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REPORT OF THE COMPTROLLER GENERAL OF THE UNITED STATES

098160

Appraisal Procedures And Solutions To Problems Involving The 160-Acre Limitation Provision Of Reclamation Law

Department of the Interior

Improvements are needed in Bureau of Reclamation appraisal techniques to insure that large landowners in the Westlands Water District do not sell their excess lands at values which include enhancement resulting from the Federal irrigation project.

Establishing a governmental purchasing system of excess land for resale to family farmers probably has the potential for being more effective than other suggested solutions for solving problems in administering the 160-acre limitation provision. This is particularly true if the owner is also required to be the farm operator. Because of the lack of basic data and the subjective considerations involved, the Federal cost of such a solution is unknown.

RED-76-119

JUNE 3, 1976

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

B-169126

The Honorable Gaylord Nelson, Chairman
Select Committee on Small Business
United States Senate

The Honorable Floyd K. Haskell
Acting Chairman for the Westlands Hearings
Committee on Interior and Insular Affairs
United States Senate

In accordance with your February 5, 1976, letter and subsequent discussions with your offices, we are reporting on our evaluation of the Bureau of Reclamation's appraisal techniques for assessing the value of excess land without project enhancement. We have also evaluated the practicality of three proposed solutions to problems identified by your offices in the administration of the 160-acre limitation provision of reclamation law. Other matters that were included in your February 5, 1976, request were included either in our April 9, 1976, report (RED-76-98) or will be included in another report which we expect to issue shortly.

We discussed our findings and conclusions with Bureau of Reclamation officials, but as your offices requested, we did not obtain written comments from the Bureau or from the Department of the Interior.

This report contains recommendations to the Secretary of the Interior which are set forth on pages 18 and 19. As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions he has taken on our recommendations to the House and Senate Committees on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report. We understand that you will distribute copies of the report to the Secretary and the four committees for the purpose of setting in motion the requirements of section 236.

As your offices agreed, we are sending a copy of this report to Congressman B. F. Sisk.

Comptroller General
of the United States

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COMPTROLLER GENERAL'S REPORT
TO THE SELECT COMMITTEE ON
SMALL BUSINESS AND THE COMMITTEE
ON INTERIOR AND INSULAR AFFAIRS
(WESTLANDS HEARINGS)
UNITED STATES SENATE

APPRAISAL PROCEDURES
AND SOLUTIONS TO
PROBLEMS INVOLVING
THE 160-ACRE LIMITA-
TION PROVISION OF
RECLAMATION LAW
Department of the
Interior

D I G E S T

Reclamation law limits to 160 acres the land on which any one owner is entitled to receive water from a Federal water resources project. Owners of more than 160 acres in the Westlands Water District may receive water on such excess land from the Bureau of Reclamation's Central Valley Project if they sign recordable contracts agreeing to sell such excess lands within 10 years to eligible buyers at prices based on the actual bona fide value of such lands without reference to the construction of the Federal project.

GAO reviewed Bureau appraisal techniques for assessing the value of excess land without project enhancement and believes such techniques need improvement. The Bureau does not:

--Adequately support its basis, or give consideration to all appropriate factors, in establishing land values without project benefits. (See p. 8.)

--Consider the usefulness to the purchaser of farm facilities and equipment in estimating their value. (See p. 14.)

--Adequately document the basis for its independent evaluations. (See p. 16.)

In addition, GAO believes that to improve management control there is a need for written Bureau guidelines, and for periodic internal reviews, applicable to the Bureau's excess land appraisal activity. (See p. 17.)

To improve the management of the appraisal activity and to insure that appropriate factors are considered in establishing the sale price of excess

lands without project enhancement, the Secretary of the Interior should require the Bureau to:

--Undertake a formal study in the Westlands Water District designed to ascertain the value of excess lands, by class and location, without project enhancement, giving consideration to the decreasing ground water supply that would have resulted if the Federal project had not been constructed.

--Obtain from the seller supporting data for values assigned by the seller and to document in the sales file the basis for the valuations assigned by the Bureau's appraiser.

--Issue detailed Bureau guidelines setting forth the criteria and procedures for evaluating excess land sales. (See p. 18.)

GAO recommends also that the Secretary have his internal audit staff schedule reviews of the appraisal activity in the various Bureau regional offices. (See p. 19.)

GAO also evaluated the practicality of three proposed solutions to the following problems.

--Bureau-approved sales of large minimum acreages of excess lands which are sold in units to groups of purchasers with requirements to buy all facilities and equipment reportedly hamper small family farmers in their attempts to buy excess lands.

--Various arrangements such as trusts, partnerships, corporations, and leases reportedly allow one farm operator to receive low-cost Federal water for large tracts of land he does not own and hamper small family farmers from owning and operating land in the Westlands Water District.

The three proposed solutions to these problems were reinstituting a residency requirement, establishing a commission to insure that family farmers are given priority in the purchasing of

excess land, and establishing a system for purchase of the excess land by the Government for resale to family farmers.

GAO believes that all of the proposed solutions could contribute to a reduction in the magnitude of the problems. The solution, however, that probably has the potential for being most effective is establishment of a system for purchasing the excess land by the Government for resale to family farmers. This solution would be more effective if the 160-acre limitation provision were made applicable to an owner-operator of land receiving water from a Federal project rather than, as present, being applicable only to the owner of the land. (See pp. 20 and 21.)

Additional comments and observations on each of the proposed solutions are on pages 21 through 24.

Because of the time that would be required, the lack of basic data, and the subjective considerations involved, GAO did not attempt to ascertain the Federal costs that might be required to implement the three proposed solutions to certain perceived problems in administering the 160-acre limitation provision.

GAO discussed its findings and conclusions with Bureau of Reclamation officials, but as requested, GAO did not obtain written comments from the Bureau or from the Department of the Interior.

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CHAPTER 1

INTRODUCTION

The Reclamation Act of 1902 (43 U.S.C. 371 et sec.), as amended, is the basic legislation governing the sale of water
2 from Bureau of Reclamation water resources projects for irri- 76
gation 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. 431), 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

--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 such excess lands. Since 1926 the acreage limitation has remained unchanged.

WESTLANDS WATER DISTRICT

The Westlands Water District is subject to the requirements of reclamation law because it receives irrigation water from the Bureau of Reclamation's Central Valley Project in California. Westlands consists of about 572,000 acres of land, much of which is held in ownerships in excess of 160 acres.

As required by the 1926 act excess landowners in Westlands (those who own more than 160 acres) who want to use Bureau water on their excess lands, must enter into recordable contracts agreeing to dispose of their excess land at a price based on the approved appraised value of the land without reference to any value resulting from the availability of water or service from the Central Valley Project.

The contracts provide that landowners have up to 10 years to dispose of their excess land; that during that period they be provided with Bureau water; and that, if they do not dispose of their excess land by the end of the 10-year period, the Secretary of the Interior will dispose of it for them.

As of March 31, 1976, landowners in Westlands had placed 350,744 acres of excess land under recordable contracts. Of that amount, 114,827 acres have been disposed of, leaving 235,917 acres to be disposed of.

PROBLEMS IN ADMINISTRATION OF THE 160-ACRE LIMITATION

On November 30, 1972, we issued a report to the Congress entitled "Congress Should Reevaluate The 160-Acre Limitation On Land Eligible To Receive Water From Federal Water Resources Projects" (B-125045). Among other things, we reported that the 160-acre reclamation law limitation has not resulted in preventing, in the Central Valley Project, landowners and farm operators from retaining or acquiring large landholdings. We 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.

These farm operators and landowners received project water on large holdings of land eligible to receive project water by leasing such land from the individual owners or by retaining or controlling such land through establishment of corporations, partnerships, and trusts. We recommended that the Congress reevaluate the 160-acre limitation provision of reclamation law.

During 1975 and 1976 the Senate Select Committee on Small Business and the Senate Committee on Interior and Insular Affairs held joint hearings entitled "Will The Family Farm Survive In America." The hearings concentrated on the Bureau's administration of the 160-acre limitation provision in the Westlands Water District of the Central Valley Project. Based on information obtained during the

1975 hearings, the Chairmen of the committees requested us, in a joint letter dated February 5, 1976, to investigate certain matters concerning the Central Valley Project and the Westlands Water District. One of the matters, concerning a question of the amount of subsidy received by Westlands as a result of receiving irrigation water from the Federal project, was responded to by us in a report dated April 9, 1976 (RED-76-98). Other matters--involving questions of the various rights vested in landowners and land sale conditions --will be included in a separate report which we expect to issue shortly.

This report is concerned with the additional matters which the February 5, 1976, letter requested us to investigate concerning

--the adequacy of Bureau appraisal techniques for accurately assessing the value of the land aside from the enhancement of that value due to the project and

--the practicality of three proposed solutions to certain perceived problems in administration of the 160-acre limitation provision.

SCOPE OF REVIEW

Our review was made primarily at the Bureau's regional office in Sacramento, California. We reviewed selected appraisal files and discussed with regional officials the criteria and procedures used in evaluating the sales prices for excess land transactions in the Westlands Water District. Because of the short time frame available for our review, we did not attempt to independently determine the reasonableness of specific sales prices but, rather, directed our review toward an evaluation of the adequacy of the procedures and criteria.

In addition, because of the time that would be required, the lack of basic data, and the subjective considerations involved, we did not attempt to ascertain the Federal costs that might be required to implement the three proposed solutions to certain perceived problems in administration of the 160-acre limitation provision. We considered instead their possible effectiveness in solving the perceived problems.

CHAPTER 2

ADEQUACY OF BUREAU APPRAISAL TECHNIQUES

We believe that improvements are needed in the appraisal techniques used by the Bureau to insure that large landowners do not sell their excess lands at values which include the enhancement resulting from the Federal Central Valley Project. In our opinion, the Bureau does not adequately (1) support its basis, or give consideration to all appropriate factors, in establishing land values without project benefits, (2) consider the usefulness to the purchaser of farm facilities and equipment in estimating their value, and (3) document the basis for its evaluations. In addition, we believe that there is a need for written Bureau guidelines for evaluating sales prices and for periodic internal reviews of the Bureau's excess land appraisal activity.

Section 46 of the Omnibus Adjustment Act of 1926 (43 U.S.C. 423e) provides, in part, that contracts entered into to supply water to irrigation districts from Federal projects shall 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 * * *."

Many sales of excess lands submitted to the Bureau for price approval involve more than just the sale of excess lands. The magnitude of some sales are such, according to the Bureau, that they may include some, if not all, of the following items:

--Building improvements such as single family houses, labor camps, cotton gins, grain storage facilities, shop buildings, airstrips, and hangars.

--Various types of irrigation systems such as row irrigation, sprinkler irrigation, or drip systems,

pumps and wells of various ages, size, and depth, and water rights.

--Various forms of land leveling and preparation, vines and trees, and perennial type plantings.

--Trades of various types of property including farming, commercial, and rental property and stocks and bonds and assumption of leasing arrangements.

--Shop equipment, pickup trucks and cars, and all types of farm machinery and equipment.

The adequacy of the Bureau's appraisal techniques for assessing the value of the above described facilities, rights, and equipment, is as important as the techniques for assessing the value of the land without project enhancement where the transaction evaluated by the Bureau includes all such items as a package deal. Otherwise, the Bureau would have no assurance that a low selling price assigned by the seller to the land to comply with the legal requirement that it not include enhancement resulting from the Federal irrigation project, was compensated for by the seller assigning a higher price than was justifiable to the other items in the total sale price.

GENERAL APPRAISAL PROCEDURES, WORKLOAD, AND STAFFING

Neither the Department nor the Bureau had prepared written criteria or procedures to be used by its appraisers in evaluating the selling prices applicable to excess land sales. At our request, the appraiser in the Real Estate Branch of the Bureau's mid-Pacific region prepared for us a written statement of the general appraisal procedures used in evaluating excess land within the Central Valley Project. This document, however, has not been formally approved by the Bureau of Reclamation.

Most of the Bureau's appraisals in the Westlands Water District of the Central Valley Project (97 percent) have been made under a form referred to by the Bureau as a "Short Form Analysis." The other forms used were a one-man appraisal (2 percent) or a three-man board appraisal (1 percent).

According to the Bureau's appraiser, under the "Short Form Analysis" procedure both the buyer and seller are required to submit statements setting forth the various components involved in a proposed sale and certify the

accuracy of the information submitted. The form provides for the estimate of the condition of various items and, in some instances, their estimated value. He said that the participants are advised that they may be requested to furnish supporting data for the values listed.

After receiving a request for price approval, the Bureau's appraiser said that he makes a personal inspection of the property to obtain first-hand knowledge of the various components of the proposed sale. Based on data provided by the seller, the buyer, and his personal inspection, he said he then analyzes the components based on comparable sales and general pricing data he has accumulated. He reports his analysis in writing and concludes that the proposed sales price for the excess land either does or does not exceed its actual bona fide value without reference to the project.

At the time of our review, the Bureau had made 472 sale price evaluations based on requests applicable to the sale of excess land in Westlands Water District which were received during the period 1965 to 1975, as follows:

Calendar year of price approval request	Short form analysis	One-man appraisal		Three-man appraisal	Total
		Staff	Contract		
1965	9	1	-	-	10
1966	7	1	1	-	9
1967	19	1	3	-	23
1968	44	1	-	3	48
1969	36	-	-	-	36
1970	20	-	-	-	20
1971	37	-	-	-	37
1972	26	-	-	-	26
1973	146	1	-	-	147
1974	59	-	-	-	59
1975	54	-	-	3	57
	457	5	4	6	472
	(96.8%)	(1.1%)	(.8%)	(1.3%)	(100%)

Of the proposed sales evaluated by the Bureau, we were told that about 75 percent had problems that required some modification associated with ownership eligibility, lease-back agreements, or other nonprice related subjects. There have been 29 disapprovals because the sales price analysis showed the excess land price included project benefits.

Of the sales recorded from 1965 through 1975, 117 were recorded as completed sales before price approval was

requested from the Bureau. However, a significant decrease has occurred since 1972 in the percentage of requests for price approval after the sale has been completed. For example, in 1968, 67 percent of the requests were made after the sale had been completed but in 1975, this decreased to 11 percent.

The Bureau's mid-Pacific region is responsible for evaluating all excess land sales applicable to lands receiving water from the Central Valley Project and since 1960 has approved about 1,300 excess land sales. The workload for the next 10 years is expected to increase substantially because the first of Westlands recordable contracts are due to expire in 1976 and the unsold excess land must be sold at that time. During the next 10 years, 748 recordable contracts will expire in the area served by the Central Valley Project, 697 of which are within the Westlands Water District.

Since 1972, one Bureau appraiser has done substantially all of the Bureau's evaluations of excess land sales in the Central Valley Project. Presently, he has an assistant. The appraiser told us that it requires a substantial amount of time to visit each property and to analyze each component of a proposed sale.

VALUE OF EXCESS LAND WITHOUT PROJECT ENHANCEMENT IS NOT ADEQUATELY SUPPORTED OR DOES NOT GIVE CONSIDERATION TO APPROPRIATE FACTORS

During 1975 the maximum selling price for excess land allowed by the Bureau was about $600 an acre. The bases cited by the Bureau's appraiser in support of that amount included actual sales which appeared to include project benefits. Also, consideration was not given to evidence that without the Federal project there would have been a decreasing ground water supply, thus further decreasing the value of the land without project enhancement.

The Bureau's appraiser told us that from 1965 to 1972 the Bureau generally did not approve excess land sales over $550 an acre; however, since then sales price approvals have increased to about $600 an acre.

The appraiser said that he started working for the Bureau in 1972 and the Bureau continued to approve excess land sales for less than $550 an acre although he was not aware at that time of any study or documentation specifically supporting that amount as being representative of the value of excess land without project enhancement.

Subsequently, however, he gave us two analyses he had prepared--one as a result of our inquiry--which he said supported his allowance of at least $600 an acre. The two analyses were based on what the appraiser referred to as the (1) market data approach and (2) income approach, as discussed below.

Market data approach

The appraiser selected eight land sales which were made from 1966 through 1969 and he adjusted the sale price to its 1975 value based on an average inflation rate of 6 percent a year. 1/ The following schedule shows pertinent information regarding the eight sales which we abstracted from the summary sheets furnished us by the appraiser.

Sale	Date	Water supply	Acres	Selling price per acre	1975 value based on 6% annual inflation
1	3/66	Westlands	40	$450	$693
2	8/66	"	80	450	693
3	3/67	"	160	515	762
4	8/67	"	370	425	629
5	6/68	"	160	540	766
6	6/68	"	80	425	603
7	7/68	"	80	500	710
8	1/69	San Luis	126	550	748

All of the above sales reportedly involved undeveloped land, without improvements, located either in the Westlands Water District or the San Luis Water District.

However, the sales were made after the San Luis Unit, which supplies water to Westlands, had been authorized in 1960, and after the Westlands Water District had signed its water service contract with the Bureau in 1963. Six of the eight sales also involved nonexcess land and, therefore, the sale price did not have to be approved by the Bureau and did not have to exclude project enhancement. Since the sales were made after the San Luis Unit was authorized, after the Westlands Water District had signed its water service contract, and for the most part involved nonexcess land, it appeared to us that the sales may not have been representative

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1/ The average inflation rate was based on data extracted from a publication issued by the United States Department of Agriculture Economic Research Service.

of excess land sales without reference to the proposed project.

We discussed our observations with the Bureau appraiser and he agreed that his selection of sales may not be representative of excess land values absent project benefits. He said his market analysis had been hurriedly prepared as a result of our inquiries and, with additional time, he could prepare a more useful analysis.

In our opinion the use of historical sales of land within Westlands Water District is not a sound method for determining the value of excess land without reference to the project if such sales occurred after 1960--the date the San Luis Unit was authorized. Any sales after that date probably were made with some degree of knowledge that project water would eventually be available.

Income approach

The appraiser computed the annual dollar yield an acre for a typical farm based on a preproject cropping pattern of barley and cotton. In making this computation he assumed that, without the Central Valley Project, ground water (wells) would have to be used for irrigation and that such ground water would be sufficient

--to plant one-third of the land in cotton and two-thirds to lie fallow during the summer and

--to plant two-thirds of the land in barley and one-third to lie fallow during the winter.

The appraiser valued the estimated cotton and barley yield an acre and divided by six to estimate the fair rental value of an acre of land. 1/ He then capitalized the rental value at 10 percent to arrive at a value of about $600 an acre as being representative of the value of the land without enhancement caused by the Federal project. The appraiser said the yield estimates he used were based on his judgment and general knowledge of conditions in the District and were not based on any specific study.

1/ Southern Pacific Land Company, according to the Bureau appraiser, leases that portion of its land in the Westlands Water District, which does not receive water from the Federal project but rather uses ground water, for one-sixth of the value of the per acre yield of crops.

We believe that there is a critical flaw in the appraiser's assumption that without the Federal project there would have been sufficient ground water supplies economically obtainable to yield the crops he estimated. Based on information presented to the Congress applicable to the principal Federal project (the San Luis Unit of the Central Valley Project) serving the Westlands Water District, there would have been a decreasing ground water supply if the Federal project had not been built. The Bureau appraiser does not give any consideration in his evaluations to such a decreasing ground water supply and thus, in our opinion, does not properly eliminate an important factor from the value of the land resulting from project enhancement.

The Department of the Interior's definite plan report on the San Luis Unit stated that the ground water level within the San Luis service area was declining. The average rate of decline was about 10 feet per year for the total service area and 20 feet per year for western portions of the Westlands Water District.

The Department of the Interior estimated that total annual irrigation benefits under full development of the San Luis Unit would amount to $100 million versus $12 million without project development. In addition indirect irrigation benefits from the project would amount to $63 million per year.

With the San Luis Unit, the Department estimated that the irrigated acreage within the service area would increase by about 150 percent, as follows:

	Benefits	
	With project water	Without project water
Irrigated acres	550,050	221,000
Number of farms	2,919	85
Average acreage per farm	a/190	2,600
Water requirement (acre feet)	1,190,000 project water 463,000 ground water	272,000 ground water

a/ Irrigated farms were estimated from 40 to 320 acres with the projected value of the land developed for irrigation varying from $200 to $500 per acre depending on the classification of the land.

Acreage developed for irrigation within the service area of the San Luis Unit increased from 90,000 to over 500,000 acres from 1939 to 1958. The Department's feasibility report for the San Luis Unit stated that practically all the agricultural water supply in the San Luis service area was pumped from wells and caused a steady decline in the levels of the ground water because the amount of water pumped was in excess of the natural recharge of the ground water (overdraft). The Department of the Interior in its feasibility and definite plan reports for the San Luis Unit stated that ground water had not been, and would not be, adequate to meet the agricultural water needs within the service area of the San Luis Unit as shown below.

	Feasibility report		Definite plan report	
	Acres	Year	Acres	Year
Acreage developed for irrigation	400,000	(1955)	500,000	(1958)
Acreage irrigated	273,000	(1950)	400,000	(1958)
Acreage that could be provided water without the project on an annual basis	148,000		a/221,000	

a/ There was a long-term firm ground water supply available for this acreage under the then present (1958) low water use cropping patterns. Under intensive cropping patterns, it was estimated that this acreage would be reduced to about 90,000 acres.

In March 1976 the Bureau made an analysis of the ground water pumping levels for two parcels of land located in the Westlands Water District. The analysis showed the historical (actual) pumping levels 1/ from 1952 to 1975 and an estimate as to what the levels would have been without the Federal project after 1967, the year Westlands first received project water, to 1975. Following is data extracted from that analysis.

1/ Distance that ground water level is below ground surface for pumping purposes.

	Pumping depth (feet)			
	Parcel 1		Parcel 2	
Year	Historical	Estimated without project	Historical	Estimated without project
1952	440	---	435	---
1957	485	---	485	---
1962	550	---	540	---
a/1967	610	---	610	---
1972	490	610	530	660
1975	390	635	435	695

a/ Westlands Water District first received project water in November 1967.

The above schedule shows that the ground water levels were steadily decreasing until 1967 when the District received its first project water. Since 1967 the water levels have returned to about the 1952 levels. The schedule also shows that had the project water not been available the estimated levels would have decreased even further than the 1967 levels.

A Bureau official estimated that if Westlands had not had project water on the two parcels, pumping from depths of about 650 to 700 feet would have cost about $30 per acre foot to pump ground water in 1975. The official also stated that, as a result of the project, the pumping levels have improved to the point where he estimated it would cost $16 to $18 per acre foot to pump ground water on the same parcels in 1975.

During the congressional hearings leading to the authorization of the San Luis Unit statements were made by advocates of the project that, without the project, the area presently served by the Westlands Water District would be fit for growing only sagebrush. This problem was recognized in the report of the House Committee on Interior and Insular Affairs which considered the San Luis Unit authorization.

We discussed this matter with Bureau regional officials and they agreed that a decreasing ground water supply would have resulted without the Federal project but they were concerned about the equity of applying such a factor in evaluating proposed excess land sales under existing recordable contracts. They pointed out that the contractors (excess landowners) were not advised at the time they signed

the contracts that decreasing ground water supplies would be considered in evaluating the acceptability of proposed sale prices.

We found no evidence that the contractors were told of any specific factors that the Bureau would consider in estimating the value of the land without project enhancement. The recordable contract does not cite the factors to be considered in valuing the excess land and states only that "excess land shall be appraised at its fair market value, but in the appraisal no value shall be given such land on account of the existing or prospective availability of water or service from the Central Valley Project." We believe the Bureau should consider all appropriate factors in estimating the value of the land without the project regardless of the fact that such factors had not been considered previously.

BASIS FOR APPRAISALS DO NOT GIVE CONSIDERATION TO USEFULNESS OF FACILITIES AND EQUIPMENT TO THE BUYER

Although large quantities of facilities and equipment are often included with sales of excess lands as a package deal, the Bureau makes no attempt, in estimating the value of such facilities and equipment, to determine their usefulness to the buyer. The Bureau assumes, for valuation purposes, that such facilities and equipment will be just as useful to the buyer in his farming operations as it was to the seller although, in some cases, the Bureau knows this assumption is not valid. Obviously, the quantity and size of facilities used by the seller in farming large excess land holdings (several thousand acres) could be expected to be excess to the needs of individual owners buying the excess lands in 160-acre tracts or less.

For example one sale we analyzed involving the sale of 5,848 acres to numerous purchasers included farm equipment valued at about $764,000. Most of the equipment was appraised by a fee appraiser hired by the landowner at the request of the Bureau. The fee appraiser's report stated that "The valuation expressed herein takes into consideration the present market value <u>and that the equipment is is useable on your ranch</u>." (Emphasis added)

The appraisal was the Bureau's basis for approving the value of the equipment although information concerning the sale submitted by the buyer and the seller showed that buyers were going to sell the equipment at an auction and the proceeds from the sale used to pay off a second deed of trust held by the seller. According to the Bureau appraiser

the buyers did not need the equipment as they were planning to lease the land out, but the seller included the equipment as a condition of the sale. Most of the equipment subsequently was sold at auction for $368,000, or about one-half of the Bureau approved price for that part of the equipment sold at auction.

The Bureau appraiser told us that he did not consider the sale of the equipment at auction to reflect the equipment's fair market value. He stated that the value was based on the equipment being usable on the ranch and the Bureau was aware at the time of appraisal that the equipment was not to be used on the ranch but instead sold at an auction.

If the equipment had been appraised based on its intended use by the prospective buyers of the excess land, it appears questionable as to whether the Bureau would have approved the entire sale. The total sale included 5,848 acres of excess land plus improvements, including the farm equipment, valued at $6.3 million. After considering the value of the improvements such as the type described on pages 5 and 6, the Bureau valued and approved the sale of the excess land at $3.47 million, or an average price per acre of $593.

If the equipment had been valued for what it sold at the auction, the value placed on the excess land would have increased by an average of $63 per acre to a total per acre price of $656. This is substantially above the normal ceiling of $600 per acre approved by the Bureau and according to the appraiser is above the highest price ever approved by the Bureau of $650.

Additionally, the Bureau appraiser placed a value of $100,000 on three wells and pumps. In view of the fact that the land is eligible to receive project water, we inquired of the Bureau appraiser as to why the pumps and wells would have a value to the prospective buyer. The appraiser told us that it is Bureau practice to assign a value to wells and pumps even if they have little if any value to the buyer because the Bureau makes its appraisals without reference to the Federal project and that without the project the pumps and wells would, in the appraiser's opinion, have the value he allowed. We noted, however, that the Bureau did not attempt to value other facilities and equipment without reference to the project.

The value placed on facilities and equipment could vary substantially depending on whether the valuations are based on assumptions of continued use in the same type farming operation, of usefulness to the purchaser of excess land, or of usefulness without reference to the Federal project. The

Bureau has not considered usefulness to the purchaser of excess land as a factor in its valuations and has not been consistent in making such valuations without reference to the Federal project.

The law and its legislative history do not provide clear guidance on the method to be used by the Bureau in appraising the value of facilities and equipment included in sales of excess lands. Although we believe that a reasonable case could be made for the Bureau using an appraisal criteria which gives consideration to the usefulness of such facilities and equipment on the size and type farming operation for which it is being purchased, we cannot be conclusive about this matter because of the lack of clear legislative guidance.

We believe, however, that the valuation problem will diminish if action is taken to preclude Bureau approved sales of large minimum acreages of excess lands which are sold in units to groups of purchasers with requirements to buy all facilities and equipment, as discussed in chapter 3.

BASIS FOR BUREAU'S INDEPENDENT EVALUATION OF SALES PRICE IS INADEQUATELY DOCUMENTED

The Bureau does not adequately document the basis for values it assigns to the various components making up the facilities, equipment, and improvements included with sales of excess lands. In addition, the Bureau generally does not require the seller to furnish supporting data for the values estimated by the seller, although the Bureau appraiser told us that he can request such support. As a result, information is not available in Bureau files of each sales transaction which would allow management, or other authorized individuals, to readily evaluate the basis for and reasonableness of the appraiser's evaluations.

We reviewed several sale files in detail and scanned all the files applicable to 1975 sales transactions. Information was not in the files supporting the basis for many of the valuations assigned to facilities and other improvements included in the total sales price. The appraiser agreed with our observation that the seller generally had not been requested to support the basis for his valuations and that the appraiser had not always documented the basis for his own evaluations and valuations. He said, however, that based on his inspection of the property, his experience and general knowledge as to the market value of such facilities and improvements in the area, and his review of appropriate reference material, he satisfied himself as to the

reasonableness of the valuations. He said that the large number of transactions to be evaluated and the small appraisal staff did not provide time to document the basis for each evaluation. We believe that such documentation could contribute to improved management of the appraisal activity.

NEED FOR BUREAU GUIDELINES FOR EVALUATING SALE PRICES AND FOR INTERNAL REVIEW OF THE APPRAISAL ACTIVITY

The present Bureau guidelines for evaluating sale prices of excess lands are very broad and do not, in our opinion, provide the Bureau's appraiser with adequate criteria and procedures to be used in making such evaluations. In addition, the Department's internal audit staff had not made any reviews of the excess land appraisal activity and told us that no such reviews currently are planned.

Reclamation Instructions provide in Part 212.0.2 that:

> "All appraisals of excess land shall be made consistent with the recordable contract provisions. Such appraisals shall be based on fair market value but not including the increment resulting from the construction of a project."

The Instructions define fair market value as the highest price which a property will bring when exposed on the free and open market for a reasonable length of time from a well-informed, able and willing seller to a well-informed, able and willing buyer, neither of whom is compelled to act. Such value may not include any enhancement in value by reason of a proposed project construction.

Although the Instructions provide (Part 212.0.8) that the Bureau's regional directors will provide the appraisers with detailed instructions to be followed in the execution of appraisal assignments, Bureau officials in the mid-Pacific region told us that no detailed written instructions had been issued for the guidance of its appraisers.

The recordable contracts do not contain any additional guidance other than including a statement that "the value of the improvements on the land at the time of appraisal shall be included therein, but shall also be set forth separately in such appraisal."

We believe that detailed written guidelines should be issued by the Bureau setting forth the criteria and procedures to be used by its appraiser in evaluating the acceptability of the sales price of excess lands. Such

guidelines should include specific requirements for documenting in the Bureau files the supporting basis used for evaluating the reasonableness of the sale price of the various components involved in a specific transaction, specific methods to be used in assigning values to the various components listed on pages 5 and 6 of this report, and the methodology to be used in determining the value of the excess land without project enhancement.

We noted, also, that the Department's internal auditors had not made any reviews of the Bureau's excess land appraisal activity in the mid-Pacific region. An offical in the Department's regional office responsible for the internal audits told us that present auditing plans do not provide for a review of the excess land appraisal activity. We believe that the excess land appraisal activity is of sufficient importance to justify being scheduled for periodic review by the Department's internal audit staff.

Detailed written guidelines setting forth the criteria and procedures to be used in appraising the sales price of excess land transactions, and the scheduling of periodic reviews to ascertain compliance with such guidelines, would provide improved management control over the appraisal activity.

RECOMMENDATIONS TO THE SECRETARY OF THE INTERIOR

To improve the management of the appraisal activity and to insure that appropriate factors are considered in establishing the sale price of excess lands without project enhancement, we recommend that the Secretary of the Interior require the Bureau to:

--Undertake a formal study in the Westlands Water District to ascertain the value of excess lands, by class and location, without project enhancement, giving consideration among other things to the decreasing ground water supply that would have resulted if the Federal project had not been constructed.

--Obtain from the seller supporting data for values assigned by the seller and to document in the sales files the basis for the valuations assigned by the Bureau's appraiser.

--Issue detailed guidelines setting forth the criteria and procedures for evaluating excess land sales.

We recommend also that the Secretary of the Interior require that his internal audit staff schedule reviews of the appraisal activity in the various Bureau regional offices.

CHAPTER 3

EVALUATION OF THE PRACTICALITY OF THREE PROPOSED SOLUTIONS TO THE PERCEIVED PROBLEMS

The perceived problems identified for our evaluation are:

--Bureau-approved sales of large minimum acreages of excess lands which are sold in units to groups of purchasers with requirements to buy all facilities and equipment reportedly hamper small family farmers in their attempts to buy excess lands.

--Various arrangements such as trusts, partnerships, corporations, and leases reportedly allow one farm operator to receive low-cost Federal water for large tracts of land he does not own and hamper small family farmers from owning and operating land in the Westlands Water District.

The three proposed solutions to the perceived problems, which we were asked to evaluate are as follows.

1. Reinstituting the residency requirement.

2. Establishing a commission to insure that family farmers are given priority in the purchase of excess land.

3. Establishing a system for purchase of the excess land by the Government for resale to family farmers.

Our views were requested as to whether the proposed solutions could be effective in solving the perceived problems and who would be affected (i.e., would the proposed solutions affect only future transactions because of vested rights applicable to existing contractual arrangements).

Because of the time that would be required, the lack of basic data, and the subjective considerations involved, we did not attempt to ascertain the Federal costs that might be required to implement the three proposed solutions to certain perceived problems in administration of the 160-acre limitation provision. We considered instead their possible effectiveness in solving the perceived problems.

We believe that all of the proposed solutions could contribute to a reduction in the magnitude of the problems and that, of the three solutions proposed, the last one probably has the potential for being most effective--establishing a system for purchase of the excess land by the Government for resale to family farmers. In addition, we believe that this last solution would be more effective in solving the perceived problems if the owner was required to be the operator of the land eligible to receive water from a Federal project rather than, as present, being required only to be the owner of the land.

The effectiveness of any solution to the problems in the Westlands Water District could, of course, be reduced if such solutions cannot be made mandatory for the excess lands whose terms of sale are already provided for in existing recordable contracts (vested rights). As of March 31, 1976, excess landowners in Westlands had placed 350,744 acres under recordable contracts and had sold 114,827 acres of that amount. As requested in the February 5, 1976, letter we are studying the question of which rights are vested in the landowners in the district, with respect to the Westlands contracts and land sale conditions, and we plan to respond shortly.

If such contracts do vest rights which would not be affected by subsequent legislation, the proposed solutions would not necessarily be ineffective. Such contracts could still be amended by mutual agreement. Also, financial or other incentives probably could be provided which would encourage excess landowners to sell such lands to the Government for resale to family farmers rather than using their contractual right--if such right exists--to sell to non-Government purchasers.

Additional comments and observations on the three proposed solutions to the perceived problems are discussed below.

REINSTITUTING THE RESIDENCY REQUIREMENT

Section 5 of the Reclamation Act of 1902 (43 U.S.C. 431), as amended, specified that no landowner would be entitled to receive Bureau water unless "he be an actual bona fide resident on such land, or occupant thereof residing in the neighborhood of said land." The term "in the neighborhood" was held to mean within 50 miles based on a Department of the Interior decision in 1909. The Department's position, however, is that residency is no longer required because the Congress did not specifically restate the requirement in passing the Omnibus Adjustment Act of

1926 (43 U.S.C. 423e). This interpretation by the Department has been subject to considerable criticism, and in 1971 a suit was brought to compel the Secretary of the Interior to enforce the residency requirement within the Imperial Irrigation District of California. The court upheld the residency requirement in Yellen v. Hickel, 352 F. Supp. 1300 (S.D. Cal. 1972). The decision is now under appeal (Court of Appeals, 9th Cir. No. 73-1388).

Critics of the manner in which the Department has implemented the 160-acre limitation provision have expressed the view that elimination of the residency requirement has hampered small family farmers from owning and operating land in the Westlands Water District.

Available data indicates that reinstituting the residency requirement may not be as effective as some might hope for in solving the perceived problems stated on page 20.

For instance, the Westlands Water District stated that about 64 percent of the purchasers of excess lands were residents (living within 50 miles of the district) and that only about 36 percent were nonresidents. Obviously, a residency requirement, by itself, would not preclude such residents from participating in large group sales or in various arrangements such as trusts, partnerships, corporations, and leases which allow a farm operator to receive low-cost Federal water for large tracts of land he does not own. Although such arrangements might be less frequent if the term resident were redefined to include only those actually living on the land they own, such redefinition probably would result in a need for additional housing, schools, roads, and other social services.

The institution of a requirement, however, that the farm owner of a 160-acre tract of land must also be the farm operator in order to receive irrigation water from a Federal project, might not require the need for as much additional social services and housing as would a redefined residency requirement, would make it more difficult to arrange large sales of excess lands in units to groups of purchasers, and would effectively preclude one operator from farming in excess of 160 acres through lease, trusts, and other arrangements.

ESTABLISHING A COMMISSION TO INSURE THAT FAMILY FARMERS ARE GIVEN PRIORITY IN THE PURCHASE OF EXCESS LAND

We believe that the establishment of a commission to insure that family farmers are given priority in the purchase of excess land might not be effective unless there is a legal or contractual requirement established that priority in such purchase must be given to family farmers. If such a legal or contractual requirement were established, the commission could also serve as a focal point for coordinating the arrangements under which large tracts of excess lands and improvements thereon are purchased at one time by several family farmers. In addition, the commission could monitor the terms of the purchases to insure conformance with legal, contractual, and administrative requirements.

We have no reason to believe, however, that a newly established commission would be more effective than the Bureau of Reclamation could be if legal or contractual arrangements were established which clearly required that family farmers be given priority in the purchase of excess land.

ESTABLISHING A SYSTEM FOR PURCHASE OF THE EXCESS LAND BY THE GOVERNMENT FOR RESALE TO FAMILY FARMERS

Establishing a system for purchase of excess land by the Government for resale to family farmers probably has the potential for being the most effective of the three proposed solutions to the perceived problems cited on page 20. The degree of effectiveness will, of course, depend on the extent to which present excess landowners will sell such land to the Government.

Once such land has been purchased by the Government, however, resale transactions could be made in 160-acre or less parcels to family farmers required to be the owner-operators of such farms. In addition, the terms of such resale could be designed to preclude, or provide appropriate restrictions on trust, partnership, corporation, or lease arrangements which allow one farm operator to farm and receive low-cost Federal water on large tracts of land he does not own.

The present excess landowners might be hampered in finding eligible purchasers if additional legal, contractual, or administrative requirements are established, or negotiated, which preclude such owners from making single sales of large minimum acreages and other facilities to groups of

purchasers; if restrictions are placed on lease, trust, and other arrangements to preclude one farm operator from farming land he does not own; and if the purchaser is required to be the operator as well as the owner of the land purchased. In our opinion, however, such additional requirements would be equitable to the present excess landowners if the Government established the proposed system to purchase such excess lands and facilities at prices established on a basis consistent with the present provisions of the law.

We believe that any legislation establishing a system for purchase of excess land by the Government for resale to family farmers should include specific provisions related to the following matters.

--A requirement that the purchaser must be the farm operator, as well as the owner, of the land purchased and a definition of operator consistent with the concept of a family farmer.

--The basis for selecting between applicants for purchase of land from the Government.

--The terms of repayment and factors to be considered in evaluating an applicant's potential for repayment.

--The limitations on future lease, trust, and other arrangements designed to insure continued operation of the land by a family farmer but making reasonable arrangements for periods of physical or financial incapacitations, or other exceptions where warranted.

--A provision concerning the disposition to be made by the Bureau of Reclamation of those farm facilities purchased by it which may be excess to the needs of an individual family farmer.

--A limitation on years before property can be resold at a higher price, designed to prevent speculation.

We believe that congressional overview of the proposed system could be simplified and made more effective if the system were established to operate on a revolving fund type basis with separate annual financial statements to the Congress.