

Monthly Briefing

A Summary of the Alliance's Recent and Upcoming Activities and Important Water News

21st Annual Family Farm Alliance Annual Conference Looks to the Future

At a time when historic political change is rolling through Washington, DC, the Family Farm Alliance is poised to engage the new leaders in Washington and collectively face the challenges and create opportunities that will define the future of the American West. That spirit will be captured at the Alliance's 21st Annual Meeting and Conference, to be held March 5-6, 2009 at the Monte Carlo Resort and Casino in Las Vegas.

The schedule for the Family Farm Alliance 21st Annual Conference is firmed up, with just over a month remaining before the general session

opens on the morning of March 5.

"We have an outstanding program coming together," said Alliance Executive Director Dan Keppen (OREGON). "The general session will essentially parallel the key issues outlined in our October 2008 Western Water Policy Report" (*see related story, below*).

Panel discussions featuring diverse, high profile speakers will focus on areas of critical interest to Alliance members, including:

- Aging Water Infrastructure;

- The looming California Water Crisis; and
- Ag-to-Urban Water Transfers.

"Aggressive action to repair aging infrastructure and create new water supply enhancement projects in places like California is imperative," said Keppen. "Water transfers will also continue to play an important role in Western water management. But we must fully understand impacts to rural communities from these transfers."

Individual conference speakers will provide insight on a variety of cutting edge developments and issues in the

Western Water arena.

John Echohawk, executive director of the Native American Rights Fund and a key member of President Obama's transition team, will deliver the conference keynote address on March 5.

"We are fortunate to have Mr. Echohawk participate in this year's conference," said Alliance President Patrick O'Toole (WYOMING). "John is coming straight out of the transition trenches, and will have a fresh perspective on what we might expect from Western resources appointees

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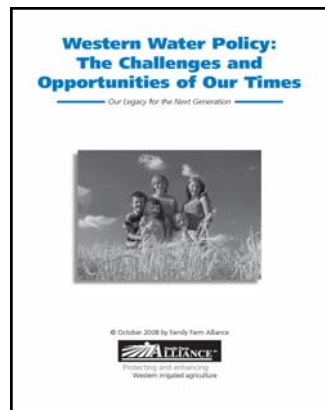
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Conference Builds Upon Policy Report

The Family Farm Alliance upcoming annual conference schedule will feature speakers and panel discussions on issues highlighted in its recent Western water policy report - "The Challenges and Opportunities of our Times". This report contains policy recommendations intended to guide the Obama Administration, Congress and other policy leaders with guidance on



Western agricultural, water resources and environmental matters. The report was posted after the election on the Obama transition team website: http://change.gov/open_government/entry/family_farm_alliance/.

New Family Farm Alliance Policy Report. PDF printable versions to be made available at www.familyfarmalliance.org

Alliance Annual Conference Agenda Taking Shape

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in the new administration.”

Also speaking on March 5 is Brenda Davis – lead attorney on the Family Farm Alliance’s recent Information Quality Act request (see related story, page 3). Michael Powelson, The Nature Conservancy’s head of agency relations for the Western U.S., on that same day will address watershed health challenges.

“Properly managing federal watersheds and encouraging federal agencies to work with farmers to solve local water challenges are equally crucial,” said O’Toole.

Closing out the day’s events will be a presentation by Sheldon Jones – the new Vice-President of the Farm Foundation, a Chicago-based association. Jones will present a recently published report detailing the challenges facing American farmers and ranchers in the next 30 years.

On the morning of March 6, representatives of the Council for Endangered Species Act Reliability (CESAR). CESAR is committed to ensuring full, sustained and rational enforcement of environmental laws,



Attorney Brenda Washington Davis

particularly, the Endangered Species Act. That commitment extends to ensuring that administration of these laws is justified based on credible science and data rather than speculation.

Traditional, time-honored forums will continue at the 21st annual conference:

- Reclamation Roundtable, featuring the acting commissioner of Reclamation and all five regional directors; and
- “Inside Washington” – the traditional conference session featuring key staffers from Congressional water committees.

The Las Vegas conference will provide attendees with the opportunity to learn firsthand what key environmental policy officials and Western water managers are preparing to do as a new Administration begins to work with Congress on issues of vital importance to Western rural commu-

nities. Conference information and registration forms can be downloaded at www.familyfarmalliance.org.

For more information, please contact us at 707-998-9487 or ffameeting@aol.com.

Alliance Reps to Host CSU “Water Tables 2009” Focus on Water Conflicts

On Saturday, February 21, 2009, the Colorado State University (CSU) Libraries will once again host Water Tables, its annual fundraiser for the Water Resources Archive. The theme of this year’s event is “Compact Issues and Conflict Resolution.” Nineteen water experts will host tables discussing relevant topics while a gourmet meal is served. The evening will begin with a reception and open house for the Water Resources Archive in CSU’s Morgan Library.

In February 2008, the third annual Water Tables attracted nearly two hundred guests from across the state and raised more than \$30,000 for the Water Resources Archive, which preserves materials critical for documenting the state’s water history.

“The evening was enjoyable, and it was a credit to CSU and its library system,” noted Ken Wright of Wright Water Engineers, event sponsor and Archive donor. “The nineteen or so tables all had good discussion moderators who had been thoughtfully selected. We are already looking forward to the 2009 Water Tables.”

Among the moderators selected for Water Tables

2009 are Family Farm Alliance Advisory Committee member Jim Broderick (Director of the Southeastern Colorado Water Conservancy District) who will lead a discussion on Colorado’s Fryingpan-Arkansas Project conflicts. Dan Keppen, Alliance Executive Director, will moderate a table discussion comparing the conflicts irrigated agriculture faces now compared to those faced historically.

Alliance member Imperial Irrigation District (CALIFORNIA) will focus on compact requirements and third party impacts of the world’s largest ag to urban water transfer.

John Porter, former General Manager of Alliance member Dolores Water Conservancy District (COLORADO) is also hosting a table at the event.

Tickets for the event are \$125 per person. Proceeds will support the Water Resources Archive, working to preserve, promote and make available records of Colorado’s water history. Reservations can be made online at <http://lib.colostate.edu/watertables09> or by calling (970) 491-1833. Reservations will be filled on a first-come, first-served basis; limited seating is available.

Central Valley Congressmen Formally Ask US Fish & Wildlife To Respond to Alliance's Information Quality Act Request

Six Congressmen from California's Central Valley on January 21st sent a letter to the U.S. Fish and Wildlife Service (USFWS) requesting an "urgent and thorough response" to the Family Farm Alliance's Information Quality Act (IQA) request made on December 14, 2008.

Rep. George Radanovich (R) took the lead in developing the bi-partisan letter, which was also signed by U.S. Reps. Jim Costa (D), Devin Nunes (R), Dennis Cardoza (D), Ken Calvert (R), and Kevin McCarthy (R).

"We appreciate the leadership taken by Rep. Radanovich on this important effort," said Dan Keppen, Alliance Executive Director. "He and the other co-signers to this letter deserve our thanks."

The Alliance's request focused on correcting information used in the Effects Analysis of the Delta Smelt Biological Opinion on the Continued Long Term Operations of the Central Valley Project and the State Water Project.

The purpose of the IQA is to ensure the "quality, objectivity, utility, and integrity" of information disseminated to the public.

"The Biological Opinion will be extremely influential on our districts and our constituents," the congressional letter stated. "Its requirements will affect the future operations of the pumping projects in the San Joaquin-Sacramento Delta, which supplies water to the farms and families of the Central Valley, as well as to millions of other Californians."

As reported in the December 2008 "Monthly Briefing", the Family Farm Alliance's IQA Request asks for several corrections to the Effects Analysis of the Biological Opinion.

The corrections requested by the Family Farm Alliance include that the USFWS did not comply with the federal guidelines intended to exclude biased and inaccurate information and ensure the integrity of expert peer reviews. Specifically, the IQA Request states that the peer review included individuals that are authors of papers that the Biological Opinion is based upon or who received funding from the federal agencies authoring the Effects Analysis.

Additionally, within the Effects Analysis, the Alliance points out an inconsistency where the USFWS states that the decline of the smelt is due to entrainment at the state and federal export pumps in the Delta, while at the same time USFWS acknowledges that the data demonstrates that entrainment is not driving population dynamics.

The Alliance further notes that the Effects Analysis does not consider the delta smelt conservation and recovery efforts now in progress.

"Such federal, state and private investments are crucial to the long-term sustainability of the species and should be factored into the Biological Opinion," the delegation letter states.

Finally, the IQA request shows that USFWS inaccurately places the sole responsibility on the pumps for the effects of toxic waste dumped by others, the reproductive habits of invasive

species, and global warming.

Numerous factors affect the health of the Delta and the species that rely upon it. These other factors include the loss of habitat; the entrainment of fish in unscreened in-Delta diversions, including power plants located in the Delta; the introduction of non-native species, including predator species like the striped bass; the decline of food availability; and the discharge of toxics into Delta waterways and streams tributary to the Delta.

"It is our view that efforts to restore the Delta have failed because they have not fully taken these factors into account," the congressmen stated. "This pattern must end. If we are to restore the Delta and its species, the solution must not focus simply on the pumps, but must address all the other factors affecting the Delta, as well."

Pumping operations in the Delta provide a major supply of water to the San Joaquin Valley, San Francisco Bay Area, and Southern California.

The January 21 letter emphasizes that information used to develop federal requirements for the delta smelt, which could result in drastic and severe water reductions, must be of the highest quality.

"Information used in the current Effects Analysis that does not meet this high standard must be corrected," the congressional letter concludes. "As a result, we are looking forward to your prompt and thorough response to the IQA request from the Family Farm Alliance."

To see the transmittal letter and detailed request document filed by the Family Farm Alliance in December, as well as the effects analysis prepared by U.S. Fish and Wildlife Service, go to the Family Farm Alliance website: www.familyfarmalliance.org.

Mid-Pacific Conference Carries Grim Tone: Curtailment Looms

A well-attended conference of water users, Bureau of Reclamation officials, and other agencies and interested parties were served up a healthy portion of bad news at the 42nd annual Mid-Pacific Water Users Conference, held in Reno (NEVADA) earlier this month. While conference attendees were presented with encouraging news about historic settlement negotiations in the Klamath River watershed and an impressive report of fast-track flood damage repairs undertaken by Nevada water users, much of the discussion focused on the imminent water crisis facing Central Valley water users this year.

In preparation for the initial 2009 water allocation announcement in February, the Bureau of Reclamation (Reclamation) on the last day of the conference released information on water supply conditions for the Federal Central Valley Project (CVP) and provided comparisons between current conditions and those in January 2008 and 2007, 1992 and 1977 (drought years), and the 15-year average.

Water conditions over the past several years have been very dry. Water Years (WY) 2007 and 2008 were critically dry for both the Sacramento and San Joaquin River Basins. (Reclamation's WY runs from October 1 to September 30). Precipitation in Northern California in WY 2008 was approximately 70 percent of average, and the CVP carry over is just 35 percent of storage capacity. The 2-year combined total Northern California precipitation for the past two years is 72.1 inches, the 9th driest 2-year period on record and was only about 70 percent of average.

For this year, the California Department of Water Resource's January 1, 2009, Snow Survey found snow-water content to be 76 percent of normal Statewide as compared to 60 percent of normal last year. However, very little additional precipitation or snowfall has occurred since that time. Precipitation in Northern California is currently only 66 percent of the seasonal average.

As of January 19, 2009, precipitation in the Upper San Joaquin River Basin was 13.54 inches as measured at Huntington Lake, as compared to a 30-year average of 18.3 inches or 74 percent of average. Current storage at Millerton Lake is about 200,000 acre-feet compared to a 30-year average of about 300,000 acre-feet for the same date. Accordingly, initial allocations for Friant Division Contractors will be relatively low.

According to Reclamation, "project operations and water delivery will be very challenging this year". Growers on the West side of the San Joaquin Valley are planning for an unprecedented summer: a zero allocation of federal water supplies.

The first official 2009 CVP water allocation announcement is planned for Friday, February 20, 2009.



Farewell to Reclamation Veterans: Former Mid-Pacific Region Public Affairs Officer Jeff McCracken, Commissioner Bob Johnson, and Mid-Pacific Region Deputy Director John Davis (left to right) were recognized by water users for their long-service and dedication to the Bureau of Reclamation at the recent water users conference in Reno.



Alliance E.D. Receives Award: Former Reclamation Commissioner Bob Johnson presented Family Farm Alliance Executive Director Dan Keppen with the John W. Keys III Award for "Building Partnerships and Strengthening Relationships" at the 42nd Annual Mid-Pacific Water Users Conference on January 21.

Oregon High Court Agrees to Decide Klamath Water Suit Issues

On January 29, 2009, the Supreme Court of Oregon agreed to decide three issues of State law which will likely determine whether Klamath farmers can recover compensation from the United States for refusing to release water to them in 2001.

The state law issues arose in a federal class action suit filed on behalf of 1,400 farm families and 13 water districts seeking \$100 million against the United States for the taking of their water, which the Bureau of Reclamation kept in Klamath Lake to help the endangered sucker fish.

The trial court dismissed the suit in 2007, holding that the Klamath farmers had no property right in Klamath Project water under Oregon law. The case is now on appeal to the Federal Circuit Court of Appeals in Washington, D.C., which in July asked the Oregon Supreme Court to decide whether Oregon law gives Klamath farmers a property right in Klamath Project water.

“We are very pleased that the Oregon Supreme Court has agreed to decide whether Klamath water users have any property rights under Oregon law,” said Nancie G. Marzulla, attorney for the farmers and districts. “We think the trial court got Oregon law wrong, and that the Oregon Supreme Court is the proper court to correctly interpret Oregon law.”

The federal government had opposed

certification of these issues to the Oregon courts, arguing that the Federal Circuit Court of Appeals should instead accept the federal trial court’s interpretation of Oregon law.

The issues which the Oregon Supreme Court has agreed to decide are:

- “Whether, assuming that the United States appropriated water rights for the Klamath Project pursuant to the 1905 Oregon statute, that statute precludes other persons from obtaining a beneficial or equitable interest in those rights”
- Whether, under Oregon law, beneficial use by the person who receives the water from the Klamath Project is sufficient to give that person a beneficial or equitable interest in the water.
- Whether, under Oregon law, anyone may assert either a legal or an equitable property interest in water from the Klamath Project without first having gone through the pending state water rights adjudication.

Article courtesy of Marzulla Law Firm, a Washington, D.C.-based law firm that represents water users and water entities in complex litigation in matters involving water, property, and environmental issues. For further information about Marzulla Law or this decision go to www.marzullalaw.com.

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Reclamation Releases New *Managing for Excellence* Documents

The Bureau of Reclamation last October announced that it had published the concluding report for the *Managing for Excellence* (“M4E”) Initiative. Reclamation recently issued Reclamation Manual proposals related to M4E :

- Team 1: *Communication and Collaboration with Customers and Stakeholders Related to the Bureau of Reclamation Mission* (CMP P08) <http://www.usbr.gov/recman/cmp/cmp-p08.pdf>
- Team 7: *Allocation of Operation, Maintenance and Replacement Costs*

(PEC P07) <http://www.usbr.gov/recman/pec/pec-p07.pdf>

- Team 12: *Collaboration with Customers Regarding Engineering and Other Technical Services Required for Construction Work on Existing Bureau of Reclamation Facilities (Excluding Safety of Dam Modifications)* (CMP TRMR-19) http://www.usbr.gov/recman/temporary_releases/cmptmr-19.pdf

M4E is in response to a report from the National Research Council which examined several facets of Reclamation’s organiza-

tion, practices, and culture. Their report and recommendations were addressed in the formulation of the M4E Action Plan. During the past two years, Reclamation has worked through that action plan with the help of employees, customers and other stakeholders.

The Family Farm Alliance played an active role in this process.

Stimulus Bills, Omnibus Lands Package Hold Promise for Irrigators

Several actions are moving through the new Congress which could assist Western irrigators struggling to find ways to repair crumbling water infrastructure and address other long-standing challenges. The following has been developed with information prepared by Joe Raeder, the Family Farm Alliance's Washington, D.C. representative.

Economic Stimulus Legislation

Congress is negotiating economic stimulus bills in both houses that promise funding to address aging water infrastructure challenges in the West. The current Senate draft provides \$1.4 billion to the U.S. Bureau of Reclamation (Reclamation) for Western water infrastructure and \$4.6 billion for the U.S. Army Corps of Engineers (Corps). The pending House bill provides \$500 million for Reclamation and \$4.5 billion for the Corps. The Senate bill energy investments total \$51 billion; the House bill provides \$40 billion.

The balance of funds not directed by the Senate and available for aging infrastructure rehabilitation and authorized construction projects is \$1.12 billion.

There are some key differences between the Senate and House versions in the manner in which they address Western water projects.

For example, the Senate version authorizes stimulus dollars to be advanced into the Colorado River Dam Fund; funds inspections for urbanized canals to the tune of \$10 million; provides \$50 million to the Central Utah Project; and allocates \$50 million to California Bay-Delta Restoration. The House version contains no such provisions.

The Senate version provides \$60 million to rural water projects, \$20 million less than the House bill. \$110 million is proposed by the Senate for Title XVI reuse and recycling projects, while

the House proposes \$126 million.

One new provision in the Senate bill would authorize dollar amounts that expire for obligation to be used to defray costs of "supervision, inspection, over engineering and design". The Senate version also would provide unlimited reprogramming authority for the Secretary of the Interior.

Both versions authorize repayment provisions allowing for extension of repayment of reimbursable amounts (for up to 25 years) for rehabilitation.

Omnibus Lands and Water Bill

The House Natural Resources Committee and the House Leadership have said that they plan to bring an omnibus lands bill to the House floor sometime after action on the economic stimulus bill, which the House passed earlier this month. House staff report this week that the omnibus bill may come to a vote during the week of February 9, but the exact timing remains uncertain.

This package is important for water agencies in the West because it contains the legislation for implementing the Lower Colorado River Multi-Species Conservation Plan, the San Joaquin River settlement agreement and bills that would address aging infrastructure challenges (e.g. Jackson Gulch rehabilitation project in Colorado, Senator Reid's Canal bill), climate change (SECURE Water Act), and the federal cost share for the construction of the Arkansas Valley Conduit.

Currently, the plan is to bring the bill to a vote under a procedure which limits debate to 40 minutes, prohibits amendments and requires a two-thirds majority vote for passage. The decision to use this procedure for the huge omnibus lands bill is being criticized by many Republicans, some of whom have provisions of their own in the bill. While the omnibus lands measure has strong bi-partisan support in the House, Republican resistance to this fast-track approach could be divisive and

affect when and how the bill comes to the floor.

Appropriations

The House plans to vote next week on an appropriations bill package that will fund the federal government for the rest of Fiscal Year (FY) 2009, which ends September 30. Most federal agencies are currently operating under a temporary "continuing resolution" that holds funding at the FY 2008 level. The resolution, which expires March 6, was enacted last fall after the regular appropriations process ground to a halt amid pre-election partisan disputes.

The bill that is expected to come to the House floor next week will roll the remaining 10 regular appropriations bills into one omnibus package. It will include the Energy and Water Development Appropriations bill, which funds the Bureau of Reclamation, the Corps of Engineers and the Department of Energy. The specific FY 2009 appropriations numbers for Reclamation and the Corps, and for individual projects, haven't been released yet.

While Congress attempts to wrap up the FY 2009 appropriations process, the FY 2010 plan is already running behind because the new Administration has not yet assembled its FY 2010 budget request, which is supposed to be submitted in early February. Because of the change-over in administrations, the FY 2010 budget request may be weeks late. Also, the Administration is undoubtedly considering how funding from the economic stimulus bill will affect agency needs for regular appropriations in FY 2010.

Thank You to Our New and Supporting Members!

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Your contributions matter. Whether you support the Alliance's advocacy, outreach or education efforts, you can rest assured that your investment will promote the protection of Western irrigated agriculture and the strong rural communities that it supports.

Make your tax-deductible gift to the Alliance today! Grassroots membership is vital to our organization. Thank you in advance for your loyal support. If you would like further info, please contact the Alliance at (541)-850-9007 or visit our website: www.familyfarmalliance.org.

