Mr. Chairman, and members of the subcommittee, I appreciate the opportunity to testify before you with respect to S. 1867. Many of the provisions therein treat with issues that have long been of concern to Federal project water users.

I am appearing here in behalf of the San Luis and Delta-Mendota Water Users Association which is composed of about 35 irrigation and water districts on the west side of the San Joaquin Valley in California, all of which have contracts with the Secretary providing for project water supplies, or for water right settlements, or for both.

Philosophically, we are in agreement with most of the objectives of S. 1867. However, we do have some concern with the definition of "irrigation water," with unclear intent of several key provisions of the bill, and especially with the Title II treatment of leased lands in determining a "landholding."

"Irrigation water" as defined in section 2 (b) introduces what appears to be restrictive language that could conflict factually with prevailing Federal project water supplies. Irrigation water available for marketing by contract from Federal reclamation projects depends primarily on water right filings under State law, and management of those rights pursuant to the authorized
multiple purposes of reclamation projects in a manner that will maximize benefits, making full permissible use of the physical project facilities involved. It would seem preferable to define "irrigation water" simply as: "Federal reclamation project water made available to a district for agricultural purposes pursuant to a contract with the Secretary."

Because of language appearing later in S. 1867, the holders of water right settlement or "exchange" contracts with the Secretary would suggest that the "irrigation water" definition be expanded by striking the period and adding the words: "exclusive, however, of project water supplied in exchange for non-project water to which a district was entitled under State law independent of the Federal project."

Section 101, which repeals any statutory residency requirement as a condition precedent to delivery of irrigation water, is strongly endorsed.

The Class I equivalency concept as provided in section 102 of S. 1867 is likewise endorsed. However, the bill is silent as to how implementation is to be financed and the extent to which the costs involved are to be reimbursable.

Section 103 (a), dealing with recordable contracts, is not clear as to establishment of effective dates for its application to future projects. The first sentence, paraphrased in part, states that irrigation water from reclamation project facilities "constructed" after the enactment of this Act may not be delivered to excess lands until recordable contracts are
executed. Use of the word "constructed" is not sufficiently definitive because "constructed" can be related to first appropriations for construction, first contracts for construction, substantial completion of construction (when water can first be delivered), or final completion. There can be a long gap even between substantial and final completion. The objective could be accomplished simply by deleting all of the words in the first sentence between "Irrigation water" in line 15, page 3, and "may not be delivered" in line 17, page 3.

Section 105, which excludes leased land from the acreage limitations of law, as has been the case since inception of the reclamation program in 1902, is supported.

Section 106 (a), providing relief from acreage limitations upon full payout of prevailing construction cost obligations, is likewise supported; however, upon careful reading it is not clear whether it is intended that an individual landowner under a district repayment contract could payout his share of the district's repayment obligation and be relieved of the acreage limitation. Fundamentally we agree that appropriate acreage limitations are justified whenever a Federal financial subsidy accrues to the benefit of a landowner, and conversely, when there is no subsidy by reason of landowners paying full cost including interest, acreage limitations should not apply.

Section 108 provides procedures for obtaining Congressional validation of contract provisions. Section 8 (a) may not
be clear that requests for validation must come from a party or parties to the district contract involved. Clarification could be made by striking "non-Federal" and substituting "contracting entity or" . . . .

Section 108 (b) is supported as far as it goes, but should be expanded, we believe, to encompass other written Secretarial commitments such as those pertaining to authorized water service areas.

Section 110 (a) reaffirming existing statutory exemptions from the acreage limitation of law is fully endorsed. However, the provision may not protect the holders of water right settlement or exchange contracts which are not supported by statute, unless the definition of "irrigation water" is expanded as suggested earlier.

Section 110 (b) and (e) would provide for implementation of the Act and authorize appropriations as necessary to carry out its provisions, but, again, the Act is silent on the extent of reimbursability intended and the method of financing. The need for clarification is important, particularly in regard to section 102.

Title II, section 201 (c) introduces a restriction on land leasing in the definition of the term "landholding" which is strongly opposed by the association for several reasons.

Bona fide beneficial ownership of irrigation project lands, we believe, should be the primary basis for controlling
the equitable distribution of subsidized benefits from Federal water projects. Excess land ownerships, by whatever definition or limitation finally adopted by law, should be broken up as necessary to conform to the law, including the use of recordable contracts for orderly disposition, and thus become eligible to receive project water as non-excess landownerships. If excess landowners do not dispose of their excess lands or execute recordable contracts agreeing to do so, they not only will be ineligible to receive project water but nevertheless will be subject to annual water assessments by the districts. Therefore, such landowners will not share in benefits but will be obligated for costs. Thus there is significant inducement for excess landowners to conform their lands.

Those excess landowners who do conform to the requirements of law should, we believe, be allowed under the law to select the means by which they will obtain the project benefits to which their lands have become eligible. One means, of course, is to farm the land themselves which involves a high capital investment, substantial risk of profit, and generally speaking a lower percentage of return on investment than most other industries and businesses. An optional course is to rent or lease their conformed non-excess lands under terms which will provide commensurate returns.

Including leased land in the definition of a "landholding" could restrict leasing opportunities and adversely affect lease terms, and thus penalize owners of conformed land who choose to lease rather than farm their lands.
Under rigid beneficial ownership criteria the basic objective of distributing widely the benefits of Federal water projects can be accomplished without subjecting conformed lands to further Federal control in use and management and perhaps to loss or reduction of benefits to those who must, or who choose, to lease. Beyond this, administration of the leasing controls would be cumbersome at best, and might well become so involved that effective and equitable enforcement would become unworkable from a practical viewpoint.

Landownership is a matter of official record in county and district offices as a basis, among other things, of levying taxes and collecting assessments. Acreage limitation laws related to ownership can be effectively and fairly administered, with some extraordinary effort and additional cost. Extraordinary efforts and costs involved are attributable primarily to violators and therefore imposition of effective penalties is justified.

Leases, however, are not a matter of official record and may follow a wide variety of forms. In many cases leases may shift and subleases be entered into all within a crop year. Also, under present practices, many leases are oral. Therefore the job of determining compliance with the leasing provisions of the Act, including the finding and penalizing of violators, becomes much more difficult and costly, if not impossible. Strawmen and loopholes could be anticipated with abundance.
In summary, we believe the control mechanism for assuring wide distribution of project benefits should be related to bona fide beneficial landownership alone.

The definition of "full cost" appearing in section 201 (d) carries the apparent intent that interest to be charged will be at current rates, pursuant to the specified formula. Under the language of the bill, applicable interest rates could be substantially higher or lower than those that prevailed at the time or times that construction funds were appropriated.

We believe it would be more equitable to establish interest rates that correlate more closely with money costs at the time of government funding.

Section 203 provides that both leased and owned lands shall be considered in the determination of "landholdings" and whether a landholding includes excess lands which may receive irrigation water by paying full cost. As already expressed, we believe that "landholdings" should be defined in terms of strict beneficial landownership only, and that limits on leasing should be omitted. However, we agree that any landholding so defined should represent the limit of non-excess land in any ownership entitled to receive irrigation water, and further that any excess land in any ownership, as a prerequisite to delivery of irrigation water, should be required to pay "full costs," as defined, or be covered by one or more valid recordable contracts for proper disposition of excess lands.
One of the original purposes of Federal involvement in western water supply programs was to encourage settlement and development of the West by financing projects that could not be undertaken otherwise. A tract of 160 acres of fertile land, with an adequate water supply, farmed by the labor-intensive methods that prevailed in 1902, was sufficient to occupy fully the efforts of its owner, although not always profitably.

As recognized by the Class I equivalency concept of this bill, not all irrigable lands are equally productive of net income due to numerous differences in physical and climatic factors. Farm management capabilities also vary widely among individual operators on both large and small farms. Technology has made greater advances in the past half century than in the entire previous life of our country. Mechanization and automation have greatly reduced labor requirements in virtually all aspects of commercial agriculture. Farm machinery required today is costly and cannot be successfully amortized unless it can be utilized economically.

For these reasons, the 160-acre limit under present law on the eligibility of private land held by "any one owner" to receive project water is outmoded. Also, for these same reasons, any enlargement of that figure is bound to be arbitrary to a significant extent. The numerous variables that exist within and among projects with respect to farm production, marketing, and management are so complex and interwoven that no single acreage
figure can be right for all farms and farmers even in a single project area.

The best that can be hoped for is good judgment in establishing acreage limitations on non-excess lands that will be reasonably adequate in the predominant combination of variables faced by farmers now and in the foreseeable future.

Final judgment in this regard must come from the Congress. In order for the Title II acreage limit to be at least comparable to existing law, which permits water delivery to 160 acres of irrigable land in the ownership of "any one owner," and based on an average farm family of 4.5 members, the allowable non-excess landownership figure of Title II would need to be a minimum of 720 acres with no limit on bona fide leasing. We believe that a justifiable Title II limit, under today's farming methods and constraints, should exceed that figure. The 1,600-acre limit on non-excess owned land currently in S. 1867 can be supported if leasing limitations are removed as recommended herein.

With regard to leasing, we agree that any acceptable lease should not infringe on the pertinent prerogatives and rights inherent in landownership. In order to facilitate administration of acreage limits on owned land as proposed herein, the Secretary should have ready access, on a confidential basis, to lease agreements.

We urge that the subcommittee take these comments into consideration in final markup of S. 1867.