I am pleased to have this opportunity to meet with the joint committees and provide you with a resume of the guidelines under which the Bureau of Reclamation administers the increasingly complex land-ownership situations which presently characterize implementation of the acreage limitations under Reclamation law. It is also gratifying to be able to report to you the accomplishments that are evident in the discharge of our responsibilities under the law as they relate specifically to the Westlands Water District in California.

The June 27, 1975, Congressional Record notice of these hearings indicated that the principal questions for consideration center around the impact of Federal policies on family farms and the institution of family farming with special attention to the possible impact of the Westlands Water District on these matters.

Obviously, the term "Federal policies" covers a broad range of widely varying though interrelated subjects. Traditionally, the Reclamation program has involved two major aspects which have had an impact on the subject.

First is the Reclamation settlement program which, over the years, has been instrumental in providing opportunities for many settlers to enter irrigable public lands on numerous projects through Reclamation and homestead law. Even in the post World War II years, this program accounted for nearly 2,900 new public land, irrigated farms. However,
public land settlement opportunities have now, for the most part, been exhausted.

With the phasing out of public land settlement programs, most present day projects involve either full or supplemental irrigation water supplies to privately owned lands.

It is because of pre-project, private ownership of lands that the acreage limitation provisions of Reclamation law become of major concern. This situation is applicable to all of the Central Valley Project and especially the Westlands Water District.

Before discussing the various aspects of acreage limitation, especially as they relate to the Westlands Water District, it should be noted that Reclamation law, over the years, has been subject to an evolutionary process of statutory and legal interpretation. In 22 separate cases the law has been modified or waived in its application.

In 1964, the Senate Interior and Insular Affairs Committee published a committee print entitled "Acreage Limitation Policy Study." That document, prepared by the Department of the Interior at the request of the committee, discussed in detail the sequential evolution of the acreage limitation concept from its inception in the Reclamation Act of June 17, 1902, through the 1962-63 period, and the many legal opinions, policies, and administrative enunciations issued thereunder.

Because of the comprehensive discussion of acreage limitations as presented in the Policy Study, I will not take time to reiterate that
material, except to say that since May 25, 1926, when the Omnibus Adjustment Act became law, section 46 of that act has provided the basis for present-day acreage limitation administration.

Section 46 of that act, in substance, provides that no project water is to be delivered until the Secretary has a repayment contract with a water district, and further that no project water is to be furnished to the land of any one owner for an area in excess of 160 irrigable acres unless that owner enters into a recordable contract under which he agrees to sell the excess land upon terms and conditions satisfactory to the Secretary of the Interior and at prices not to exceed those fixed by the Secretary.

The procedures developed over the years to carry out the provisions of section 46 fundamentally require conformance to certain controlling conditions. First, it must be demonstrated that any transfer of title to the lands receiving or capable of receiving project water is, in fact, either a bona fide sale or an otherwise acceptable disposition under which the former owner or owners relinquish all right, title, and interest in and to the land. Second, the party or parties acquiring the land must be eligible to take title to the land as nonexcess landowners. Third, if the lands being disposed of are excess lands, it must be conclusively demonstrated that the sale price involved does not reflect value enhancement
attributable to the project. Additionally, where excess lands are to be placed under recordable contract as a prerequisite to their eligibility to receive project water, the description of the lands must be proper and accurate, and it must be clearly established that the party or parties executing the document are, in fact, the legal owners.

Before discussing the actual implementation of the recordable contracting program, it should be emphasized that any individual landowner within the water service or repayment contract service area, without regard to his total landholdings, is entitled to receive project water for 160 acres of land, referred to as his non-excess entitlement. The fundamental requirement is that the nonexcess tract must be owned by a person or persons, private or corporate, individually or severally, who either do not own other irrigable land within the water district's service area, or if other irrigable land is owned the owner may designate the land to comprise his nonexcess acreage, which then may receive project water, but no project water can be used on the excess remainder.

Having established a tract as nonexcess, it may thereafter be sold without price approval provided the purchaser is eligible to take title as nonexcess land. If the vendor holds excess land and wishes to redesignate another 160 acres as nonexcess in lieu of the previously
designated tract sold, he must sell or have sold the previously
designated nonexcess tract at a price fixed or approved by the
Secretary.

There are two special situations in which formerly nonexcess
lands may become excess and may continue to receive project water.
First, under the Act of July 11, 1956, lands which become excess
through inheritance, foreclosure, etc., may receive project water for
5 years. During that 5-year period, the land may be sold without
price control to an otherwise eligible purchaser.

In the second situation, formerly nonexcess lands owned by
husband and wife which become excess in the ownership of the surviving
spouse may, under the Act of September 2, 1960, continue to receive
project water until such time as the surviving spouse might remarry.
Thereafter, the basic eligibility requirements of law prevail.

Looking now to the matter of excess land eligibility and its
subsequent disposition to nonexcess status, a major area of complexity
is evident. Under the terms of the recordable contract, the excess
landowner agrees to sell the excess land within a certain period as
prescribed in the recordable contract. A 10-year period is currently
used. The sale price, as fixed by the Secretary, may not exceed the
fair market value of the land at the date of appraisal excluding any
value attributable to the project.

The seller may also recover the fair market value of improvements
on the land. The recordable contract provides that the land will be
sold only to a person or persons who can take title to the land as a nonexcess owner or owners. Should disposition not be made within the 10-year period, power of attorney, exclusive and irrevocable, then vests in the Secretary of the Interior to make the disposition for and on behalf of the excess landowners.

At no time, however, does title to the property pass to the United States. Furthermore, during the 10-year disposition period allowed the landowner, the United States exercises no control over the landowner's choice of a purchaser. Our authority is limited to the determination that:

(a) a bona fide sale or transfer is involved;

(b) the prospective purchaser is eligible to take title to the land as nonexcess, and;

(c) that the price involved in the transaction does not reflect project benefits.

In making the foregoing determinations, our technical staff members, at all involved levels, as well as the reviewing attorneys on the Solicitor's staff, must rely largely on the veracity of the transaction documents which are attested to by the parties involved. Nevertheless, confirmation of the factors involved in the sale is sought through various means to ascertain and analyze every available detail of the sale especially as it relates to such elements as sale price, financing, and the eligibility of the purchaser to take title
to the land as nonexcess. Regrettably, it appears that in any field of activity (economic, political, or otherwise), there are always a few who unscrupulously attempt to take illegal or unfair advantage. Others simply try to take full advantage of what the law permits. We do not condone the former and we conscientiously attempt, through our surveillance program, to sort out the legal from the illegal transactions.

Even after the power of attorney vests in the Secretary, and the Secretary has exclusive disposition authority, our latitude for action is not significantly expanded. The land must still be disposed of under the same conditions which prevailed during the initial 10-year period except that the Secretary will make the disposition for the landowner. The principal problem in any event may be the ability to locate prospective purchasers who qualify as to ownership and who have the financial ability to make the purchase.

With that explanation of the basic recordable contract provisions and corresponding disposition procedures, it is important to note the various patterns of landownership, other than acquisition of a specific tract by an individual, under which eligible nonexcess landholdings may legally be established.

One of the more common situations is the joint tenancy holding usually involving acquisition of land by a husband and wife.

Assuming the husband and wife team purchased land that was excess in the previous ownership, they would be deemed eligible nonexcess
owners of the lands purchased if the purchase was at an approved price, and if the purchased land together with any other irrigable land they might own within the district did not total more than 320 irrigable acres.

Another pattern of ownership which has become quite prevalent in recent years involves the sale or transfer of lands to a trust. Trusts must meet a number of conditions to be acceptable. To enumerate a few, the grantor must totally relinquish control of the land involved and place it under an irrevocable trust. The beneficiary or beneficiaries of the trust must be identified and their respective interests shown. The trustee may receive no beneficial interest from the trust property. Each beneficiary or the guardian of a beneficiary must have the right, at his option, to partition the beneficiary's interest in the trust. A trustee must be someone unrelated to both the former owner of the property and the beneficiary of the proposed trust.

Other variations of nonexcess landholdings include tenancies in common and partnerships. In each such case, we have developed criteria which must be met for excess lands to qualify for project water.

In recent years, we have found it necessary to apply progressively more stringent requirements. They will not affect the validity of earlier approvals where bona fide efforts were made to conform with the then prevailing criteria. If, however, such arrangements are altered by subsequent modifications, the multiple ownership will then be required to conform to the presently effective criteria.
Finally, there is the matter of sale or transfer to a corporation. Three fundamental rules apply. First, no corporation may hold more than 160 acres as nonexcess land. Secondly, and most frequently, in the case of closely held family corporations, the corporate form can be disregarded and the land held in corporate ownership may then be viewed as if held by its stockholders, to determine whether any stockholder, as a beneficial owner of a prorated share of the corporate landholding, is holding in excess of 160 acres. Thirdly, the corporation, or corporations, are not to be established with a primary purpose of avoiding the application of acreage limitations.

I have taken this opportunity to explain briefly the various ramifications of our continuing efforts to ascertain that the disposition of excess lands to purchasers, over whom, as I previously noted, we have no selective authority, are in fact bona fide transactions to an individual or individuals who acquire true beneficial ownership of the lands involved. In this same regard, I would emphasize that in recent years, from say the early 1960's on, there has been a progressive escalation in agricultural land values. Coupled with escalation has been the constantly increasing interest in what may generally be termed "agricultural investment plans." In such plans, the primary objective has appeared to be to promote speculation in agricultural properties. We have been continuously alert to those trends and have applied stringent criteria designed to obtain compliance with the letter and intent of the law.
Now, I would like to point out the actual results of our efforts, especially in the Westlands Water District.

When we initially entered into a water service contract with the district, on June 5, 1963, there were 248,686 acres of excess land out of a total of 352,276 irrigable acres within the district. Subsequent to that contract, the adjacent Westplains Water District was merged with the Westlands Water District. As stated in our July 28, 1966, letter to the committee, the irrigable acreage of the Westlands Water District thus increased to approximately 535,600 acres with a corresponding expansion of excess land to a total of 401,133 acres.

As construction of the distribution system progressed, and project water became available to an ever increasing acreage, excess landowners have placed their excess land under recordable contracts.

Our most recent annual landownership report for the district shows, as of December 31, 1974, that 243,284 acres of excess land were eligible to receive project water. When that acreage is considered along with the 243,193 acres of nonexcess land, it shows that 85 percent of the reported 572,000 acres of district lands are eligible under Reclamation law to receive project water.

This growth in eligibility of land to receive project water is graphically illustrated by the two maps which have been provided you. As you will note, one map shows that in 1967 only 129,000 acres were eligible to receive project water. By contrast, the other map, dated February 1975, shows a vast change. Large landowners have accepted
the recordable contracting program and numerous dispositions of excess land to eligible nonexcess status have occurred.

Over the years, a total of slightly over 343,000 acres of district excess land have been placed under recordable contract. Large ownerships are being broken up. For example:

81,600 acres under recordable contract have been disposed of pursuant to law and the recordable contracts have been terminated.

19,980 acres under current recordable contract have been disposed of to eligible owners.

34,180 acres never under recordable contract have been disposed of to eligible owners.

These figures total 135,760 acres.

Of excess land not yet disposed of, 241,925 acres are under recordable contract and will be disposed of either by the landowners or by the Secretary of the Interior.

A review of our field program for compliance inspections in the Westlands Water District may be of interest to you. We constantly maintain a program of water use surveillance. As the use of project water has increased, that program has been intensified. During the period from 1968 to 1975, field compliance technicians have spent an average of 24 man days per season in the field, in the course of which an average of 387 separate compliance checks have been made each season.
Those checks have brought to light an average of 14 violations per season, ranging from a high of 30 to as few as 2 or 3. Notwithstanding the increase in project water use, the violations per season have in recent years been significantly reduced. Of further significance is the fact that each violation found has been corrected within 24 hours, either through the execution of a recordable contract or by termination of water delivery.

In summary, the acreage limitations of Reclamation law, though somewhat general, are designed to break up large ownerships if such lands are to obtain project water. Our procedures for implementation of the law are designed to accomplish that end. Our records indicate significant progress in meeting the letter and intent of the law. Whenever the Congress modifies our statutory authorities and obligations in this or any other field, I assure you we have the willingness, flexibility, and capability to conform.