Bonanza Motel
349 West Pacheco Blvd.
Los Banos, California 93635
Phone (209) 826-3871

Name: West But the head of
Evan

1. Certificate of compliance
   from all every load of
   saw dust again
   Cost: 50c/yr

2. Re CT or Amend to form
   PR must be caught
   PR = form plus exp

3. Hammer classes
   A way of live her
   Constitution - Can't take property or
   compensation
Bonanza Motel
349 West Pacheco Blvd.
Los Banos, California 93635
Phone (209) 826-3871

4½ yr. close — Real Problem
Intrest cost starts new
from time the 4½ yrs

?.

Swell rice boys sick
SRP — entitled to
larger average w/o
added interest.
Bonanza Motel
349 West Pacheco Blvd.
Los Banos, California 93635
Phone (209) 826-3871

203(c) —
RARs — Excludes equivalency
(Different for act)

Any Impact analysis —
No sig impact R&R - Not so.

Get CG for Jew.

Beno - Social Program —
Barry - Audits.

Court decision re R&R
only as respects to
Excess lands —
Bonanza Motel

34000 total
33000 in compliance

How determined

Los Banos, California 93635
Phone (209) 826-3871

Farm size distribution

22 exempt

Reserve out

Imperial out

plus 22 exempt cars

Land out - are cut

Remaining lands -

Rural land -

33 total orig lands

Seize livestock -

Cost livestock -

Redesignate land -

By excess 140

Replanted clear
Bonanza Motel
349 West Pacheco Blvd.
Los Banos, California 93635
Phone (209) 826-3871

Negatives impact fell on Calif. debt

What to do -
1) Participate in hearing
2) PAC - message to what home
3) Contact Pete Wilson
   Rich Malloy - AA
4) Message to Duke
5) Ca State Alty Fund
   Legal Issues + Pap I
6) Litigation - Fed C/B
Bonanza Motel
349 West Pacheco Blvd.
Los Banos, California 93635
Phone (209) 826-3871

Drafting Corp. F.W. Allen
well not in hA -
Sheahan - Airport
urged to attend -
Read Impact Station

Class II water - Dist
take + pay when available
Bonanza Motel
349 West Pacheco Blvd.
Los Banos, California 93635
Phone (209) 826-3871

160 acre West wire
ed to lead the 1976
Act

[Bees etc.]

App'd by Sep

Congress

Annual of amendments
necessary for

Used Envis EIS due
to tune element

Bad judgment.
Bonanza

Mary -
Phone Calls -
Comments of the San Luis and Delta-Mendota Water Users Association on proposed Rules and Regulations as published in the Federal Register Vol. 48, No. 86, for implementation of Title II of the Reclamation Reform Act of October 12, 1982

My name is Gilbert Stamm. I am appearing here in behalf of the San Luis and Delta-Mendota Water Users Association. The Association is composed of 36 member (irrigation and water) districts located generally on the westside of the San Joaquin Valley, California, between Antioch and Kettlemen City. The Association membership represents over one million acres of irrigated land.

Rules and Regulations, the Association believes, should be designed for and confined to implementation of the law. They should not become a vehicle to introduce restrictions and limitations not consistent with nor required by the law. Implementation provisions of Rules and Regulations should be applied prospectively only, unless the Statutes themselves clearly require otherwise. Unnecessary or unlawful retroactive application of the law through Rules and Regulations impugns the integrity of the U.S. Government and should not be condoned, especially when retroactive implementation might place the United States in the position of unilaterally abrogating hundreds of valid existing repayment contracts with irrigation and water districts involving many thousands of farmers. If such contracts
are abrogated by the United States, it appears that compensation for damages must be provided.

The San Luis and Delta-Mendota Water Users Association has carefully reviewed the proposed Rules and Regulations. Although many of the provisions are acceptable, there also are many that are onerous or unacceptable/either because they appear to go beyond the law, do not appear to be in conformance with the law, or place unnecessary burdens and expense on the irrigation districts and water users. Other agricultural organizations, irrigation districts, and water districts have expressed similar significant dissatisfaction with portions of the Rules and Regulations.

Remarks which follow are limited primarily to the identification of the objectionable provisions, of the Rules and Regulations. They are identified in the order in which they appear, in the Rules and Regulations, rather than in any order of priority.

Section 426.2 Applicability.

426.2(b) - This subsection states that the regulations after becoming effective will apply to all lands subject to acreage limitations and full-cost provisions of Reclamation law that are "... capable of receiving an irrigation water supply from a Reclamation project." Left open is whether land irrigated in total or in part with groundwater, that may have unavoidably resulted from/ or been enhanced by surface irrigation
with Reclamation supplied water, is covered or is intended to be covered by Sec. 426.2(b).

What about lands irrigated from groundwater, the supply of which is benefited by unavoidable deep percolation of surface irrigation water of a Reclamation project? Such lands might be classed as irrigable or non-irrigable within a contracting entity or be unclassified land outside a contracting entity. Clarification of intent is essential before meaningful comment can be made. Limitations or obligations placed on use or reuse of surface water unavoidably lost to the underground could become significant issues in many cases if unjustifiable limitations or payment obligations are placed thereon.

Section 426.4 Definitions.

426.4(b) The term "contract." Water supply contracts provided for in Sec. 9(e) of the 1939 Reclamation Project Act are significantly different with respect to repayment of both O&M and capital construction costs than traditionally required repayment contracts such as those written pursuant to Sec. 9(d) of the 1939 Reclamation Project Act and theretofore.

In this regard Sec. 9(e) of the 1939 Act provides for 40-year contracts "... at such rates as in the Secretary's judgment will produce revenues at least sufficient to cover an appropriate share of the annual operation and maintenance cost and an appropriate share of such fixed charges as the Secretary deems proper, ... ."
Additionally, Sec. 9(e) together with provisions of the Act of July 2, 1956, (entitled Administration of contracts under Sec. 9 Reclamation Project Act of 1939) which deals with renewal of 9(e) contracts and payment of construction charges, can be, and has on occasion been, read to say that the amount of capital construction costs assigned to irrigation for a "water supply" may not ever be required to be fully repaid, depending on payment capacity, and Secretarial determinations within the latitude prescribed by the Statutes. Not so, however, for costs allocated to distribution systems which must be covered by 9(d) contracts and be fully repaid.

In light of the law pertaining to 9(e) contracts, it is questionable whether the definition of "contract" is adequate. To allow the law to be applied as evidently intended by the Statutes, we believe the definition of "contract" should eliminate specific reference to "construction charges . . . including normal operation, maintenance, and replacement costs . . ." and in lieu thereof should simply read, ". . . providing for the payment of charges to the United States, pursuant to Federal Reclamation law."

426.4(e) The term "excess land." The excess land definition includes all land that can be served with Reclamation project water in all districts. Presumably the last sentence of the definition will be modified if former Solicitor Krulitz's opinion is modified or reversed by the current review of that opinion.
426.4(i) The term "irrevocable election." It seems highly inappropriate if not illegal to permit a lessee to file an "irrevocable election" on leased land unless such election is temporary and is confined to the term of the lease. Assuming this is the intent (even though the definition says "irrevocable"), we believe the definition should be expanded to make the intent clear at this point in the Rules and Regulations.

426.4(j) The term "irrigable land." We suggest that the word "dedicated" with respect to roads be removed from the penultimate sentence of subsection 426.4(j). Many non-dedicated roads are used unrestrictedly by the public. Many canal operating roads are in this category even though posted as not public roads.

Section 426.5 Contracts.

426.5(a)(2) New Contracts. Language of this subsection fails to recognize that "temporary contracts" should be exempt from provisions of the subsection.

426.5(a)(3)(ii) Amended Contracts. We believe that the second sentence of this subsection, beginning with the word, "Moreover, . . ." is not required by the law and should be deleted.

426.5(b) Standard article for contract amendments. The standard article proposed for inclusion in all new or amended contracts executed after October 12, 1982, especially the words
following the parenthetical reference to P.L. 97-293, requires the districts and landowners in effect to buy a "pig in a poke." The constitutional requirement that all parties be bound by pertinent law is sufficient to permit the Congress to enact legislation and the Administration to implement it. Adding the proposed provision to all such contracts is unnecessary and onerous.

426.5(d)(3) Other provisions. Presumably the application of acreage limitations on a westwide basis to valid existing contracts will be modified if and when the so-called Krulitz opinion in this regard is reversed or modified by the current Solicitor or by litigation.

Section 426.6 Ownership Entitlement. (New item inserted as (b)(3).)

426.6(b)(3) Qualified recipient. Joint tenancies and tenancies-in-common. We believe that a tenancy-in-common should not be a legal entity and therefore each individual in a tenancy-in-common should be eligible to receive irrigation water for an interest of 960 acres or less. The same rationale would hold for a joint tenancy.

426.6(b)(4) Trusts. Is it not true that the law places no limit on a trust, but does place a limit on the beneficiary? If that is so, the last sentence of this subsection, beginning with "Moreover . . ." should be deleted or corrected.

Section 426.7 Leasing and full-cost pricing.

Implementation of the full-cost pricing formula as set forth in this section contains many foreseeable problems. Its
application as proposed would become complex, cumbersome, costly, and increasingly unfair in many instances over the years.

Latitude for significant revision within the law is apparent and is needed if the proposed formula is to become workable and equitable.

As a gratuitous comment with respect to the overall aspects of full-cost pricing, many knowledgeable people in a variety of occupational and political situations believe firmly that the financial requirements of the Reform Act failed to take into consideration the often-established substantial contribution of secondary financial benefits of the Reclamation program to the prosperity of the Nation and its tax base.

426.7(c) Full-cost pricing thresholds on leased land. The first paragraph of this subsection should be revised to remove the word, "... resides ..." since residency is not a requirement.

426.7(c)(3) Lessees subject to the 160-acre ownership limitation established under prior law. The last sentence of this subsection, though in conformance with the Reform Act, will result in the United States introducing limitations never before required by law as interpreted for over 55 years or by contract, and thereby will unilaterally abrogate numerous valid existing contracts which, before execution, had been fully approved legally and administratively. Parties to those
contracts had every right to believe that those contracts, absent violations, would prevail for the full terms provided therein.

426.7(g) Calculating full cost, (1)(v) Payments. The first sentence of this subarticle contains a series as follows: "... Reclamation law, policy, and applicable contract provisions ..." We believe the word "policy" should be deleted from the series not only because it is superfluous in the context of the sentence, but also because its presence might be interpreted in the future as granting latitude to the Secretary beyond the law and applicable contract provisions.

426.7(g)(2) Calculating the full-cost rate. Objections to the procedures outlined in this subsection are covered in general by initial comments under Section 426.7. As we view the law and the proposed Rules and Regulations, fixing equal annual payments at higher rates as the time lengthens between the date of a new or amended contract or irrevocable election and October 12, 1982, is not a legislative requirement, will not assure an increase in total returns from full-cost pricing, and gives the appearance of blackmail to accomplish early conformance to Title II.

Section 426.8 Operation and Maintenance Charges.

426.8(a)(1) Districts with new or amended contracts. Example. The example is not typical of prevailing or likely future situations with respect to water service contracts in
California. A more likely example would be one wherein a district at the time of amending its contract is obligated to pay $3.50 per acre-foot for irrigation water of which $3.00 or more is required to cover annual O&M costs, leaving a component for capital repayment of only 50 cents or less.

In water service contracts there is no capital component specified. Also, in cases where the $3.50 per acre-foot fixed annual charge will be totally applied to O&M by the time of contract renewal, can the example be interpreted to say that the renewal contract will require payment of O&M only since the rate under the previous contract was insufficient to cover any capital repayment?

We think the example must be revised for clarification and probably correction of intent.

Section 426.9 Class 1 Equivalency.

Implementation of Class 1 equivalency can become extremely complicated because of peculiar and offsetting relationships between soil productivity in relation to crop adaptability. "Single crop or specialty crop" land, assuming available markets, may have greater earning capacity than "multiple crop" land with a variety of production options.

Rules and Regulations should be broadened or should leave some latitude for recognition and rectification of such anomalies.

Section 426.10 Certification and Reporting Requirements.

426.10(b) Reporting. Reporting by non-conforming landowners
as required by this subsection may be appropriate, but requiring the landowner to certify that he is in compliance with the ownership limitations imposed by the prior law requires the landowner to make a legal determination beyond his competence and one which does not appear to be required under the Reform Act.

Legality of ownership changes with changes in opinions of Solicitors, in administrations, and with decisions of the courts. Thus, landowner certification should be deleted, or limited to facts which are pertinent and verifiable.

426.10(e) Exemptions. As a minimum, we believe that the wording of this subsection should be changed to read "10-acres or less" rather than "less than 5 acres." Also, we question the need and equitability of including a gross annual sales figure. Specialty crop growers, for example, might periodically have high gross sales (well in excess of $1,000 an acre), but have negative net profits. We recommend that the gross sales limitation be removed because of the administrative complication it would create as well as its potential injustice. If retained, however, it should be increased to $10,000.

426.10(f) District participation. This subsection requires each district to keep all certification and reporting forms on file with no specified time limit. Certainly a time limit on such retention is in order. The subsection as a whole places significant added burden and costs on the districts.
In fact many districts totally lack the facilities and finances to accomplish the job as proposed. Implementation by whatever means must emphasize simplicity in forms and procedures. In this vein we recommend a 3-year retention period by the districts equipped to record and summarize, after which the records be sent to the Bureau of Reclamation. As an alternative, and especially for the less affluent districts, we recommend that the records be sent currently to the Bureau of Reclamation for summarization, use, and retention.

Section 426.11 Excess lands.

426.11(e) Recordable contracts. This subsection should be expanded to provide that, "Unless otherwise required by law, a recordable contract will not be required as a condition precedent to receiving only drainage water service on excess lands."

In most cases prevalent drainage problems are caused by surface runoff and deep percolation from surface irrigation of higher lying lands either inside or outside the affected contracting entity. The circumstances relating to cause and cure of drainage problems should not of themselves become the vehicle to require recordable contracts on excess land.

Section 426.13 Exemptions.

426.13(a)(3) Temporary supplies of water. Unmanaged floodflows which can be diverted from rivers and streams to adjacent
canal and distribution systems can be of significant benefit in avoiding or alleviating downstream flood problems and damages. In such circumstances, time is of the essence, and action must be prompt. In view of the overall benefits to be derived, the fact that flood control operations and costs are non-reimbursable, and the fact that excess and non-excess lands may not receive the benefits that would accrue from regulated deliveries later in the season, we believe and recommend that the last sentence of 426.13(a)(3)(i) be modified to insert "if any," between the words "price" and "a district is to be charged . . . ." In many cases no charge should be made, as the primary benefit will be flood control.

The Association appreciates the opportunity to express its views on the proposed Rules and Regulations and urges strongly that the Bureau of Reclamation and the Department of the Interior give full and sympathetic attention to these and other viewpoints that will be expressed during the announced review period.