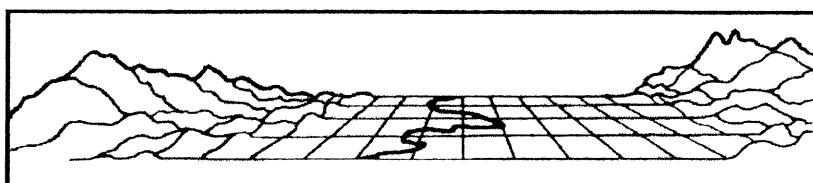

MISSED OPPORTUNITIES: SQUANDERED RESOURCES

**Why Prosperity Brought By Water
Doesn't Trickle-Down
In The California Central Valley**

By
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The California Institute For Rural Studies



*"You don't need to have 4,000 acres.
You could make a good living on 640 acres..."*

--John Pucheu
Westlands farmer*

FOREWORD

The Westlands Water District, one of the largest water districts in California, has been a focus of controversy since its formation in 1952. At that time a handful of corporate landowners held a majority of its land. Critics have charged that the federal irrigation project which was built to deliver water to its 600,000 acres was intended to benefit these corporations. And subsequent efforts to fully enforce the 160-acre limit or to reform reclamation law have mainly referred to Westlands as the prototype of what needed to be changed.

This report examines the impact of the Reclamation Reform Act of 1982 and its 960-acre limit on the structure of farm businesses in Westlands. Prior to passage of the new law some 84% of the Westlands Water District was being farmed in units larger than 960 acres. As in earlier periods, the implementation of reclamation law will be most important in areas of California like WWD where very large farms are the norm.

*California Agricultural Technology Institute, *Update*, July, 1988.

A CIRS RESEARCH REPORT

ACKNOWLEDGEMENTS

Research reported here was funded by grants from the Ford Foundation, the Shalan Foundation and King Hall Legal Foundation.

This study benefited from the advice, enthusiastic support, and participation of a number of people. We especially wish to thank Ralph Abascal, Hal Candee and Jim Peterson. We also appreciate the full cooperation we received from the Fresno and Kings County ASCS offices of USDA as well as the assistance of the staff of both the Fresno and Kings County Agricultural Commissioners.

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ABSTRACT

This report presents the findings of a study on the impact of the Reclamation Reform Act (RRA) passed in 1982. In instituting it, Congress attempted to limit the number of acres per farm that would qualify for federally subsidized irrigation water. Under RRA, only farms 960 acres or less in size are eligible. However, in practice, much larger farms have been irrigating with low-cost water. Although 17 western states have federal projects, it is only in California that very large farms have historically managed to evade reclamation acreage limits, so the impact of RRA, if enforced, will be strongest in California.

Repeated attempts by Congress to mandate the enforcement of reclamation law have been unsuccessful. Its implementation could have far-reaching consequences, especially as a counterbalance to some of the institutional biases which favor large-scale farm operations. Researchers have reported that the size of farms surrounding rural neighborhoods can affect the quality of life in the community. Several studies have shown that the larger the farm size, the poorer the social conditions in the surrounding communities.

Irrigation brings significant yield increases, and the subsidy from federal projects is considerable. Unfortunately, policies of the Bureau of Reclamation have allowed a few farm operations in California to reap most of the benefits of federally subsidized projects. While agriculture flourishes, much of the populace in the Central Valley live in poverty.

The Westlands Water District (WWD) is one of the largest in California. This study concentrated on that district and found that, although WWD officials reported a major restructuring of farms as a result of RRA, substantive changes had been minor. According to WWD, the number of farms had increased dramatically since 1980, and the size of farms had decreased.

This study found that large landholders have been representing themselves as several small units even though their land was being managed as one operation. In fact, comparison of documents from different agencies showed that large farm operations often told WWD that they were many small units, while registering at other agencies as one farm. These schemes involved 49% of the land in WWD operated under RRA by only 50 different operations. When this data was taken into account, the average size of farming operations in WWD appeared to be at least 1,312 acres, only slightly less than it had been in 1980, and nine times as large as the average irrigated farm in California. However, contrary to the intent of reclamation law, most of the acreage involved in these clusters was eligible for low-cost water.

Although, as required by law, landowners owning more than their acreage limitation are being required to sell their excess land at prices that do not reflect the benefit of irrigation water, most of the land is being sold to farmers that already own land in Westlands. In some instances, as a result of these sales, the total holdings of individuals are taken above the new ownership limits.

This research uncovered a pervasive pattern involving considerable effort on the part of large operations to comply with the technical requirements of RRA in order to

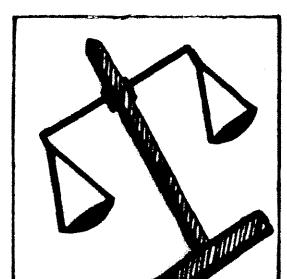
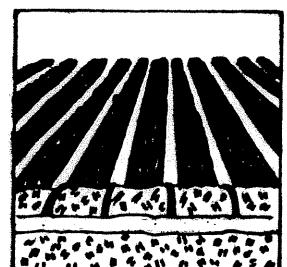
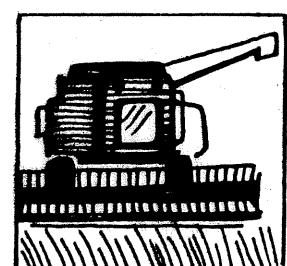
receive low-cost water while circumventing the RRA goal of assisting family-scale farms. That these farms invested considerable funds in this process is a reflection of the economic significance of subsidized water. Although these schemes may appear unscrupulous, and indeed do not reflect the intent of Congress, it is the current policy of the Bureau of Reclamation to encourage them. Ultimately, it is the Bureau, not the farmers, that must be held accountable for these massive violations of its legal mandate and of the public interest.

Several substantive changes in policy are needed to improve conditions in the Central Valley of California:

- 1.** The Bureau of Reclamation should adopt a strict definition of eligibility for receipt of subsidized irrigation water.
- 2.** Management companies that farm large tracts of land for many water users should pay full cost for the water that they receive to irrigate their land over 960 acres.
- 3.** Reclamation law should be enforced. If current leadership at the Bureau of Reclamation is unable to implement the law as passed by Congress, new, vigorous leadership should be instated.
- 4.** An investigation of enforcement of reclamation law must be initiated.
- 5.** Irrigation of poorly drained land should not be encouraged by providing farms on such land with extra quantities of subsidized irrigation water. The poorest land should be retired from agricultural production.
- 6.** Programs should be developed to encourage settlements of new family farmers in California's Central Valley. These programs should provide capital at generous terms.
- 7.** The shaping and enforcement of water policy in California must be at arm's length from the influence of those with a vested financial interest in it.
- 8.** Agricultural policy should actively encourage farms with a good track record in soil and water management, agricultural waste management, and equitable farm labor working conditions.

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Chapter 1

For much of the period subsequent to the early 1950's, the position of the small- to moderate-size farm in the U.S. has been in decline. This decline is reflected in both the number and the share of national production of such farms. By 1982 the biggest 1% of U.S. farms, ranked by annual farm sales, were responsible for 30% of all cash receipts from farm marketings and 62% of net income from farming.¹ The largest 5% of U.S. farms produced a full 50% of farm cash receipts and earned 82% of all net income from farming.² It is tragic that Federal reclamation policy, intended to strengthen the small-holder farm system has not been implemented even though the very future of farms in this size range is in doubt. The larger question, however, is the following: why does farm size matter?

Why is Farm Structure Important?

Farm structure refers to the role of different-sized farms in agricultural production. Farm structure is relatively concentrated if relatively few farms are responsible for the majority of output. Until recently, U.S. agriculture has been characterized as a system in which medium- to small-scale farms dominated agricultural production. The shift to more concentrated agriculture has had a profound social, economic and environmental impact on rural California. We consider below the type of farming operations prevalent in California as well as recent research on the association between farm size and social conditions in rural communities.

Our contemporary urban-based culture has become disconnected from its agrarian roots.³ The U.S. farm population has declined to just 2% of the total population. While debate continues over the question of whether this is "good" or "bad," a farm system has evolved, especially in California and the West, that is completely divorced from the idealistic notion of the "family farm."

The first time the Department of Interior attempted to analyze the concept of "family farm" was in its landmark 1981 Draft Environmental Impact Statement (EIS).⁴ Their definition stated that a majority of the annual labor requirement must be furnished by the farm family (members of the immediate family). Since labor requirements vary greatly from crop to crop, it is not possible to designate a specific acreage in this definition. Interior Department officials have suggested that the upper limit on the size of an irrigated "family farm" producing a perennial crop (fruit or nuts) would range from 40 to 160 acres while the upper size limit for an irrigated "family farm" producing extensive crops (cotton or grain) would be about 960 acres.⁵

Within California today the bulk of farm production comes not from family farms, as defined by the Department of Interior, but instead from a very different type of operation that relies on hired labor for nearly all of the farm work. To illustrate, careful examination of farming in the federally irrigated Westlands Water District (WWD) of California's San Joaquin Valley shows that the average irrigated farm size was 1,654 acres in 1978.⁶ This size is well above the maximum that would be operated by a single farm family under the Interior Department's definition. In support of this conclusion, this study found that the 305 farms operating within the district had 5,305 full-time employees, an average of 17 per farm.⁷ The study also found that these 305 farms employed a total of 278 full-time farm managers, 427 full-time foremen and 4,600 full-time laborers.⁸ Additional thousands of seasonal hired workers were employed for the harvest season, especially for cantaloupes and vegetables. Thus, in the WWD, farming is conducted along an "industrial" model with the "farm operator" being a person, or group of persons, who owns the

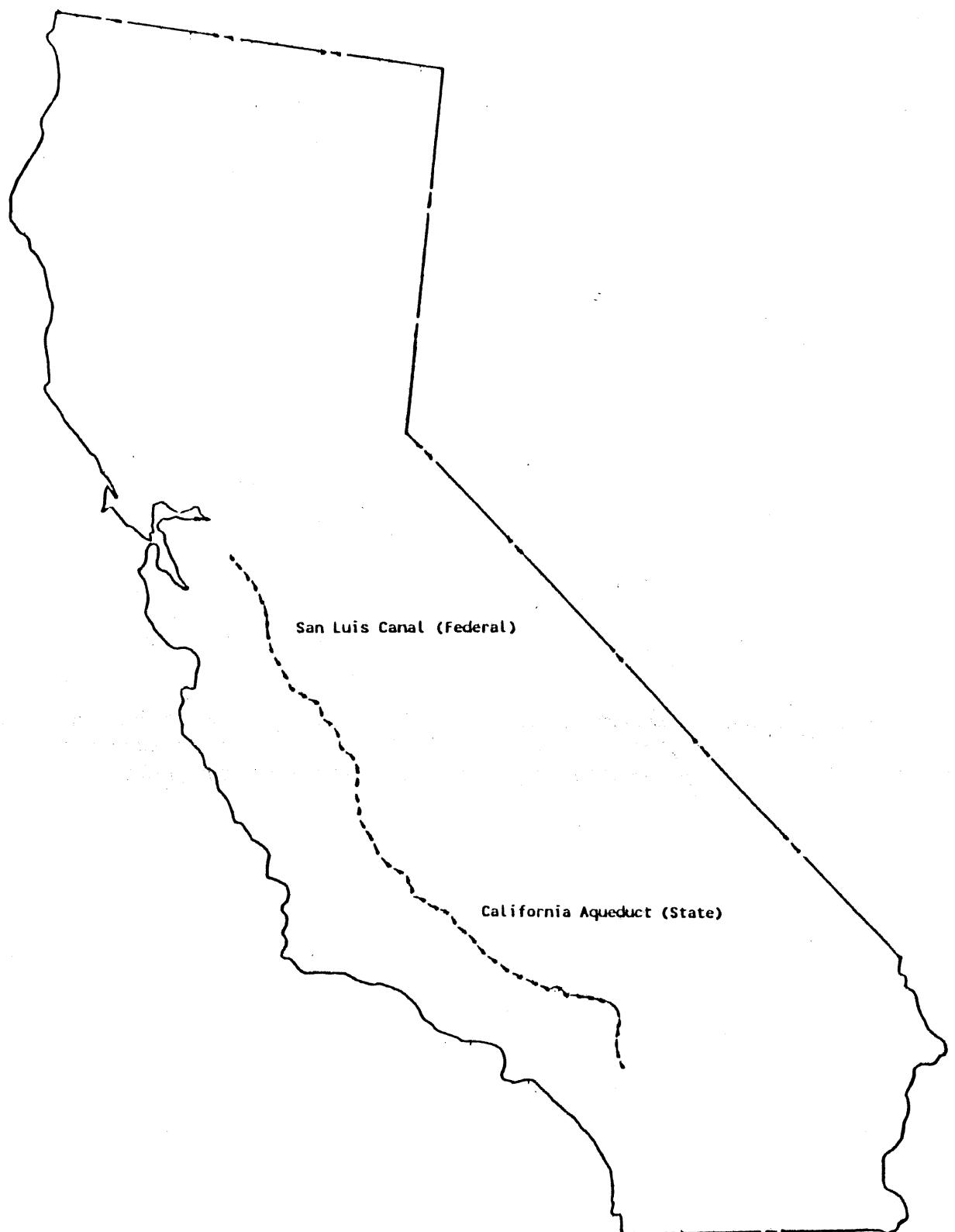


Figure 1-1. Places mentioned in this report: The San Luis Canal and the California Aqueduct are both part of the Central Valley Project irrigating the west side of the San Joaquin Valley.

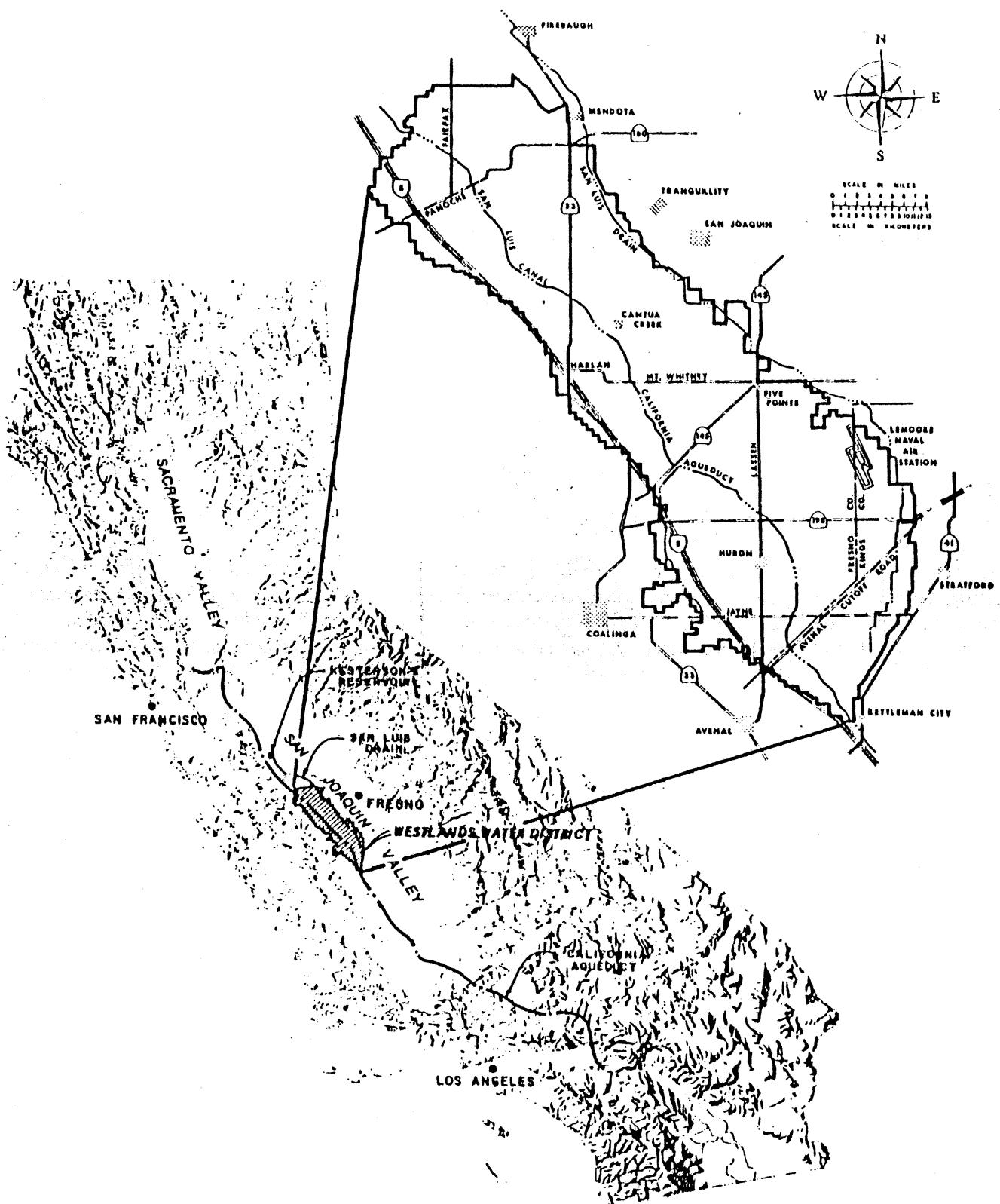


Figure 1-1 continued. Places Mentioned in this report: Location of the Sacramento Valley, San Joaquin Valley and Westlands Water District. (From "Facts and Figures", Westlands Water District, 1986.)

business and employs other people to actually perform most of the work.

Data on California farm production shows that in 1982 the biggest 6% of the state's farms, ranked by annual sales, accounted for 73% of farm cash receipts.⁹ The biggest 6% comprised 4,990 farms (out of a state total of 82,463) and all but 247 (i.e., 4,743 out of 4,990) reported expenditures for directly hired farm labor. In fact, these 4,743 farms accounted for 75% of all expenditures for hired farm labor reported by the Census for California.¹⁰ The average reported hired labor expense for these 4,743 farms was \$287,472 per farm. Many, if not all, of the 247 farms of the 4,990 largest who did not report direct hired farm labor very likely utilized independent contractors, such as farm management companies or labor contractors, to perform the work needed to run those farms. The overwhelming majority of California farm production is now controlled by a relatively small number of "industrial" farms.

Most of California's farms are "small" as measured by amount of annual farm cash receipts. For example, in 1982 some 58,041 of the state's 82,463 farms, or 70%, had annual sales of farm commodities amounting to less than \$40,000 apiece.¹¹ However, their combined sales amounted to just 3.5% of the state total. So while most California farms are "small," their share of total farm production is not significant.

The designation "industrial" or "family," according to the definition proposed in the Interior Department's EIS, is determined by the role of hired farm labor in conducting the business, and not by whether the farm business is owned by a single family. There are many farming businesses in California owned by a single family which cannot be characterized as "family farms" because of their reliance on hired labor. For example, Harris Farms, Inc., is a farm operating in WWD that is solely owned by the John C. Harris family.¹² However, this farm's 19,552 irrigated acres are worked by its 618 regular employees and large armies of seasonal workers.¹³ By no stretch of the imagination could one argue, using the Department of Interior labor measure, that this is a "family farm."

Relation of Farm Size to Community Social Conditions

Having shown the dominance of "industrial" farms in California, we now examine their impacts on surrounding communities. In his pioneering work, *As You Sow*, Prof. Walter Goldschmidt illustrated the negative correlation that exists between farm size and community social conditions.¹⁴ He found that communities near large farms tend to have poorer social conditions, as measured by such variables as median household income and proportion of the population in poverty. Comparing the San Joaquin Valley communities of Arvin and Dinuba, Goldschmidt showed that the "large farm" community of Arvin had lower family income, greater poverty, and fewer churches, small businesses and social clubs than did the "small farm" town of Dinuba. Prof. Dean MacCannell and co-authors after refining and extending this approach, established that this inverse correlation also describes individual counties in the vast "Sun Belt" farming region from California to Florida.¹⁵ In his study, a county-averaged measure of farm size was used.

MacCannell's most significant work shows quantitative negative correlations between social conditions and increasing farm size in California's San Joaquin Valley when small geographic areas are used.¹⁶ By examining Census Tracts, Postal Zip Code areas, and areas bounded by city limits in 42 communities in the western San Joaquin Valley, MacCannell found even stronger negative correlations. The strongest negative indicators were: median family income, adults with high school diplomas, adults with 4-year college

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the poorer were the social conditions...
Conversely, the smaller the farm size,
the better the community's social conditions.**

degrees, professionals in the labor force, home ownership, households with complete plumbing, and medical services.¹⁷ The larger the farm size in the community, the poorer were the social conditions based on these measures. Conversely, the smaller the farm size, the better the community's social conditions.

In California agriculture, where "industrial farms" are predominant, it is useful to consider broad measures of rural community conditions. One important measure used in the 1980 Census of Population stands out: the measure of poverty in U.S. metropolitan areas based on the proportion of the population supported by general assistance payments (welfare). Of the ten metropolitan areas with the highest proportion of inhabitants supported by such payments, six are in California, and all six are in California's agricultural Central Valley.¹⁸ The six areas (and the proportion of persons supported by welfare payments) are: Visalia (15.9%), Stockton (14.4%), Yuba City (12.4%), Fresno (12.3%), Modesto (11.8%) and Redding (11.6%). The remaining four areas of the top ten are all Eastern urban centers: Jersey City, Atlantic City, Vineland (New Jersey) and New York City. Both Visalia and Stockton rank ahead of these urban centers by this measure. It is not widely recognized that poverty in the 1980's is concentrated in rural areas such as California's agricultural Central Valley as well as in major Eastern urban areas.

Perhaps the most critical factor in this high degree of poverty associated with "industrialized" farming is the strong dependence on hired farm labor which ties community conditions to farm worker income. In a statewide survey based on interviews with workers, Richard Mines found that the average annual earnings of a California farm worker in 1983 was just \$4,300 from farm work and another \$320 from non-farm work.¹⁹ Farmworker households with four members reported average annual earnings of \$8,750.²⁰ Both figures are well below the official poverty level, based on income. California agriculture's heavy dependence on numerous low-paid laborers creates rural communities which are home to a large proportion of the state's working poor. Mines found that more than 80% of California farm workers are Mexican or Mexican-American. Therefore, these workers are both poor and members of an ethnic minority.

MacCannell obtained similar results in the 42 San Joaquin Valley communities which he studied.²¹ The greater the proportion of the community population in the agricultural labor force, the lower the median family income of the community and the poorer the social conditions.

Competition Among Farms of Differing Sizes

As farm size has tended to increase over the decades of the 20th Century, a new factor has emerged: increasing rivalry between very large "industrial" farms and smaller-scale farms. Yolo County tomato and alfalfa farmer John Bledsoe put it this way,

"...let's go and look into Yolo County (California) and see three or four farmers control most of the county. We have the Heidricks, the Wallaces,

the Andco Farms. They are farming 40,000 or 50,000 acres of ground. No little guy, and I don't care what anybody says, can compete."²²

Two factors govern this rivalry: institutional biases, such as reduced interest costs or volume discounts on purchased inputs available to large farms, and access to capital.²³ Over the past decade, California has seen a series of crops affected by these intra-farm competitive factors.

The California olive industry was shaken in 1980 and 1981 by enormous production from some 5,000 acres of new plantings owned by the Prudential Insurance Company.²⁴ When the crop from this planting reached the market, prices fell and smaller growers complained bitterly. According to Tehama County olive grower Les Melvill,

"In the olive industry huge acreages were planted. For example, Prudential Insurance has 5,000 acres. Well, our total acreage up here in Tehama County is - in 1979 - 4,971 acres. And that is for 400 growers. Prudential is **one grower** with 5,000 acres."²⁵

Ultimately, depressed prices resulted in widespread losses among smaller scale olive producers. Some even pulled their trees and left the business. But through a favorable contract with their processor, Prudential was able to weather the storm.²⁶

Similar experiences befell the almond, wine grape, and raisin grape industries. Large new plantings of almonds in the Southern San Joaquin Valley came in when Federal and State projects brought precious irrigation water to previously uncultivated areas. For example, Kern County had only 190 acres of bearing almond trees in 1966 (out of a state total of 110,000 acres).²⁷ By 1985, Kern had established itself as the leading almond county with 77,501 harvested acres (out of a state total of 409,670 acres).²⁸ As with olives, overproduction of almonds reduced the growers' receipts. One year, in an effort to bolster prices, growers were required to remove 25% of their crop from the market. The large producers predominantly opposed this set-aside, while smaller growers favored it.²⁹

In the wine grape industry, as a result of new plantings, especially very large ones in the San Joaquin Valley, bearing acreage increased from 150,000 acres in 1973 to 315,000 acres by 1977.³⁰ As in the case of olives and almonds, increased supplies eventually led to reduced prices. Very large vineyards, such as those owned by Getty Oil Co., protected themselves by signing long-term contracts with wineries that established price floors irrespective of market conditions.³¹ Since the main grape variety planted in the San Joaquin Valley is Thompson seedless, a variety that can be crushed for wine or dried for raisins, the raisin industry was also eventually affected. In both industries, increased foreign competition also played a role. Regardless of cause, small-scale producers bore the brunt of competition from large-scale farms.

Government, primarily through water projects that led to development of new acreage for crop production, has played a pivotal role in these matters. Under the California State Water Project and the Federal Reclamation projects, irrigated acreage in the Central Valley has doubled over the past forty years.³² Irrigated cropland increased from 3.1 million acres in 1944 to about 6.4 million acres in 1982.

Much of this newly irrigated land had been dryland pasture in areas of the San Joaquin Valley where annual rainfall is seven inches or less. Since pasture requires more

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land per farm than is required by irrigated fruit or vegetable production, most agricultural economists anticipated that development of irrigation facilities would increase the number of farms dramatically. In 1949, for example, the Bureau of Reclamation noted that there were 59,000 farms and 2,720,000 acres of irrigated land in the Central Valley as of 1939; then boldly predicted that development of the Central Valley Project would lead to 110,000 farms with an irrigated land total of 6,580,000 acres.³³ While their prediction for the number of irrigated acres was right on target, their estimate of the change in the number of farms had the wrong algebraic sign. The most recent data show that the number of farms in the Central Valley is just 40,656.³⁴ That is, the correctly predicted 300% increase in irrigated land triggered a 30% decline in the number of farms.

This decline precipitated by the switch from extensive to intensive farming practices which irrigation encourages, has been noted elsewhere.³⁵ Essentially, development of irrigated cropland requires substantial investments for water distribution systems, new farming equipment, and capital reserves to finance operations for several years while the new farming system is placed in production. In the case of permanent crop plantings (fruit or nut crops), it may be five or more years before full bearing is realized.

In the specific case of the development of irrigated agriculture in western Kern County, state economists have noted:

"Lending institutions have recently shown greater caution and selectivity in loaning funds to west side agriculturalists, unless the growers possess substantial resources, according to representatives of a major bank active in the region.

"A number of smaller-scale ranchers and those with inadequate resources have already had to leave, liquidating and disposing of their properties. In the opinion of the banker, this was usually because the rancher had underestimated the capital requirements to develop land, procure necessary irrigation farming equipment, and retain adequate reserves to finance operations for several years before sufficient income was received from sales of crops."³⁶

Thus, even in the development of arid land for irrigated farming, there is a comparative advantage in having substantial capital resources. It is this pressure that contributes to forcing farm size to increase as land is developed. When combined with weak or non-existent enforcement of acreage limitation under reclamation programs, it is hardly surprising that average farm size has increased sharply as California land has been placed in irrigated production.

This same effect has been noted in the WWD. Rep. B.F. Sisk, Congressional representative from the area including WWD, nevertheless argued that construction of the San Luis Dam, designed to irrigate WWD, would sharply increase the number of farms in the district. In 1967 he stated that "...with San Luis built, there will be 6,100

farms, nearly a sixfold increase.³⁷ The number of farms in the district actually decreased sharply, from over 1,000 to just 214.³⁸

In this case, however, another factor played a central role in reducing the number of farms. Lack of access to capital resources made it difficult for smaller farms to keep pace with newly identified needs. Prior to construction of the San Luis project to provide irrigation water to WWD, farmers had been pumping groundwater to grow their crops. The acreage being irrigated increased rapidly from 90,000 acres in 1939 to 500,000 acres by 1958. It was found that more water was being pumped out than was recharging the basin by natural means (groundwater overdraft). As the water table depleted, pumping depths became greater and greater. In fact, the pumping depth fell from 440 feet in 1952 to 610 feet in 1967, when federal project water was first delivered to WWD).³⁹ Soon only the wealthiest landholders could afford to pump. The inadequate capital resources of smaller landholders once again led to a reduction of their number.

Farm Structure and the Environment

Advocates of various policies have pointed out that providing inexpensive irrigation water conflicts with environmental protection goals. For example, much of the western San Joaquin Valley had not been irrigated prior to 1940. As irrigation practices became widespread in this region, a series of new environmental problems became apparent. First, when irrigation water was pumped from sub-surface aquifers, the volume required for irrigation was so great that natural recharge mechanisms could not keep pace and the water table fell (overdraft). To solve this problem, Federal and State water projects were developed to transport surface water from other parts of California to the region. But this land also has a severe drainage problem.

Drainage problems take a variety of forms, many of them severe. In some areas, a relatively impermeable layer of clay prevents percolation of irrigation water deep into the soil. When these lands are irrigated, shallow, salty water builds up and eventually rises into the root zone of plants. Without adequate drainage, the buildup of salts in the soil can permanently ruin the land. One way that soils can be drained of irrigation tail water is by the installation of underground "tile" systems, actually long plastic pipes buried in beds of gravel under the topsoil. Numerous holes in the pipes permit drainage water to be removed from the soil. This type of system is used to drain more than 42,000 acres of ground in the WWD.

Irrigation inevitably carries salts with it into the soil. In the San Joaquin Valley, according to one estimate, about 7 million tons of salts yearly were introduced into farm-lands by irrigation water.⁴⁰ These areas also may have a "perched" water table, i.e., one that is held close to the surface. According to the WWD, the water table on more than 193,000 acres of their land is less than 10 feet from the surface.⁴¹ On these lands, saltwater buildup becomes an extremely serious problem.

When water drains through the soil, it can extract, or leach salts away from roots. One solution to salt buildup in soils is to leach the salts below the root zone and drain the resulting salinized water from the field. Disposal of the saline water is the next problem. The water contains traces of elements leached out of the soil, such as arsenic, selenium, cadmium, lead, strontium, silver, mercury, etc., and residues of pesticides, herbicides, and other agricultural chemicals. Drainage from many of the farms in the San Joaquin Valley is discharged into the San Joaquin River or its tributaries. Until recently, drainage from

some 8,000 acres of land in WWD was going through a drain (the San Luis Drain) north of WWD into the Kesterson Reservoir.

In 1983, biologists discovered that birds in the Kesterson Wildlife Refuge had suffered nesting failures and deformities because of toxic levels of the element selenium, which had accumulated in farm drain water. Naturally present in the soils of the valley, the concentration of selenium had built up as it moved through the food chain, finally poisoning many water fowl.

The best way to handle some of the major types of drainage problems existing in Fresno County would be to eliminate application of extra irrigation water. If salt buildup in soils continues, or if adequate disposal of agricultural drain water is not found, the problem could result in land being taken out of agricultural production. Several hundred thousand acres of land in WWD and outlying areas have inadequate facilities for disposing of farm drainage water. Water users and government officials are now faced with the two-fold problem of cleaning up the contaminated wildlife refuge as well as figuring out a long-range solution to the agricultural drainage problem.⁴²

At first sight, it would appear that water conservation and drainage problems should be independent of farm size. That is, no matter who is farming a particular piece of ground, attention to these problems must be encouraged. This should be as true of a small-scale farm as it would be of a large-scale farm. However, Federal reclamation policy has been twisted in an especially peculiar manner to actually encourage larger farms to irrigate areas of WWD with severe drainage problems, using extra federally subsidized water beyond that provided to smaller farms without drainage problems!

Additional Low-Cost Water For Poorly Drained Land

Reclamation law contains a clause called the "equivalency provision", that under certain conditions, farms on land of poorer productive capacity can receive subsidized water on more than 960 acres.⁴³ Although a conference report⁴⁴ by Congress indicated that this provision should not apply to WWD, the Bureau of Reclamation prepared in 1987 to implement it there and determined, in effect, that the sole qualification for increased deliveries of subsidized water was the presence of poorly drained land on a farm!⁴⁵

This decision was based on a series of crop budgets for the crops grown in WWD. Comparison of the budgets prepared by the Bureau for a single crop on different soil classes revealed that the primary difference between production costs on good and bad soil was the cost of off-farm drainage on poorly drained soil. The cost was zero on class 1, \$110/acre on class 2, and \$270/acre on class 3 soils. The only other differences between budgets were minor -- for example, there was a small increased cost for soil amendments on poorer soils.

The Bureau projected equivalent yields for all crops on all soils stating, "The lands in this area have been fully developed for years... At the present time, yield differences due to varying management practices appear more significant than those due to land class. In view of the above findings, the same yields have been used for each land class."⁴⁶ In short, this means that the cost of installing drainage facilities was to be offset by increased entitlements for subsidized water.

65% of WWD could now be entitled to increased amounts of low-cost irrigation water

According to the Bureau, only 34.7% of the soil in WWD is Class 1. The remainder (65.3%) is either Class 2 or 3 and a farm on these soils is now entitled to low-cost water on 1,123 and 1,257 acres, respectively. The Bureau created its own soil classification system. The Soil Conservation Service (traditionally the agency charged with soil classification) was mapping Fresno County at the time that this report was written, and did not expect to complete the job for several years. However, preliminary information and their maps of 2/3 of WWD indicate that drainage problems may indeed affect most of WWD.⁴⁷

Original Reclamation Policy

Reclamation policy has a long and interesting history. The federal Bureau of Reclamation was established in 1902 by the Reclamation Act which authorized the federal government to finance irrigation projects in the west. These projects would deliver water to arid areas where crop production was otherwise impossible. A subsidy to family farmers was explicit in the reclamation program from the very beginning. Although farmers were required to repay the costs of building reclamation projects over time (40-50 years), those payments were to be interest free. This subsidy made the issue of whether the purposes of reclamation law were being fulfilled quite important.

To open new lands for agricultural production was only part of the purpose of the Reclamation Act (and in this mandate, the Bureau has been successful). The primary purpose was to encourage the settlement of family farmers in the west and to spread the benefits of the subsidized irrigation program to the maximum number of people.

F.H. Newell, the first Commissioner of Reclamation, summarized the purpose of the Reclamation Act of 1902 in the following way,

"The object of the Reclamation Act is not so much to irrigate the land as it is to make homes...It is not to irrigate the lands which now belong to large corporations or to small ones; it is not to make these men wealthy; but it is to bring about a condition whereby that land shall be put into the hands of the smaller owner."⁴⁸

To accomplish these goals, the law specified that landowners in reclamation projects could not receive irrigation water for more than 160 acres and that they must reside on or near the land. One immediate problem was that the law did not require those landowners with large holdings in reclamation project areas to sell their lands in excess of the acreage limitation. It wasn't until 1914⁴⁹ that Congress specified that all such landowners would have to agree to sell their excess lands. These owners were required to sign "recordable contracts" to sell their land at a price to be fixed by the Bureau which would not reflect any enhancement to the value of the land due to the construction of the irrigation projects.⁵⁰ Administrative regulations fixed the period for the sale of excess lands at not more than 10 years from the date of the contract.

In some areas, especially California, there were significant deviations from the law's original intent. The Bureau gradually came to interpret the ownership provisions as meaning 160 acres per owner, rather than per farm. As a result, tracts of land greater

than 160 acres were sold to groups of relatives or business partners in 160-acre pieces, or in larger pieces with each person's share of the joint tenancy less than 160 acres. In addition, the residency requirement was not enforced.

In most states, enforcement of reclamation law was not the issue that it was in California where most of the farms greater than 160 acres were located. In fact, the Bureau's own research indicated that, as of 1978, 92% of the farmed acreage in the "Westside Study Area"⁵¹ of California receiving project water was in farms greater than 160 acres.⁵²

Alleged abuses in enforcement of the provisions concerning sale of excess land were great enough that legal action was brought by the non-profit membership organization National Land for People. This action resulted in a 1976 court order finding that the Bureau was in violation of the Administrative Procedures Act and directed the Secretary of Interior to enforce the law.⁵³ When National Land for People discovered that some of the required sales were "bogus transactions" involving the uses of strawmen, i.e., someone used to disguise another's intentions, it won a court order to stop these sales, until regulations were issued that would implement the acreage limitation provisions of the law.

At the time of the court decision many observers concluded that, finally, the 160-acre limitation would be fully enforced. Congress has repeatedly re-affirmed its commitment to this goal and its view has been upheld in the Courts.⁵⁴ At the same time, the failure of Interior to publish rules and to rely instead on individual interpretations of the law by the Department's solicitors made possible a significant weakening of Congressional intent in the administration of the law. The district court ordered Interior to publish rules.

Reclamation Reform Act of 1982

In order to close these loopholes and to clarify their intent with respect to reclamation policy, Congress passed the Reclamation Reform Act in 1982 (RRA). One of the important changes introduced by RRA was that full water costs were to be charged to all farm operations on land in excess of 960 acres. The 960-acre limit was to refer to combined landholdings in all of the 17 western states that have federal irrigation projects. Old law had limited landownership to 160 acres for an individual, or 320 acres for a married couple, *per water district*. In states with hundreds of water districts, such as California, this was an important distinction.

The RRA limit of 960 acres was strengthened by insisting that it be applied to all holdings operated as a single farm no matter how many persons or legal entities held joint title. Prior to RRA, leasing had not been regulated.

Landowners were given an option. They could remain under the jurisdiction of earlier reclamation law, or they could elect to be governed by RRA. Remaining under old law would allow them to receive fully subsidized water on all of their owned land. But they would have to pay full cost on all leased land in excess of 160 acres ('hammer clause' of RRA). Many of the largest landowners elected to do this. On the other hand, if they decided to be governed by RRA, they would have to pay full cost on all water used to irrigate lands that they owned or leased exceeding 960 acres.

Congress was quite clear about its intent in making these changes:

"Both the House and Senate versions of Title II provide for an increase in the basic ownership limitation and reduce the subsidy for larger farming operations."⁵⁵

In another significant departure from earlier policy, the RRA abolished the residency requirement. Under RRA, absentee landowners are able to receive low-cost irrigation water. Overall, the effect of RRA was to considerably liberalize the requirements of reclamation policy.

Bureau Rules to Implement RRA

On April 13, 1987 the U.S. Department of Interior finally issued rules intended to limit the amount of Federally subsidized irrigation water that could be provided to a single farm water user in the arid regions of the western United States.⁵⁶ Many observers felt that the rules represented a further weakening of reclamation administration. No restriction was placed on the number of 960-acre tracts that could be farmed together as one unit by a management company; no provision prohibited members of a farm's controlling body from acting as manager of a farm operation. Thus, a few individuals could retain control over a large farming operation simply by "restructuring" it into 960-acre pieces, and then forming a management company to farm the entire operation as one piece.

RRA and the 1987 rules were also weak in that they exempted trustees of trusts from ownership and pricing limitations. Although the rules did apply to beneficiaries of trusts (such as minor children), they allowed a farm to break up into 960-acre pieces, each one a trust for the children of the owner or operator, and each one managed by the trustee - often a parent. As a result, the number of trusts "farming" in the San Joaquin Valley is significant. The trusts are sometimes registered as water users, or alternatively, they may be partners in farming operations.⁵⁷ For example, a partnership in Fresno County called Borba Brothers' Farms had 15 partners. Ten of the partners were individuals, three of the partners were corporations, and the remaining two partners were trusts. One of the trusts was called the "160 Acre Limitation Trust"⁵⁸

The Westlands Water District

The most significant aspect of irrigated farming, as compared with dry farming (using only natural rainfall), is that higher average yields are a certainty, especially in the long term. Quite apart from the plague of occasional severe drought that can leave dry farmers without a crop, in "normal" years yields from irrigated farms are usually very much higher than those obtained from dry farms. For example, California cotton farms produce more than 1,000 pounds per acre (lint) while Texas farms average only 322 pounds per acre. Even though California has 70% less cotton plantings than Texas, the two states have very similar total outputs.

Combining its favorable climate and abundant supplies of cheap labor with irrigated farming, California's Central Valley (considering the San Joaquin and Sacramento Valleys as a single valley) has become the world's leading agricultural region. And the Central Valley Project of the Bureau of Reclamation is the centerpiece of Federally supported irrigation systems. Of the 9.9 million acres irrigated with Federal project water in the 17 Western states, the Central Valley Project alone irrigates 2.3 million acres.⁵⁹

The largest of the dozens of water districts served by the Central Valley Project is

the Westlands Water District (WWD). Comprising a total of 603,093 acres, more than 94% of which are irrigated, or can be irrigated, the district is also the largest single recipient of Federal water.

On September 8, 1952 WWD was organized. Since the western San Joaquin Valley, where WWD is located, receives only minor amounts of rainfall each year, farming there requires irrigation.

In its early years, water users in WWD depended solely on groundwater pumping for their irrigation water. To irrigate a half million acres meant that enormous quantities of water needed to be pumped from underground aquifers. According to a contemporaneous account written in 1967 by Paul Taylor, Professor of Economics at the Berkeley campus of the University of California:

"For 25 years, landowners here have mined water from their underground reservoirs as miners once mined gold. So exhaustively have their pumps sucked up water that the land surface is sinking about a foot a year and the underground reservoir is badly depleted in quantity and quality."⁶⁰

Water users realized that a federal irrigation project designed to bring in surface supplies from the northern part of the state was an ideal solution to their problems. Since high rainfall in Northern California occurs in the November through March period while the growing season in the San Joaquin Valley begins in March and extends through the fall harvest, a mechanism was needed to store the heavy winter flows for later release. A large storage dam just to the north and west of WWD was feasible.

The new federal project took its name from that of the proposed reservoir: it became known as the San Luis Unit. The San Luis Unit also provides federal irrigation water to the San Luis Water District, directly north of and adjacent to WWD, and to several smaller districts. Significant surface water deliveries began in 1967 and by the mid-1970's had all but replaced pumped groundwater supplies.

Paul Taylor realized that the importation of surface water actually supplied two different sources of irrigation water. As he pointed out:

"The project is designed to bring water to the landowners by two routes: (1) by canal on the surface; (2) by raising the water level in the landowners' wells through a combination of percolation from the surface delivery, and by reduction of the overdraft. The fewer the pumpers (to explain the last point), the higher the water table for those who continue to pump water from the ground."⁶¹

In 1985 WWD farms generated cash receipts from crop sales that amounted to \$551 million, or about \$1,000 per acre of cropped land.⁶² The main crops produced, as ranked by aggregate value of farm cash receipts, are cotton, canning tomatoes, lettuce and cantaloupes. Records for the 1985 crop year show that WWD farms receiving federally subsidized water averaged about 1,906 irrigated acres within the district's boundaries.⁶³ In contrast, the average California irrigated farm has just 145 acres of irrigated land.⁶⁴ Therefore, the average WWD farm generated about \$1.85 million in farm cash receipts from their district holdings alone. Westlands farms are among the very largest in the world.

***On a 960 acre farm
in WWD, the value of the
subsidy is about \$95,000 per year.***

Water Costs and the Role of the Subsidy

Although WWD pays the Bureau \$9.45 per acre foot, the unsubsidized cost of delivering water to WWD is much higher. (An acre-foot is the volume of water needed to cover an acre of land to a depth of one foot). Water use in WWD averages 2.9 acre-feet per year. Based on the Bureau's figures, the annual subsidy amounts to \$99.12 per acre. For water users producing roughly \$1,000 in crop sales per acre (the WWD average), the subsidy is seen to amount to a very significant part of gross receipts. Since net farm income in California averages about 30% of gross receipts, the water subsidy amounts to 1/3 of profits.⁶⁵ As has been carefully documented by Natural Resources Defense Council and California Rural Legal Assistance, the subsidy may actually be as high as \$217 per acre.⁶⁶

From the above analysis, the value of the water subsidy in economic terms is seen to be quite substantial. On a 960 acre farm in WWD the value is about \$95,000 per year. However, the relative importance of the subsidy will depend upon the crop and, hence, its value per acre. For crops with a lower value per acre, such as cotton or grain, the subsidy has a greater relative importance than it does for high value crops, such as vegetables.

Recent evidence suggests that Bureau estimates of the subsidy may be low by a substantial amount. The value of the total irrigation subsidy of all Bureau projects for the period 1902 through 1986 was placed at \$9.8 billion by Bureau officials.⁶⁷ According to documents obtained by Rep. Samuel Gejdenson, the Congressional representative responsible for oversight of reclamation projects, economists with Interior and the Office of Management and Budget agreed that the correct figure was in the range of \$19 billion to \$24.2 billion.⁶⁸ According to Gejdenson, the smallest figure was furnished in order "...to provide the Congress with the lowest possible estimate of the value of BuRec irrigation subsidies." Interior's final figure was low because it ignored the cost of constructing the dams and canals which, though supposed to be repaid by water users, has not been repaid.

Consumers may be worried that increases in water prices to farmers might raise food prices. To examine this we consider lettuce, the third ranking crop, based on value, produced in the WWD. The value of cash receipts for spring lettuce produced in WWD in 1985 was \$3,248 per acre.⁶⁹ If water prices were raised by \$99.12 per acre, then the maximum increase in lettuce prices due to higher water costs that farmers could attempt to pass along to consumers would be about 3% of the current price. Also, large segments of the market would not be affected by increases in federal water prices.

Since farm businesses are price receivers rather than price setters, it would be difficult to imagine how farm cost increases could be passed along to consumers. Instead, because the farmer's share of the consumer food expenditure is \$0.30 on the dollar, increases in water costs paid by farmers would be expected to reduce profits by this amount. Water users will clearly resist efforts to raise water costs.

Social Conditions in Westlands

Westlands is home to only two communities: Cantua Creek and Huron. Another two, Five Points and Mendota, are located at the edge of the district. And another nine communities are located within the vicinity of the district. We now consider data regarding social conditions in these communities.⁷⁰

Median family income in Cantua Creek and Huron was found to be \$14,159 and \$11,705, respectively. Both figures are far below the median for Fresno County as well as the State of California. The proportion of persons at or below the poverty level was found to be 13.5% and 33.9%, respectively.

For Five Points and Mendota, median family incomes were reported to be \$13,271 and \$11,912, respectively. The proportion of persons in poverty was reported to be 19.8% and 23.8%, respectively.

The proportion of Hispanics in the population of the four communities ranged from 79.2% (Five Points) to 91.4% (Huron). The largest single source of employment is farm work: these are communities based on hired farm laborers. It should be clear that the benefits of the federal project have yet to trickle down to the working poor of these communities.

SUMMARY, CHAPTER 1

Congress intended that the benefits of Bureau of Reclamation programs were to be widely shared. The Bureau failed to properly implement this policy goal, particularly in the Westlands Water District, which led Congress to amend Reclamation Law in 1982 with the goal of closing existing loopholes. The new amendments were designed to force larger farming operations to pay more for federal water.

Social conditions in the communities within or immediately adjacent to WWD rank among the poorest in the entire state, demonstrating that project benefits have not been widely shared. WWD's large industrial farms are typically managed by a hired farm supervisor and employ hired farm laborers to perform the great majority of the work. This farming system perpetuates high levels of poverty in predominantly Hispanic communities of the district.

Irrigation of WWD land with serious protracted drainage difficulties has led to major environmental degradation, including the poisoning of ponds in a wildlife refuge. These problems have been exacerbated by a new Bureau policy of providing extra subsidized water to those WWD farms with the most serious drainage problems.

ENDNOTES

¹ U.S. Department of Agriculture, Economic Research Service, Economic Indicators of the Farm Sector. Income and Balance Sheet Statistics, 1982, ECIFS 2-2, October 1983, see Table 60. The 25,000 farms with farm sales of \$500,000 or more comprised 1.04% of U.S. farms; their gross farm receipts of \$44.8 billion represented 30% of the U.S. total of \$149.6 billion; their net income from farm sources of \$13.7 billion was 62% of the U.S. total of \$22 billion.

² *Ibid.* The 112,000 farms with farm cash receipts of \$200,000 or more represented 4.67% of the U.S. total; their share of farm cash receipts was 49%; their share of net income from farming was 82%.

³ See, for example, Wendell Berry, The Unsettling of America: Culture and Agriculture, Avon Books, New York, 1977, 228 pp.

⁴ U.S. Department of Interior, Water and Power Resources Service, Acreage Limitation. Draft Environmental Impact Statement, January 7, 1981, p. 3-17.

⁵ *Ibid.*

⁶ Charles V. Moore, David L. Wilson and Thomas C. Hatch, Structure and Performance of Western Irrigated Agriculture With Special Reference to the Acreage Limitation Policy of the U.S. Department of Interior, Giannini Foundation of Agricultural Economics, Bulletin 1905, Division of Agricultural Sciences, University of California, December 1982, p. 16.

⁷ *Ibid.* p. 23.

⁸ *Ibid.* p. 24.

⁹ U.S. Department of Commerce, Bureau of the Census, Census of Agriculture. 1982. Volume 1. Geographic Area Series. Part 5. California. State and County Data., June 1984, Washington, DC, see State Data, Table 49.

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² State of California, Department of Corporations, File No. 502 0255.

¹³ (a) Irrigated acreage figure from Fresno County ASCS office of USDA. (b) Number of regular employees from brief filed on July 27, 1987 to appeal denial of proposed sale of excess land by Harris Farms, Inc., to Harris Farms Inc. Profit Sharing Trust. See Recordable Contract No. 14-06-200-4267A, U.S. Department of Interior, Bureau of Reclamation, Excess Lands Department, Sacramento, CA.

¹⁴ Walter Goldschmidt, As You Sow: Three Studies in the Social Consequences of Agribusiness, Allenhold, Osmun and Company, Montclair, New Jersey, 1947 and 1978.

¹⁵ Dean MacCannell, "Report on Social Conditions in the Rural Communities of the Most Agricultural Areas of the Sun Belt," Background Papers, United States Congress Office of Technology Assessment, Technology, Public Policy and the Changing Structure of American Agriculture, OTA F-285, Washington, DC, 1986.

¹⁶ Macrosocial Accounting Project, University of California, Dean MacCannell, Director, Final Report on the Structure of Agriculture and Social Conditions in Rural Communities, San Joaquin Valley Drainage Study Area, October 8, 1987, to be published by U.S. Department of Interior, San Joaquin Valley Drainage Program, Sacramento.

¹⁷ *Ibid.* See Table 2. Farm Size and Quality of Community Life.

¹⁸ U.S. Department of Commerce, Bureau of the Census, Metropolitan Area Fact Book, Washington, D.C., 1984.

¹⁹ Richard Mines and Philip L. Martin, A Profile of California Farmworkers, Giannini Information Series No. 86-2, Giannini Foundation of Agricultural Economics, University of California, Division of Agricultural and Natural Resources, Berkeley, CA, July 1986, 97 pp. See p. 40.

²⁰ *Ibid.* See Table III-14, p. 49.

²¹ See Final Report on the Structure ..., op. cit. Table 4. Agricultural Labor and Quality of Community Life.

²² State of California, State Board of Food and Agriculture, Publication No. 651, p. 163, Testimony before the California Assembly Committee on Agriculture, July 27, 1977.

²³ Warren E. Johnston, "Farm Size Studies: A Review of Past Work and Results," in Farm-Size Relationships, With an Emphasis on California, California Agricultural Experiment Station, Giannini Foundation Project Report, Giannini Foundation of Agricultural Economics, University of California, Division of Agricultural Sciences, Berkeley, CA, December 1980, 170 pp.

²⁴ Don Villarejo, New Lands for Agriculture, California Institute for Rural Studies, Davis, CA, 1981, 16 pp.

²⁵ Les Melvill, private interview, Corning, CA, May 13, 1981.

²⁶ New Lands ..., op. cit., see p. 11. Eventually, Prudential discovered that a sizeable fraction of their olive planting was infected with vercillum wilt, a plant disease, and was forced to pull trees from many acres of this planting.

²⁷ (a) County of Kern, Agricultural Commissioner, Annual Crop Report, 1966. (b) Carole Franck Nuckton and Warren E. Johnston, California Tree Fruits, Grapes and Nuts: Location of Acreage and Trends in Acreage, Yields, and Production, 1946-1983, Giannini Foundation of Agricultural Economics, Information Series No. 85-1, Division of Agriculture and Natural Resources, University of California, May 1985, see Figure 33, p. 71.

²⁸ Cooperative Extension, University of California, Division of Agriculture and Natural Resources, Statistical Summary of California Agriculture Selected Commodities, 1976-1985, Publication No. 3323, June 1987, p. 66.

²⁹ Almond Board of California, Minutes, Meeting of August 18, 1981. See especially comments of Mr. John Wood, Tejon Farming Company (Appendix F) and of Mr. Harvey Amos, Superior Farming Company (Appendix G).

³⁰ California Tree Nuts, Grapes ..., op. cit., see Figure 29, p. 63.

³¹ Don Villarejo, "Some Factors Influencing Future Agricultural Water Demand in California's Central Valley," May 30, 1986, A report prepared under contract to the U.S. Department of Interior, Bureau of Reclamation, Sacramento, CA, 44 pp.

³² Don Villarejo, How Much is Enough?, California Institute for Rural Studies, Davis, CA, 1986, 115 pp. See p. 3.

³³ U.S. Department of Interior, Bureau of Reclamation, Central Valley Basin, Senate Document 113, Eighty-First Congress, First Session, August 1949, see Table 12, p. 198.

³⁴ 1982 Census of Agriculture, op. cit., County Data, Table 1. Farms, Land in Farms, and Land Use, 1982 and 1978, p. 120ff.

³⁵ How Much is Enough?, op. cit., p. 108ff.

³⁶ State of California, Department of Water Resources, Post-Project Economic Impact Study: San Joaquin Valley Service Area, 1968-70, Memorandum Report, Sacramento, CA, unpublished.

³⁷ *Ibid.*

³⁸ U.S. Senate, Select Committee on Small Business, Will the Family Farm Survive in America?: Federal Reclamation Policy, Report No. 95-702, March 16, 1978, p. 4.

³⁹ U.S. Department of Interior, Bureau of Reclamation, Special Task Force Report on San Luis Unit, Central Valley Project, California, Public Law 94-46, 1978, see p. 204.

⁴⁰ University of California, Agricultural Issues Center, Resources at Risk: Agricultural Drainage in the San Joaquin Valley, Davis, CA, undated, 13 pp.

⁴¹ Westlands Water District, Facts and Figures, Fresno, CA, 1986, 16 pp.

⁴² Resources at Risk ..., op. cit., p. 3.

⁴³ U.S. House of Representatives, Buffalo Bill Dam, Reclamation Reform, and Papago Indian Water Rights, Conference Report, Report No. 97-855, September 22, 1982.

⁴⁴ *Ibid.* The report states, page 32, : "The conferees agreed that equivalency should be applied only as to those districts which agree to an amendment to their contracts as required to gain the benefit of the increased acreage limitations" (i.e. bring the whole district under RRA). WWD has not done this.

⁴⁵ U.S. Bureau of Reclamation, Mid-Pacific Region, San Luis Unit, Class 1 Equivalency Determination, February, 1987.

⁴⁶ *Ibid.* pg. 6.

⁴⁷ Kerry Arroues, Soil Survey Party Leader, Hanford Soil Survey Office, personal communication, based on preliminary data.

⁴⁸ Will the Family Farm ..., op. cit., p. 2. For a complete treatment of reclamation law, see The Broken Promise of Reclamation Reform, by Hal Candee and Laura King, Natural Resources Defense Council, Oct. 1987.

⁴⁹ 1914 Reclamation Extension Act, 43 U.S.C. 418.

⁵⁰ 1926 Omnibus Adjustment Act, 43 U.S.C. 423e.

⁵¹ Westside Study Area included the following water districts, Westlands, Panoche, San Luis, Broadview, Mercy Springss, Ora Lorna, Widren, Central California, Firebaugh Canal, and Pleasant Valley.

⁵² Acreage Limitation ..., op. cit., Westlands Case Study, Appendix p. 3-3.

⁵³ National Land for People, Inc. v. Bureau of Reclamation, 417 F. Supp. 449 (D.D.C. 1976).

⁵⁴ Will the Family Farm ..., op. cit., p. 2.

⁵⁵ U.S. House of Representatives, Buffalo Bill Dam, Reclamation Reform, and Papago Indian Water Rights, Report 97-855, Conference Report, September 22, 1982, p. 30.

⁵⁶ 52 Fed. Reg. 11938 (1987) (to be codified at 43 C.F.R. 426).

⁵⁷ There are 23 trusts operating directly in the WWD. These trusts comprise a total of 33,257 acres and an average of 1,446 acres/trust. At least 77 (and probably more) additional trusts are partners in WWD farms.

⁵⁸ Fictitious Business Name Statement, Fresno County Clerk, 2/27/86.

⁵⁹ Correspondence, Dr. Wayne M. Marchant, Deputy Secretary of Interior, to Rep. George Miller, Chair, Subcommittee on Water and Power Resources, U.S. House of Representatives, February 24, 1988, p. 2 of response to questions.

⁶⁰ Paul Taylor, "Arid Westlands - The Water Scandal," Exhibit in Congressional Testimony. See U.S. Senate, Committee on Labor and Public Welfare, Farmworkers in Rural America, 1971-72, Hearings before the Subcommittee on Migratory Labor, Part 3A, January 11, 1972, San Francisco, CA, see p. 817.

⁶¹ Farmworkers in Rural ..., op. cit., p. 817.

⁶² Facts and Figures, op. cit., p. 12.

⁶³ How Much Is ..., op. cit., p. 74. It should be noted that WWD farmers have substantial additional holdings outside of district boundaries which, if taken into account, raise average WWD farm holdings to 3,508 acres per farm.

⁶⁴ 1982 Census of Agriculture, op. cit.

⁶⁵ In 1985 California farm marketings brought in gross receipts of about \$14.1 billion. Net farm income amounted to \$4.1 billion. Thus, the rate of gross profit was about 29%. See Economic Indicators of the Farm Sector, State Financial Summary, 1986, U.S.D.A., Economic Research Service, ECIFS 6-4, Table 4, p. 15.

⁶⁶ E. Phillip Leveen and Laura King, Turning off the Tap on Federal Water Subsidies, Vol 1., Natural Resources Defense Council, Inc., and California Rural Legal Assistance Foundation, 1985.

⁶⁷ Marchant-Miller correspondence, op. cit., p. 1 of response to questions.

⁶⁸ Washington Post, April 16, 1988, "Interior Subsidies Criticized."

⁶⁹ Facts and Figures, op. cit., p. 12.

⁷⁰ Final Report on the Structure of Agriculture and Social Conditions..., op. cit., Tables accompanying final report.

Chapter 2

Congress passed the Reclamation Reform Act in 1982 (RRA) in order to clarify the intent of its reclamation policy. This occurred shortly after the Department of Interior published an Environmental Impact Statement (EIS) dealing with reclamation¹. The EIS found that by far, the largest farms served by federal project water were in California,² and control of land in WWD was found to be more concentrated than in any other district studied. Farm operations larger than 960 acres comprised 86% of WWD acreage, while the overall average was much lower -- 31%. Included in the latter average were two other California districts also containing many farm operations greater than 960 acres: Imperial (79%) and Coachella (46%). In effect, RRA was written for California.

Changes In Size and Number of Water Users Since 1980

Data from WWD indicates that there has been a major restructuring of water users there since 1980 (Table 2-1). In fact WWD sources report that there are 281 new farms in the district. Our independent analysis indicates that this is actually not the case.

Table 2-1. Changes in water users since 1980 using WWD data for 1987. *

farm size (acres)	# of water users		percent water users		acres		percent acres	
	'80	'87	'80	'87	'80	'87	'80	'87
1-160	58	72	19	12	7,170	8,415	1	2
161-320	13	68	4	12	2,987	18,297	1	4
321-640	70	122	23	21	42,509	63,635	8	13
641-960	27	171	9	29	22,140	145,923	4	29
961-1280	24	105	8	18	27,948	113,197	5	22
1281-1920	44	16	15	3	69,044	24,990	13	5
1921 +	65	28	22	5	378,119	130,773	69	26
TOTAL	301	582			549,917	505,230		

Average acres/operation: 1980 1,827
1987 868

* 1980 data from U.S. Dept. of Interior Water and Power Resources Service, *Interim Report, Acreage Limitation*, March, 1980, Appendix II, Table 4. 1987 data largely compiled from WWD maps and documents, see Appendix 1 of this report for methodology. The 1980 total acreage is larger than the 1987 total because the Department of Interior included lands in their analysis which were not eligible for project water. This land comprised a significant portion of WWD.

In 1980, according to the Department of Interior EIS, the average size of farms was 1,827 acres, and 44% of the farm operations were larger than 960 acres in size. By 1987, according to WWD, 281 new water users had appeared, and the average size of farms had dropped to 868 acres. Although this is an underestimate, it still represents the average farm in WWD to be nearly six times as large as the average irrigated farm in California.³

According to WWD, only 26% of the water users in the district were larger than 1,921 acres in 1987 compared to 69% of them in 1980. We believe that this is a misrep-

sentation of the true size of farm operations. Actually, a complex pattern exists in which water users described by WWD as new entities are lumped together as single, larger operations.⁴

The new "farms" were created only in certain size categories. Those larger than 1,281 acres dropped from 109 in 1980 to 44 in 1987. Significantly, the greatest increase -- by a factor of 6.3 -- was seen in the size category of 640-960 acres.

Most of the 281 "new farms" in WWD were created between 1985 and 1987⁵. In general, the accepted definition of a "farm" is: "a piece of land (with house, barns, etc.) on which crops or animals are raised."⁶ Since the "new farms" were the result of restructuring from larger pieces, it would seem likely that the new farmers would need to build houses and barns. However, in the Fresno County census tracts which overlap WWD and include the town of Firebaugh, 10 miles northwest of the district boundary, only a net total of 18 building permits were given for single family dwellings during the three years 1985, 1986 and 1987.⁷ Clearly, very few new families settled in the WWD or surrounding areas during the creation of these "new farms".

According to Table 2-1, a considerable number of "farms" larger than 1,921 acres existed in WWD. Table 2-2 lists these 28 farms, which controlled 130,773 acres or 26% of WWD land.

Table 2-2. 28 Largest WWD Farm Operators

Farm Name	Eligible Acreage
1. Boston Ranch Co.	23,051
2. Harris Farms, Inc.	13,143
3. Airway Farms, Inc.	9,382
4. Tres Picos Land Trust	7,750
5. Borba Family Trust	5,956
6. Westlake Farms, Inc.	5,197
7. Westhaven Farming Co.	5,134
8. Murray Farms Trust	4,667
9. Salyer Land Co.	4,634
10. Britz, Inc.	4,403
11. R C Farming	4,296
12. Woolf Farming Co. of Calif. Inc.	3,879
13. Victor Gragnani & Son	3,276
14. L&S Trust	3,257
15. Pilibos Childrens Trust	2,996
16. S-K Ranch	2,798
17. D&H Farms, Inc.	2,756
18. J. O. and Vickie Seasholtz	2,618
19. G. S. Farms	2,459
20. South Boston Co.	2,428
21. C. Gowens Farms, Inc.	2,279
22. S.B.S. Farming	2,197
23. J.A.S. Farms	2,103
24. TC 5	2,072
25. C. T. Kaljian Ranches	2,027
26. Don & Irene Gragnani Farms	2,019
27. Westland Farms Trust	2,002
28. RTN Ranches South	1,994
TOTAL 139,773	

***...in WWD only a net total of
18 building permits were given for
single family dwellings in three years, 1985 - 1987***

What Constitutes a Farm?

Information on registered water users operating in WWD in 1987 was compiled and analyzed from a variety of sources including records on farms enrolled in federal commodity and income support programs, restricted use material (pesticides) application permits, and the public record of loan documents.

Farms enrolled in federal commodity and income support programs are required to register with the Agricultural Stabilization and Conservation Service (ASCS) office in their county. This agency, a branch of the U.S. Department of Agriculture (USDA), maintains records for all farms by county which elect to sign up for federal commodity crop programs. A farm which participates in the federal price and income support program for cotton, rice, wheat or feed grains has to provide an accurate record of net irrigable cropland acreage, name of landowner for each parcel farmed, and other information.

Under USDA rules, a farm is defined as the entity that puts capital at risk and this definition constitutes one of the tests of eligibility for program payments. Any newly created farms must meet the USDA criteria in order to qualify. Thus, management companies which are paid on a fee-for-service basis, regardless of crop yield or receipts, should not register at ASCS as farms unless they receive some share of profits or losses and have put capital at risk.⁸ Since many California farm operators grow crops that do not receive USDA crop payments (vegetables, fruits and nuts), not all farms are registered with ASCS.

Another source of information was the County Agricultural Commissioner. All farm operators applying restricted pesticides must obtain a permit from the Agricultural Commissioner. The permit papers include farm maps and property descriptions. Permits are granted to those responsible for farm management, not simply the person licensed to apply pesticides.

The most useful source of information concerning the true relationships between farms were loan documents. Almost all farms, in order to meet the high costs of farming, need to receive crop production loans regularly. Lending institutions of course require that the farm business provide collateral, which usually takes the form of equipment or crops. A loan document describing the transaction must be filed by the lender to perfect their security interest. When the collateral is the crop grown by the farm, the loan document will include property descriptions of the land where the crops were grown.

On many of the loan documents analyzed in this study, in addition to the debtor (typically the entity managing a large tract of land), "additional debtors" were listed (typically the water users). In order for the security interest to be enforceable, the law requires that the debtor have rights in it.⁹ Although "rights in the collateral" is not expressly defined, the courts have held that the debtor obtains the right to use the crops or equipment as collateral by implied or express authorization of the owner.¹⁰ If the debtor

Farm Operations

A common source of confusion in discussions of reclamation policy is a lack of clarity regarding the distinction between landowners and farm operators. A farm operation is the form of business organization under which the land is farmed. Operators are the people who own the farm operation and are substantially involved in the day-to-day management. Farm operators may lease rather than own their land, or use other operating arrangements. In adopting RRA, Congress was concerned about reaching all farm operations, not just land owners.

It was estimated by the Department of Interior in 1980 that 37% of the land in farm operations receiving water from federal projects was leased. In WWD however, 82% of the land was leased. According to the Department of Interior, "Leasing is obviously a method used by large farm operations to control the land. Therefore, in order to provide the opportunity for more people to farm and share in the benefits of Federal irrigation projects, there must be restrictions on leasing as well as ownership." The 1982 law includes within its acreage and pricing limitations, all farm operations, not just owned land.

(farm manager) had no rights in the collateral, this would invalidate the security interests of lenders and they would surely hesitate to provide such agricultural loans. Therefore, these kinds of loan documents can demonstrate that a farm management operation actually involves shared risk. Even under reclamation regulations, if a farm manager assumes economic risk in the farming operation, then all of the users must come under acreage limitation provisions. Unfortunately, the Bureau has failed to consider these documents in enforcing reclamation law.

Patterns of Farm Restructuring Under RRA

Even assuming that the Bureau enforced the 960 acre limitation, their rules allow individuals to aggregate more than 960 acres worth of benefit. According to the Bureau, individuals may divide their 960 acre allocation of low-cost water among several farms. Thus, an individual might serve as one of a set of principals of a 960 acre farm. If there were 10 principals, that individual would have used only 10% (or 96 acres) of their allocation. Theoretically, each of the 10 principals could be part of the governing body of nine other farm operations before they had used up their allotment of 960 acres worth of low-cost water (see Figure 2-1). This would even be permitted if the principals of all ten farms were identical.

In such cases, there appears to be no requirement in the regulations that the farms be managed separately, only that risk in the farming operation be separate. Thus, the 10 farms could all hire the same management company (possibly controlled by individuals serving as principals on the farm), and pay a fee for management of the 9,600 acres. WWD spokesmen claim that although a single manager runs such operations, it is the individual farm entities that are at risk if the crop fails or can't be sold. Therefore, if one of the 10 farms were having financial difficulties, the Bureau would have to determine that this would not affect the other nine.

Water User Clusters

Many of the "separate" entities registered for water deliveries in WWD shared a

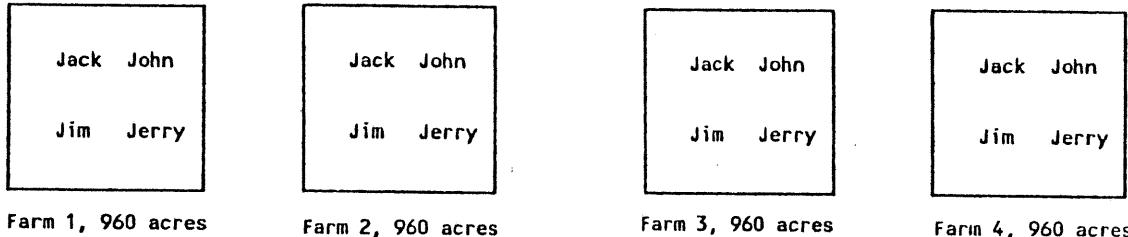
Analysis of water user clusters revealed that they involved 49% of the land operating under the 960 acre limit in WWD.

common phone number, address and contact person. Such groupings of water users are termed "clusters" in this study. Often, a single permit filed at the Agricultural Commissioner's office contained a cluster of water users which shared the same principals. In fact the permittee in such cases was often the overall farm manager. In other words, each of the "clusters" was actually a large farm operation benefiting a small group of individuals. This is contrary to the intent of reclamation law.

Additional data indicated that water users in the cluster had sometimes collectively put capital at risk. For example, this was the case if several parcels in a cluster were listed in common on recent loan documents, or several of the water users in a cluster cosigned a loan.

Additionally, the clusters sometimes had a common registration at ASCS. According to USDA regulations, having its own capital, equipment, or land at risk is one determinant that a farm is a separate entity. Clusters registered in common at ASCS may have put capital at risk for the operation as a whole, even though the separate operations were all receiving low-cost water.

Finally, a significant number of companies that were managing cluster land had the same principals as the water users. Given these facts, how can the Bureau of Reclamation maintain that the water users in a cluster were separate entities, or that the delivery of low-cost water to the cluster served to equitably distribute the benefits of the federally subsidized project?



All 3,840 acres managed by Jack, John, Jim and Jerry as one farm and irrigated with low-cost water!

Figure 2-1. The individuals Jack, John, Jim and Jerry form four 960 acre farms and call them Farms 1, 2, 3, and 4. Jack, John, Jim and Jerry are equal partners in each of the four farm businesses and each partner's 1/4 undivided interest in each farm entitles them to 240 acres worth of low-cost water per farm, or a total of 960 acres each ($4 \times 240 = 960$). The partners form a management company and hire it to manage all four farms. Again, Jack, John, Jim and Jerry are equal partners in the management company which irrigates the entire 3,840 acres with low-cost water.

Analysis of water user clusters revealed that they involved 49% of the land operated under the 960-acre limit in WWD (Table 2-3). Of the 582 registered water users at WWD in 1987, at least 247 (42%) of them were part of a cluster. If each of the water users in each of the clusters were receiving low-cost water on all of their acreage below 960, then 189,545 acres of the cluster land would be eligible.

Table 2-3. Summary of WWD Water User Clusters

Number of Clusters*	50
Registered Water Users in Clusters	247
Total Combined Cluster Acres	213,023
Average Acres/Cluster	4,261
Possible Acres Eligible for Low-Cost Water	189,545
Land in WWD operated under RRA	436,454
Percent RRA Operated Land in Clusters**	49

* In all cases included here, there was more than one type of evidence of joint management. There were 28 additional clusters containing 78 water users and 62,818 acres which were not included here because less conclusive evidence of joint management was uncovered.

** We cannot be certain that all of the land in the clusters is being operated under RRA -- some of it might be under prior law.

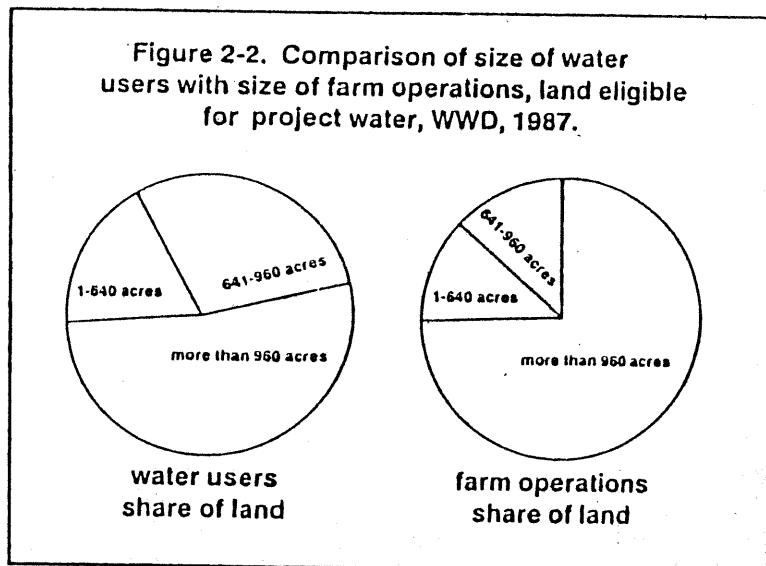
By counting jointly managed clusters as single entities, an analysis of farm structure in WWD was achieved which reflected the true size of farming operations (Table 2-4). Since many farm operations have substantial holdings outside of WWD, these figures actually underestimate farm size.

Table 2-4. Farm Operations in WWD, 1987 (taking into account joint management of water user clusters).

farm size, acres	# of farms	% of farms	total acres	% of acres
1-160	59	15.2	6,812	1.3
161-320	54	14.0	14,518	2.9
321-640	78	20.3	40,040	7.9
641-960	77	20.0	63,986	12.7
961-1,280	36	9.4	39,551	7.8
1,281-1,920	18	4.7	28,833	5.7
1,921-2,560	18	4.7	39,663	7.9
2,561-5,120	21	5.5	74,644	14.8
5,121-7,688	14	3.6	89,564	17.7
more than 7,680	10	2.6	107,619	21.3
TOTAL		385	505,230	
Average acres/operation:				1,312

**When farm operations which restructured at ASCS
were asked the reason, many simply stated, "960 limit", or "water".**

Table 2-4 shows that farm structure has not actually changed significantly since 1980, even though WWD data indicated that it had. The average farm size in 1980 was 1,827 acres (Table 2-1) and in 1987, average farm size was 1,312 acres (not 868 as WWD data indicated). In 1980, there were 301 farms and in 1987, there were 385. Figure 2-2 provides a comparison of the size of water users (non-clustered) with the size of farm operations.



The provision described in Chapter I that allowed farms on poorer land to receive subsidized water on a larger number of acres may have had a significant effect on farm restructuring. While only 74% of the farms were 960 acres or less in 1987, 92% of them were 1,280 acres or less. Under this provision, farms up to 1,257 acres in size were allowed to receive low-cost water, and it affected 65% of WWD. Figure 2-3 shows an equivalency calculation for a set of farms operating in WWD.

CASE STUDIES OF CLUSTERS

Detailed case studies of 29 clusters revealed that many of the farm operations in WWD had restructured primarily to receive low-cost water. In the majority of cases, the restructuring occurred at approximately the same time that regulations for implementation of RRA were published. Many of the operations restructured at ASCS and the Agricultural Commissioner after restructuring in WWD, (and some didn't restructure at the other agencies). When farm operations which restructured at ASCS, were asked the reason, many simply stated "960 limit", or simply "water".

Three of the cluster case studies are presented in this chapter. These specific examples are presented not to single out farm operations, but to more completely describe the nature of farming in WWD. This report simply presents an analysis of available public documents. The glossary in Table 2-5 may be of assistance in understanding the cluster analyses that follow. Appendix 2 contains additional cluster case studies.

PANOCHÉ FARMS, ET AL
EQUIVALENCY COMPUTATION

	GROSS ACRES	CLASS I		CLASS II		EQUIVALENCY CLASS II & II		EQUIVALENCY CLASS III & CLASS IV		NET ACRES CLASS III & IV EQUIVALENCY		WESTLANDS SPRINGS MERCY VALLEY
PANOCHÉ FARMS I	898.4	898.4				158.2	275.0		210.1		898.4	898.4
PANOCHÉ FARMS II	915.0	455.0	185.0			486.3				823.3		823.3
PANOCHÉ FARMS III	568.8		568.8			502.2				486.3		486.3
PANOCHÉ FARMS IV	587.38		587.38			701.96		10.0		502.2		502.2
PANOCHÉ FARMS V	921.0	90.0	821.0			619.88	236.0		180.3	799.6		799.6
PANOCHÉ FARMS VI	961.0		725.0			932.16				800.18		800.18
PANOCHÉ FARMS VII	1,090.25		1,090.25			687.22	587.57	100.0	76.4	932.16		932.16
PANOCHÉ FARMS VIII	787.22									663.97		663.97
PANOCHÉ FARMS IX	1,296.47	1,296.47	1,296.47							1,296.47		1,296.47
TOTAL										7,202.58	5,624.18	898.4
											680	680

Figure 2-3. An equivalency calculation for nine Panoche Farms water users (see Appendix 2 for more information on this cluster). Although the total acres operated is 8,025, the Bureau's policy is to regard it as the equivalent of only 7,202 acres of class 1 land. (Source: Bureau of Reclamation Form 7-2180, Individual's Certificate of Landholdings.)

Table 2-5. Glossary to Terms Used in Water User Cluster Analyses

ASCS registrant - ASCS is the acronym for Agricultural Stabilization and Conservation Service. This agency is part of the U.S. Department of Agriculture and administers commodity programs. All farms that wish to participate in the programs must register at their County ASCS office. ASCS records were compared with WWD data.

DBA - Many businesses use more than one name. Their additional names are known as DBA's - "doing business as". A DBA is a fictitious business name and must be registered with the County Clerk (see fictitious business name below).

Eligible acres - The acreage in WWD receiving federal project water. A significant portion of WWD (67,611 acres) is ineligible to receive federal project water and is irrigated with groundwater. In most cases, landowners of ineligible lands have already reached their eligibility limitation on other lands in the district and choose to irrigate their remaining ineligible land using groundwater. Only eligible acres were included in calculations in this research.

Fictitious Business Name Statement - Whenever a business operates under an assumed name that does not include the surnames of all of the partners, a fictitious business name statement must be filed at the County Clerk's office which states the name, address and partners. These documents were used to determine who the controlling individuals -- "principals" -- were in farm business partnerships.

Loan Documents - documents filed at the County Recorder's office which contain information about loans such as who the lender is, who the debtors are and what collateral was provided. Loan documents filed when farms received crop production loans were consulted in this research.

Manager - the manager of a farm is paid a fee to perform crop production services such as planting, irrigating and harvesting. The manager does not put capital at risk in the farming operation, and will get paid the same fee regardless of crop yield.

Minimum acreage eligible for low cost water - this entry appears in the summary box included with each of the cluster case studies. It is a calculation of the acreage in a cluster that is theoretically receiving low-cost water. This number is the sum of all parcels whose individual acreage is below the legal limit for subsidized water, plus 960 for each parcel whose acreage exceeds the limit.

Operator - the person who owns a farm operation (not necessarily the farm land) and who is substantially involved in day-to-day management of the farm. The operator is at risk if the crop should fail, or the market for the crop is bad.

Pesticide Use Permittee - before applying restricted pesticides, farm operators or farm managers must register with the County Agricultural Commissioner to receive a "restricted material use permit." The permit contains a map of the farm, a field-by-field description of the farm, and a lists of when and where the pesticides will be applied. Parts of a farm not receiving restricted pesticides will not necessarily be included on the permit.

Project water - irrigation water delivered from the Central Valley Project, built with funds from the federal government.

Water user - the entity receiving water from Westlands Water District. A water directory, dated 10/6/87 was provided by WWD.

CALIFORNIA VALLEY LAND CO

1985

Woolf Farming Co. of California irrigated 9,097 acres in WWD with project water, and included 12,024 acres statewide in 1985.¹² The additional water users registered with WWD in 1987 did not exist in 1985.

1987, WWD

This cluster consisted in 1987 of eight water users irrigating 10,075 acres eligible for project water in WWD. In addition, at least 1,793 acres in WWD not eligible for project water were farmed by the entities in this cluster. All were listed with the same address, contact person and phone number ("Woolf Farming Co./California Valley Land Co.") in the WWD water user directory.

Table 2-6. Entities in the California Valley Land Co. Cluster.

Number	Water User	WWD Eligible Acres
1.	Bancroft Farming Co	1,080
2.	California Valley Land Co	49
3.	Graves Farming Co	929
4.	J.L. and B.M. Woolf	1,191
5.	Saginaw Farming Co	975
6.	Stuart Farming Co	998
7.	Wilson Farming Co	974
8.	Woolf Farming Co of Calif Inc	3,879
TOTAL		10,075

ASCS Registrant and Restricted Use Permittee

The water users registered separately at ASCS.

One pesticide use permit was filed for all of the water users under the name California Valley Land Co.¹³

Principals

Five of the water users were business partnerships (#1, #3, #5, #6, #7) and all filed Fictitious Business Name statements in Fresno County on the same day (4/30/87), slightly over two weeks after the rules on implementation of the RRA were published. All five statements were signed by John L. Woolf III, a general partner, and all five listed the exact same partners.

Two of the water users (#2 and #8) were corporations. Incorporation papers for both were filed on 1/28/87, and they shared the same Board of Directors. It was assumed here that farm #4 was a partnership between John L. Woolf and Bernice M. Woolf (Table 2-7).

Table 2-7. Principals in the California Valley Land Co. Cluster, 1987.

Principal	Water User	Bancroft Farming Co.	Calif. Valley Land Co.	Graves Farming Co.	J.L. & B.M. Woolf	Saginaw Farming Co.	Stuart Farming Co.	Wilson Farming Co.	Woolf Farming Co.
Christopher R. Woolf		x	x	x	x	x			
John L. Woolf III		x	x	x	x	x			
Michael T. Woolf		x	x	x	x	x			
Anne W. Franson		x	x	x	x	x			
Nancy W. Roberts		x	x	x	x	x			
Stuart P. Woolf		x	x	x	x	x			
John L. Woolf			x	x		x			
C. A. Dingle			x			x			
Bernice M. Woolf		x	x			x			

Loan Documents

A deed of trust (1/29/87)¹⁴ indicates even more strongly the close relationship between the eight water users. Debtors listed on the deed are Woolf Farming Co., California Valley Land Co., Inc., and the six members of the Woolf family who are principals in water user entities #1, #3, #5, #6, and #7. The secured party was Travelers Insurance Co. of Connecticut. Travelers agreed to loan the Woolfs \$5,400,000 based on the security of several pieces of land in WWD owned by various members of the family. The property offered as collateral included property in WWD operated by Woolf Farming Co. of Calif.,

and Bancroft Farming Co. The deed was signed by each of the principals listed in Table 2-12 except for Bernice M. Woolf.

The deed specified that the Woolfs irrevocably granted as security to Travelers Insurance, the right, title, interest, rents, profits, income and other benefits derived from their properties. In addition to paying the loan plus interest, the Woolfs jointly agreed to keep all of "the land in a high state of cultivation and production" and to "adopt approved scientific practices and methods which have been demonstrated to be practicable to the end that the fertility, productivity and worth of these lands will be increased from year to year." Additional clauses restricting building, improvements and other aspects of farm management emphasize that the property of the debtors would be managed jointly in order to secure the loan.

Summary - California Valley Land Co.

Table 2-8. Summary of available data on California Valley Land Co. cluster.

Entities in WWD in 1985 and 1987 and their federally irrigated acreage.

	# Entities	Acres
1985	1	8,940
1987	8	10,075

Minimum acreage eligible for low-cost water, 1987: 6,738 out of 10,075 acres in the cluster.
continued...

Table 2-8 continued: summary of California Valley Land

Data showing common management and control of farm operation.

common address: Yes
common phone: Yes - "Woolf Farming Co./California Valley Land Co."
common Ag Commissioner registration: Yes - Calif. Valley Land Co.
common ASCS registration: no
principals of water users overlap
principals of manager do not overlap water users
common risk: Yes

ANDERSON FARMS

1985

In 1985 Vasto Valle Farms, Inc. which included a total of 9,800 acres statewide, irrigated 8,026 acres in WWD with project water.¹⁵

1987, WWD

By 1987 Vasto Valle, Inc. had been replaced by seven entities in WWD: Anderson I through VII, totalling 7,680 federally irrigated acres. These entities also farmed at least 1,993 additional acres in WWD on land not eligible for federal project water. All seven were listed with the same address and contact person in the WWD water user directory.

Table 2-9. Entities in the Anderson Farms Cluster, 1987.

Number	Water User	WWD Eligible Acres
1.	Anderson Farms I	1,062
2.	Anderson Farms II	1,108
3.	Anderson Farms III	1,103
4.	Anderson Farms IV	1,035
5.	Anderson Farms V	1,130
6.	Anderson Farms VI	1,129
7.	Anderson Farms VII	1,113
		TOTAL 7,680

Related Entities

8. Dick Anderson & Sons (ASCS registrant)
9. Dick Anderson & Sons Farming Inc. (DBA Vasto Valle Farms, Inc.)
10. Vasto Valle Farms, Inc. (pesticide use permittee)

ASCS Registrant and Restricted Use Permittee

The land operated in WWD as Anderson I-VII was registered under one name with ASCS in 1987: Dick Anderson and Sons.¹⁶

Each of the water users registered as a pesticide use permittee in 1987, but so did Vasto Valle Farms, Inc.¹⁷ This Vasto Valle registration covered most of the acreage of

Anderson I-VII. Possibly the Anderson Farms water users registered with the Agricultural Commissioner soon after their formation in April of 1987, just as the new regulations on implementation of RRA were published.

Principals

The same 32 partners were included on loan documents for each of the Anderson Farms water users:¹⁸ three Anderson brothers (Dick, Bob and Craig), four trusts, and 25 corporations. The 25 corporations were all incorporated on the same day and their papers were filed at the Secretary of State on the same day (4/3/87). They also shared the same Board of Directors: Dick, Bob, Craig, Mark and Richard Anderson. These 25 corporations have names like Stonehenge Farms, Blarney Farms and Mountbatten Farms.

Dick Anderson and Sons (the ASCS registrant) was a general partnership. One of the partners was Dick Anderson. The Board of Directors of Dick Anderson and Sons Farming, Inc. was Dick, Bob and Craig Anderson. The corporation appears on loan documents.

Loan Documents

Loan documents were filed which describe crop production loans to each of the Anderson Farms from Wells Fargo Bank (all on 10/9/87)¹⁹ and Central States Cotton Co. (all filed on 10/15/88).²⁰ Significantly, Anderson Farms I-VII all got their loans from the same sources at the same time.

Other debtors are also listed in the documents describing the loans from Wells Fargo Bank. In each case, the additional debtors include Dick Anderson & Sons (the partnership) and Dick Anderson and Sons Farming, Inc.

A document²¹ filed in Fresno County 10/9/87 showed Dick Anderson and Sons, Inc., as debtor, and each of the water users plus Dick Anderson and Sons (the partnership) as additional debtors (Figure 2-4). The collateral provided by the debtors to secure their loan was crops grown on parcels that, according to WWD, were being farmed in 1987 by Anderson Farms I through VII. This established that Anderson Farms I through VII shared risk with Dick Anderson and Sons if their crops failed or couldn't be sold.

Summary - Anderson Farms

Reporting forms filed with the Bureau by the Andersons confirmed that the acreage in this cluster had all been divided amongst several individuals (Figure 2-5).

Table 2-10. Summary of available data on Anderson Farms cluster.

Water users in WWD in 1985 and 1987 and their federally irrigated acreage.

	# Entities	# Acres
1985	1	8,026
1987	7	7,680

Minimum acreage eligible for low-cost water, 1987: 6,720 out of the 7,680 acres in the cluster.

continued...

OCT 09 1987

1515

STATE OF CALIFORNIA
UNIFORM COMMERCIAL CODE-FINANCING STATEMENT-FORM UCC-1 (REV. 1-76)

Business Form Services, Inc. (213) 748-0189

IMPORTANT-Read instructions on _____ filling out form

87124002

This FINANCING STATEMENT is presented for filing pursuant to the California Uniform Commercial Code.

1 DEBTOR Dick Anderson & Sons Farming, Inc.	1A SOCIAL SECURITY OR FEDERAL TAX 94-2232614
1B MAILING ADDRESS 3197 Avenue 232	1C CITY STATE Tulare, CA
2 ADDITIONAL DEBTOR See attached Schedule A for additional debtors	2A SOCIAL SECURITY OR FEDERAL TAX 93274
2B MAILING ADDRESS See Schedule A	2C CITY STATE ZIP CODE
3 DEBTOR'S TRADE NAMES OR STYLES Vasto Valley Farms	3A FEDERAL TAX NUMBER 94-2232614
4 SECURED PARTY Wells Fargo Bank MAILING ADDRESS 2135 Fresno Street, 4th Floor Fresno CA 93721	4A SOCIAL SECURITY OR FEDERAL TAX OR BANK TRANSIT AND R.R. NO. CNB 940
5 ASSIGNEE/SECURED PARTY None	5A FEDERAL TAX NUMBER OR BANK TRANSIT AND R.R. NO.
6 MAILING ADDRESS None	ZIP CODE

6. This FINANCING STATEMENT covers the following types or items of property (include description of real property on which located and owner of record when required by instruction 4). All business and farm equipment and fixtures, now or at any time hereafter owned or acquired by Debtor, and all improvements, replacements, accessions and additions thereto (collectively called "Collateral"), wherever the same may be located, including without limitation the following particularly described Collateral now owned by Debtor: All items listed on Schedule 1 attached hereto and incorporated herein by this reference and including all of the foregoing which are now or hereafter affixed or to be affixed to and whether or not severed and removed from the following described real property located in the County of Fresno, State of California:**This Financing Statement does not constitute a diminution or substitution of Secured Party's existing security interest in the property of Debtor.

** SEE SCHEDULE B FOR PROPERTY DESCRIPTION

7 CHECK IF APPLICABLE	7A PRODUCTS OR COLLATERAL ARE ALSO COVERED XX	7B DEBTOR'S SIGNATURE NOT REQUIRED IN ACCORDANCE WITH INSTRUCTION B(6), ITEM [] [] [] [] [] [] [] []
8 CHECK IF APPLICABLE	DEBTOR IS A TRANSMITTING UTILITY IN ACCORDANCE WITH UCC § 8105 (1)(i)	
9	Dick Anderson & Sons Farming, Inc. By: <u>Dick Anderson</u> Signature of Debtor DICK W. ANDERSON, President	DATE 9-22-87
	Dick Anderson & Sons Farming, Inc. By: Dick W. Anderson, President	10. THIS SPACE FOR USE OF FILING OFFICER (DATE, TIME, FILE NUMBER AND FILING OFFICER)
	Wells Fargo Bank By: <u>James C. Fuller</u> Signature of Debtor JAMES C. FULLER, Vice President	1 2 3 4 5 6 7 8 9 0
	Wells Fargo Bank By: James C. Fuller, Vice President	RECORDED IN OFFICIAL RECORDS OF FRESNO COUNTY, CALIFORNIA AT 1 MIN PAST 12 PM OCT 9 1987 BALDWIN LARSON, County Recorder FEE \$25
NAME ADDRESS CITY STATE ZIP CODE	7 8 9 0	

Approved by the Secretary of State

Figure 2-4. Part of a loan document describing a crop production loan to Dick Anderson & Sons Farming, Inc. (line 1) from Wells Fargo Bank. Note the trade name, Vasto Valley Farms. The list of additional debtors is reproduced, next page.

Dick Anderson & Sons Farming, Inc.
 Item #2 - Additional Debtors
 Attachment to Financing Statement dated September 22, 1987

87124002

SCHEDULE A

<u>ADDITIONAL DEBTORS</u>	<u>ADDRESS</u>	<u>FEDERAL I.D. # or S.S. #</u>
Dick Anderson & Sons Farming, Inc.	3197 Avenue 232 Tulare, CA 93274	Dick Anderson 2232614
Dick Anderson, a general partnership	-and-	Dick Anderson 94-2134618
Anderson Farms, a general partnership	15900 West Davis Huron, CA 93234	Dick Anderson 97-0025082
Anderson Farms I	-and-	Dick Anderson 0150549
Anderson Farms II	P.O. Box 5 Huron, CA 93234	Dick Anderson 0150548
Anderson Farms III		Dick Anderson 0150552
Anderson Farms IV		Dick Anderson 0150546
Anderson Farms V		Dick Anderson 0150551
Anderson Farms VI		Dick Anderson 0150555
Anderson Farms VII		Dick Anderson 0150554
Dick W. Anderson		Dick Anderson 565-54-2306
Lesta Anderson		Lesta Anderson 552-39-6450
William Craig Anderson	2,197 Road 36 Tulare, CA 93274	Craig Anderson 555-60-9985
Sally Anderson		Sally Anderson 551-68-1677
Robert W. Anderson	1155 Manor Tulare, CA 93274	Bob Anderson 550-62-3614
Bonnie Anderson		Bonnie Anderson 559-58-6985

2

Figure 2-4, continued. Additional debtors on the loan to Dick Anderson & Sons Farming, Inc. Note that each of the water users is listed, and Dick Anderson signed for all of them.

DICK W. & LESTA ANDERSON
SCHEDULE FOR
INDIVIDUAL'S CERTIFICATE OF LAND HOLDINGS
(Form 7-2180)

C. LIST ALL ENTITIES IN WHICH YOU, YOUR SPOUSE, AND/OR YOUR DEPENDENTS HOLD A PART (LESS THAN 100 PERCENT) INTEREST, AND WHICH OWN OR OPERATE IRRIGATION LAND, AS DEFINED IN THE FRONT OF THIS BOOKLET. YOU NEED NOT INCLUDE ENTITIES WHICH ARE OWNED BY OR BENEFIT MORE THAN 20 INDIVIDUALS, PROVIDED THE INTEREST YOU, YOUR SPOUSE, AND/OR YOUR DEPENDENTS HOLD IS 1 PERCENT OR LESS. GROUP YOUR LISTINGS BY DISTRICT IN ORDER TO MAKE IT EASIER TO SUMMARIZE YOUR HOLDINGS IN SECTION III.D. IF A LISTED ENTITY HOLDS IRRIGATION LAND IN MORE THAN ONE DISTRICT, IT WILL BE NECESSARY TO ENTER THE ENTITY'S NAME ON MORE THAN ONE LINE.

(1) DISTRICT NAME	(2) NAME OF ENTITY WHICH OWNS OR OPERATES IRRIGATION LAND IN WHICH YOU OWN AN INTEREST (Exactly as it appears on the entity's multiple ownership form)	(3) ENTITY'S FEDERAL EMPLOYER'S IDENTIFICATION NUMBER (If applicable)	(4) TYPE OF ENTITY		(5) NUMBER OF IRRIGATION ACRES OWNED BY THE ENTITY IN EACH DISTRICT	(6) NUMBER OF IRRIGATION ACRES OPERATED BY THE ENTITY IN EACH DISTRICT	(7) PERCENTAGE OF INTEREST YOU HOLD IN EACH ENTITY	(8) OWNED ACREAGE ATTRIBUTABLE TO YOUR INTEREST IN THE ENTITY (Col. 5 X Col. 7)	(9) OPERATED ACREAGE ATTRIBUTABLE TO YOUR INTEREST IN THE ENTITY (Col. 6 X Col. 7)
			COOPERATIVE	ASSOCIATION					
Westlands	Anderson Farms I	App. For	X		1,066	15.625			167
Westlands	Anderson Farms II	App. For	X		1,115	15.625			174
Westlands	Anderson Farms III	App. For	X		1,116	15.625			174
Westlands	Anderson Farms IV	App. For	X		1,070	15.625			167
Westlands	Anderson Farms V	App. For	X		1,145	15.625			179
Westlands	Anderson Farms VI	App. For	X		1,134	15.625			177
Westlands	Anderson Farms VII	App. For	X		1,111	15.625			174
Tulare	Dick Anderson & Sons Farming	94-2232614	X		55	57.704	32		
Tulare	Anderson Farms I	App. For	X		278	15.625			43
Saucelito	Dick Anderson & Sons Farming	94-2232614	X		160	57.704	92		

Figure 2-5. A list of entities in which Dick and Lesta Anderson own an interest showing the acreage share that they claim from each. Note that all of the water users are listed. (Source: Bureau of Reclamation Form 7-2180, Individual's Certificate of Landholdings.)

Table 2-10 continued...

Data showing common management and control of farm operation.

common address: Yes
common phone(s): Yes
common Ag Commissioner registration: No
common ASCS registration: Yes - "Dick Anderson & Sons"
principals of water users identical
principals of ASCS registrant overlap water users
common risk: Yes

PEREZ

1985

In 1985, Perez Ranches irrigated 7,528 acres in WWD with project water and included at least 8,967 acres statewide.²²

1987, WWD

By 1987, Perez Ranches had restructured into 10 water users (Table 2-11), irrigating a total of 7,346 acres in WWD with project water. All of the water users except for TC5 shared the same address, contact person and phone number ("Perez Ranches") in the WWD user directory. The phone number given for TC5, although different, was for "Perez Ranches." The address given for TC5 in the user directory was the corporate address of Perez Ranches.

Table 2-11. Entities in the Perez Cluster, 1987.

Number	Water User	WWD Eligible Acres
1.	FB.A	862
2.	FB.B	923
3.	FB.D	940
4.	FB.E	898
5.	FB.F	656
6.	Daniel Perez	152
7.	Earl Perez	156
8.	Thomas Perez	157
9.	Perez Ranches, Inc.	530
10.	TC5	2,072
		TOTAL 7,340

ASCS Registrant and Restricted Use Permittee

Perez Ranches was the sole registrant for this cluster at ASCS.²³ According to ASCS documents dated 2/22/88, Perez Ranches included 9,715 irrigated cropland acres, approximately 1,280 acres of which were outside of WWD.

The pesticide use permit for Perez Ranches included land attributed separately to each of the ten water users in 1987.²⁴ In August, 1988, there were still no pesticide use permits under the other water user names.

Table 2-12. Principals in the Perez Cluster

Principal	Water User						Perez Ranches, Inc.	TC5
	FB.A	FB.B	FB.D	FB.E	FB.F	Daniel Perez	Earl Perez	
Daniel Perez	x	x	x	x	x		x	x
John Perez	x	x	x	x	x			
Earl Perez	x	x	x	x	x		x	x
Thomas Perez						x	x	x
Mark Perez						x	x	x
Tina Perez Phillips	x	x	x	x	x			
Ramon Perez	x	x	x	x	x			
Carmen Perez Perales	x	x	x	x	x			
Michael Perez	x	x	x	x	x			
Martin Perez	x	x	x	x	x		x	
5 additional Perezes	x	x	x	x	x			x

brothers who are on the Board of Directors of Perez Ranches, Inc. received a loan (as a group of individuals) from Perez Ranches, Inc. (In other words, they gave themselves a loan.) The FB entities (each separately) did the same.²⁷ None of the financing statements had a signature for the secured party, Perez Ranches (Figure 2-7).

This illustrates a different arrangement of financial interdependence than demonstrated in other clusters. Perez Ranches, Inc. (water user #9) was used to finance the operation of the FB water user entities (#1, #2, #3, #4, and #5). Perez Ranches also financed the individuals assumed here to have been operating as sole proprietorships (water users #6, #7 and #8).

TC5 (water user #10) was not involved in this arrangement. However, a loan first received by Perez Ranches in 1982 (but continued in December, 1986) shows that the debtor Perez Ranches provided collateral of crops grown on parcels which included property now operated in WWD by TC5.²⁸

Summary - Perez

This example is complicated by the fact that several of the Perez couples are governed by prior law rather than by RRA. They own land in five federally irrigated districts, and under prior law are allowed to irrigate 320 acres per family per district, or up to 1,600

Principals

Ten Perez family members control the water user entities (Table 2-12).²⁵ It was necessary to assume that farms 6, 7, and 8 were sole proprietorships. The same eight partners of the FB water user entities also formed several other partnerships operating in six federal water districts in addition to WWD. Their total landholdings were 8,404 acres. Figure 2-6 shows the Fictitious Business Name Statement for several FB entities. The statements for the FB entities were filed less than a month after the regulations for enforcement of RRA were published.

Loan Documents

A loan document dated (8/5/87)²⁶ shows that the Perez

<p>WHICH PUBLISHED RETURN TO: Monica M. Murray BAKER, MANOCK & JENSEN 5260 North Palm Avenue Fresno, California 93704</p> <p>SEE REVERSE SIDE BEFORE COMPLETING</p>		<p style="text-align: center;">Space Below for Usual County Clerks Only</p> <p>FILED MAY 08 1987</p> <p>FRESNO COUNTY CLERK By <i>DANIEL J. PEREZ</i> LAWYER</p>	
<p style="text-align: center;">FICTITIOUS BUSINESS NAME STATEMENT</p> <p style="text-align: center;"><input type="checkbox"/> NEW FILING FILE NO. 87-38608 <input type="checkbox"/> RENEWAL</p>			
<p>INSTRUCTIONS DO NOT PUBLISH INSTRUCTIONS</p> <ul style="list-style-type: none"> • Insert the fictitious business name(s) and the street address of the principal place of business in California. • If no place of business in California, insert the street address of the principal place of business outside of California. • NOTE: Only those businesses operated at the same address may be listed on one statement. • If an individual, insert full name and residence address. • If a partnership or other association of persons, insert full name and residence address of each general partner. • If a business trust, insert full name and residence address of each trustee. • If a corporation, insert the name of the corporation as set out in the articles of incorporation and the state of incorporation. • Attach additional pages if necessary. 		<p>THE FOLLOWING PERSON(S) IS (ARE) DOING BUSINESS AS:</p> <p>1 FICTITIOUS BUSINESS NAME(S) (Type or Print) FB. D FB. E FB. F</p> <p>Street Address [P.O. Box not acceptable] 922 "Q" Street City Firebaugh State CA Zip Code 93622</p> <p>2 FULL NAME OF REGISTRANT (Type or Print) SEE ATTACHED LIST</p> <p>Residence Address [P.O. Box not acceptable] City State Zip Code</p> <p>FULL NAME OF REGISTRANT (Type or Print)</p> <p>Residence Address [P.O. Box not acceptable] City State Zip Code</p> <p>FULL NAME OF REGISTRANT (Type or Print)</p> <p>Residence Address [P.O. Box not acceptable] City State Zip Code</p> <p>3 Registrant commenced to conduct business under the Fictitious Business Name listed above.</p> <p><input type="checkbox"/> NOT APPLICABLE <input checked="" type="checkbox"/> on (Date): May 1, 1987</p> <p>4 THIS BUSINESS IS CONDUCTED BY:</p> <p><input type="checkbox"/> An Individual <input type="checkbox"/> An Unincorporated Association <input checked="" type="checkbox"/> A General Partnership <input type="checkbox"/> Other than a partnership <input type="checkbox"/> Husband and wife <input type="checkbox"/> A Limited Partnership <input type="checkbox"/> A Business Trust <input type="checkbox"/> Joint Venture <input type="checkbox"/> A Corporation <input type="checkbox"/> Partners <input type="checkbox"/> Other (Specify)</p> <p>5 [DO NOT PUBLISH THIS ITEM UNLESS BOX IS CHECKED] <input type="checkbox"/> THIS STATEMENT HAS BEEN EXECUTED PURSUANT TO SECTION 17910 OF THE BUSINESS AND PROFESSIONS CODE.</p> <p>6 Type or Print Signature: John A. Perez Signed: <i>John A. Perez</i> TITLE [For other than individual] General Partner</p> <p>7 THIS STATEMENT FILED WITH THE FRESNO COUNTY CLERK ON <i>5-8-1987</i> BY <i>CAROLYN L. LAURSEN</i>, COUNTY CLERK.</p> <p>NOTICE: THIS STATEMENT EXPIRES ON 12-31-1992. A NEW STATEMENT MUST BE FILED PRIOR TO THE EXPIRATION DATE. NO FURTHER NOTICE OR EXPIRATION WILL BE GIVEN.</p> <p>[SEAL] [Space Below for Use of County Clerk Only. Do Not Publish Certification.] <p>I hereby certify that the foregoing is a correct copy of the original on file in my office. GALEN LAURSEN, COUNTY CLERK Dated: Fresno, California By Deputy</p> </p>	

FICTITIOUS BUSINESS NAME STATEMENT

Expires on 12-31-1992..... File No. 87-38608

ATTACHMENT

DANIEL J. PEREZ
425 Buckhart
Westley, California 95387

JOHN A. PEREZ
1229 Commo Park Way
Modesto, California 95363

MARK T. PEREZ
830 Madrone Lane
Patterson, California 95363

TINA PEREZ PHILLIPS
1226 Fordham Avenue
Modesto, California 95350

RAMON L. PEREZ
412 North 6th Street
Patterson, California 95363

CARMEN PEREZ PERALES
4033 Woodside Court
Lafayette, California 94549

MICHAEL J. PEREZ
922 "Q" Street
Firebaugh, California 93622

MAURINE PEREZ
4320 Detroit Avenue
Oakland, California 94619

Figure 2-6. Page 1 and 2 of Fictitious Business Name statements filed for FB.D, FB.E, and FB.F, all on the same form.

FRESNO COUNTY RECORDERS OFFICE

AUG 05 1987

87095377 2

This FINANCING STATEMENT is presented for filing pursuant to the California Uniform Commercial Code.

1. DEBTOR'S BUSINESS NAME AND ADDRESS FB.B	1A. DATE OF CONTRACT 77-0150-743
2. ADDITIONAL LOCATION OF BUSINESS P. O. Box 1003	2A. CITY, STATE Firebaugh, CA
3. ADDITIONAL LOCATION OF BUSINESS 2B. CITY, STATE	3A. ZIP CODE 93622
4. SECURED PARTY NAME Perez Ranches, Inc. ADDRESS P. O. Box 97 Crown Landing CA	4A. NAME OF OTHER PERSON DETERMINED TO BE AN OWNER 94-2309-029
5. ANNEXURE OR ATTACHMENT None	5A. OTHER INFORMATION None

E. This FINANCING STATEMENT covers the following types of items of property. (Include description of real property on which located and owner of record when required by instruction 4).

See Attachment 1.

1. DEBTOR'S BUSINESS NAME AND ADDRESS FB.B	1A. DATE OF CONTRACT 7/31/87
2. ADDITIONAL LOCATION OF BUSINESS None	2A. CITY, STATE None
3. ADDITIONAL LOCATION OF BUSINESS None	3A. ZIP CODE None
4. SECURED PARTY NAME Perez Ranches, Inc. ADDRESS None	4A. NAME OF OTHER PERSON DETERMINED TO BE AN OWNER None
5. ANNEXURE OR ATTACHMENT None	5A. OTHER INFORMATION None
6. SIGNATURES Mark & Ray John Perez FB.B	6A. DATE OF RECORDATION AUG 5 1987
7. SIGNATURES Perez Ranches, Inc.	7A. DATE OF RECORDATION AUG 5 1987
8. SIGNATURES Name Nancee H. Murray Address BAKER, MANOCK & JENSEN Off 5260 N. Palm Avenue City Fresno, CA 93704 Phone None	8A. DATE OF RECORDATION AUG 5 1987
9. SIGNATURES None	9A. DATE OF RECORDATION AUG 5 1987
10. Mailing Services RECORDED RECORDED 88861 Poly Pub (10 sets) BP801	10A. DATE OF RECORDATION AUG 5 1987
11. Mailing Services RECORDED RECORDED 88861 Poly Pub (10 sets) BP801	

Figure 2-7. Part of a loan document describing a loan from Perez Ranches, Inc. to FB.B. Mark and John Perez signed for FB.B (line 9). No one signed for Perez Ranches, the secured party.

acres, with water at the least expensive rate available. Perez Ranches and TC5 are also governed by prior law and own land in several districts. Because of these complications, we are uncertain how much of this land may be paying full-cost for irrigation water. However, the picture that we have presented here is likely to underestimate the size of the cluster because of the extensive landholdings by these entities in other water districts.

Table 2-13. Summary of available data on Perez cluster.

Entities in WWD in 1985 and 1987 and their federally irrigated acreage.

	# Entities	# Acres
1985	1	7,528
1987	10	7,346

Minimum acreage eligible for low-cost water, 1987: 6,234 out of the 7,346 acres in the cluster.

Data showing common management and control of farm operation

common address: Yes

common phone(s): Yes - "Perez Ranches"

common Ag Commissioner registration: Yes - Perez Ranches (1987 and 1988)

common ASCS registration: Yes - Perez Ranches (1988)

principals of water users overlap (although TC5 unknown)

principals of manager and ASCS registrant overlap water users

common risk: Perez Ranches, Inc. financed the other water users

SUMMARY, CHAPTER 2

WWD officials saw a major change between 1980 and 1987 in the entities to which they delivered low cost water. According to WWD data, this restructuring resulted in 281 new registered water users. In 1987, the average size of a water user in WWD was reportedly 868 acres, well under the acreage limitation for delivery of low-cost water. By contrast, in 1980, the average size of farms in the district was 1,827 acres. Although the trend in the rest of the U.S. during this period was towards fewer farms of larger size, just the opposite seemed to be happening in WWD.

Comparison of data from several agencies showed that 247 of the entities registered as separate water users in WWD were actually being managed as only 50 farming operations. **In fact, 49% of the land operated under RRA was involved in clusters** of this type. In these 50 farming operations, small groups of individuals controlled as many as 10,075 acres of federally irrigated land in WWD. **When this was taken into account, the average size of farming operations in WWD appeared to be at least 1,312 acres**, only slightly less than it had been in 1980 and nine times as large as the average irrigated farm in California. However, contrary to the intent of reclamation law, most of the acreage involved in these clusters was eligible for low-cost water.

This research uncovered a pervasive pattern of calculated and considerable effort by large farming operations to comply with the technical requirements of RRA while circumventing its goal of assisting the family-scale farm. That these farms invested significant funds in this process is a reflection of the economic significance of subsidized water.

The success of their effort reflects most unfavorably upon the Bureau of Reclamation, charged with implementation of reclamation law.

ENDNOTES

¹ U.S. Dept. of the Interior, Water and Power Resources Service, *Acreage Limitation, Draft Environmental Impact Statement*, Jan, 1981.

² U.S. Dept. of Interior, Water and Power Resources Service, *Interim Report, Acreage Limitation*, March, 1980.

³ U.S. Department of Commerce, Bureau of the Census, *1982 Census of Agriculture*, Vol. 1, *Geographic Area Series, Part 5, California*, U.S. Government Printing Office, Washington D.C., June 1984, Table 1.

⁴ Westlands Water District, *News Release*, July 31, 1987. The estimate in Table 2-1, that in 1987 the average acres/operation was 868 agrees well with the figure published by WWD (882).

⁵ See Don Villarejo, *How Much Is Enough?*, (Davis, California, CIRS, 1986). This report indicated that there were 298 farm operations in WWD in 1985, actually three farms less than in 1980.

⁶ David B. Gualnik, ed., *Websters New World Dictionary, Second College Edition*, Cleveland Ohio, William Collins, pg 507.

⁷ Fresno County Community Development Office, Ed King, personal communication, 8/2/88.

⁸ When operations either split or aggregated the land they are farming, they file "reconstitution" papers with ASCS describing the old farms(s) and the new farms(s). In order to limit program payments to active farmers, the USDA requires that an individual (or entity) must be actively engaged in a farming operation in order to be separately eligible for farm program payments. The requirements are (1308-1(1), U.S. Agriculture Code, 1988):

- * the individual must provide a significant contribution of capital, equipment or land; and
- * a significant contribution of personal labor or active personal management; and
- * their share of profits or losses from the farming operation must be commensurate with contributions to the operation; and
- * their contributions must be at risk.

⁹ Cal. Com Code 9402(1) (West Supp/9/88)

¹⁰ Bank of the West v. Commercial Credit Fin. Serv., Inc., 655 F. Supp. 807, 813 (N.D. Cal. 1987). In: re Atchison, 832 F.2d 1236, 1239.

¹¹ There have been no determinative court decisions as to the legality or illegality of the pattern of farm restructuring described here. To date, the Bureau of Reclamation has permitted these devices, but their rules are under legal challenge.

¹² ASCS Farm #0546, Fresno County.

¹³ Pesticide Use Permit #100259, 1987, Fresno County Agricultural Commissioner.

¹⁴ "Deed of Trust with assignment of rents and leases, security agreement, and fixture filing", 1/29/87, Fresno County Recorder's Office, #87012350.

¹⁵ ASCS Farm #0673, Fresno County. 1985 data in all of the cluster analyses is taken from research done by the California Institute for Rural Studies in 1985.

¹⁶ ASCS Farm #9817, Fresno County.

¹⁷ Pesticide Use Permit #100254, 1987, Fresno County Agricultural Commissioner.

¹⁸ UCC Financing Statements #87126016 through #87126022, Fresno County Recorder's Office.

¹⁹ UCC Financing Statements #87123995 - #87123999, #87124001, #87124003, Fresno County Recorder's Office.

²⁰ UCC Financing Statements #87126016 through #87126022, Fresno County Recorder's Office.

²¹ UCC Financing Statement #87124002, Fresno County Recorder's Office.

²² ASCS Farm #0230, #0238, Fresno County.

²³ ASCS Farm #8630, Fresno County.

²⁴ Pesticide Use Permit #100174, 1987, Fresno County Agricultural Commissioner.

²⁵ Partners in the FB entities were disclosed on Statements of Partnership #87056403 - #87056405, #87056407, #87056408, filed in Fresno County, 5/7/87. They were also shown on Fictitious Business Name Statements, Fresno County, filed 5/8/87. Partners in TC5 were indicated on Bureau of Reclamation Form 7-2190, Individuals report of landholdings, for several of the Perez individuals, for example, Daniel and Mary Perez.

²⁶ UCC Financing Statement #87095375, Fresno County Recorder's Office.

²⁷ UCC Financing Statements #87095376 - #87095381, Fresno County Recorder's Office.

²⁸ UCC Financing Statements Book 7919, page 898 (6/7/82) and its continuation, #86144605 (12/15/86), Fresno County Recorder's Office.

Chapter 3

Prior to passage of the Reclamation Reform Act (RRA), acreage limitation was conceived of entirely in terms of land ownership and residency. A single farmer could hold title to no more than 160 acres of federally irrigated land and had to live on the farm. In the absence of official rules to clarify the law's meaning, interpretations over the decades held that a husband and wife could receive federal water on a joint holding of 320 acres. Additionally, the Bureau arbitrarily decided that ownership limitations applied only within a given water district. Multi-district ownership of 160 acres per district was allowed.

The concepts underlying these interpretations included the notion that reclamation policy was designed to settle the West and that resident family farmers would own the land they farmed. California, however, was developing along a different model of landholding. Absentee landowners leased substantial acreages to farm businesses who operated the land. Today, about 49% of California cropland is leased from a non-operator landlord.¹ This practice differs sharply from that of other regions where owner-operators are the norm.

Without published rules to guide enforcement, vast farming operations could be built upon leasing practices: dozens of 160-acre parcels, each under different title, could be farmed by a single leaseholder. In 1978 it was found that Westlands' boundaries included no less than 40 farming operations which exceeded 4,000 acres each.² The average size of these farms was 7,733 acres per farm, roughly 12 square miles. The enormous size of these operations as compared to the 160-acre limit led even impartial bodies to suggest that the law was being imperfectly enforced in Westlands:

"...the average size farm operatorship receiving benefits under the subsidized irrigation program...is 2,200 acres. In the opinion of the Task Force, this is not the 160-acre farm to which reclamation law intended spreading the benefits..."³

One provision of reclamation law permitted owners of land in excess of 160 acres to receive federally subsidized water if they entered into a recordable contract to sell their excess holdings within 10 years of the first water delivery. Thus, even very large holdings by absentee landlords could be farmed by lessees if the properties were covered by such a contract. By 1975 no less than 238,701 acres of excess land in Westlands (48% of the federally irrigated land) was under recordable contract. (As it turned out, many of these landowners planned merely to redistributed the title their land rather than selling it to new farmers.)

Finally, some excess landholders reaped the benefit of the reduction of the groundwater overdraft, a consequence of surface deliveries that had been predicted by Paul Taylor. By 1975 it was found that, for two separate land parcels studied by Westlands, the water table had returned to depths of 390 feet and 435 feet, respectively, from the 1967 levels of 610 feet.⁴ This meant that excess landowners had an additional option. Depending upon the pumping depth on a particular land parcel, they could choose to irrigate by groundwater pumping alone and avoid selling (or redistributing ownership) of that parcel.

Significant project water deliveries to Westlands began in 1967. At that time only 129,000 acres were contracted to receive those deliveries (eligible for project water).⁵

Large landowners elected to derive the benefit of the reduced groundwater overdraft instead of receiving surface water and being required to enter into contracts to sell their holdings. By 1975 some 513,750 acres were contracted to receive federal water.⁶ In the intervening eight years, owners of all but 80,655 acres of excess land had elected to receive direct deliveries of project water and had executed recordable contracts.

While detailed information is not available, it should be recalled that the sharp increase in energy prices of the early 1970's meant that pumping costs had increased substantially. In effect, excess landowners weighed the costs of pumping versus the benefit of surface water for just ten years before being forced to dispose of their lands. Since pumping depths vary considerably over the district area, the choice would obviously depend upon local conditions. Some excess landowners, such as Chevron, USA, opted to keep all of their land on pumped water and thus retain ownership of their holdings indefinitely. The largest single landowner, Southern Pacific Land Company, elected to irrigate 3/4 of its land from the federal project and keep about 1/4 of their land on pumped supplies. The largest number of owners chose to place all of their land on direct project service.

Recalling that the contract price for surface deliveries of project water prior to implementation of RRA was \$8.00 per acre-foot it is of some value to consider estimates of pumping costs faced by Westlands landowners. The figure most comparable to the pumping cost is the "farm headgate cost," which measures both the price for purchase of the federal water and the cost of distribution to the land parcel where it will be used. In Westlands this latter figure was \$15.80 in 1978.⁷ A Bureau official considering this issue stated that pumping from depths of 650 to 700 feet would have cost about \$30 per acre foot in 1975 but as a result of the project, the pumping levels have improved to the point where it would cost only \$16 to \$18.⁸

Moore and co-workers estimated 1978 pumping costs at a higher figure of \$48.55 per acre-foot based on higher energy costs and an assumed modal lift of 500 feet.⁹ Because receiving project water triggers an irrevocable process to sell land, consideration of pumping costs must be thorough and careful.

The Moratorium on Land Sales

The 1976 District Court order requiring Interior to publish rules regarding acreage limitation also triggered a series of events that actually resulted in significantly extending the 10-year period pertaining to sales of excess land in Westlands. This is because National Land for People won an injunction halting such sales on the grounds that widespread violations of the intent of reclamation law were the norm, i.e., that "genuine" sales of excess land to intended beneficiaries under the law were not occurring.

On August 13, 1976 the Secretary of Interior imposed a moratorium on sales of excess land pending rules to enforce acreage limitation. In an independent action, Westlands blocked the proposed rules by arguing that an Environmental Impact Statement to determine the effect of acreage limitation was necessary. Faced with the prospect of genuine enforcement of the 160-acre limit, Westlands landowners went to the Congress to get the law changed. Eventually, the 1982 amendments (RRA) were passed. Finally, on September 8, 1984, the moratorium on sales of excess land was lifted and all recordable contracts executed prior to the start of the moratorium were granted an extension equal to the time remaining under the contract as of August 13, 1976.

In effect, the "10-year clock" became an "18-year clock," and for this entire period, contrary to the intent of Congress, landowners were allowed to receive project water at the fully subsidized rates.

In effect, the "10-year clock" became an "18-year clock," and for this entire period, contrary to the intent of Congress, excess landowners were allowed to receive project water at the original, fully subsidized rate. It was not until late 1987 that Congress acted to close this loophole by requiring that excess landowners who had received this generous extension of the period before mandatory sale, be obligated to pay full cost price for their water.¹⁰

RRA Changes the Acreage Limit

RRA set an absolute limit of 960 acres of owned land for an individual owner or entity (property owned by husband and wife and minor children is considered a single unit). This was made somewhat stronger by also insisting that the limit applied to combined holdings receiving project water throughout the 17 western states ("westwide"). Under prior law Interior had limited holdings to 160 acres per district. In California, with its dozens of water districts, setting a limit on multi-district holdings could be quite important. Finally, corporations with more than 25 stockholders were limited to ownership of 640 acres westwide.

One of the most significant aspects of RRA is that, with respect to water pricing, the notion of "landholding" has replaced "land ownership." The former term refers to all of the operations on which federal water is being used by the farm operator. This change more accurately reflects existing patterns of land use in areas where the leasing of crop-land is widespread. Thus, water pricing is now to be primarily applied to farm operators based on measures of landholdings.

RRA allowed landowners to remain under prior law which would require them to sell their excess land over 160 acres, **or** to choose to be governed by the new 960 acre limits and just sell excess land over 960 acres. If the owner elected to remain under prior law then water prices could remain at the pre-RRA level for up to 10 years. But if the owner elected to benefit from the new, and higher, ownership limit then owned land up to 960 acres could be exempted from required sale *even if it had been previously under recordable contract*. As a kind of "trade-off" the applicable water price would be slightly increased.

Size Distribution of Land Ownership, 1987

The methods we have used to determine current records of land ownership have been fully described elsewhere.¹¹ It is important to understand that a single "ownership unit" in our analysis refers to a unique set of names appearing on a grant deed. No attempt has been made to attribute fractional ownership interests in cases where tenants in common share undivided interests in real property.¹² In addition, a landowner may choose to lease all or a portion of the owned property to another party who may choose to consider that property to be all or a portion of a "landholding" for water pricing purposes.

Table 3-1 presents the final results of this work concerning the size distribution of land ownership in WWD in 1987. Only privately owned parcels eligible to receive project water are considered. Thus, we have excluded those parcels not eligible to receive project water as well as parcels owned by government agencies.

Table 3-1. Size Distribution of Land Ownership, WWD, 1987.

Size of Owner Unit	Number	Total Land (acres)
80 acres or less	1,326	19,035
81 - 160	442	64,514
161 - 320	263	69,084
321 - 480	97	39,873
481 - 640	75	43,790
641 - 960	70	55,754
961 - 1,280	17	18,632
1,281 - 1,920	18	30,681
1,921 - 2560	5	11,104
2,561 - 5,120	5	17,995
5,121 or more	6	130,730

Average = 215.66 acres per ownership unit

Median = 70.11 acres per ownership unit

These data may be compared with a similar analysis completed in 1985, prior to publication of final rules regarding enforcement of acreage limitation.¹³ First, the total number of ownership units is now 2,324 versus 1,546 found in 1985, a substantially larger number. Second, the amount of privately owned land eligible to receive project water has increased slightly (a change of +3,098 acres). These two effects have resulted in a significant reduction in the average amount of land per ownership unit, from 322.18 to 215.66 acres.

Detailed comparison of the number of ownership units and total land owned in each size category shows that the total land owned by small (160 acres or less) landowners actually declined, from 85,424 to 83,549 acres (-2%). However, the number of such owners increased substantially, from 1,040 to 1,768 (+70%). Careful consideration of the listing of such owners shows that 649 of these ownership units held less than 1 acre each and are owners of subdivided land in Kings County that had been excluded from consideration in the 1985 compilation. Thus, insofar as the effect of RRA is concerned, we can conclude that its implementation has not encouraged increases in the total amount of land owned by small ownership units. The share of all private land in Westlands owned by small owner units is 17%.

In the larger size categories we find that there have been significant reductions in both the number of owners and total land owned in all size categories exceeding 960 acres. The number of such ownership units declined from 61 to 51 (-16%) and the total land owned declined from 235,958 to 209,142 acres (-11%). However, as further described below, much of the land in this size category is subject to sale under recordable contract as provided by prior law. Thus, the timing of sales of these lands is expected to proceed according to the requirements of the contracts, and would not be controlled by

enforcement of the new limitations.

Only in the size categories between 161 and 960 acres do we find any increase. In 1985, ownership units in this size range reported a total of 176,712 acres. By 1987 the total had reached 208,501 acres, a gain of 18%. The number of owner units also increased, from 445 to 505 (+13%).

We conclude that, in the period immediately following implementation of RRA, there have been three important changes in the pattern of land ownership. First, the amount of land held by large (more than 960 acres) owners has declined, although most changes in this size range occur as a result of recordable contracts under prior law. Second, the amount of land held by small (160 acres or less) owners has declined. Third, medium-size ownership units have enjoyed a considerable expansion of their share of privately owned land. Thus, to the extent that Congress intended to shift ownership of federally irrigated land from the largest to the smallest owners the policy has not worked, but it has shifted title in owned land into the medium-size holdings.

We can also examine the identity of the largest landowners receiving project water in the WWD and compare this with data from earlier periods. The largest owner is Southern Pacific Land Company with 81,200 acres, a slight decrease of 230 acres from its holding in 1985. Table 3-2 lists the holdings of the 16 largest landowners as of 1987.

Table 3-2, Largest Landowners, WWD, Land Eligible for Project Water, 1987.

Name of Owner	Acres Owned
Southern Pacific Land Co.	81,200
Boston Ranch Co. (J.G. Boswell Co.)	23,976
Gerald K. Hoyt, et al	8,659
Westhaven Farming Co.	5,740
Britz, Inc.	5,677
ATC Realty Nine, Inc.	5,478
James G. Shannon 50%, et al	4,999
M.J. & R. S. Allen	3,651
Valle Verde Farms	3,360
J.G. Stone Land Co.	3,166
Harris Farms, Inc.	2,819
South Boston Co.	2,481
Kriesant Operating Co., Inc.	2,348
Teresa E. Harris	2,136
Peter J. Dreyer, et al	2,130
Ann P. Costa, Trustee	2,010

Sales of Excess Land Under Recordable Contract (Prior Law)

Of Westlands' total 577,000 acres of irrigable land, some 202,673 acres were under recordable contract for sale as excess land under prior law as of 1985.¹⁴ RRA has had only a minor direct impact on these sales in that owners of just 11,881 acres of such

***Of considerable importance is the
fact that only five of the 35 sales involve
buyers who do not currently own land in Westlands.***

land have elected to place their excess land under the new 960-acre limitation and thus escape the requirement to sell.¹⁵

On the other hand, sales of excess land are proceeding although not exactly in the manner which Congress may have intended. A listing of buyers of excess land under proposed sales that are currently pending shows that, of 35 pending sales, none involve purchases of less than 160 acres.¹⁶ The average amount of land per buyer is 602 acres.

Of considerable importance is the fact that only five of the 35 sales involve buyers who do not currently own land in Westlands. In the 30 cases of purchases by present owners of Federally irrigated Westlands parcels, there are a number of instances where the purchase will bring the total holdings of the owner above the 960-acre ownership limit! For example, Michael T. Woolf is the recorded owner of 469.12 acres of land eligible to receive project water in Westlands.¹⁷ Yet the Bureau has approved the sale from Southern Pacific Land Co. to him of 635 acres of additional land eligible for project water.¹⁸ In another instance, Christopher R. Woolf, owner of 700.99 acres of land eligible to receive project water has been approved to purchase 612 acres of the same type of land from Southern Pacific.¹⁹ Thus, the total of land owned in these two cases will be 1,104.12 acres and 1,312.99 acres, respectively. Surely, Congress did not intend this outcome when it set 960 acres as the ownership limit.

Another possible abuse of the intent of Congress concerns the exchange of land owned by a corporation for the stock of the corporation. For example, according to Ken Manock, attorney for the Kriesant Operating Company, Inc.,

"The stock of Kriesant Operating Company, Inc., is owned by Carl J.E. and Jennie L. Kriesant with 62.5%, Theodora C. Gunther 18.75% and Helen E. Etcheberry 18.75%. The corporation owns 2,353 acres in Westlands Water District."²⁰

Manock proposed that Gunther and Etcheberry each receive 440 acres of this land in exchange for their stockholdings in the company and that the Kriesants receive 522 acres in exchange for a portion of their stock. The remaining 951 acres would be retained by the corporation and the Kriesants would sell their remaining stock in the corporation to their three children. In a letter to the Project Superintendent, the Assistant Regional Director suggested that the proposed exchange of stock is legal.²¹

Now Kriesant Operating Company had entered into a recordable contract for the sale of 1,268 acres of excess land receiving project water on September 9, 1968.²² A second covered 280 acres, effective September 17, 1969.²³ A third covered 250 acres, effective February 15, 1970.²⁴ And a fourth covered 375 acres, effective October 5, 1966.²⁵ The owners would have been required to sell all of the land under contract if they had been held to the original agreements. But by using this corporate stock exchange for land they are now able to retain all of the property. While many land sales are proceeding as required under reclamation law, there are serious doubts as to whether the intent to distribute the benefits of project water as widely as possible is actually being followed.

According to reclamation law, the prices paid by land buyers must reflect the value of the land without the accrued project benefits, as approved by the Bureau of Reclamation. Examination of approved prices of proposed sales of excess land by Southern Pacific Land Company show that approved purchases are, as required, at prices below current market values.²⁶ The average value of approved sales is about \$981 per acre. We have recorded the value of open market sales of land eligible to receive project water in Westlands in the period January 1, 1986 through December 31, 1987.²⁷ The range of prices paid was \$1,066 per acre to \$2,768 per acre. The average value was about \$1,879.

Thus, buyers will obtain an unrealized capital gain of approximately \$898 per acre. Unfortunately, these benefits will once again go to a small number of already powerful individuals, rather than new family-scale farmers for whom they were intended.

The practices being followed in the sale of a majority of the land being sold as excess under recordable contract is evidently contrary to the intent of Congress. Clearly, the intention of the 960 acre ownership limit was that the benefits of the project be widely shared. Obviously, this is not occurring. And, in approving such questionable sales and land distributions by corporate owners, the Bureau is bestowing great wealth to the already rich.

SUMMARY, CHAPTER 3

The Bureau of Reclamation is now allowing landholders who had entered into contracts to sell excess land irrigated with project water to redistribute their holdings in order to retain ownership or control. **Sales of large tracts of excess land, as approved by the Bureau, are being made to persons who are already owners of large amounts of land receiving project water.** In some instances the total holdings are now in excess of the new ownership limit.

The amount of land owned by small holders has actually decreased in the period following implementation of RRA. Holdings by the largest owners also decreased, but mainly as a result of sales under recordable contracts and not as a result of RRA. The intent of Congress to shift land ownership to small holders has not been implemented.

Although, as required by law, excess land is being sold at "pre-project prices", the future benefit of its true irrigated value has not been available to new farmers.

ENDNOTES

¹ U.S. Department of Commerce, Bureau of the Census, 1982 Census of Agriculture. Volume 1. Geographic Area Series. Part 5. California, State and County Data, June 1984, Washington, DC.

² Charles V. Moore, David L. Wilson and Thomas C. Hatch, Structure and Performance of Western Irrigated Agriculture: With Special Reference to the Acreage Limitation Policy of the U.S. Department of Interior, Appendix, Giannini Foundation of Agricultural Economics, Bulletin 1905, September 1982, University of California, Division of Agricultural Sciences, see p. 146.

³ U.S. Department of Interior, Bureau of Reclamation, Special Task Force Report on San Luis Unit, Central Valley Project, California, Public Law 94-46, 1978, see p. 197.

⁴ Special Task Force Report ..., op. cit., p. 204.

⁵ Special Task Force Report..., op. cit., See Map No. 10: Westlands Water District, Land Eligible for Project Water (1967).

⁶ Special Task Force Report..., op. cit., See map No. 11, Westlands Water District, Land Eligible for Project Water (February 28, 1975).

⁷ Structure and Performance..., op. cit., p. 145.

⁸ Special Task Force Report..., op. cit., p. 205.

⁹ Structure and Performance..., Appendix, op. cit., p. 145.

¹⁰ Final Rules have not yet been published by Interior to implement these amendments.

¹¹ Don Villarejo, How Much Is Enough?, California Institute for Rural Studies, December 1986, p. 23ff. In the present work we have simply up-dated the 1985 record in the following manner. The 1987 Assessor's parcel roll was compared with the comparable 1985 record. Instances of parcel subdivision or parcel reconstitution were noted to create an accurate listing of all 1987 parcel numbers corresponding to land parcels within WWD. Then 1987 owner information was compared against the 1985 owner list. All changes of owner name and of owner address were compiled and the 1987 record of owners of subdivided or reconstituted parcels were noted. This led to a current listing of the 1987 record owner for each parcel. Finally, those parcels not eligible for project water (excess land not receiving project water) were identified in a newly created field for each parcel record termed "Reclamation Status." The 1987 WWD Water User map identifies parcels not eligible for project water and was used for this purpose. Thus, one can electronically select all parcels in the district or just those eligible to receive project water.

¹² See discussion in How Much Is ..., op. cit., p. 25ff.

¹³ How Much Is ..., op. cit., p. 79.

¹⁴ Westlands Water District, Facts and Figures, 1986, Fresno, CA, p. 4.

¹⁵ Compiled from unpublished report, U.S. Department of Interior, Bureau of Reclamation, Excess Land Department, Sacramento, CA, summary of recordable contracts for sales of excess land, 1987.

¹⁶ U.S. Department of Interior, Bureau of Reclamation, Mid-Pacific Region, "Excess Land Sales, Listing for Seller Southern Pacific Land Co," June 29, 1988.

¹⁷ Fresno County Assessor's Roll, 1987, lists him as the owner of six parcels eligible to receive project water in Westlands. The Parcel Numbers are 075-050-38S, 075-060-38S, 075-060-39S, 075-060-43S, 075-060-44S, and 075-060-51S.

¹⁸ "Excess Land Sales," op. cit., Sale no. F-87-050.

¹⁹ *Ibid.* Land Sale No. F-87-052.

²⁰ U.S. Department of Interior, Bureau of Reclamation, Excess land Department, file concerning Contract No. 14-06-200-3111A. Letter to Project Superintendent dated November 26, 1984.

²¹ U.S. Department of Interior, Bureau of Reclamation, Excess Land Department, file for Contract No. 14-06-200-4824A, letter dated January 7, 1985.

²² Contract No. 14-06-200-4136A.

²³ Contract No. 14-06-200-4593A.

²⁴ Contract No. 14-06-200-4824A.

²⁵ Contract No. 14-06-200-3111A.

²⁶ "Excess Land Sales," op. cit. Approved sale prices range from \$834 per acre to \$1,134 per acre.

²⁷ Data on sale prices furnished by Real Estate Data, Inc., a commercial real estate information service. Sale prices were determined from the required county property transfer tax of \$0.55 per \$500 of consideration paid for the property and may, in cases where property debt obligations have been assumed by the buyer, be less than actual market value.

Chapter 4

The agricultural sector of the Central Valley of California is characterized today by:

- * The market dominance of "industrial" farms that are large by any standard of comparison.
- * The numerical preponderance of small farms which have little control over agricultural resources.
- * An increasing reliance on poorly paid, hired labor to perform nearly all of the farm work.
- * Some of the worst poverty in the United States.
- * Many rural communities with inadequate social services.
- * Unresolved problems in disposal of agricultural wastes, increasingly poor drinking water quality, build-up of salinity on agricultural soil, and other symptoms of severe environmental degradation.
- * A pattern in which agricultural resources are increasingly controlled by large farm management companies hired to operate huge farms.
- * A failure of federal or state agricultural policy to adequately address the reality of rural conditions.

This characterization raises a number of policy questions.

Water Policy

There are many demands upon California's water, and many unresolved policy questions. Changes in water allocation can be used to limit agricultural **or** urban growth. How should such decisions be made? If put up for vote, urban interests in California might control water supplies. If determined by market forces, water might be mined like oil, resulting in severe environmental degradation. If left to the most powerful water users to decide, as it often is now, small-scale farmers, fish and wildlife, taxpayers, and rural residents may all suffer. California needs a state water policy that emphasizes equity in allocation of developed water supplies as well as water conservation, and preservation of water quality.

According to a 1984 study published by the U.S. Department of Agriculture,¹ water subsidies give reclamation project farm operators a considerable advantage over other producers: "For example, in 1978 the value of production of Bureau-irrigated acres averaged about \$500 an acre; for all U.S. irrigated acres, the average value was \$350 an acre."² Thus, since the water subsidy provides a significant competitive advantage, there are far-reaching consequences when it does not reach the intended beneficiaries.

An argument has already been made in this report that farm structure is significant and that communities surrounded by smaller farms are profoundly more pleasant places to live than those next to large operations. Federal and state agricultural policy in general, and reclamation policy in particular, will affect farm structure. However, water policy decisions are not always made in an open, democratic manner. Historically, such decisions have been influenced by the powerful water lobby, dominated by large agricultural producers.

For example, water districts and irrigation districts are governed by elected Boards of Directors. In most cases, all registered voters get one vote. However, in some of the districts where larger farms dominate, WWD included, the number of votes per individual is determined by the value of owned land. In WWD, the rule is one vote per \$1 assessed

land value. In such non-democratic districts, it is unlikely that the smaller-scale farmers would be able to encourage a strict interpretation of reclamation law.

There have been many opportunities for water lobbies representing large users to affect policy decisions. Before the final rules for implementation of RRA were published, proposed rules were available for public comment and debate. When the final rules came out, significant changes had taken place, weakening reclamation policy, and creating new loopholes for large farms. It seemed likely that the proposed rules were rewritten in response to pressures from "industrial" farms that had a strong financial incentive for lax enforcement of reclamation law.

The Bureau of Reclamation presently has in its system a firm supply of some 1.1 million acre-feet of "uncommitted" water and was actively looking for long- or short-term customers even during the 1987-1988 drought. Contract negotiations were underway with little attention to environmental considerations such as: increased flows in several northern California rivers; increased outflow in the Bay/Delta; decreased export pumping at times critical to the health of the estuary's fisheries; commitments of adequate freshwater supplies to wildlife refuges; or a plan for addressing the critical problem of disposal of agricultural drainage waters.³ A significant portion of the "uncommitted water" was likely to go to Kern County Farmers and possibly the WWD.

As some less fortunate (and usually small-scale farming) water districts cut back their water use drastically because of drought shortages, the WWD was negotiating for delivery of an extra 125,000 acre-feet per year of water.⁴ The WWD receives over one million acre-feet per year, but this was apparently not enough, and the additional water was to be pumped out of the Sacramento-San Joaquin Delta and delivered through a specially constructed pipeline, needed because the capacity in the normal channel (the Delta-Mendota Canal) was insufficient.

Environmentalists and Farmers Sue

As documented in this research, many large farmers have gone to great lengths to restructure their farm operations according to the technical requirements of the Bureau of Reclamation. Although these schemes may appear unscrupulous, and indeed do not reflect the intent of Congress, it is the current policy of the Bureau to encourage them. Ultimately, it is the Bureau, not the farmers, that must be held accountable for these massive violations of its legal mandate and of the public interest.

Stating that the Bureau's rules of 4/13/87 "fail to implement properly [RRA's] excess land provisions, ignore critical definitions, abandon mandatory data collection duties, neglect to impose water conservation requirements, and otherwise defy or frustrate Congressional intent,"⁵ a group of environmentalists and farmers is suing the Commissioner of the Bureau of Reclamation and the Secretary of the Department of the Interior. The suit, filed 3/24/88, seeks new rules "in full compliance with reclamation laws."

The plaintiffs in the suit, representing an extraordinary coalition of both national and state organizations include: the California Action Network; California Association of Family Farmers; League of Rural Voters; County of Trinity, California; Natural Resources Defense Council; National Wildlife Federation and the California Natural Resources

Federation. The plaintiffs are being represented in court by two attorneys, one from Natural Resources Defense Council and the other from California Rural Legal Assistance. Clearly, the policies of the Bureau of Reclamation have been unsatisfactory to certain sectors of agriculture as well as to the environmental community.

A Comparison of Bureau and U.S. Department of Agriculture Regulations

USDA price- and income-support programs are intended to provide an economic support floor for growers of most storable commodities (mainly grains and cotton). By keeping crop prices above a minimum level set by government policy makers, farmers are presumably guaranteed a livelihood. However, as the farm debt crisis of the 1980's clearly demonstrates, these programs were, at best, only partially effective in meeting this goal.

Farm groups, such as the American Agricultural Movement, argue that governmental policy has kept support floors too low to benefit medium- to small-scale farmers.⁶ The available evidence supports the conclusion that direct payments to farmers under these government programs have been inequitably distributed. For example, for cotton producers in 1978, the largest 10% of producers received 53.3% of program payments in 1978 while the smallest 30% received just 1.4%.⁷ Review of 1984 payments for all USDA supported crops shows that the biggest 12% of producers received 45% of program payments while the 72% of farms with annual sales under \$40,000 received just 22% of payments.⁸

In an effort to correct differences between the intent of lawmakers to assist smaller producers by providing an income floor and the inequitable distribution of payments, Congress has imposed payment limitations. Currently set at \$50,000 per producer, this limit has only been applied to direct and partnership holdings in individual farms, not to the total payments an individual might receive from investments in a number of different farm corporations.

A landowner who leases land to a tenant may also receive a share of payments. A large California rice producer received payments from 56 "tenants" on its 16,000-acre operation in 1984.⁹ The total payment this single producer received was \$750,000. Evidently, loopholes have permitted the will of Congress to be effectively frustrated.

Recently, Congress amended the law and USDA has issued new final regulations that limit all program benefits, both direct and indirect, to \$250,000.¹⁰ Unfortunately, limit is too high to appreciably alter the present inequitable distribution of program payments.

One of the key issues faced by Congress and by those implementing policy at USDA has been the question "who is a farmer?" As seen previously in our discussion of "industrial" farms, a person can claim to be a farmer but may never actually set foot on the ground being farmed. To deal with this issue directly, USDA has specified that persons may qualify for program benefits only if they meet two tests. First, they must make major contributions of land, capital or equipment to the farm business. Central to this notion is the idea that the person claiming to be a farmer must put capital at risk in the production of agricultural commodities and that the share of such capital must be significant. Second, the individual must be actively engaged in the operation. This is spelled out to mean personally providing physical activities on the farm property to the extent of at least 1,000 hours per calendar year (roughly 50% of a work year).¹¹

USDA has chosen to make a careful distinction between "risk-taking" and "active engagement" in the farm business. It is especially significant that USDA chooses to rely on a labor measure of "actively engaged in farming," because it corresponds well with the spirit of Interior's original concepts in describing intended beneficiaries of Federal irrigation projects.¹² USDA's notions of limits on the amount of program benefits a single producer may receive parallel Congress' limitations on the amount of subsidized water a single water user may receive.

It is of interest that regulations used by the U.S. Department of Agriculture (USDA) are both more strict and less vague than those of the Bureau of Reclamation in several key ways. We refer to the USDA regulations administering commodity crop and price support programs, the most recent of which will go into effect in 1989. Since the programs provide support to farm income and prices, it is necessary that "farms" be defined in such a way as to prevent multiple payments to one entity or individual. Since the Bureau's regulations contain a number of obvious loopholes, it seems natural to compare them with other agricultural regulations that farmers have lived by for years.

In order to limit recipients to active farmers, USDA regulations require that payments be made only to individuals that are "actively engaged" in farming. The following definition is provided for individuals:¹³

- * They must make a significant contribution of capital, equipment, or land; and
- * a significant contribution of personal labor or active personal management; and
- * their share of the profits or losses from the farming operation must be commensurate with their contributions to the operation; and
- * their contributions must be at risk.

Similar restrictions apply to corporations, partnerships and trusts. Regulations published by the USDA in August, 1988 define the key terms used above. For example, for a corporation to receive payments:¹⁴

- * It could make a contribution of capital worth 50% of its share in the farm or instead, it could contribute a combination of land, capital and equipment worth at least 30% of its share in the farm; and
- * the contribution would have to be at risk (for example, income to the corporation could be based on profits from the farm); and
- * the stockholders would have to collectively work 1000 hours per calendar year (half-time), or alternatively, 50% of the total hours required to run a farm the size represented by the corporation's share in the farm.

If such definitions were used by the Bureau to restrict access to subsidized water, it is likely that certain trusts and other water users in the WWD would no longer qualify.

Recommendations

Several substantive changes in policy are needed to improve conditions in the Central Valley of California:

- 1.** The Bureau of Reclamation should adopt a strict definition of eligibility for receipt of subsidized irrigation water. This definition should include elements used by the USDA (described above) to determine if an individual or entity is "actively engaged" in farming.

2. Management companies that farm large tracts of land for many water users should pay full cost for the water that they receive to irrigate their land over 960 acres.

3. Reclamation law should be enforced. If current leadership at the Bureau of Reclamation is unable to implement the law as passed by Congress, new, vigorous leadership should be instated.

4. An investigation of enforcement of reclamation law must be initiated. Congress recently directed¹⁵ that the Bureau "obtain the necessary information to identify any abuses and to vigorously pursue a systematic schedule of audits of individuals and entities subject to the law," and "review all relevant documents related to a farming operation." The Bureau responded¹⁶ that this requirement did "not add any additional certification and reporting requirements," indicating that it planned no change in current practices. Since the Bureau is reluctant to pursue such an investigation, it may be necessary to charge some other official agency with this complex and expensive task.

5. Irrigation of poorly drained land should not be encouraged by providing farms on such land with extra quantities of subsidized irrigation water. The poorest land should be retired from agricultural production.

6. Programs should be developed to encourage settlements of new family farmers in California's Central Valley. Such programs should provide capital at generous terms.

7. The shaping and enforcement of water policy in California must be at arm's length from the influence of those with a vested financial interest. Ultimately, this will not happen until legislators and other policy makers are forced to pay attention to the needs of their less powerful constituents. Water District Boards of Directors should all be elected democratically -- one vote per water user. Even more crucial is the need to convince disenfranchised poor people living in the Valley to vote in local, state and national elections.

8. Agricultural policy should be actively encouraging farms with a good record in:

- * soil and water management;
- * agricultural waste management;
- * reduced uses of agricultural fertilizers and pesticides; and
- * equitable farm labor working conditions.

Such farms should be the ONLY beneficiaries of any state or federal agricultural program payments.

ENDNOTES

¹ Austin Fox, Charles Moore and Harold Stults, Production of Surplus Crops on Irrigated Land Served by the U.S. Bureau of Reclamation, U.S. Department of Agriculture, Economic Research Service, National Economics Division, February, 1984. ERS Staff Report No. AGES 831213.

² *Ibid.*, pg 8.

³ Testimony of Thomas J. Graff, senior attorney, Environmental Defense Fund, before the Subcommittee on Water and Power Resources, U.S. House of Representatives, 4/3/87.

⁴ Memo MP-750, 120.1 from Neil W. Schild, Assistant Regional Director, U.S. Dept. of the Interior, Bureau of Reclamation, Mid-Pacific Regional Office, 7/20/88.

⁵ First amended complaint for declaratory, injunctive and other relief, NRDC v. Duvall, CIV-S-88-0375-RAR, U.S. District Court, Eastern District of California.

⁶ See discussion of this point in U.S. General Accounting Office, Changing Character and Structure of American Agriculture: An Overview, Report CED-78-178, Washington, DC, September 26, 1978, p. 14.

⁷ William Lin, James Johnson and Linda Calvin, Farm Commodity Programs: Who Participates and Who Gets the Benefits, Agricultural Economics Report No. 474. Economics, Statistics and Cooperatives Service, U.S. Department of Agriculture, September 1981. See pp. 17 and 22.

⁸ Washington Post, July 13, 1985, "U.S. Says Farm Subsidies Narrowly Distributed," by Ward Sinclair.

⁹ Washington Post, October 23, 1985, "Schoolchildren Reap \$7,000 Farm Subsidy," by Ward Sinclair.

¹⁰ 53 Fed. Reg. 29552 (daily ed. June 10, 1988).

¹¹ *Ibid.*

¹² Acreage Limitation. Draft Environmental..., *op. cit.*, p. 3-17.

¹³ U.S.C.A. Sec. 1308-1(1) (1988)

¹⁴ 53 Fed. Reg. 29,552 (1988)

¹⁵ Amendments to the RRA enacted as Section 5302 of the Omnibus Budget Reconciliation Act of 1987.

¹⁶ 53 Fed. Reg. 21857, 6/10/88.

APPENDIX I

Methodology Used to Investigate Water User Clusters

Data Sources

In this project, CIRS studied farm structure changes in WWD following publication of the final rules for implementation of RRA. To ascertain the true identity of farm operations, and the relationship between supposedly independent entities, several data sources were consulted. Many of the same sources were also used in the CIRS 1985 study of farm structure in the WWD which provided a comparison for the present work.¹

In order to appreciate the story reflected by independent data sources, it is necessary to review briefly the nature of the information provided in each.

Real Estate Data Sources - Parcels and Owners

Commercial real estate data sources provide microfiche or on-line computer access to all county assessor records for California. Parcel maps are available for each county, with current legal owner and acreage of each parcel. The CIRS data base established in 1985 already contained a file of the parcels in WWD. This file was updated to include all parcel splits, combinations and changes in ownership that had occurred since 1985.

WWD Data - Registered Water Users

A significant portion of the WWD does not receive federal water and is irrigated by groundwater pumping. Such land was excluded from the present analysis. The only way to determine the parcels being farmed by specific operators, and also which parcels were not eligible, was to consult the water user map maintained and updated regularly by the WWD staff at their main office in Fresno. This map indicated the water user, or the non-eligibility, for every parcel in the district. It was copied by hand.

The WWD 10/6/87 water user directory was kindly provided by WWD. It contained addresses, phone numbers and contact people for each water user. WWD also provided a listing of acreage for each water user.

ASCS Data - Farms Participating in Federal Programs

The Agricultural Stabilization and Conservation Service (ASCS), a branch of the U.S. Department of Agriculture (USDA), maintains farm records for all farms in a given county which elect to participate in federal commodity payment and income support programs. A farm operator is required to register a description of all acreage whether or not the land is used to grow USDA program commodities (corn, soybeans, wheat, cotton, etc.). The records show gross acreage, net irrigable cropland, landowner for each parcel farmed, and other information. Acreage figures provided by the farmer are verified against aerial photographic maps and are believed to be accurate to within 0.1 acre.

When farmers either divide or aggregate the land they are farming, they must file "reconstitution" papers with ASCS describing the old and new farms. All 1987 reconstitution files for WWD farms registered at the Fresno County ASCS office were copied in early February of 1988. Six months later, reconstitution files and farm records were examined at the Kings County ASCS office.

Pesticide Use Permits - Farm Managers

California law requires County Agricultural Commissioners to maintain records disclosing all locations where pesticides that are on the state restricted use materials list are used. These records were useful because they indicated what entity was actually performing the farm production activities, as well as what land was being farmed as a unit. The documents give both a narrative and a quad (section, township, range) description of the property as well as acreage, farm operator name, address, and crop. The entire Fresno County file was purchased on computer tape, and Kings County files for WWD were copied by hand. Although there were exceptions, these files covered almost all of the land in WWD.

Loan Documents - Legal Debtors

Detailed property descriptions of land being farmed by a particular farm business was often disclosed in the public record portion of farm loan documents. Lenders record loans at the County Recorder's office in order to establish their priority as creditors.

Crop production loan documents list the debtor name, business address, principals in the business, and collateral provided by the debtor. The collateral may be equipment or crops. When the collateral is crops, a legal description of the parcels where the crops are grown is included.

Corporate Records - Board of Directors

Corporate records were searched for information on all corporations farming in WWD. These records, on microfiche at the Secretary of State in Sacramento, provided a list of the Board of Directors, date of incorporation and corporate address for those corporations active in California.

Fictitious Business Name Statements

Another important source of information on the partners of farm operations were fictitious business name statements filed in Kings and Fresno Counties. Any business using a name other than the operator's personal name must file a list of partners with the County Clerk.

Determination of Who Farmed WWD Land

Much of the collected data (water users, addresses, principals, etc.) was entered directly into the CIRS computerized files. However, it turned out that the information identifying farm operators with particular land parcels was quite complicated, and the three most inclusive data sources (WWD, ASCS and Pesticide Use Permits) did not always agree.

In a major portion of this research, the goal was to determine what operations were farming each parcel in WWD. The WWD user map was used as a primary source of this information. Entered first were those parcels for which at least one of the other sources (ASCS or Pesticide Use Permits) agreed with the WWD map. This agreement did not have to be absolute -- for example, if the WWD map indicated that "Anderson Farms III" was operating a parcel, but the Pesticide Use Permit indicated simply "Anderson Farms," the operator shown on the WWD map was entered. Using this process, in which two or more data sources were more-or-less in agreement, operators were assigned to 81% of the parcels in WWD. Operators were assigned to the remaining parcels using the WWD user map as the sole data source.

Operators of land not eligible for project water were obviously not indicated on the WWD map, but often the ASCS and Pesticide Use Permit data were enough to determine who was farming this land.

This process resulted in a list of the parcels being farmed by each operator. From this list, the total acreage/operator was calculated and it was generally in good agreement with the tally provided by WWD. However, in 20 cases, our totals were off by more than 10%, and the discrepancy ranged from 11 - 61%. The acreage totals used in this report were taken directly from the WWD tally, since the specific parcel being farmed was not at issue. The reason for the discrepancies was not determined. Errors could have been made when the WWD map was copied. It was also apparent that the tally provided by WWD did not coincide exactly with their map. For example, some farms appeared on the tally, but not on the map, and vice versa. Personnel reported that changes were being made in the map quite often since farming operations were continuously restructuring.

Clusters

A computer analysis of farm operator addresses and farm principals showed that many of the farm entities could be grouped together because they all reported the same address to WWD, or had overlapping principals. It was significant when a cluster of farm businesses showed the same address because it was an indication that they were managed jointly.

The water user cluster analyses in Chapter 2 and Appendix 2 were generated using the sources itemized above. The 24 largest clusters for which the most information was available were chosen for this investigation.

ENDNOTE

¹ Don Villarejo, How Much Is Enough? Federal Water Subsidies and Agriculture in California's Central Valley, Davis, California, CIRS, 1986.

APPENDIX 2

Additional Case Studies of Clusters

MURRIETTA

1985

In 1985, TIMCO irrigated 9,668 acres with project water in the WWD and 13,237 acres statewide.¹ The partnership had nine members.

1987, WWD

In 1987 this parent farm (now called METCO rather than TIMCO) and 10 new associated entities appeared in the water user directory. The water users in this cluster irrigated 9,897 acres² with federal project water. All were listed with the same address, contact person and phone number in the water user directory.

Table A-1. Entities in the Murrietta Farms Cluster, 1987.

Number	Water User	WWD Eligible Acres
1.	Murrietta Farms, Inc.	946
2.	Murrietta Ranch #1	1,071
3.	Murrietta Ranch #2	1,089
4.	Murrietta Ranch #3	1,095
5.	Murrietta Ranch #4	1,251
6.	Murrietta Ranch #5	1,105
7.	Murrietta Ranch #6	1,112
8.	Murrietta Ranch #7	972
9.	Murrietta Ranch #8	1,256
TOTAL		9,879
Related Entities		
10.	METCO (ASCS registrant and pesticide use permittee)	
11.	Murrietta Produce Co. (pesticide use permittee)	

ASCS Registrant and Pesticide Use Permittee

All of the land was registered at the ASCS office under the name METCO.³

The pesticide use permittees in both 1987 and 1988 for almost all of the land in the cluster were METCO and another entity, Murrietta Produce Co.⁴

Principals

Information on the principals of Murrietta Ranches 1-8 was not available. All but

one of the nine principals of TIMCO (the original farm in 1985) cosigned a loan document for Murrietta Produce Co. (one of the registrants at the Agricultural Commissioner).⁵ Murrieta Farms, Inc., which appears on loan documents (see below) has three members on its Board of Directors, all of whom appear to be principals in Murrietta Produce Co.

Loan Documents

In two separate loans, Murrietta Produce Co. and Murrietta Farms, Inc. provided crops grown on identical property as collateral.⁶ A loan document for the debtor METCO filed 8/13/87 contains the same property list minus 13 parcels (a total of 83 parcels).⁷ The collateral properties are mostly owned by the partners and now operated, according to WWD data, by the nine new water users.

Summary, Murrietta

Murrietta Produce (pesticide use permittee), METCO (pesticide use permittee and ASCS registrant) and Murrietta Farms (water user) provided almost identical collateral to secure loans in 1986 and 1987. The parcels that they listed were attributed to several distinct water users by WWD, possibly all getting low-cost water even though their crops were being put collectively at risk.

Table A-2. Summary of available data on Murrietta cluster.

Entities in WWD in 1985 and 1987 and their federally irrigated acreage.

	# Entities	Acres
1985	1	9,668
1987	9	9,879

Minimum acreage eligible for low-cost water, 1987: 8,626 out of the 9,897 acres in the cluster.

Data showing common management and control of farm operation.

common address: Yes

common phone(s): Yes - "Murrietta Farms"

common Ag Commissioner registration: Yes - METCO and Murrietta Produce

common ASCS registration: Yes - METCO

principals - mostly unknown

common risk: Yes

PANOCHÉ

1985

None of the current WWD entities were operating in WWD in 1985. However, Hillside Farms and P&D Farms were controlled by Marshall Baker, Robert Hansen and Barry Baker - three of the most important principals in this cluster. Hillside Farms irrigated 1,671 acres in WWD with project water and 1,901 acres statewide.⁸ P&D Farms irrigated

4,374 acres in WWD and 6,131 acres statewide.⁹ The WWD total for Hillside and P&D was 6,045.

1987, WWD

Panoche Farming Co. was listed without acres in the WWD tally. This cluster includes 13 water users, covering 9,190 acres.

Table A-3. Entities in the Panoche Cluster, 1987.

Number	Water User	WWD Eligible Acres
1.	BHW Farms II	460
2.	BHS Farms III	789
3.	BHW Farms IV	1,196
4.	BHW Farms V	855
5.	BHW Farms VI	188
6.	Panoche Farms II	931
7.	Panoche Farms III	108
8.	Panoche Farms IV	467
9.	Panoche Farms V	850
10.	Panoche Farms VI	904
11.	Panoche Farms VII	1,053
12.	Panoche Farms VIII	801
13.	Panoche Farms IX	588
		TOTAL 9,190
Related Entity		
14.	Panoche Farms (pesticide use permittee)	

All of these farms shared the same address and contact people in the WWD water user directory. A phone number for "Panoche Farms" appeared for all 13 entities. In the water user directory that updated the one we used as a primary source and appeared four months later, there were four additional BHW Farms.

ASCS Registrant and Pesticide Use Permittee

Much of the land operated by these entities was registered in 1987 at both agencies as Panoche Farms.¹⁰ In 1988, each water user filed a separate pesticide use permit.

Principals

Information on the principals of the water users was not available. However, the Panoche Farms entities are owned by 15 individuals (or couples) which operate a total of 6,522 acres in WWD.

A 1986 loan document for Panoche Farms¹¹ shows a complex and fascinating network of three partnerships, 14 corporations, 10 trusts and eight individuals listed as "additional debtors." For example, partners of partnerships were additional partnerships. Careful examination revealed that 11 individuals were in control of all of these entities. Two individuals signed as trustees for the 10 trusts, and each of these individuals was on

the Boards of Directors of each of the 14 corporations.

Loan Documents

The loan document referred to above secured Central States Cotton for a loan to Panoche Farms. Panoche Farms provided collateral of crops grown on property owned or leased by the debtors in Fresno and Merced Counties. Water (probably low-cost) was being delivered to the property in WWD under the names of the individual water users even though Panoche Farms had jointly put their crops at risk.

Summary, Panoche

Table A-4. Summary of available data on Panoche Farm cluster.

Entities in WWD in 1985 and 1987 and their federally irrigated acreage.

	# Entities	Acres
1985	2	6,045
1987	13	9,190

Minimum acreage eligible for low-cost water, 1987: 8,861 out of the 9,190 acres in the cluster.

Data showing common management and control of farm operation.

common address: Yes
common phone(s): Yes - "Panoche Farms"
common Ag Commissioner registration: Yes - Panoche Farms (No in 1988)
common ASCS registration: Yes (Possibly No in 1988)
principals - unknown
common risk: Yes, based on a 1986 loan

DOUBLE "O" RANCH

1985

In 1985, Double "O" Ranch irrigated 11,111 acres with project water in WWD and included 14,871 irrigated acres statewide.¹²

1987, WWD

In 1987, there were 10 WWD farms on former Double "O" land irrigating a total of 8,863 acres with project water. All 10 water users shared the same address in the WWD water user directory. On financing statements, the entities used a different address, the corporate address of Double "O" Ranch. All but Edna K. Adamson listed a phone number with WWD for "Double "O" Ranch". (The number given for Adamson was for "Valley Administrators".)

Table A-5. Entities in the Double "O" Ranch Cluster, 1987.

Number	Water User	WWD Eligible Acres
1.	Anthony Oliveira Farming Co.	967
2.	Double "O" Ranch	897
3.	Dudley East Farming Co.	513
4.	Dudley West Farming Co.	614
5.	Edna K. Adamson Farming Co.	997
6.	John D. Oliveira Farming Co.	955
7.	John G. Oliveira Farming Co.	1,061
8.	Leonard W. Oliveira Farming Co.	110
9.	Tony T. Oliveira Farming Co.	834
10.	Valley Farming	915
	TOTAL	8,863

ASCS Registrant and Pesticide Use Permittee

In 1988, each of the entities registered separately at ASCS.

Double "O" Ranch was the sole pesticide use permittee for land operated by the ten water users in 1987.¹³

Principals

Note that Table A-6¹⁴ (next page) illustrates two cases (Double "O" and Edna K. Adamson) in which entities of the same name can be both a partnership and a corporation, each with different principals. In the case of Double "O" Ranch for example, it would not be clear who the principals were without looking up the principals of several corporations. For clarity, the words Corp. or Inc. are emphasized.

Table A-6 shows that four Oliveira's (Anthony, John D., John G., and Leonard) controlled water users 1, 2, 3, 4, 6, 7 and 8. A fictitious business name statement was not on file for farm 9, which has been included as if it were a sole proprietorship.

Loan Documents

Loan documents were filed on 9/4/87¹⁵ securing loans from Sanwa Bank to Dudley East and Dudley West. The document for Dudley East listed Double "O" Ranch (water user #2) as an additional debtor. On the document (same bank, same date) for Dudley West, Double "O" Ranch is typed in as an additional debtor, but crossed out. Anthony T. Oliveira signed both documents. Double "O" Ranch and Dudley East (possibly Dudley West as well) provided crops as collateral for the loan.

As collateral to secure a different loan,¹⁶ Double "O" Ranch provided crops being produced on 160 acres of land registered with the water user Edna K. Adamson Farming Co. (farm #5) in WWD. This is significant because although Edna K. Adamson Corp. (controlled by the Oliveira brothers) is a principal of Double "O" Ranch, Edna K. Adamson Farming Co. is not. This document shows that Double "O" Ranch has put crops grown by Edna K. Adamson Farming Co. at risk.

Table A-6. Principals in the Double "O" Cluster, 1987.

Note: In the following table, "d" refers to principals serving directly on Board of Directors, or as partners in the business; "i" refers to principals serving indirectly, i.e. as trustees, or partners in a business that is a direct principal.

Principals	Water User
Double O Ranch #3	d
Double "O" Ranch Inc.	d
Edna K. Adamson	d
Edna K. Adamson Corp.	d
Edward Lopes	d
Michael Lyon	d
Anthony T. Oliveira	d i i i d d d
John D. Oliveira	d i i i d d d
John G. Oliveira	d i i i d d d
Leonard W. Oliveira	d i i i d d d d
Tony Oliveira	i d
14 trusts	d d
Anthony Oliveira Farming Co.	
Double "O" Ranch	
Dudley East Farming Co.	
Dudley West Farming Co.	
Edna K. Adamson Farming Co.	
John D. Oliveira Farming Co.	
John G. Oliveira Farming Co.	
Leonard W. Oliveira Farming Co.	
Tony T. Oliveira Farming Co.	
Valley Farming	

A document describing a loan to Valley Farming Co. was filed 8/13/87¹⁷ showing the additional debtors Michael Lyon, Ed Lopes, Leonard Oliveira (the three partners of Valley Farming Co.) and Double "O" Ranch. This document shows shared risk between the water users Double "O" Ranch and Valley Farming Co.

Summary, Double "O"

Table A-7. Summary of available data on Double "O" Ranch cluster.

Entities in WWD in 1985 and 1987 and their federally irrigated acreage.

	# Entities	Acres
1985	1	11,111
1987	10	8,863

Minimum acreage eligible for low-cost water, 1987: 8,568 out of the 8,863 in the cluster.

continued....

Data showing common management and control of farm operation.

common address: Yes
common phone(s): Yes (except farm #5) - "Double 'O' Ranch"
common Ag Commissioner registration: Yes - Double "O" Ranch (1987 and 1988)
common ASCS registration: No (1988)
principals of water users overlap
principals of pesticide use permittee overlap water users
common risk: yes for Double "O" and farms #3, #10, #5 and possibly #4

BRITZ, INC

1985

In 1985 Britz, Inc. irrigated 11,550 eligible acres in WWD.¹⁸ Britz Inc. also farmed a considerable amount of noneligible acreage for a total of 23,177 irrigated acres in WWD. With their farm in Imperial County, the statewide total was at least 24,279 acres.

1987, WWD

In 1987, there were six Britz entities farming 7,601 eligible acres in WWD. All six were listed with the same address in the WWD water user directory. Related entities sharing the same address and overlapping principals were Britz Chemical Co., Britz Fertilizer Co., Britz Gin Partnership and Britz Family Farms. In the WWD water user directory that updated the one used here as a primary source and which appeared four months later, there were three additional Britz entities: Britz Calusa Farms, Britz Family Farms, and Britz Mt. Whitney Farms.

Table A-8. Entities in the Britz, Inc. cluster, 1987.

Number	Water user	WWD Eligible Acres
1.	Britz, Inc.	4,403
2.	David B Farms	846
3.	DLM Partners	941
4.	Estate of Helen Britz	160
5.	Linda G Farms	462
6.	Martin B Farms	789
TOTAL		7,601

ASCS Registrant and Pesticide Use Permittee

Each of the water users filed separately at both agencies, although at the Agricultural Commissioner, several different names were used (i.e., "Britz-5 Point Ranch" registered for land farmed in WWD by Britz, Inc., and "Britz-Deavenport Ranch" registered for DLM).

Principals

The six Britz water users had overlapping principals.

Summary, Britz

Unlike many of the other clusters, it has not been shown here that the water users in the Britz, Inc. cluster have put capital collectively at risk. It is likely however, that the land in this cluster is managed as one farming operation, controlled by a few individuals.

Britz, Inc. appears to fit the popular stereotype of a "corporate farm". It is has businesses involved in agricultural production, chemicals, fertilizers, and even ginning.

Table A-9. Summary of available data on Britz, Inc. cluster.

Entities in WWD in 1985 and 1987 and their federally irrigated acreage.

	# Entities	# Acres
1985	1	11,550
1987	6	7,601

Minimum acreage eligible for low-cost water, 1987: 4,158 out of 7,601 acres in the cluster.

Data showing common management and control of farm operation.

common address: Yes
common phone(s): Yes - "Britz"
common Ag Commissioner registration: No
common ASCS registration: No
principals of water users overlap
common risk: No

CINCO

1985

Cinco Farms irrigated 7,022 acres in WWD with project water and included 7,399 acres statewide in 1985.¹⁹ None of the other water users in this cluster existed in 1985.

1987, WWD

The principals of Cinco Farms were involved in 11 new entities in WWD in 1987, totalling 6,002 acres. The address, contact person and phone number ("ranch offices") given in the user directory were identical.

Table A-10. Entities in the Cinco Cluster, 1987.

Number	Water User	WWD Eligible Acres
1.	C.J.Slade Inc.	769
2.	Cinco Farms, Inc.	350
3.	D&G Farms, Inc.	744
4.	Generation Farms, Inc.	911
5.	Guardian Farms, Inc.	842
6.	JMT Farming, Inc.	638
7.	Llano Regado, Inc.	742
8.	Mesa Farming, Inc.	682
9.	E.G. Rank Jr.	86
10.	Harold C. Weeth	138
11.	Glenn F. Wilkins	100
		TOTAL 6,002

ASCS Registrant and Pesticide Use Permittee

Each water user registered individually at the ASCS office. Almost all of the land in this cluster was registered under the pesticide use permit name Cinco Farms in 1987.²⁰ However, the entities registered separately in 1988.

Principals

Principals of the 11 water users included 15 individuals (assuming that #9, 10 and #11 were sole proprietorships).²¹ Nine of the 15 individuals were each principals of two or more of the water users and between them, they owned D&G and Llano Regado Farms, plus 32% of Generation, C.J. Slade and Guardian Farms.²²

Summary, Cinco

Table A-11. Summary of available data on Cinco cluster.

Entities in WWD in 1985 and 1987 and their federally irrigated acreage.

	# Entities	Acres
1985	1	7,022
1987	11	6,002

Minimum acreage eligible for low-cost water, 1987: 6,002 out of 6,002 acres in the cluster.

Data showing common management and control of farm operation.

- common address: Yes
- common phone(s): Yes - "Ranch offices"
- common Ag Commissioner registration: Yes (1987) - Cinco Farms
- common ASCS registration: No
- principals of water users overlap
- principals of manager overlap water users
- common risk: No

NUNN

1985

This cluster was two (probably jointly managed) entities in 1985. San Andreas Farms irrigated 3,548 acres,²³ and the La Jolla Ranch irrigated 2,645 acres²⁴ in WWD with project water (total = 6,193 acres).

1987, WWD

San Andreas Farms and La Jolla Ranch restructured into six water users in WWD and irrigated a total of 5,691 acres with federal project water. San Andreas Farms became San Andreas I, II and III. La Jolla Ranch (listed in the user directory without acres) became Apple Farms, Brentwood Farms and Cherry Farms. All farms shared the same address in the WWD user directory. One of the phone numbers given for each of the farms was for "Ron Nunn Farms." Ron Nunn was also one of the contact people listed for each of the farms in the WWD user directory.

Table A-12. Entities in the Nunn Cluster, 1987.

Number	Water User	WWD Eligible Acres
1.	Apple Farms	932
2.	Brentwood Farms	937
3.	Cherry Farms	919
4.	San Andreas I	986
5.	San Andreas II	968
6.	San Andreas III	949
		TOTAL 5,691

Related Entities

7. San Andreas Farms (ASCS registrant and pesticide use permittee)
8. La Jolla Ranch (pesticide use permittee)

ASCS Registrant and Pesticide Use Permittee

All three San Andreas water users were registered in 1987 and 1988 under the single name San Andreas Farms both at the ASCS office and as pesticide use permittees.²⁵

The pesticide use permit for La Jolla Ranch included all three La Jolla Ranch water users (Apple, Brentwood, Cherry) in 1987.²⁶ Information was not obtained for the La Jolla Ranch water users from the ASCS office.

Principals

Apple, Brentwood and Cherry have identical partners: George, Robert, Lindsey and Laura Nunn.²⁷ Information was not obtained to determine the principals of San Andreas Farms I, II and III, but financing statements indicate that the Nunn family is involved. Four separate financing statements list DBA's for Ronald Nunn as San Andreas

Farms, La Jolla Ranch and Ronald Nunn Farms.

Loan Documents

Without additional documentation, these appears to be two separate clusters -- a San Andreas cluster and an Apple/Brentwood/Cherry (or La Jolla Ranch) cluster. However, four loan documents tie the entire cluster together. The 1986 documents were signed by the debtors Ronald Nunn and Shirley Nunn and stated that trade names include Ronald Nunn Farms (the name given when one calls the number in the WWD user directory), San Andreas Farms, and La Jolla Ranch (the Pesticide Use Permittee for Apple/Brentwood/Cherry).²⁸ This indicated that as late as October 20, 1986, San Andreas Farms and La Jolla Ranch were actually the same entity, going by two different names.

Property listed to secure one of the 1986 loans²⁹ included land in WWD owned by Ronald Nunn and operated in 1987 by the three San Andreas Farms, as well as two parcels operated by Apple Farms. This showed that the three San Andreas Farms and Apple Farms jointly put their crops at risk. This same document also showed that Ronald Nunn owned considerable acreage (41 parcels) in Contra Costa County.

Three additional 1986 financing statements for debtor La Jolla Custom Farming, Inc. showed one additional debtor each: Apple Farms, Brentwood Farms and Cherry Farms (Figure A-1). The statements were each signed by the four principals of Apple, Brentwood and Cherry Farms, showing that the three farms had jointly put capital at risk.³⁰

Summary, Nunn

Table A-13. Summary of available data on Nunn cluster.

Entities in WWD in 1985 and 1987 and their federally irrigated acreage.

	# Entities	Acres
1985	2	6,193
1987	6	5,691

Minimum acreage eligible for low-cost water, 1987: 5,657 out of 5,691 acres in the cluster.

Data showing common management and control of farm operation.

common address: Yes

common phone(s): Yes - "Ron Nunn Farms"

common Ag Commissioner registration(s): Yes - San Andreas and La Jolla

common ASCS registration: Yes - San Andreas; unknown - La Jolla

principals of Apple/Brentwood/Cherry are identical

common risk: Yes for San Andreas entities and Apple; Yes for Apple, Brentwood and Cherry. If, in 1987, San Andreas Farms and La Jolla Ranch were still trade names for Ronald and Shirley Nunn, then common risk was indicated for all six entities in the cluster.

This FINANCING STATEMENT is presented for filing pursuant to the California Uniform Commercial Code.			
1. DEBTOR (LAST NAME FIRST—if an individual) <u>La Jolla Custom Farming, Inc.</u>		1A. SOCIAL SECURITY OR FEDERAL TAX NO.	
1B. MAILING ADDRESS 5710 Marlin Dr.		1C. CITY, STATE Byron, Ca.	
1D. ZIP CODE 94514		1E. ZIP CODE 94514	
2. ADDITIONAL DEBTOR (IF ANY) (LAST NAME FIRST—if an individual) Apple Farms (See exhibit "A" attached hereto)		2A. SOCIAL SECURITY OR FEDERAL TAX NO.	
2B. MAILING ADDRESS 5710 Marlin Dr.		2C. CITY, STATE Byron, Calif.	
2D. ZIP CODE 94514		2E. ZIP CODE 94514	
3. DEBTOR'S TRADE NAMES OR STYLES (IF ANY)		3A. FEDERAL TAX NUMBER	
4. SECURED PARTY NAME Wells Fargo Bank, N.A. MAILING ADDRESS 800 South Broadway CITY Walnut Creek, Calif. 94596 STATE		4A. SOCIAL SECURITY NO., FEDERAL TAX NO. OR BANK TRANSIT AND A.B.A. NO. 11-24-585	
5. ASSIGNEE OF SECURED PARTY (IF ANY) NAME MAILING ADDRESS CITY STATE ZIP CODE		5A. SOCIAL SECURITY NO., FEDERAL TAX NO. OR BANK TRANSIT AND A.B.A. NO.	

6. This FINANCING STATEMENT covers the following types or items of property (include description of real property on which located and owner of record when required by instruction 4). "All accounts, general intangibles, deposit accounts, chattel paper, instruments, documents, and other rights to payment now or at any time hereafter due under any and all contracts now existing or at any time hereafter entered into between the Debtor and any person or entity, and all amendments, addenda and change orders to any of said contracts, all substitutions and replacements therefor and all proceeds thereof."

7. CHECK <input checked="" type="checkbox"/> IF APPLICABLE		7A. <input type="checkbox"/> PRODUCTS OF COLLATERAL ARE ALSO COVERED		7B. DEBTOR(S) SIGNATURE NOT REQUIRED IN ACCORDANCE WITH INSTRUCTION B(6) ITEM: <input type="checkbox"/> (1) <input type="checkbox"/> (2) <input type="checkbox"/> (3) <input type="checkbox"/> (4)	
8. CHECK <input checked="" type="checkbox"/> IF APPLICABLE		<input type="checkbox"/> DEBTOR IS A "TRANSMITTING UTILITY" IN ACCORDANCE WITH UCC § 9105 (1)(m)			
9. <i>La Jolla Custom Farming, Inc.</i> SIGNATURE(S) OF DEBTOR(S)		DATE 5-1-86		10. THIS SPACE FOR USE OF FILING OFFICER (DATE, TIME, FILE NUMBER AND FILING OFFICER) 86 125796 FILED RECEIVED MAY 16 AM 8:00 CLERK OF COURT SACRAMENTO, CALIF.	
La Jolla Custom Farming, Inc. See exhibit "A" attached hereto TYPE OR PRINT NAME(S) OF DEBTOR(S)					
► <i>Michelle Urmer</i> SIGNATURE(S) OF SECURED PARTY(IES)					
Wells Fargo Bank, N.A. By: Michelle Urmer, A.V.P. TYPE OR PRINT NAME(S) OF SECURED PARTY(IES)					
11. Return copy to:					
NAME ADDRESS CITY STATE ZIP CODE		Wells Fargo Bank, N.A. Mt. Diablo RCBO #585 800 So. Broadway Walnut Creek, Calif. 94596 attn: M. Urmer		1 2 3 4 5 6 7 8 9 0	
(II) FILING OFFICER COPY		FORM UCC-1—FILING FEE \$3.00 Approved by the Secretary of State			

Figure A-1. Part of a loan document describing a loan to La Jolla Custom Farming, Inc. from Wells Fargo Bank. Note that on line 2, Apple Farms is listed as the "additional debtor". Similar loan documents are on file for La Jolla Custom Farming, Inc. listing Cherry Farms and Brentwood Farms as additional debtors.

PAPPAS

1985

In 1985, a number of farms with the Pappas surname operated in WWD. For example, George Pappas,³¹ Pappas and Kavalos,³² and Philon Pappas³³ irrigated 136, 180 and 453 acres respectively, with project water. These farms are still farming in WWD using the same names and they are the same size.

In contrast, there was a farm called Pappas Enterprises, Inc. with 4,447 federally irrigated acres in WWD and a total of 9,095 irrigated acres statewide in 1985.³⁴ This farm has restructured.

1987, WWD

Pappas Enterprises, Inc. restructured into five water users, totalling 5,652 acres in WWD irrigated with project water. In addition, at least 1,696 acres were farmed by entities in this cluster on noneligible land in the district.

The five water users shared the same address, overlapping contact people, and a phone number for "Pappas."

Table A-14. Entities in the Pappas Cluster, 1987.

Number	Entity Name	WWD Eligible Acres
1.	Pappas Enterprises, Inc.	1,199
2.	Pappas Home Ranch, Inc.	1,184
3.	Pappas Mendota Farms, Inc.	1,056
4.	Pappas Row Crops, Inc.	1,001
5.	Pappas West Valley Farms, Inc.	1,212
		TOTAL 5,652
Related Entity		
6.	Pappas Farms, Inc. (ASCS registrant)	

ASCS Registrant and Pesticide Use Permittee

The ASCS registrant for all of these water users was Pappas Farms, Inc.³⁵

The pesticide use permittee for all of the water users was Pappas Enterprises, Inc.³⁶

Principals

The Boards of Directors of all five water users (including the pesticide use permittee), and of Pappas Farms Inc. (the ASCS registrant) were comprised of the same four individuals.³⁷

Loan Documents

A loan document filed 6/2/86³⁸ for the debtor Pappas Enterprises Inc. was amended on 12/1/86 to include the other four water users as additional debtors. It also included Pappas Farms Inc. (the registrant at ASCS) as an additional debtor. Collateral included crops grown by each of the five water users.

Summary, Pappas

Table A-15. Summary of available data on Pappas cluster.

Entities in WWD in 1985 and 1987 and their federally irrigated acreage.

	# Entities	Acres
1985	1	4,447
1987	5	5,652

Minimum acreage eligible for low-cost water, 1987: 4,800 out of the 5,652 acres in the cluster.

Data showing common management and control of farm operation.

- common address: Yes
 - common phone(s): Yes - "Pappas"
 - common Ag Commissioner registration: Yes - Pappas Enterprises, Inc.
 - common ASCS registration: Yes - Pappas Farms, Inc.
 - principals of water users are identical
 - principals of manager identical to water users
 - principal of ASCS registrant identical to water users
 - common risk: Yes, based on a document dated 12/1/86
-

TRI FARMS

1985

In 1985, Tri Farms,³⁹ Valle Verde Farms⁴⁰ and Silver Creek Farms⁴¹ irrigated 133, 3,230 and 883 acres in WWD, respectively -- a total of 4,246 acres.

1987, WWD

By 1987, a restructuring had occurred, creating two new water users: Pico and Vista del Llano. Tri Farms was no longer a water user, although still listed in the directory. All water users shared the same address, and a phone number for "Tri".

ASCS Registrant and Pesticide Use Permittee

Valle Verde Farms registered 3,230 acres of irrigated cropland at ASCS in 1988.⁴² The land was operated in WWD by water users #1, #3 and #4. Silver Creek Farms registered as a separate entity at ASCS.⁴³

Tri Farms was the sole pesticide use permittee for all but the Silver Creek Farms land.⁴⁴

Table A-16. Entities in the Tri Farms Cluster, 1987.

Number	Water User	WWD Eligible Acres
1.	Pico Farms	1,139
2.	Silver Creek Farms	881
3.	Valle Verde Farms	1,087
4.	Vista del Llano Farms	1,134
		TOTAL 4,241
5.	Tri Farms (pesticide use permittee)	

document contains a list of additional debtors which includes two of the four water users in this cluster (Valle Verde and Silver Creek) plus seven Telles family members, five Telles family trusts and four additional individuals who are also principals with Valle Verde Farms. Even though Pico Farms and Vista Del Llano are not listed as additional debtors, land that was operated by them in 1987 was included in the property list with all of their partners signing the document.

Summary, Tri

Six members of the Telles family who are principals in this cluster, plus four of the trusts, owned as tenants in common 2,580 acres of property in Fresno County San Luis Water District. A partition agreement dated 5/29/85⁴⁶ split this land up into three "separate and distinct ranches," "none of which contain more than 960 acres of Class 1 land." The document stated that the land was under RRA. The RRA 960 acre limit is a "west-wide rule," meaning that all of the land getting project water is to be considered

together, not only the land within one water district. Thus, the six members of the Telles family operated a combined total of at least 6,821 acres in WWD and San Luis Districts.

Principals

As shown in Table A-17, primary control of the five water users was held by seven members of the Telles family.

Loan Documents

A loan document dated 3/17/87⁴⁵ shows Tri Farms as debtor. The same

Table A-17. Principals in the Tri Farm Cluster, 1987.

Principal	Water User
Jess P. Telles Jr.	x x x x
Helen B. Telles	x x x
Jess P. Telles III	x x x x
James W. Telles	x x x x
Diane Telles	x x x
John G. Telles	x x x x
Jolene V. Telles	x x x
six trusts	x x x
9 more individuals	x

Table A-18. Summary of available data on Tri Farms cluster.

Entities in WWD in 1985 and 1987 and their federally irrigated acreage.

	# Entities	Acres
1985	3	4,246
1987	4	4,241

Minimum acreage eligible for low-cost water, 1987: 3,761 out of 4,241 acres in the cluster.

Data showing common management and control of farm operation.

- common address: Yes
 - common phone(s): Yes - "Tri"
 - common Ag Commissioner registration: Yes - Tri and Silver Creek
 - common ASCS registration: Yes - Valle Verde and Silver Creek
 - principals of water users overlap
 - principals of pesticide use permittee overlap water users
 - principals of ASCS registrant overlap water users
 - common risk: Yes
-

THOMSEN BROTHERS PARTNERSHIP

1985

In 1985, Thomsen Brothers Partnership irrigated 3,419 acres in the WWD with federal project water.⁴⁷

1987, WWD

By 1987, Thomsen Brothers Partnership restructured into five entities: Thomsen Family Partnership and Cerini Farms I through IV. These entities were irrigating 4,028 acres with federal project water in the WWD. All were listed with the same address in the WWD water user directory.

Table A-19. Entities in the Thomsen Brothers Cluster, 1987.

Number	Water User	WWD Eligible Acres
1.	Cerini Farms #1	810
2.	Cerini Farms #2	882
3.	Cerini Farms #3	639
4.	Cerini Farms #4	699
5.	Thomsen Family Partnership	998
	TOTAL	4,028

ASCS Registrant and Pesticide Use Permittee

At ASCS, much of the land operated by water users #1, #2, #3 and #4 was registered under the name Thomsen Family Partnership.⁴⁸ Cerini Farms #4 registered separately.⁴⁹

The land farmed by this cluster was not included in any of the pesticide use permits examined.

Principals

According to documents filed less than two weeks after the final rules on implementation of RRA were published, all five entities have the same twelve partners: seven individuals, four trusts and one corporation.⁵⁰

The phone number listed for three of the five entities was for "ATK Custom Farm Services, Inc." The Board of Directors of this corporation was Allen, Kenneth and Thomas Thomsen. Each of these individuals was also a partner of Thomsen Family Partnership and Cerini Farms #1 through #4.⁵¹

Loan Documents

Separate documents were filed on 9/2/87 for each of the five water users.⁵² All five received loans from Security Pacific National Bank. The collateral provided by each of them was crops grown on eight parcels of land (the identical list was attached to each loan document). Instead of listing only their own land, the property description includes most of the parcels included in this cluster.

Summary, Thomsen

This cluster contains five farms with identical principals. Farm products from the five water users were jointly put at risk in order to secure loans to each of the individual water users. Thus, the farms appear to be both managed as one unit and collectively at risk if their crops fail.

Table A-20. Summary of available data on Thomsen Brothers Partnership cluster.

Entities in WWD in 1985 and 1987 and their federally irrigated acreage.

	# Entities	Acres
1985	1	3,419
1987	5	4,028

Minimum acreage eligible for low-cost water, 1987: 3,990 out of the 4,028 acres in the cluster.

Data showing common management and control of farm operation.

common address: Yes
common phone(s): Yes - "ATK" or "Clyde Brothers"
common Ag Commissioner registration: not registered
common ASCS registration: two registrants
principals of water users are identical
principals of ASCS registrants identical to those of water users
common risk: Yes

LINDA VISTA FARMS

1985

In 1985, Linda Vista Farms irrigated 5,446 acres with project water in WWD and included 8,932 acres statewide.⁵³

1987, WWD

By 1987 Linda Vista Farms had been restructured into four entities, covering 5,062 acres eligible for federal project water in WWD. All shared the same address, phone and contact people.

Table A-21. Entities in the Linda Vista Farms Cluster, 1987.

Number	Water User	Eligible Acres
1.	Linda Vista Farms	1,286
2.	Linda Vista Farms II	1,404
3.	Linda Vista Farms III	1,103
4.	Linda Vista Farms IV	1,269
	TOTAL	5,062

ASCS Registrant and Pesticide Use Permittee

A 1988 document at ASCS registered the land in this cluster under the name Linda Vista Farms⁵⁴ as one entity of 9,076 irrigated cropland acres.

Linda Vista was the sole pesticide use permittee for the land in this cluster in 1987.⁵⁵ However, in 1988 separate permits were filed.

Principals

All four water users have the same four members of the Coelho family as partners, plus Coehlo Farms, Inc. The Board of Directors of Coehlo Farms Inc. is the same four members of the Coehlo family.⁵⁶

Loan Documents

Coehlo Farms, Inc. (a partner of each of the four water users) received a loan in 1982 from the Fresno-Madera Production Credit Association. The loan was continued in 1987.⁵⁷ Coehlo Farms Inc. provided crops as collateral. The attached list of property includes land operated by all four water users. Thus, they shared the risk if any of their crops were to fail.

Summary, Linda Vista

The 1987 regulations allow each of the four Coehlo brothers to take a partial share in each of the four water user entities so that no one individual's shares add up to more than 960 acres of subsidized water. Nevertheless, this 5,062 acres continues to be managed and controlled as one operation. Because farm products from the four water users were collectively put at risk in order to secure a loan, the water users appear to be both managed as one unit and financially interdependent.

Table A-22. Summary of available data on Linda Vista Farms cluster.

Entities in WWD in 1985 and 1987 and their federally irrigated acreage.

	# Entities	Acres
1985	1	5,446
1987	4	5,062

Minimum acreage eligible for low-cost water, 1987: 3,840 out of the 5,062 acres in the cluster.

Data showing common management and control of farm operation.

common address: Yes
common phone(s): Yes - "Linda Vista Farms"
common Ag Commissioner registration: Yes - Linda Vista Farms (No in '88)
common ASCS registration: Yes - Linda Vista Farms
principals of water users are identical
principals of manager and ASCS registrant are identical to water users
common risk

ENDNOTES

¹ ASCS Farms #0319, #0062, #0064, and #0065, Fresno County.

² Although the Murrieta Ranch water users were listed in the tally provided by WWD, the acreage wasn't given there, but was all listed under METCO, indicating that the cluster was breaking up at the time of our visit. The acreage given for the Murrieta Ranch water users in our analysis was generated from the water user map at WWD.

³ ASCS Farm #10054 Fresno County.

⁴ Pesticide Use Permit #108324 (METCO) and #100803 (Murrieta Produce Co.), Fresno County Agricultural Commissioner.

⁵ Eight individuals are listed as "additional debtors" on UCC Financing Statement dated 9/18/86, #86112971, Fresno County Recorder's office.

⁶ UCC Financing Statement #86112971 (Murrieta Produce Co.) and #86112972 (Murrieta Farms, Inc.), 9/26/86, Fresno County Recorders's Office.

⁷ UCC Financing Statement #87098981, Fresno County Recorder's Office.

⁸ ASCS Farm #0006, Fresno County.

⁹ ASCS Farm #8032, Fresno County.

¹⁰ Pesticide Use Permit #100170, Fresno County Agricultural Commissioner. Panoche Farms was involved in many reconstitutions in 1987. The "final" farms at the time of our first visit (2/87) were ASCS Farms #10122 and #9783, Fresno County. When we visited the ASCS office in August, 1988, Panoche Farms was again involved in a reconstitution that was pending, and appeared to break it up into the BHW entities.

¹¹ *Ibid*

¹² ASCS Farms #0750, #0559, #0601, #0945 and #0256, Kings County.

¹³ Pesticide Use Permit #107080, Fresno County Agricultural Commissioner, 1987, and #361, Kings County Agricultural Commissioner, 1987.

¹⁴ Information on principals was from: Kings County Fictitious Business Name Statements #87-022, #87-305, #87-306, #87-326 through #87-329, #87-458, #87-462 and #87-460; corporate records; and Kings County Recorder's Office statements of partnership Book 1406, page 337,

4/1/87, Book 1406, page 222, 3/31/87, and Book 1406, page 218, 3/31/87.

¹⁵ UCC Financing Statement #013808 (Dudley East) and #013804 (Dudley West), Kings County Recorder's Office.

¹⁶ UCC Financing Statement #87122839, Fresno County Recorder's Office.

¹⁷ UCC Financing Statement 012429, Book 1421, page 169, Kings County Recorder's Office.

¹⁸ ASCS Farm #0585, Fresno County.

¹⁹ ASCS Farms #7776 and #0667, Fresno County.

²⁰ Pesticide Use Permit #100277, Fresno County Agricultural Commissioner.

²¹ Corporate records, California Secretary of State, #86-458430, #87-0294123, #87-294397, #87-294416, #87-294417, #87-294418, #87-294639, and #87-298944.

²² Documents from the Department of Corporations, all dated 7/28/87.

²³ ASCS Farms #0683 and #0684, Fresno County.

²⁴ ASCS Farm #0070, Fresno County.

²⁵ ASCS Farm #9129, Fresno County. Pesticide Use Permit #105397, Fresno County Agricultural Commissioner.

²⁶ Pesticide Use Permit #105397, Fresno County Agricultural Commissioner.

²⁷ Fictitious Business Name Statements #86-34584 through #86-34586, Fresno County Clerk.

²⁸ UCC Financing Statements #86057207, 3/4/86, Calif. Secretary of State; #86024394, 3/6/86, Fresno County Recorder's Office; #86263007, 10/20/86, Calif. Secretary of State; and #86263006, 10/20/86, Calif. Secretary of State.

²⁹ UCC Financing Statement #86057207, 3/4/86, Calif. Secretary of State.

³⁰ UCC Financing Statements, Calif. Secretary of State #86126762, 5/16/86; #86125792, 5/16/86; and #86125796, 5/16/86.

³¹ ASCS Farm #7754, Fresno County.

³² ASCS Farm #7753, Fresno County.

³³ ASCS Farm #0004, Fresno County.

³⁴ ASCS Farm #0646, Fresno County.

³⁵ ASCS Farm #9861, Fresno County. The 1988 registration appeared to cover all of the water users also - Farm #10370.

³⁶ Pesticide Use Permits #102812, and #100297, Fresno County Agricultural Commissioner, 1987.

³⁷ Secretary of State microfiche #87-197917, #87-247760, #87-247763, #87-247762, and #87-247761.

³⁸ UCC Financing Statement #86139301, Calif. Secretary of State.

³⁹ ASCS Farms #0486 and #0447, Fresno County.

⁴⁰ ASCS Farm #0446, Fresno County.

⁴¹ ASCS Farm #0381, Fresno County.

⁴² ASCS Farm #10021, Fresno County.

⁴³ ASCS Farm #10024, Fresno County.

⁴⁴ Pesticide Use Permit #100182, Fresno County Agricultural Commissioner.

⁴⁵ UCC Financing Statement 87032871, Fresno County Recorder's Office.

⁴⁶ Partition Agreement #85054965, Fresno County Recorder's Office.

⁴⁷ ASCS Farms #7832 and #0515, Fresno County.

⁴⁸ ASCS Farm #9616, Fresno County.

⁴⁹ ASCS Farm #9572, Fresno County.

⁵⁰ Statements of Partnership, 4/27/87, Fresno County, #87050138 through #87050142

⁵¹ Corporate Records, Calif. Secretary of State, #88-43638.

⁵² UCC Financing Statements, Fresno County Recorder's Office, #87108567 through #87108571.

⁵³ ASCS Farm #0649, Fresno County.

⁵⁴ ASCS Farm #8168, Fresno County.

⁵⁵ Pesticide Use Permit #100325, Fresno County Agricultural Commissioner.

⁵⁶ Corporate records, Calif. Secretary of State, #83-60711. Fictitious Business Name Statements, Fresno County Clerk, 85(?)6114 (filed 12/31/85) and #87-39039 (filed 6/17/87).

⁵⁷ UCC Statements, Fresno County Recorder's Office, #82111633, Book 8028, page 722 and #87098463 (the continuation).