# 160-ACRE LIMITATION: CURRENT STATUS

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In order to bring you up-to-date on the various issues surrounding reclamation reform, I will try to do the following in the time allotted: 1) to put things in their proper perspective, I will give you a chronological listing of events which bring us to the present; 2) I will briefly summarize the major sections of Senate Bill 14, as passed by the U.S. Senate, and of HR 6520, the so-called "Ullman-Udall" bill, as introduced in the House of Representatives; and 3) I will provide the most recent information I have with respect to activities of the House Committee on Interior and Insular Affairs, and raise some questions about the future.

A fairly complete list of chronological events concerning this issue would be as follows.

In early 1976, the National Land for People organization, representing persons who unsuccessfully sought to purchase excess land in the Westlands Water District of California, brought suit in the U.S. district court for the District of Columbia against the Bureau of Reclamation, alleging failure to comply with the Administrative Procedure Act in providing regulations for the sale of excess lands in the district. The National Land for People requested rules and regulations that would require the enforcement of the acreage limitation provisions of the Reclamation Act of 1902 and the Omnibus Adjustment Act of 1926.

On August 9, 1976, the court ruled that the Bureau of Reclamation had not complied with the Administrative Procedure Act, and several days later issued a preliminary injunction to prohibit the Bureau from accepting or approving any new contract for the sale of excess land in the Westlands Water District until rules and regulations could be properly promulgated.

On June 27, 1977, Secretary Andrus issued an administrative order which put a moratorium on all sales of excess land and on entry into recordable contracts for all reclamation lands in the 17 western states.

On August 25, 1977, the Department of the Interior proposed regulations to implement acreage limitations and the residency requirements.

On November 22, 1977, the Department of the Interior held the last of ten field hearings on the proposed regulations.

Opponents of the proposed regulations filed suit against the Department of the Interior to prevent the implementation of the final regulations until a comprehensive environmental impact statement had been prepared. On December 2, 1977, the U.S. district court in Fresno issued a preliminary injunction to prevent implementation of the regulation until such an environmental impact statement was completed.

On January 7, 1978, the Department of the Interior announced it would prepare the environmental impact statement and now expects the document to be ready in late 1980.

On January 15, 1970, Senator Frank Church introduced Senate Bill 14, and on September 14, 1979, the U.S. Senate passed the final version of Senate Bill 14.

On March 20 of this year, the Water and Power Resources Subcommittee of the House Committee on Interior and Insular Affairs completed four days of hearings, with 16 different bills pending before the subcommittee.

Let's review the main provisions of Senate Bill 14 as passed by the Senate, and of HR 6520 as introduced in the House.

Senate Bill 14 provides that a recipient of federal reclamation water may be either an individual or a legal entity of not more than 25 individuals, and that a "landholding" of up to 1,280 acres is eligible for federal reclamation water. Leased land is eligible for federal reclamation benefits, but must be included in the 1,280 acreage limitation. Holders of excess leased lands are provided a grace period of ten years to dispose of these lands.

Senate Bill 14 abolishes the residency requirement and with some exceptions, exempts Army Corps of Engineers' projects. This bill has an equivalency provision, based on Class I land, and provides for exemption from the acreage limitations after payout over the full term of the contract.

I chose HR 6520 from the various House bills, because of its cosponsors, because it stakes out a middle-ground position in the House, and because it seems to have generated the most comment and activity.

HR 6520 provides that a recipient of federal reclamation water may be either an individual or a legal entity of not more than 18 individuals, or two or more individuals under concurrent ownership, if all such individuals maintain among themselves an immediate family relationship. A landholding of up to 1,120 acres is eligible for federal reclamation water, and leased land is eligible for federal reclamation benefits, but must be included in the 1,120 acreage limitation. Holders of excess leased lands are allowed three years to dispose of such lands. In addition, those who would acquire a landholding subsequent to the passage of HR 6520, may not lease their landholding unless the Secretary of the Interior determines the owner has, during the five-year period following the acquisition, derived a significant percentage of his or her income from direct involvement in agricultural production. The Secretary may waive this requirement for reasons of disability or retirement, or exempt the landholder for one year for reasons of economic viability.

HR 6520 abolishes the residency requirement, except for when it is used as a substitute for the "income" and "direct involvement" provisions. Army Corps of Engineers' projects are exempt unless: 1) the project has, by law, expressly been designated, made a part of, or integrated with a federal reclamation project, or has been made subject to the federal reclamation laws as of January 1, 1980; or 2) is made explicitly subject to the acreage limitation provisions by statute.

The bill has an equivalency provision, based on Class I land and a growing season of 180 days. It provides for exemption from the reclamation laws on the date of the completion of the construction charges as required by the contract, provided the landholding meets the acreage limitation requirements of HR 6520. If the repayment contract is silent as to the effect of repayment on acreage limitations, those limitations should cease to apply: 1) when the Secretary determines the reclamation project has substantially achieved a pattern of family farms; or 2) 20 years after completion of repayment.

Next, I will relay to you some of the most recent conversations I have had with Congressional staffers on the House side. I should also caution you that none of these prognostications are written in stone.

First, a new and revised version of HR 6520 will be introduced in House during the first week of May. The new legislation will clear up some technical questions and refine the language in the bill. I am told the new version will clean up the language dealing with: 1) some ambiguities concerning state water rights; 2) the "grandfather" clause dealing with payments of construction charges; and 3) the voting of irrigation districts in reference to the equivalency clause. Finally, the new version will add an inheritance provision to the agricultural participation section.

I have also been advised that it is very likely Representative Tom Foley will cosponsor the new version. This would mean the new

bill will be cosponsored by Al Ullman, Chairman of the Committee on Ways and Means; Moe Udall, Chairman of the Committee on Interior and Insular Affairs; and Tom Foley, Chairman of the Committee on Agriculture -- a rather formidable group of supporters.

Secondly, I have been advised the subcommittee will start mark up in mid-May. Apparently the subcommittee's deliberations have been "held hostage," if you will forgive that phrase, by the May 3rd primaries in Texas.

I will conclude this presentation, not by trying to predict the outcome or final form of reclamation legislation, but instead by posing some questions which may give us some insight into the problems ahead of us. Here are the questions:

Will the subcommittee on Water and Power Resources report a bill to the full committee in a timely manner?

Will the full committee hold additional hearings on the legislation, or will they move straight to mark up?

Will the full committee report out a bill that is susceptible to "gutting" on the House floor by reform-minded members?

Will the Senate and House conferees be able to reach agreement on a final version of the bill?

To what extent will the lengthy Congressional recesses this summer for the Democratic and Republican national conventions delay action on this issue?

Will the final version of the bill be acceptable to the Administration and would the President, in an election year, veto a

bill that affects thousands of farmers, and hundreds of rural communities in 17 western states?

If Congress does not complete action on the bill, or if it is vetoed by the President, will the Secretary of Interior move to enforce his proposed regulations?

And finally, of course, will Cecil Andrus be the Secretary of Interior come January, 1981?

I sincerely hope that I, or someone else, will have the answers to all of these questions at next year's Annual Water Conference.

## References


1. "Acreage Limitation Controversy: Status Report." Congressional Research Service, Library of Congress: 29 February 1980.
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3. Ullman, Congressman Al. "HR 6520 - The Reclamation Reform Act of 1980." Copy of statement provided by Mr. Ullman's office.
4. Farm/Water Newsletter, 22 February 1980.
5. California Westside Farmers Newsletter, 8 April 1980.