ACREAGE LIMITATION PROVISIONS OF RECLAMATION LAW

Throughout the more than 60 years which have elapsed since the inception of the Federal Reclamation program by Act of Congress in 1902, limitations have prevailed on the acreage for which an individual could legally obtain project water for irrigation. The Federal policy thus implemented has been designed to further the fundamental objectives of Reclamation by promoting the family farm as a desirable type of rural life and distributing equitably and widely the benefits of the Government program.

Under the Federal Reclamation program, the Secretary of the Interior is authorized, among other things, to plan, construct, operate, and maintain
works and facilities to supply irrigation water for lands in the arid West. By law, all Reclamation costs assigned to irrigation must be fully repaid to the United States, but interest thereon is not required.

Through the years the scope of the Reclamation program has steadily expanded. Today, irrigation water can be served under Federally built works to more than 8\(\frac{1}{2}\) million acres of irrigable land, distributed among more than 100 projects or major project units in the 17 Western States. Keeping in mind that these projects in their development have been subject, with but few exceptions, to the basic acreage limitation provisions established by law, it is significant to note that these 100 areas now contain about 97,000 full-time family farms, averaging 80 irrigable acres per farm in size. In addition, there are some 31,500 part-time farms, averaging approximately 13 irrigable acres each. Admittedly, the individual sizes of the various farms making up the total range from very small tracts to some in excess of 1,000 acres. Significantly,
however, our most recently available land ownership summaries indicate that of the more than 8 million acres which make up the total area to which irrigation service is available under the Reclamation program, only about 3.5 per cent are held in ownership sizes which exceed those permitted by the controlling statutes. That we have experienced reasonably satisfactory progress in the administrative application of acreage limitation provisions of law is indicated by the fact that, while the present-day total Reclamation service area is more than twice what it was in the years immediately following the close of World War II, the proportion of the total acreage representing excess lands has progressively diminished.

Looking specifically to the acreage limitation itself, it is important to note that the limitation is not, as is so frequently inferred, a limitation on the amount of land that can be owned. The limitation applies specifically to the irrigable acreage of project land for which any single landowner may eligibly receive
project water. Thus, irrespective of the size of his total land holdings, an individual landowner is entitled to receive project water for not more than 160 irrigable acres as non-excess land. A husband and wife jointly may receive project water for not to exceed 320 irrigable acres as non-excess land.

It should also be noted in considering the family relationship that, under long-standing policy, irrigable lands of not to exceed 160 acres may be held as non-excess by each minor child. Similarly, land held in trust may be deemed to be of non-excess status and receive project water if it can be shown that the trust is a bona fide divestment of interest by the trustor and that the benefits derived from the lands actually accrue to the beneficiary of the trust.

Corporations holding irrigable lands on Reclamation projects may similarly designate tracts of not to exceed 160 irrigable acres as their non-excess lands and receive project water therefor in the same manner.
as natural persons. Such designations, however, are subject to the requirement that the purpose and business intent of each such corporate entity be considered individually, and that no corporation can eligibly receive project water if it is determined that the corporation was established for the purpose of holding project lands in a manner inconsistent with the acreage limitation provisions of Reclamation law.

We have thus far referred to acreage limitation only in its traditional 160-acre concept. In a number of comparatively recent cases, the Congress of the United States has legislatively adopted a somewhat modified approach to the classical 160-acre limitation. The modified version is popularly referred to as the "Class 1 Equivalent" concept. Expressed in its most elementary form, this concept provides that a landowner may designate and receive project water for more than 160 acres of lower-quality irrigable land, provided the land so designated does not exceed the equivalent productive potential of 160 acres of the
best, or Class 1, land. Project lands are customarily classified into three, or sometimes four, irrigable land classes, ranging from the best Class 1 land through Classes 2 and 3 to the least-productive, or Class 4 land. Land classification standards are developed in light of both economic and physical factors affecting the suitability of lands for sustained irrigation, and therefore reflect the ability of the land to produce net farm income. By use of the equivalency concept, the owner of lands of lesser productive potential can be afforded, through the increased size of his non-excess holdings, economic opportunity that is reasonably comparable to that available to the maximum permissible acreage of Class 1 lands.

We should also consider two supplementary legislative enactments of general application which provide temporary exceptions to the basic statutory acreage limitation. The first of these, enacted July 11, 1956, provides that lands which become excess by
reason of foreclosure, inheritance, devise, or other process of law may nevertheless continue to receive irrigation water for five years, with water delivery to such lands thereafter ceasing until such time as beneficial title to the lands has been transferred to a person or persons who can eligibly hold title as non-excess lands. The salient purpose of this Act was to provide adequate safeguards to lending institutions by assuring them that in case of foreclosure they would have a reasonable time to make orderly disposition of the involuntarily acquired excess lands and providing that during such five-year interval the lands would not be held to be in violation and deprived water. The number of exemptions that develop pursuant to this measure are insignificant and of transient nature.

The second Act to which I referred, the Act of September 2, 1960, provides that where the death of a husband or wife causes part of the land in their family farm to become excess as defined by Reclamation
law, and such land had theretofore been eligible to receive project water as non-excess land, water may continue to be delivered to the full acreage as long as the land remains in the ownership of the surviving spouse. In the event the surviving spouse remarries, the lands are then governed by applicable law without further regard to this special Act. As in the case of the previous Act, the exemptions which develop under provisions of this statute do not involve significant acreage.

Over the years, the Congress has authorized a limited number of project exemptions, modifications, and waivers in the application of the basic acreage limitations of Reclamation law. There are about 17 such cases. In each, the reasons in support of such action have usually been related to physical or climatic conditions which require an extensive-type farming, result in low net returns per acre, and require the offsetting advantages of larger acreages. The several exceptions vary considerably in the
specific details of their application.

Time will not permit detailed discussion of these variations from the traditional 160-acre law.

As I noted earlier, the basic acreage limitation establishes individual non-excess land entitlements of 160 irrigable acres. This has been administered to permit 320 irrigable acres to be held by husband and wife. I have also mentioned the fact that the limitation is not on ownership, but rather applies to the acreage for which the landowner may obtain project water for irrigation. However, if a landowner holds more irrigable land than the legal limit for which he can obtain project water as non-excess land, he nevertheless can obtain water for the excess land subject to specific conditions, provided he takes certain steps. Reclamation law provides that excess lands may receive project water if the landowner executes a valid recordable contract, satisfactory to the Secretary of the Interior, agreeing to dispose
of such lands under terms and at prices not to exceed those fixed by the Secretary of the Interior without reference to the irrigation project. The forms of recordable contracts used to carry out this provision of law have not been completely uniform, but generally provide that the owner dispose of his excess acreage, within a period of ten years from the date of contract execution, to persons who are eligible to receive water for such lands as non-excess landowners, and at prices not to exceed the approved appraised land value. Should the landowner fail to dispose of his excess lands within the period allowed by the recordable contract, the contract further provides for the vesting of power of attorney in the Secretary of Interior to dispose of the excess lands for and on behalf of the landowner, and subject to the same conditions of sale that would have prevailed had the landowner so acted.

The recordable contracting program has been reasonably successful in its acceptance and application. Experience has shown that many excess landowners
enter into recordable contracts in good faith and thereafter promptly undertake a suitable program of disposition. As a result, within the ten-year period afforded for that purpose, they have completely divested themselves of their excess holdings. On the other hand, some landowners place their excess lands under recordable contracts, thus making them eligible to receive project water, and thereafter show little tangible evidence of efforts to dispose of their excess lands.

Probably the most significant figures concerning the comparative rates of disposition are those pertaining to the Central Valley Project of California. A review of statistics compiled as of the end of 1963 indicates that 146 recordable contracts, covering 68,300 acres of irrigable land, had been entered into since project operations began in the early postwar years. These contracts include excess ownerships in 23 representative irrigation districts within the project. The sizes of the various excess
land holdings under contract range from a minimum of 5 acres to a maximum of nearly 6,000 acres. As of the end of 1963, nearly 27,300 acres of excess land under 59 recordable contracts had been completely disposed of by the excess landowners in full compliance with the recordable contracts. Slightly over 33,000 irrigable acres then remained under recordable contract subject to landowner disposition during the remaining unexpired periods prior to vesting of power of attorney in the Secretary of Interior. In the case of 9 recordable contracts covering approximately 8,000 irrigable acres, the initial ten-year period has expired and the power of attorney has vested in the Secretary of Interior to sell the excess land for and on behalf of the excess landowners. One such parcel, involving 80 acres of excess land, has been sold under the Secretary's power of attorney. In 5 more cases where power of attorney has vested in the Secretary, land appraisals are currently in progress preparatory to initiation of action to
dispose of the 6,200 acres of excess land involved. Under the remaining 3 recordable contracts, the excess landowners have proposed plans for immediate disposition in satisfaction of the terms of the recordable contracts. If such plans prove on review to be in accord with the terms and conditions of the governing contracts, they will be approved. Otherwise, disposition of the affected lands will be handled under the Secretary's power of attorney.

Under the remaining recordable contracts and over the next five years it can be expected that perhaps 2,000 to 5,000 acres of excess land will be disposed of annually, either by the landowners or by the Secretary under power of attorney.

In conclusion, let me stress that due to the great complexity of the subject it has been possible for me to refer only to the most salient features of the acreage limitation provisions of Reclamation law. Since the inception of the program in 1902, the Congress of the United States has evidenced a
continuing interest in maintaining appropriate safeguards over the benefits that accrue from Federal Reclamation expenditures. That interest has consistently aimed at improving pertinent statutory authorities which provide the basis for administration in keeping with the changing circumstances and conditions of an ever-expanding Federal Reclamation program.

To that end the Department of the Interior is now assembling and transmitting to the Senate Committee on Interior and Insular Affairs, at its request, comprehensive data pertaining not only to the evolutionary development of acreage limitation provisions and the long history of their administrative application, but also related data that may prove beneficial to the Committee in deciding whether the Congress should at this time consider any modification in the basic law. If the decision is affirmative, we are confident that all pertinent facts and conditions will be carefully and exhaustively scrutinized and that any resulting legislative actions will be entirely compatible with both long-standing policies upon
which the Reclamation program is predicated and the intensified pattern of the Nation's present-day economy and national resource development.
PUBLIC HEARINGS ON FARM LABOR AND RURAL POVERTY
of the
National Advisory Committee on Farm Labor
Statler-Hilton Hotel, Washington, D. C.
Monday, May 18, and Tuesday, May 19, 1964

Monday, May 18, 1964

Morning Session - 9:30 a.m.  THE FARM WORKER

Chairman:  Dr. Frank P. Graham

Scope and Background of the Hearings:  Fay Bennett, Executive Secretary,
National Advisory Committee on Farm Labor

Witnesses:
Rev. Ralph J. Duggan, Bishops' Committee for Migrant Workers
Arnold Mayer, Amalgamated Meat Cutters and Butcher Workmen, AFL-CIO
H. L. Mitchell, Allied Agricultural and Food Workers Union, AFL-CIO, Louisiana
William McLain, farm worker, Suffolk County, New York
Joseph Monserrat, Migration Division, Commonwealth of Puerto Rico
Dr. Robert B. Coles, Child Psychiatrist
C. Al Green, Agricultural Workers Organizing Committee, AFL-CIO
Henry Rasmussen, farm worker, Lemoncove, California
Anne Draper, Citizens for Farm Labor, California

Afternoon Session - 2:00 p.m.  THE IMPACT OF AGRIBUSINESS

Chairman:  Daniel H. Pollitt

 Witnesses:
The Honorable Gale McGee, U.S. Senator from Wyoming
Edward F. Hayes, California Growers Farm Labor Committee
Statements from other growers’ associations
Matt Triggs, American Farm Bureau Federation
Harry Graham, National Grange
Bard McAllister, Farm Labor Project, American Friends Service Committee
Jacob Clayman, Industrial Union Department, AFL-CIO, presenting statement
for Ralph Helstein, United Packinghouse, Food and Allied Workers, AFL-CIO
Mrs. Herbert Thatcher, National Consumers League
Walter Hasty, National Farmers Union
Dr. Betty Jean Patton, National Council of Churches

Evening Dinner Meeting - 7:00 p.m.  POVERTY ON THE LAND—IN A LAND OF PLENTY

Introduction:  Dr. Frank P. Graham

Address:  Sargent Shriver

Conclusion:  A. Philip Randolph
Morning Session - 9:30 a.m.  THE ROLE OF GOVERNMENT

Chairman: Norman Thomas

Witnesses:

U.S. Department of Agriculture

Floyd F. Higbee, Deputy Administrator, Farmers Home Administration
Lloyd H. Davis, Administrator, Federal Extension Service
Ray Fitzgerald, Deputy Administrator, Agricultural Stabilization and Conservation Service
Job K. Savage, Director, Management Services Division, Farmer Cooperative Service
James L. Sundquist, Deputy Under Secretary, U.S. Department of Agriculture

James N. Mays, Georgia farmer

Mrs. Susie Brown, Mississippi sharecropper

Robert Moses, Council of Federated Organizations, Mississippi

Area Redevelopment Administration

Anne L. Gould, Training Coordinator

U.S. Department of Labor

Jack Howard, Special Assistant to the Under Secretary
Milton Brooke, Chief, Division of State Services, Bureau of Labor Standards

U.S. Department of the Interior

Gilbert Stamm, Assistant Commissioner for Irrigation and Planning,
Bureau of Reclamation
Ira Kaye, Attorney, Sumter, South Carolina

Afternoon Session - 2:00 p.m.  GOVERNMENT, LEGISLATION, AND PRIVATE ORGANIZATIONS

Chairman: Dr. John A. Mackay

Witnesses:

U.S. Department of Health, Education, and Welfare

Wilbur J. Cohen, Assistant Secretary
Walter Arnold, Director, Vocational Education, U.S. Office of Education

The Honorable Harrison A. Williams, Jr., U.S. Senator from New Jersey
Statement of the Honorable James Roosevelt, U.S. Representative from California
Ben Neufeld, National Council on Agricultural Life and Labor

Cernoria D. Johnson, National Urban League

National Sharecroppers Fund
Art Emery, Tennessee Field Representative
L. S. James, South Carolina Field Representative
Ocie Lee Smith, Louisiana-Arkansas Field Representative
Jac Wasserman, Project Director
Cassandra Stockburger, National Committee on the Education of Migrant Children

John Rippey, Credit Union National Association
Bernard S. Houghton, Consumers League of Ohio
Ethel W. Jacobs, National Travelers Aid Association

Summation - Dr. Frank P. Graham

Counsel to the Hearings: Rowland Watts, assisted by Norman Kurland
April 30th, 1964

The Honorable Stewart L. Udall
U.S. Department of the Interior
Washington, D.C.

Dear Mr. Udall:

I hope that you have already received a formal invitation to the Dinner and public hearings on farm labor and rural poverty to be held in Washington on May 18th and 19th; a preliminary schedule of the hearings is enclosed.

We believe that these hearings will indeed be the important sounding board that we have planned. The Monday sessions will be devoted to the migrant workers, the foreign contract import system and its impact, and testimony from the large growers, processors and distributors and testimony concerning their impact upon the small farmer, farm worker and consumer. Sargent Shriver will be the speaker at the dinner meeting, Monday evening. The Tuesday sessions will be devoted primarily to the role of government programs, a discussion of legislative proposals in the field, and the role of private organizations.

We believe that a presentation by a representative of the Bureau of Reclamation of the operation of the 160 acre limitation upon the use of federally financed irrigation water would be a significant contribution to these hearings. We are particularly interested in knowing of the possibilities of further development of family farms through disposals of excess acreage by the large growers. A presentation of the number and location of the acreage involved and the approximate time schedule for divestiture would be extremely useful.

Representatives of other departments of government will be presenting their programs on the morning of May 19th. Will you please let me know as soon as possible whether or not a representative of your Department could make an approximately 20-minute oral presentation at that time. We would, of course, be glad to include anything further that might be submitted for the record.

Sincerely,

[Signature]
Rowland Watts
Counsel to the Hearings
PUBLIC HEARINGS ON FARM LABOR AND RURAL POVERTY
of the
National Advisory Committee on Farm Labor
Statler-Hilton Hotel, Washington, D.C.
May 18 and 19, 1964

(Preliminary Schedule)

Monday, May 18, 1964

MORNING SESSION -- 9:30 a.m.  The Farm Worker
The West Coast farm worker
The Texas worker
The East Coast migrant
The impact of the foreign import system (P.L. 78 and P.L. 414)
Some alternatives to foreign import:
  Louisiana sugar cane workers
  Puerto Rican contract workers
  Cooperative farm labor crews
Migrant workers, organized labor representatives, and other experts
will testify.

AFTERNOON SESSION -- 2:00 p.m.  The Impact of Large Scale Farming
Representatives of the large grower, food processor, and food distributor
associations are being invited to testify.
The impact of agribusiness upon the farm worker, the food processing
worker, the small farmer, and the consumer will be presented.

EVENING DINNER MEETING -- 7:00 p.m.  Poverty on the Land--In a Land of Plenty
Sargent Shriver, Frank P. Graham, and A. Philip Randolph will speak.

Tuesday, May 19, 1964

MORNING SESSION -- 9:30 a.m.  The Role of Government
Presentations of the programs of the Department of Agriculture for the
small farmer; of the Department of Labor's Farm Labor Service and
Manpower Training programs; of the work of the Department of Health,
Education, and Welfare in rural areas; of the Area Redevelopment
Administration's work in training and rural community development;
and of the rural aspects of the proposals of the President's Task
Force on Poverty.
Testimony on the impact of these programs by small farmers, sharecroppers,
and farm workers.

AFTERNOON SESSION -- 2:00 p.m.  Legislative Proposals and Some Private Programs
Pending legislation to aid migrants and other farm workers
The Economic Opportunity Act of 1964
Unmet legislative needs
The impact of rural poverty upon the cities
Some private programs:
  Cooperatives, migrant education, day care, mobile social services,
  information programs, etc.

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Registration is free for all hearing sessions. Dinner reservations, at $8.50
per person, should be sent to the Washington office: 2027 Massachusetts
Avenue NW, Washington, D.C. 20036.