

Monthly Briefing

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

Alliance Gears Up for Climate Debate

“Farmer Lobbyists” Prepare to Engage DC Policy Makers

The Family Alliance is preparing a set of legislative recommendations for a Senate climate bill, which it plans to begin circulating in early September, prior to sending a contingent of “farmer lobbyists” back to Washington D.C. later in the month.

Alliance members from five Western states will be in Washington to discuss the proposals with Members of the U.S. Senate and their staff. A set of principles is being drafted (see inset box) that will form the basis of the Alliance’s legislative proposals, which are being written as possible amendments to the House-passed climate-energy bill (H.R. 2454). The principles focus mostly on the natural resources adaptation provisions of that bill.

A handful of key Alliance documents addressing climate change are guiding the formation of the principles and legislative proposals:

- The Alliance’s 2007 report: “Water Supply in a Changing Climate”;
- An April, 2009 letter to the National Academy of Science’s Panel on Adaptation to the Impacts of Climate Change;
- Three pieces of testimony by the Alliance’s President and Executive Director before Senate and House committees; and
- A copy of the “SECURE Water Act,” which was enacted this spring in the omnibus natural resources bill (Subtitle F of PL 111-11).

Alliance leaders urge their mem-

bers to take a look at the SECURE Act, existing law which the Alliance closely monitored and testified on in the last Congress. SECURE authorizes the Secretary of the Interior, in cooperation with NOAA and other agencies, to carry out studies and programs to assess the impacts of climate change on water supplies and assemble the data and information necessary for the development of adaptation strategies.

“The Family Farm Alliance actively supported enactment of the SECURE legislation and we are working with the Bureau of Reclamation on its implementation,” said Alliance Executive Director Dan Keppen. “One of our legislative recommendations will be that any national

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Figure 1: Alliance farmer-lobbyists in the conference room of U.S. Interior Secretary Ken Salazar earlier this year.

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Alliance Farmer Lobbyists Will Tackle Climate Change *Cont'd from Pg 1*

climate-change bill acknowledge and possibly provide funding for the programs and activities authorized by SECURE.”

While a great deal of scientific inquiry and public discourse has been focused on climate change and its possible consequences for the planet’s future, Family Farm Alliance members are concerned about the problems threatening their water supplies today – drought and urban population growth.



Figure 2: Alliance president Patrick O’Toole and his wife Sharon (center) will join other farmer lobbyists in Washington, D.C. in early September. Source: Ladder Ranch.

“Even without climate change, these factors present an immediate crisis for agricultural water users in the West,” said Alliance President Patrick O’Toole (WYOMING). “This is of extreme concern to farmers and ranchers and their communities. It ought to be of great concern to our nation as a whole because climate change may result in a disruption of food production worldwide. If that is what is in store for us, then clearly this country cannot afford to lose the food production capacity of Western irrigated agriculture.”

Family Farm Alliance Principles for Climate Change Legislative Proposals

PRINCIPLE: It is the policy of the Federal Government that the United States remain self-sufficient in food production

PRINCIPLE: The means and resources necessary for agricultural self-sufficiency, including water supplies and related infrastructure for irrigated agriculture, must be protected and enhanced to enable them to adapt to and withstand the impacts of climate change.

PRINCIPLE: Scientifically sound and complementary adaptation strategies and plans must be developed to manage water supplies for agricultural production and natural resources

PRINCIPLE: When water laws and environmental laws conflict, balanced solutions that respect both socioeconomic realities and the environment must be found.

PRINCIPLE: Existing agricultural water supplies cannot be relied upon to mitigate the adverse impacts of climate change on natural resources or urban water supplies

PRINCIPLE: Rural, resource-dependent communities must given assistance to reduce their vulnerability and provide increased resilience to climate change

PRINCIPLE: Adaptation strategies and plans for natural resources and agricultural production must seek to conserve and enhance existing water supplies and accommodate the development of new supplies where necessary to address shortages resulting from climate change and population growth

PRINCIPLE: Adaptation strategies and plans for watersheds in support of both natural resources and agricultural production must be developed in cooperation with state and local authorities and with deference given to state and local laws relating to water resource allocation, use, control and transfer.

PRINCIPLE: State and local adaptation strategies and plans must consider the impacts of continued growth that rely on water transfers from agriculture and rural areas and to identify alternatives.

Climate Change Legislative Outlook in the U.S. Senate

Global political pressures, health care and economic concerns will all factor into the fate of climate change legislation as it is developed and moves through the U.S. Senate this fall.

The Obama Administration would like to have new climate change laws in place when the President heads to an international global warming summit to be held in Copenhagen next year.

As the Copenhagen event approaches, the past reluctance of China, India and other developing countries to accept emissions standards will be come more of an issue, since it could lend credit to critics of climate change legislation in their arguments that the U.S. acting alone to reduce carbon emissions will have minimal global impacts, with huge costs for our country.

However, the Chinese have announced that they are now considering drafting resolutions on climate change and amendments to the nation's renewable energy law. The legislation follows a report by several Chinese government bodies and academics that said China should "as soon as possible research and draft targets for relative and absolute caps in the total volume of carbon dioxide emissions."

Other countries are also taking measures to curb emissions, which could ramp up international pressure on the U.S. to demonstrate that it, too, will curb emissions by the time the Copenhagen meetings are underway.

A big question on everyone's mind is how the current health care debate will impact climate change deliberations. While the health care debate will be front and center in the next few months, most policy makers expect that Senate Majority Leader Harry Reid's (NEVADA) Sept. 28 deadline for bringing together climate change legislation from various committees will be met, although the process will likely percolate quietly below the surface.

Senate Environment and Public Works Committee Chairwoman Barbara Boxer (CALIFORNIA), who is leading the cli-

mate change effort, says the measure the House passed last month, **H.R. 2454**, will serve as her basis for a bill. Senator Boxer plans to introduce her bill on September 8, after lawmakers return from the month-long recess, and committees have been tasked by Senator Reid to finish their work on the



Figure 3 - *Senator Barbara Boxer (D-CALIFORNIA) will play a key role as climate change legislation is crafted in the U.S. Senate this fall.*

Photo Courtesy of
www.boxer.senate.gov.

measure by September 28.

Legislative hearings will be conducted after September 8, and minority staffers are demanding that the Environmental Protection Agency and others quickly provide sound analyses that clearly demonstrate impacts and costs of proposed legislation. There could likely be some differences in legislation coming out of various Senate committees with jurisdiction over the pollution allowances issue, and it is

expected that Senator Reid will be pulled in to mediate these conflicts.

Senators Max Baucus (MONTANA) and Sheldon Whitehouse (RHODE ISLAND) are already pressing Senator Boxer to include a special program for natural resources in the Senate energy and climate bill. The two Senators have prepared legislative language that would establish a national adaptation strategy and wildlife strategy center and set aside some revenue generated by the cap-and-trade program for adaptation. Sens. Baucus and Whitehouse propose that the profits from the carbon cap-and-trade system must be set aside for natural resources adaptation. The current House bill makes the funding subject to appropriations.

It is uncertain as to what happens after the September 28 deadline imposed by Sen. Reid. Republicans are girding for a fight on the Senate floor, but several Democrats have said they do not want to see this issue go to the floor for a debate. Four moderate Democrats have said the Senate should abandon efforts to pass legislation curbing greenhouse-gas emissions this year and concentrate on a narrower bill to require use of renewable energy.

This resistance undercuts President Obama's effort to win passage of legislation that would cap carbon dioxide emissions and establish a market for trading pollution allowances. Ten Senate Democrats also recently sent a letter to the Obama Administration asking that new legislation address specific issues (such as a carbon "tariff") which the Administration will likely oppose.

Due in part to these developments, it appears that the promoters of climate change legislation in the Senate could face an uphill battle to get the necessary 60 votes.

Sen. Feinstein Calls for Independent Review of Bay-Delta Fish Flow Recommendations

Troubling recent correspondence between the Family Farm Alliance and the U.S. Fish and Wildlife Service (USFWS) and other concerns regarding the science underlying fish flow requirements in California sparked a debate between California's senior U.S. Senator and a senior policy official in President Obama's Interior Department at a meeting held in Coalinga (CALIFORNIA) earlier this month.

At an August 26 noon meeting held at Harris Ranch Inn and Restaurant, 100 attendees witnessed Senator Dianne Feinstein charge Deputy Interior Secretary David Hayes with the task of coming up with an independent science review plan of the current biological opinions on the Delta Smelt and Salmon within 30 days. If Interior cannot come up with a plan, Senator Feinstein threatened that she will provide direction to engage the National Academy of Sciences to review the opinions.

"There are 30 lawsuits on the biological opinions and two separate opinions, one for the smelt and one for salmon," Senator Feinstein said in the *Fresno Bee*. "The rules need to be re-considered."

Severe water shortages caused by the combination of these federal restrictions and drought on water supplies to the Westside of the San Joaquin Valley have forced hundreds of thousands of farmland to be fallowed this year. Worse, those restrictions on pumping through the Delta allowed more than 730,000 acre feet of water last year and over 619,000 acre feet already this year to waste into the ocean.

Estimates from experts at the University of California demonstrate that the combined effects of these restrictions on the water supply have cost Central Valley agriculture nearly \$1 billion in lost income and more than 35,000 lost jobs in this year alone.

An Information Quality Act (IQA) request and associated administrative appeal filed by the Alliance was brought up in the meeting led by Senator Feinstein. In the weeks leading up to the Coalinga meeting, the Alliance and USFWS traded letters on the Alliance's administrative actions to force the USFWS to withdraw its biological opinion on the delta smelt in California.

The Alliance has argued since December 2008 that USFWS has not complied with the IQA or with administrative IQA guidelines mandating the use of best available science in federal decision making. An August 13 letter from the USFWS' senior science advisor to Alliance Executive Director Dan Keppen outlining the agency's decision to contract with an outside organization to provide peer review of the issues raised by the Alliance raised the ire of Alliance members and those

present in Coalinga.

"The USFWS's response is overdue by nearly 3 months already," said Keppen. "The external review outlined in its letter should have been done before as required by the agency's own regulations."

Brenda Davis, the Sacramento attorney representing the Alliance in this case, believes the USFWS letter is tantamount to a statement that the agency does not know if the 2008 smelt opinion is even defensible.

"If done correctly, USFWS would have sufficient familiarity with the contents of the 2008 opinion to be able to respond to our request," said Davis. "By now, they should be able to sufficiently disclose the specific data sources used and quantitative methods employed in the smelt opinion."

In December 2008, the Alliance identified several instances in the smelt opinion where USFWS had failed to use the best available data, and the Alliance filed a request under the IQA asking USFWS to correct numerous scientific errors. The USFWS refused to make the requested corrections, and the Alliance on July 9 asked the courts to order the Service to withdraw and redo the document.

Among the many defects in USFWS's December order, which reduced by one third the state's water supplies to more than 25 million people, the Alliance pointed out that:

- Instead of conducting the independent peer review that the law requires, USFWS brought in the authors of the papers on which the agency's



Figure 4 - U.S. Senator Dianne Feinstein (D-CALIFORNIA).

Source—www.feinstein.senate.gov

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Sen. Feinstein Calls for Science Review *(Cont'd from Page 4)*

order was based. In effect, they were being asked to review the adequacy of their own work;

- Although ESA requires USFWS to use the best available scientific and commercial data, the agency instead based its findings in part on an analysis which had not been published or peer reviewed and, supposedly, data, which USFWS refused even to disclose; and
- Rather than relying on scientific evidence to form its conclusions as the law requires, USFWS only cited the bits and pieces of information that supported its own assumptions and ignored the rest.

In its August 24th response to USFWS, the Alliance requested that the 2008 smelt Opinion be withdrawn from the public domain until the USFWS can comply with the IQA.

“The consequences of the USFWS’s inaction are already immediate and devastating for Alliance members and others,” said Keppen in the August 24 response. “We urge the FWS not to delay withdrawal any longer as the quality of life and many people’s livelihoods are at stake here.”

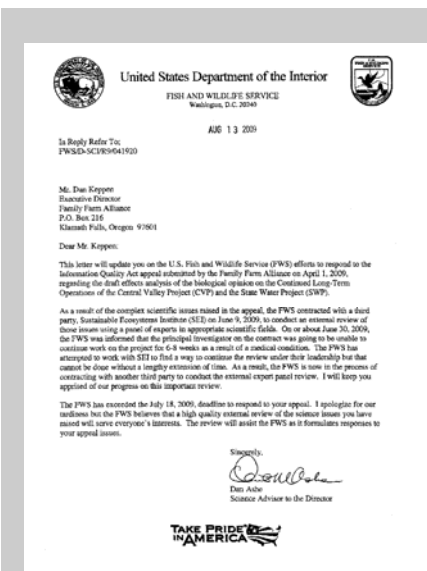
Attending the invitation-only meeting in Coalinga were U.S. Rep. Jim Costa (CALIFORNIA), California Department of Water Resources chief Lester Snow, water district managers from all parts of the state, Fresno County and City leaders, local mayors, representatives from the Family Farm Alliance and other agricultural organizations, food processors, and farmers.

Earlier in the day, U.S. Secretary of Agriculture Tom Vilsack met with dairy farmers and state agricultural officials in Modesto, where he showed empathy for rural communities shaken by the water crisis.

"I understand these are serious issues with serious consequences," Secretary Vilsack said. "I will tell the President it's not just about California, but it's about the country and the world."



Fig. 5 - San Joaquin Valley farmers and their families protest outside of Congressman George Miller's office in Concord (CALIFORNIA) on August 13. Drought and regulatory actions taken by the federal government to protect fish like the Delta smelt have put tens of thousands of farmworkers out of work this summer. Source: Office of Rep. Nunes



Want copies of the August 13 USFWS letter or the August 24th response by the Family Farm Alliance? Go to the Alliance website: www.familyfarmalliance.org

Documents related to the IQA request and lawsuit can be downloaded in PDF format from our home page.

Company's Move to Discontinue Aquatic Herbicide Sends Shockwave Through Irrigation Community

In recent weeks, irrigation districts have received letters notifying them of the recent decision by Baker Petrolite to discontinue after this growing season supplying MAGNACIDE H Herbicide, a product used by many Family Farm Alliance members to control aquatic weeds.

"This has serious implications for many Alliance members, and I've received calls from concerned irrigators in Washington, Oregon, California and Nebraska who will be impacted by this decision," said Alliance Executive Director Dan Keppen.

"The decision has come as a shock to everyone," said Alliance member Shannon McDaniel, manager of South Columbia Basin Irrigation District (WASHINGTON). "To drop this product without warning has left the irrigation industry without a necessary tool to safely control aquatic weeds and will threaten the infrastructure of all irrigation districts that utilize this product."

McDaniel's district uses 108,000 pounds of MAGNACIDE – Baker

Petrolite's brand name for the herbicide acrolein - annually to treat 700 miles of canals and laterals. Due to water quality issues in the South District, the entire canal maintenance program is designed around the use of this product. Baker's notice gives the District 60 days to completely redesign its maintenance program, which could result in a capital cost of around \$2 million. According to Shannon McDaniel, accomplishment of this task will be "monumental" and will jeopardize water deliveries for the 2010 irrigation season.

"This product is vital to our operations," said McDaniel.

Over 4,000 landowners in his District depend on a vegetation-free delivery system to assure water supply. Loss of Magnacide H could severely impact his District's ability to deliver adequate flows to service customer needs. If the irrigation delivery systems become choked with aquatic growth in the absence of the herbicide, they are subject to catastrophic failure caused by water backing up and overflowing or breaching canals. Breaches

would damage large expanses of property and pose a risk to public safety.

Without the ability to apply Magnacide H, the District would have to shift from aquatic vegetation management to a less effective silt-control system, which would require the acquisition of a fleet of 12 to 15 additional excavators. The new fleet would require new operators, mechanics, transport equipment, and cleaning and cutting buckets— an expensive proposition.

In 2001, as a result of *Headwaters, Inc. v. Talent Irrigation District*, many districts like SCBID undertook expensive and time-consuming measures to obtain National Pollution Discharge Elimination System (NPDES) permits.

"We know its value," says McDaniel. "We have spent thousands of dollars on equipment, a water quality laboratory, storage facilities, applicator training, and field monitoring to ensure that the product complies with state and federal laws and water quality standards, and protects the natural environ-

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Figure 6 - Irrigation canals like this could be put at risk if aquatic herbicides cannot be used to control vegetation, which can impair the channel's ability to carry water, leading to potential breaching problems.



Figure 7 -Aquatic vegetation is beginning to accumulate in patches along the left canal bank of this irrigation delivery system.

Source: www.faculty.ucr.edu

Irrigation Districts React to Aquatic Herbicide Decision

“Monumental” Effort Required to Change O&M Plans (Cont’d from Pg 6)

ment.”

At least ten irrigation districts in Oregon also use the herbicide, including Klamath Irrigation District (KID), the largest district on the Oregon side of the Klamath Irrigation Project, which was a pioneer in its efforts to secure water quality permits.

“We all went through the trouble of getting NPDES permits for the use of the chemical even though it was not clear whether the permits were required,” said KID general manager Dave Solem. “We invested a pile of money on structures to comply with the permit in the district. We also have spent a lot of time working on the new label registration of Magnacide in the last year. We did all of this because there are not many options for aquatic weed control available.”

MAGNACIDE H users have been assured in recent year that, with the

development of a Manufacturing Plant in Taft, California, the product would be available well into the future.

In its Summer 2002 Crop Protection Chemicals newsletter, a spokesman for Baker Petrolite was quoted as saying “It is because of the faith of our customers in the benefits of MAGNACIDE H that we have undertaken this investment (Taft Manufacturing plant). We want to provide you with a reliable source of supply and with the start of the 2003 BPC will be able to meet that goal”.

However, in letters sent to irrigation districts throughout the West over the past month, Baker Petrolite President Patrick A. Marfone warned that, following this year’s irrigation season, MAGNACIDE H would no longer be available for application in irrigation canals.

“This will enable us to renew the


focus of our products, including acreolein, in our core businesses in the oilfield services industry,” Marfone wrote.

McDaniel and many other Western irrigation district managers who have sent letters to Baker do not believe Baker’s notice affords sufficient time for districts to retool and reinvent operations and maintenance plans.

“We need an adequate transition time to modify our program,” said MacDaniel.

He has requested that Baker continues to maintain registration of Magnacide H and supply the product for the 2010 and 2011 irrigation seasons.

A meeting has been planned after Labor Day between irrigation district representatives and Baker executives to discuss control strategies and collaboration regarding other options.



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Water Review

A Perspective on Western Water Issues Prepared by the Family Farm Alliance and Its Members

NEW MEXICO

Alternative, Renewable, Clean Energy Innovative District Generates Power Within Canals


THE RIO GRANDE PROJECT

The Rio Grande Project (“Project”) was authorized as a federal Reclamation project under the Reclamation Acts of June 17, 1902 and February 25, 1903. The United States owns and controls Elephant Butte Dam and Reservoir, Caballo Dam and Reservoir, the bed and banks of the Rio Grande River within the Project, and six Project diversion dams on the river. The Elephant Butte Irrigation District (EBID) maintains and operates a gravity-flow irrigation surface water distribution system comprised of almost 600 miles of canals, laterals, ditches, and waterways located in Southern New Mexico and West Texas.

Ninety-five percent of EBID surface water is derived from Southern Colorado and Northern New Mexico snowmelt and rainfall runoff and is stored in the Elephant Butte and Caballo reservoirs located north of EBID boundaries. Based on demand of the agricultural crops grown in this area, water is released at the reservoir and diverted from the Rio Grande into EBID canals for delivery to the irrigators. EBID ditches allow for return flow to the river for reuse downstream.

SIGNIFICANCE

EBID delivers surface water to 90,640 acres of farmland for irrigation below Caballo Reservoir through the 110 mile river reach of the Rio Grande, often referred to as the “Ribbons of Life” that runs through this historic, agricultural and culture-rich valley in Southern New Mexico. A typical irrigation season will last about 240 growing days. Unlike many other areas of the West, which primarily rely upon stored snowmelt originating from upstream forested highlands as a source of summertime irrigation supplies, EBID also receives significant water supplies from monsoon floods.



“Our watershed is more of desert, than a forest,” said EBID general manager Gary Estlinger. “What runs off our watershed is pretty wild water during a monsoon season that is getting more intense in recent years.”

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*In this month’s issue of
the Water Review.....*

*A New Mexico irrigation district uses energy
from its canal delivery system to generate clean,
green power.*

Tell your story!

*The “Water Review” focuses on Alliance members
and the issues and actions they are involved with.
If you would like to have a local project or issue
featured, send a request to:
dankeppen@charter.net*

Thank You to Our New and Supporting Members!

August 2009

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North Loup River Power and Irrigation District (NE)

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Colusa County Water District (CA)

Bill Watson (WASHINGTON)

DONOR SUPPORT

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 Dan Keppen at his NEW e-mail address: dankeppen@charter.net, or visit our website: www.familyfarmalliance.org.



**Contributions can also be mailed directly to:
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