

# Monthly Briefing

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

## 2010 Annual Conference to Highlight the Good, Bad History of Irrigator-Conservationist Relationships

The 2010 Family Farm Alliance annual conference will feature diverse, high profile speakers and panel discussions that will focus on the role of Western water in American agriculture as we edge into the new century. Several speakers and panels will focus on the conservation community's rise to power in the past four decades, and identify positive and negative examples of the relationship between farmers and ranchers and national environmental organizations.

A highlight of the conference will feature a diverse and influential panel of Western water experts who will investigate the legal, political and historic aspects behind the conservation community's rise to power since the last 1960's.

"The distinguished panelists who

will tackle this important topic will include a Colorado Supreme Court Justice, a noted California water author, and a well-known researcher of Western agricultural and environmental history," said Alliance Executive Director Dan Keppen.

The panelists include Justice Greg Hobbs, a member of the Colorado Supreme Court; Bill Kahrl, a former editorial writer for the *Sacramento Bee* and noted author of books on California water and policy; and Don Pisani, Merrick Professor of History at the University of Oklahoma.

Justice Hobbs has served on the Colorado Supreme Court since 1996 and practiced water, environmental, land use, and



**Figure 1:** Colorado Supreme Court Justice Greg Hobbs will appear on a panel investigating the conservation community's rise to power on March 4 at the 2010 Family Farm Alliance Annual Conference in Las Vegas. Photo source: [www.swhydro.arizona.edu/](http://www.swhydro.arizona.edu/)

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**"The 21st Century: 10 Years In"**  
2010 Family Farm Alliance Annual Conference  
March 4-5, 2010  
Monte Carlo Resort & Casino  
Las Vegas, Nevada  
*For more information on the conference, go to the Alliance website:*  
[www.familyfarmalliance.org](http://www.familyfarmalliance.org)

# Panel to Discuss Rise of Environmental Movement

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transportation law for 25 years before that. He is a co-convenor of the Western water judges educational project, *Dividing the Waters*; Vice President of the Colorado Foundation for Water Education; and the author of

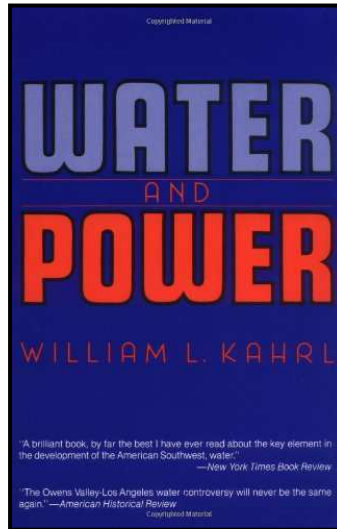


**Figure 2: Don Pisani.** Source of Photo: Colorado State University.

*Colorado Mother of Rivers, Water Poems* (2005), and *The Public's Water Resource* (2007).

Don Pisani teaches courses in the American West and American Environmental History at the University of Oklahoma. His research focuses on the allocation and use of land and water in the West. He is the author of four books and over forty articles and book chapters. A recent book, *Water and American Government: The Reclamation Bureau, National Water Policy, and the West, 1902-1935*, was published by the University of California

Press in 2002. He is a past president of the American Society for



**Figure 3: Panelist Bill Kahrl has authored several books, including this one, written about conflict over the Los Angeles water supply in the Owens Valley, which was called "brilliant" by the New York Times.** Source of Photo: amazon.com

Environmental History and currently serves as president of the Agricultural History Society.

Bill Kahrl, a public relations consultant from California, will round out the panel. Kahrl is notable for authoring *Water and Power*, a critically acclaimed book about conflict over the Los Angeles water supply in the Owens Valley. He also authored the influential *California Water Atlas*, and is a former editorial writer for the *Sacramento Bee*.

"The goal of this panel is not to provide an advocacy stance one way or the other on this im-

portant topic," said Don Schwindt (COLORADO), Alliance First Vice-President. "We think the audience will gain real value in learning how the conservation community has risen in stature to a point now where it now almost automatically is given a default seat at the table in any meaningful resources policy forum."

Other Alliance speakers will address good and bad examples of interactions between the conservation community and Western irrigators.

Attorney Karen Budd-Falen (WYOMING) will describe the "environmental litigation gravy train", where her recent research shows that the federal government spends as much money funding environmental lawyers

Continued on Page 3.....



**Figure 4: Karen Budd-Falen.** Source of Photo: Budd-Falen Law Offices.

## 2010 Family Farm Alliance Annual Conference Conference Will Focus On Farm-Conservation Interaction



**Figure 4:** Owens Creek runs through the McFadden family farm, an Oregon cattle and hay farm in operation for two generations. The McFaddens signed on to be a part of the Stream-Bank pilot program, a topic that will be discussed on a March 4 panel at the Family Farm Alliance annual conference. Source: Freshwaters Illustrated

as it does to directly protect endangered species. Her investigation into how many federal dollars are ending up in the pockets of environmental groups' attorneys was the subject of a recent national story on Fox News.

On the other end of the spectrum, a panel will provide examples of how Western irrigators are finding new ways of doing business and are seeking new alliances – including finding constructive partners in the conservation community - to get that business done.

“Our audience will get to hear from conservation leaders who are

working with farmers and ranchers to improve decision-making, stay in business, and benefit the environment,” said Keppen.

Two of those partners include The Freshwater Trust (OREGON) and Trout Unlimited, or TU (WYOMING).

Joe Whitworth, President of The Freshwater Trust, will discuss “StreamBank”, a unique and innovative web tool that enables landowners and restoration professionals to efficiently permit and fund a restoration project. The Freshwater Trust - established in 2009 through a merger of Oregon Trout and Oregon Water Trust – developed “StreamBank” as a remedy to lengthy permitting and expensive costs associated with restoration projects in Oregon.

“Permitting is one reason it can often take up to 30 months to complete a project,” said Whitworth. “With StreamBank, projects are completed in a matter of months, while maintaining the same or better project quality.”

Scott Yates is Director of Trout Unlimited’s Wyoming Water Project, which, since 2001, has strived to develop and implement a legislative strategy that can provide willing water right holders more flexibility and incentives to protect fishery resources.

“TU is working to demonstrate the ability to shepherd reasonable changes in Wyoming law through the legislative process, while working with local irrigators and cities to instill confidence in community-based approaches to balancing business operations and fishery needs,” said Yates. “Such efforts will set the table for water policy and fishery restoration discussions for decades to come.”

Over the past few years TU has also identified partnerships with specific landowners to restore stream flows and protect fishery habitat.

“These projects have built relationships in rural communities, and strengthened our ability to call on allies to support legislative and policy changes that increase flexibility in how water is used,” said Yates.

Whitworth and Yates will be joined by Mark Deutschman of Houston Engineering (MINNESOTA) on a panel that is scheduled for Thursday, March 4<sup>th</sup>.

*More annual conference stories on Pages 4 and 5....*

# More Alliance Conference Highlights

The 2010 Family Farm Alliance annual conference will feature diverse, high profile speakers and panel discussions that will focus on the role of Western water in American agriculture as we edge into the new century. In addition to hearing directly from high level officials within the U.S. Interior Department and Congressional water committee staff, cutting-edge issues of critical interest to Alliance members, policy makers and the public will be addressed, including:

**The Energy-Water Nexus.** With growing awareness of climate change and an increased emphasis on alternative energy development, there are opportunities and risks throughout the West as managers and policy makers seek to balance energy and water supplies with demands. Hear from three experts on innovative solutions and big picture implications.

**The Unstable Economy and Impacts to State Water Resources Programs.** Although some states have used federal stimulus grants to offset revenue shortages, others are slashing budgets-sometimes in the middle of the fiscal year-to close deficits. Valuable services that help West-

ern irrigators are being frozen or even cut as demand increases and jobs vanish. Listen to leaders from three Western states discuss the effects of unstable revenue systems on water resources programs.

**Update on Alliance Information Quality Act Lawsuit & Other Bay-Delta Litigation and Policy Matters.** In California, where half a million acres of productive farmland were fal- lowed due to government decisions and drought last year, numerous efforts are underway to push for honest science, provide transparency, and deal with scientific uncertainty in water re- sources decision-making. Brenda Davis will discuss the first lawsuit ever filed by the Family Farm Alliance, and Jon Rubin will summa- rize litigation and policy de- velopments that have impli- cations for California and the West.

**Detailed [conference infor- mation and registration forms](#) can be downloaded and printed on the home page of [www.familyfarmalliance.org](http://www.familyfarmalliance.org). Or, contact us by phone at 707-998-9487 or e-mail at [ffameeting@aol.com](mailto:ffameeting@aol.com).**

## Las Vegas Wash Tour



The Las Vegas Wash carries more than 170 million gallons of water a day. Decades ago, the flows of the Wash created more than 2,000 acres of wetlands. By the 1990s, only about 200 acres of wetlands remained. The dramatic loss of vegetation reduced both the Wash's ability to support wildlife and serve as a natural filter for water that flows to Lake Mead, the source of Southern Nevada's water supply.

In 1997, a citizens advisory committee made recommendations to manage and protect the Wash. The Las Vegas Wash Coordination Committee (LVWCC) was formed, with a two-fold goal: Develop a long-management plan for the Wash, and oversee implementation of the plan.

Within two years, the committee completed the Las Vegas Wash Comprehensive Adaptive Management Plan (CAMP)—a several-hundred page roadmap that includes 44 specific action items related to water quality, habitat management, erosion control and other key Wash issues.

On the afternoon of March 5, FFA conference attendees will have the opportunity to tour the Wash and learn more about the progress being made toward CAMP goals.

## Conference Speaker to Outline Interior Dep't Water Initiative

John Tubbs, a veteran water resources administrator and policy leader, will present to the 2010 Family Farm Alliance Annual Conference the U.S. Interior Department's new water initiative.

"My focus will be on Interior's water initiative we are rolling out in February," Tubbs told the Alliance office. "The timing is great."

Alliance Executive Director Dan Keppen (OREGON) will be testifying on components of the Interior initiative before the Senate Water & Power Subcommittee on Feb. 9.

Secretary of the Interior Ken Salazar last year named Tubbs as Deputy Assistant Secretary for Water and Science.

The Deputy Assistant Secretary advises and assists the Assistant Secretary for Water and Science, who oversees Interior's Bureau of Reclamation, U.S. Geological Survey and the Central Utah Project Completion Act Office. The Assistant Secretary is responsible for managing and directing programs supporting the development and implementation of western water policy

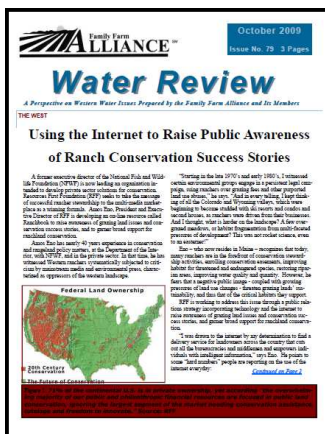
and earth observation science focused on the nation.

While working as a political appointee for Montana Governor Brian Schweitzer prior to moving to Interior, Tubbs was a policy-level member of the planning and implementation teams for three large federal water projects in Montana: Rocky Boy's/North Central Regional Water System (\$220 million); Fort Peck/Dry Prairie Regional Water System (\$230 million); and the rehabilitation of the St. Mary Diversion Facilities (\$100 million). He has worked closely with state associations, conservation districts, counties and municipalities, state agencies, the legislature, tribal governments, federal agencies, and congressional staff.

From 1993 through 2001, he was vice-president of Ambrose Tubbs, Inc., formed with his father-in-law, noted historian Dr. Stephen E. Ambrose, to conduct historical research, writing, publishing, tours, and public speaking.



**Figure 5: Deputy Assistant Secretary of the Interior for Water and Science John Tubbs.**  
Source of Photo: Billings Gazette



**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](mailto:dankeppen@charter.net)*

## Federal Fish Agency Refuses to Answer Questions On Scientific Basis for Its Restrictions on Water Deliveries

The U.S. Fish and Wildlife Service (FWS) rules cutting off water deliveries to protect the delta smelt have cost California tens of thousands of jobs and billions of dollars in ruined crops and fallowed fields. Those restrictions aren't helping the smelt; recent surveys show their numbers continue to fall. And now the agency is refusing to answer questions about whether there was any scientific basis for those restrictions in the first place.

As a result, the Family Farm Alliance announced earlier this month that it is ramping up efforts to seek an order from the court to compel the agency to follow its own regulations (go to the [www.familyfarmalliance.org](http://www.familyfarmalliance.org) homepage to download and print a PDF version of letter to Interior Secretary Ken Salazar).

“The court has already determined that FWS violated the National Environmental Policy Act by adopting these restrictions without conducting an environmental impact analysis of the extraordinary harm they are doing to other endangered species and to the human environment,” said Dan Keppen, Executive Director of the Alliance. “The agency has twice failed to perform the kind of independent review of these regulations that federal laws require. And now they’re ducking questions about why the data on delta smelt don’t support the limits on

water deliveries that they have imposed.”

“It shouldn’t take a court order to break through the stone wall that FWS has erected,” the Alliance’s president, Pat O’Toole, wrote in a letter to Interior Secretary Ken Salazar. “We would prefer to work with you constructively, to restore the transparency and scientific objectivity that the law requires and the public expects for these decisions.”

The Endangered Species Act (ESA) and the federal Information Quality Act (IQA) set strict standards to ensure that federal agencies use the best available scientific information and not their own assumptions and speculation when adopting regulations of this kind. These same laws establish a formal procedure enabling the public to ask questions and to request corrections. And they define the requirements that these agencies have to meet to ensure that independent peer reviews of proposed regulations are truly independent and objective.

“We asked FWS 25 questions about their smelt restrictions,” Keppen explained. “They answered none of them.” Instead, this is how the agency responded:

- The initial Alliance request was summarily re-

jected by FWS on March 12, 2009. The Alliance appealed that decision and had to go to court. FWS finally responded on November 20, eleven months after the Alliance request and only in response to litigation.

- None of the members of FWS’s independent peer review panel met the standards defined by ESA and IQA and two of the four members had helped to write some of the studies which FWS used to develop its restrictions – in effect, they were being asked to review the quality of their own work. When this was revealed, FWS agreed to appoint a second panel of independent reviewers.
- To assemble and chair this second panel, FWS hired the same company that had been responsible for putting together the first one. Once again, as nearly as can be determined, none of the members of this panel were required to meet the standards set by ESA and IQA.

**Continued on Page 7.....**

## Alliance Joins Nearly 150 Groups to Support Sen. Murkowski's Efforts to Curb EPA

The Family Farm Alliance joined nearly 150 other agricultural organizations to support Senator Lisa Murkowski's introduction of a resolution of disapproval regarding the decision of the U.S. Environmental Protection Agency (EPA) to move forward on regulating carbon dioxide and other greenhouse gases under the Clean Air Act (CAA). The Alliance and others believe that such regulatory actions will carry severe consequences for America's farmers and ranchers, through increased input costs and international market disparities.

Both the current and past Administrations have acknowledged that the CAA is not the appropriate vehicle for establishing greenhouse gas policy. However, this EPA finding that greenhouse gases endanger public health and welfare will trigger CAA regulatory actions, essentially establishing greenhouse gas policy through the CAA by de-

fault. The compliance costs for these programs would be overwhelming as millions of entities, including farms and ranches, would be subject to burdensome CAA regulations.

"While EPA has attempted to craft a "tailoring rule" to ease such a burden, our experience in these matters is that attempts to administratively relax environmental requirements are routinely challenged in court," the January 20 letter to Senator Murkowski (ALASKA) states. "EPA's finding puts the agricultural economy at grave risk based on allegations of a weak, indirect link to public health and welfare and despite the lack of any environmental benefit."

Senator Murkowski's resolution has the backing of three moderate Democrats and 35 Republican co-sponsors. The resolution would need 51 votes to clear the Senate and would then require approval by the House and President Obama.

## Scrambling for Cover on Delta Smelt (Cont'd from Pg 6)

- The panelists were never allowed to see the 25 questions that the Alliance submitted. Instead, FWS chopped up the questions and scrambled all the bits and pieces in order to fashion what they called twelve general issues. They then chopped up the general issues and rescrambled everything a second time in order to make up nine questions of their own design. These are the only questions the panel was allowed to answer.

"We are certainly not questioning the integrity or expertise of the individual panelists," said Keppen. "They have simply participated in a process

which FWS has been manipulating for its own purposes."

The Family Farm Alliance advocates for family farmers, ranchers, irrigation districts, and allied industries in seventeen Western states. Its activities are focused on one mission - to ensure the availability of reliable, affordable irrigation water supplies to Western farmers and ranchers.

"All of our members in farming are vulnerable to arbitrary or capricious actions by federal regulators," Keppen said. "The Alliance has a history of working cooperatively with public agencies to resolve this kind of problem. We've never had to file a lawsuit before now to compel an agency to follow its own regulations."

## Thank You to Our New and Supporting Members!

### NOVEMBER 2009-JANUARY 2010

#### ADVOCATE (\$1,000-\$5,000)

Fremont Irrigation District (ID) Northwest Horticultural Council (WA)  
Poe Valley Improvement District (OR) Salt River Project (AZ) SE Colorado WCD  
St. Mary Rehabilitation Working Group (MT) Tulare Lake Basin Water Storage District (CA)  
Southern Nevada Water Authority

#### DEFENDER (\$500-\$1,000)

Ainsworth ID (NE) A Tumbling T Ranches (AZ) Burley Irrigation District (ID) Colorado River WCD  
Garrison Diversion Conservancy District (ND) Minidoka Irrigation District (ID)  
Kenneth Groefsema Ranch (CA) The Resources First Foundation (MAINE) James Salopek (NM)  
Schroeder Law Offices (OR) Mike LaPlant (WA) Parreira Almond Processing Co. (CA)  
Perez Farms (CA) Dan Thelander (AZ)

#### PARTNER (\$250-\$500)

Bell-Carter Olive (CA) Colorado Potato Legislative Association England Farming Partnership (AZ)  
ERO Resources Corp (ID) Harlan Family Foundation (CA) Idaho Water Users Association (ID)  
Kansas-Bostwick ID Mason, Robbins, Gnass & Browning (CA) Heart Mountain ID (WY)  
Montpelier Farming Corp. (CA) Ogawa Farm (WY) Ryan Family Farms (CA)  
Trinchera Water Conservancy District (CO) Turlock Irrigation District (CA)

#### SUPPORTER (\$100-\$250)

Crawford Farms (CA) Columbia Basin Development League (WA) Davids Engineering, Inc. (CA)  
Empresas Del Bosque, Inc. (CA) Falls Irrigation District (ID) Gillespie Ag Service (CA)  
Griswold, La Salle, Cobb, Dowd & Gin, LLP (CA) Kirwin-Webster ID (KS) Mancos WCD (CO)  
Don Schwindt (CO) Sidney Snyder (CO) Teixeira Sons (CA) Gary Wright (CA)

## DONOR SUPPORT

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](mailto:dankeppen@charter.net), or visit our website:

[www.familyfarmalliance.org](http://www.familyfarmalliance.org).



Contributions can also be mailed directly to:  
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Riverdale, CA 93656.