Department and Bureau for a number of years. We also concur that in several instances large landowners and farm operators have continued to retain and control large holdings through various means."

* * * * *

"*** we agree that there is good reason to undertake the difficult task of restating, consolidating, modernizing the acreage limitation provisions of Reclamation law and [are] earnestly endeavoring to develop a proposal for that purpose."

The Department states also that 914,764 acres of excess lands originally had not been eligible to receive water from CVP and that, of the acreage placed under recordable contracts, 77,751 acres had been sold to eligible buyers in compliance with reclamation law and interpretations of that law by the Solicitor of the Department.

We believe that these issues represent questions of national policy for resolution by the Congress.

MATTERS FOR CONSIDERATION BY THE CONGRESS

The Congress should reevaluate the provision of reclamation law limiting the use of water from Bureau-subsidized water resources projects to 160 acres of irrigable land of any one landowner.

Should the Congress determine that the restriction of the availability of project water to 160 acres of land is still appropriate to encourage the establishment of family farms, it should enact legislation which would preclude large landowners and farm operators from benefiting under the subsidized irrigation program by controlling numerous 160-acre tracts through corporations, partnerships, and trusts and/or by leasing 160-acre tracts.

Should the Congress, on the other hand, determine that restriction on the use of project water to 160 acres is no longer appropriate to encourage the establishment of family-size farms, it should enact legislation which would

--establish a family-size farm's area of irrigable land eligible to receive Federal project water at subsidized rates;

--preclude landowners and farm operators from benefiting under the subsidized irrigation program by

controlling numerous eligible tracts through corporations, partnerships, and trusts and/or by leasing such tracts; and

--require the payment of the full cost of Federal project water provided for use on farmlands of greater acreage than that established for family farms.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

August 11, 1972

Mr. Philip Charam
Deputy Director
Resources and Economic
Development Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Charam:

The Department of the Interior has reviewed with interest your draft report, "Need for Reevaluation of the 160-Acre Limitation Provision of Reclamation Law," and appreciate the opportunity to comment on it.

[See GAO note.]

More specifically, we note the draft holds that certain objectives of Reclamation law are not being achieved; namely, preventing large landowners and farm operators from benefiting under the subsidized irrigation program and from retaining or acquiring large landholdings. The basis for the conclusions are contained in the Chapter entitled "Problems in Implementing the 160-Acre Limitation." This chapter deals with the subsidies that large landholders and farm operators are receiving as interest-free financing cost and then deals with some of the irrigation districts where project water was provided for the use of 502,000 acres during 1971.

GAO note: Material deleted from this letter concerns matters included in the report draft which have been revised in the final report.

APPENDIX I

A report tabulation of the seven districts shows the total acreage receiving project water during the year, the largest farm operator in each district, and the 10 largest farm operators in each district. The farm operations are further broken down into acreage owned and leased. The implication of the tabulation is that project water is being delivered to individual owners holding title to acreages varying from 304 acres to 23,436 acres. This presentation suggests that ownerships are not subject to acreage limitation and that the provisions of the Reclamation law with regard to delivery of water to land in excess of 160 acres were being ignored.

What the report fails to note is that all of the acreages in the tabulation are either nonexcess or subject to recordable contract and, thereby, eligible to receive water in accordance with the excess land provisions of Reclamation law as they have been interpreted by numerous Solicitors' opinions and administration decisions based thereon. Thus, benefits from the use of project water are attributable to the beneficial ownerships of nonexcess land and, for a limited period of time, as an incentive to break large landholdings into 160-acre ownerships, to the beneficial ownerships of excess land placed under recordable contract.

We concur that large farm operators and, for limited periods of time, large landowners can benefit significantly from subsidization of the irrigation program as do small landowners, and that the impact of modern technology, techniques and perhaps other factors, raises a question as to whether the excess land laws should be revised, consolidated and modernized. In fact, this has been the subject of considerable concern, attention and developmental effort in the Department and Bureau for a number of years. We also concur that in several instances large landowners and farm operators have continued to retain and control large holdings through various means. However, those large landowners and operators are subject to the 160-acre limitation, and excess lands they own or control that are not under recordable contract are not receiving Central Valley Project Water.

This factual situation is certainly at variance with the situation implied in the statement in the report that: "...large landowners have been able to maintain control over considerably more than 160 acres of land and retain eligibility for federally subsidized water on their land through the establishment of corporations and partnerships." Each individual owner, whether that owner be a natural person holding land in his single ownership or as a participant in an eligible partnership, a trust satisfactory to the Secretary, or a corporation, can receive project water for not to exceed 160 irrigable acres of nonexcess land. Excess land held by such owners can be made eligible for water as aforenoted through the recordable contracting process which has as its ultimate objective disposition to nonexcess ownerships.

With reference to the recordable contracting program, we also note the report's conclusion that "...the objectives of Reclamation law are not being achieved in that large, private landholdings are not being broken up to provide an opportunity for a maximum number of settlers on the land and to promote home building." It further concludes that spreading benefits of subsidized irrigation programs to the maximum number of people is not being achieved, nor is the promotion of the family-size farm as a desirable form of rural life.

To date, large landowners in the Central Valley Project (the case study for this report) have placed 376,461 acres of excess land under recordable contract agreeing to divide it into 160-acre parcels to be sold to eligible buyers at approved prices.

Originally, the contracting entities in the Central Valley Project held 914,764 acres of excess land not eligible to receive project water. Of the lands that have been placed under recordable contract, some 77,751 acres have thus far been sold to eligible buyers in compliance with Reclamation law and the interpretations of that law by the Solicitor, Department of the Interior. Historically then, large private landholdings have been divided and sold to at least 485 individual landowners. To satisfy the terms and conditions of the recordable contracts covering lands to be disposed of over the next 10 years, a minimum of an additional 1,877 buyers will be involved. It would appear some degree of progress is evident in the implementation of the recordable contracting program.

In summary, we agree that there is good reason to undertake the difficult task of restating, consolidating, modernizing the acreage limitation provisions of Reclamation law and earnestly endeavoring to develop a proposal for that purpose. In presenting the subject report, however, we believe it is essential that the fundamental differences between farm management through leasehold operations, which is under no constraints of law, and the receipt of benefits through ownership of project lands, especially in the study area, be defined and clearly separated. Additionally, it should be clearly enunciated that individual landowners, large or small, natural or corporate, cannot increase the nonexcess eligibility through various devices such as establishing corporations, partnerships, and trusts under the currently applicable guidelines for the administration of Reclamation law.

We concur wholeheartedly in the proposal that the Congress review the pros and cons of the acreage limitation concept. In so doing, the complex of guidelines that have evolved over the past 70 years should be critically examined and approved or rejected in a comprehensive statutory enunciation. It is to that purpose and with such an objective in mind that we have been directing our efforts. Your report amended to this objective would be of valued assistance in achieving the goals we both seek.

Thank you for the opportunity to review the report in draft.

Sincerely yours,

J. V. Vail Jr.

Director of Survey and Review

PROJECTS WHICH ARE NOT SUBJECT TO THE

BASIC ACREAGE LIMITATION PROVISIONS OF RECLAMATION LAW

Project (note a)	Reason basic law is not applicable		
	Prior water rights or supplemental water situation	Climatic or elevational extremes	Limited productivity of irrigable lands
Boulder Canyon project, All-American Canal, Imperial Irrigation District	X		
Colorado-Big Thompson project	X		
Truckee storage project	X		X
Humboldt project	X		X
San Luis Valley project	X	X	X
Missouri River Basin project:			
Owl Creek unit		X	X
East Bench unit	X	X	X
Narrows unit	X		
Riverton unit		X	X
Santa Maria project	X		
Washoe project	X		X
Kendrick project		X	X
Lower Rio Grande rehabilitation project:			
Mercedes division	X		
La Feria division	X		
Seedskadee project		X	X
Baker project:			
Upper division	X		X
Bostwick Park project		X	X
Savory-Pot Hook project		X	X
Fruitland Mesa project		X	X
Central Valley project:			
San Felipe division	X		

[a]Exceptions to the basic acreage limitation may be applicable to a specific project or to division(s) thereof.

APPENDIX III

PRINCIPAL OFFICIALS

OF THE DEPARTMENT OF THE INTERIOR

RESPONSIBLE FOR THE ACTIVITIES

DISCUSSED IN THIS REPORT

	Tenure of office	
	From	To
SECRETARY OF THE INTERIOR:		
Rogers C. B. Morton	Jan. 1971	Present
Fred J. Russell (acting)	Nov. 1970	Dec. 1970
Walter J. Hickel	Jan. 1969	Nov. 1970
Stewart L. Udall	Jan. 1961	Jan. 1969
ASSISTANT SECRETARY--WATER AND POWER RESOURCES:		
James R. Smith	Mar. 1969	Present
Kenneth Holum	Jan. 1961	Mar. 1969
COMMISSIONER OF RECLAMATION:		
Ellis L. Armstrong	Nov. 1969	Present
Floyd E. Dominy	May 1959	Oct. 1969