

Monthly Briefing

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

Alliance Backs "Hydropower Improvement Act"

Senator Lisa Murkowski (ALASKA), the ranking Republican of the Senate Energy and Natural Resources Committee on July 14 introduced "The Hydropower Improvement Act of 2010". This bill will allow the United States to substantially increase the capacity and generation of clean, renewable hydropower resources, improving environmental quality and supporting hundreds of thousands of green energy jobs. The Family Farm Alliance formally supports the new bill.

Many Alliance members operate existing irrigation canals and ditch systems that may provide opportunities to develop in-canal, low-head hydroelectric projects that have tremendous potential for producing significant amounts of renewable energy with virtually no negative environmental impacts.

Unfortunately, water users who seek to implement multiple low-head hydropower generation sites throughout their service area must undergo costly and time-consuming licensing processes, which impede their ability to implement these projects.

"The Hydropower Improvement Act of 2010" provides important, incremental progress towards facilitating the development of low-head hydroelectric generation facilities within existing conduits, canals, flumes and similar man-made conveyance systems. These provisions include: 1) the development of a competitive grant program; 2) a new

conduit pilot project program; and 3) public workshops intended to improve coordination and achieve a common understanding of documented challenges associated with known regulatory barriers.

"It is for these reasons that we support this bill," said Dan Keppen, Alliance Executive Director.

Sens. Patty Murray and Maria Cantwell (D-WASHINGTON) and Mike Crapo (R-IDAHO) co-sponsored the measure.

"While we would like to see additional incentives and streamlining for hydropower, even beyond the current legislation, we believe The Hydropower Improvement Act of 2010 contains many positive provisions and certainly provides a solid foundation upon which to build," said Norm Semanko, the executive director of the Idaho Water Users Association. Semanko is also a long-time active member of the Family Farm Alliance Advisory Committee.

Senator Murkowski introduced a second bill, which would define hydropower as a "renewable resource" for federal programs and also would allow the generation to qualify for the full production tax credit for renewable energy and clean renewable energy bonds.

In the House of Representatives, the Water and Power Subcommittee will conduct an oversight hearing on small hydropower project potential on Thursday, July 29. Gary Esslinger (NEW MEXICO) will represent Elephant Butte Irrigation District and the Family Farm Alliance as a witness before the subcommittee. Esslinger serves on the Alliance's Low-Head Hydropower Committee.



Turbines like this one fabricated by Elephant Butte Irrigation District (NEW MEXICO) can be inexpensively constructed and installed in existing irrigation canal systems.

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EPA, Activists Toughen Stance On Use of Pesticides

The U.S. Environmental Protection Agency (EPA) and environmental activists are sharpening their focus on efforts to regulate pesticides, judging from recent developments in several forums. EPA has released a draft permit intended to regulate national discharges of pesticides into open waterways (see related story, page 5). The agency is also seeking comments from pesticide users, registrants, and other interested parties on draft “reasonable and prudent measures and alternatives” included in a June draft biological opinion for Pacific salmon and steelhead received from the National Marine Fisheries Service. Meanwhile, EPA has extended the deadline for comments on Oregon activists’ petition to EPA to impose one-mile buffers around all dwellings and schools for any aerial pesticide application to forestland.

In the past year, the Family Farm Alliance has become increasingly concerned about the number of federal environmental policies that are currently being re-written through agency administrative channels.

“Recent rule-making efforts at EPA and the White House Council on Environmental Quality (CEQ) carry particular risk of real potential harm for Western irrigators,” said Alliance President Patrick O’Toole. “Further, agencies that our members have looked to as partners in the past – particularly those housed within the U.S. Army Corps of Engineers and the Departments of Agriculture and Interior – appear to be taking a backseat to EPA and CEQ in recent months.”

Important Developments at EPA

- *A draft Strategic Plan has been released for public comment—see Page 6.*
- *The public comment period closed on July 19 for EPA’s draft pesticide general permit, the final of which will be employed in six states starting in 2011—see Page 5.*
- *EPA is seeking comments from interested parties on draft “reasonable and prudent measures and alternatives” included in a June 2010 Pacific salmon biological opinion .*
- *EPA has extended the deadline for comments on activists’ petition to EPA to impose one-mile buffers around all dwellings and schools for any aerial pesticide application to forestland.*

Two recent documents prepared by EPA have catalyzed concerns with Western water users that an increased regulatory presence will be exerted by the federal agency in the future. One of those documents – the draft EPA Strategic Plan – suggests that EPA will use “vigorous and targeted civil and criminal enforcement” actions to achieve its regulatory objectives. The draft EPA Strategic Plan is discussed in further detail in a related article on page 7.

Job Announcement: Klamath Irrigation District Manager

The Klamath Irrigation District (KID) operating in the U.S. Bureau of Reclamation’s Klamath Project is seeking a Secretary/Manager. The Secretary/Manager reports to a five-member board and is responsible for implementing the board’s policies and directives.

KID delivers water to a 75,000 acre service area in South Central Oregon and has 25 full-time employees.

A qualified applicant will have a combination of education and experience that may include a bachelor’s degree in agricultural, civil, or irrigation engineering or a related discipline of engineering, business administration, public administration, physical sciences, or similar disciplines. Desired experience includes progressively responsible assignments in irrigation districts or similar water resources organizations, or other similar public sector organizations. Successful experience in budget management, employee relations and regulatory compliance is

required. Must be proficient in public relations.

Job location is Klamath Falls, Oregon and duties are district wide. Frequent daily travel and occasional overnight travel are required. The incumbent must reside in Klamath Falls or within KID’s service area.

Salary depends on qualifications and experience. Comprehensive benefits are also provided.

Application deadline is 5:00 p.m. August 2, 2010. For job description and application materials contact:

**Klamath Irrigation District
6640 KID Lane
Klamath Falls, Oregon 97603
Phone: 541-882-6661**

Congress and EPA Continue Efforts to Seek Expansion of Clean Water Act

Efforts on Capitol Hill and within the leadership ranks of the U.S. Environmental Protection Agency (EPA) have ramped up to expand the jurisdictional reach of the Clean Water Act (CWA).

On April 21, 2010, U.S. Representative James Oberstar (MINNESOTA) introduced "America's Commitment to Clean Water Act" (ACCWA), with the expressed intent of "overturning two Supreme Court cases that have created great confusion about the scope of the Clean Water Act."

Mr. Oberstar's bill, if approved, would overturn two U.S. Supreme Court decisions (*SWANCC*, 2001, and *Rapanos*, 2006) by replacing the word 'navigable' with 'waters of the U.S.' in the 1972 Federal Water Pollution Control Act.

Meanwhile, an EPA draft general permit intended to regulate pesticide use includes terminology that is remarkably similar to Mr. Oberstar's legislation.

In Congress

Groups that have been battling to defeat Congressman Oberstar's federal water bill since 2007 are calling for hearings and open meetings on what they consider to be "the largest federal power grab in the nation's history". Last year, Rep. Oberstar made a public commitment to Alaska Congressman Don Young for hearings on a new bill, but an Oberstar aide recently was quoted as saying there would be no hearings.

Don Parmeter of St. Paul, Minnesota and Kathy McDonald of Vancouver, Washington are co-chairs of the National Water and Conservation Alliance, established last year to develop and promote local and regional alternatives to the federal proposal. Parmeter, a former pollution control engineer who lived in Rep. Oberstar's congressional district for 30 years, said there is virtually no support in the district for the legislation.

"This kind of expansive federal legislation has tradition-

ally been aggressively opposed in the 8th District of Minnesota by citizens of all political persuasions," said Parmeter. "This is not what any rational person would call constitutional, representative government at work."

Mr. Oberstar says his bill does not expand or contract the scope of the CWA. To confirm his intent, he wrote to EPA Administrator Lisa Jackson and Assistant Secretary of the Army Jo-Ellen Darcy and asked whether the agencies agree that the bill would restore, but not expand, the geographic scope of the Clean Water Act.

"The answer from both Administrator Jackson and Assistant Secretary Darcy is yes", said Rep. Oberstar.

EPA Administrator Jackson wrote, "After reviewing the legislation, it is EPA's view that ACCWA would restore the historic scope of CWA jurisdiction as it existed prior to the Supreme Court decisions without expanding it."

Assistant Secretary Darcy wrote, "The Army holds the view that (the Oberstar bill), as drafted, would generally restore the historic scope of the Clean Water Act jurisdiction as it existed prior to *SWANCC* and *Rapanos/*

Carabell."

"Simply put, if a discharge into waters of the United States was not subject to being regulated prior to the Supreme Court cases, it will not become regulated because of the passage of this bill," said Rep. Oberstar. "That is the intent of the bill, and Administrator Jackson and Assistant Secretary Darcy agree."

Many in the regulated community disagree.

R.J. Smith is the founder of the Center for Private Conservation and Senior Fellow with the National Center for Public Policy Research. According to Smith, much of the public policy that Oberstar is trying to get approved through his Transportation Committee should be the purview of other committees, including the Natural Resources and Ag-

Rep. Oberstar's Proposed Definition for "Waters of the United States"

Waters of the U.S., as prescribed in Rep. Oberstar's new bill would include:

- *All waters that are currently used, were used in the past or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;*
- *All interstate and international waters, including interstate and international wetlands;*
- *All other waters, including intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, and natural ponds; and*
- *All impoundments and tributaries of these waters*

The definition would also include uses that affect these waters, generally considered 'non-point' sources such as land use and atmospheric deposition.

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Efforts Underway to Expand Clean Water Act (Cont'd from P. 3)

riculture Committees.

"What in the world does transportation have to do with an isolated wet meadow in northern Minnesota, a prairie pot-hole in North Dakota, or a mountaintop in Idaho?" asked Smith. "Let's clean up our polluted navigable rivers as the original Act intended and leave farmers' cattle ponds alone."

Don Munks, a retired county commissioner from northern Washington state, chaired the Water Quality Subcommittee for the National Association of Counties when Rep. Oberstar's bill was first introduced.

"Expansion of federal authority under this legislation will create a cumbersome permitting process, resulting in unnecessary and costly delays," said Munks.

Rep. Oberstar released his bill in April with the intent of bringing it to the House floor for a vote before the current session ends (in October, assuming there is no lame-duck session after the election). His bill includes changes intended to deflect criticism that it would expand the scope of the CWA. The measure includes some improvements, including the deletion of earlier language that would have applied the CWA to all "activities affecting" waters of the U.S. However, the new bill would still remove the term "navigable" from existing law, raising concerns that no matter the intent of its authors, the bill might spur litigation aimed at expanding the reach of federal regulation under the CWA.

The Senate Environment and Public Works Committee approved a similar bill authored by Senator Feingold (WISCONSIN) last year, but the measure has made no progress since then because of intense opposition. Because of the strong resistance in the Senate, Capitol Hill insiders believe enactment of Rep. Oberstar's legislation this year is highly unlikely, even if the House does manage to pass the bill this fall, which remains to be seen.

EPA Efforts

Meanwhile, EPA recently released a draft NPDES permit, also known as the Pesticides General Permit (PGP). The PGP was developed in response to a decision by the Sixth Circuit Court of Appeals (*National Cotton Council, et al. v. EPA*). The court vacated EPA's 2006 rule that said NPDES permits were not required for applications of pesticides to U.S. waters. As a result of the Court's decision, discharges to waters of the U.S. from the application of pesticides will require NPDES permits when the court's mandate takes effect, on April 9, 2011. EPA intends to issue a final general permit by December 2010. Once finalized, the PGP will be implemented in six states, Indian Country lands and federal facilities where EPA is the NPDES permitting authority.

One key concern with this draft general permit is that the definition of "Waters of the United States" used in the PGP is the one that existed in Federal Regulations prior to the Supreme Court *Rapanos* decision. The decision was made by the Bush Administration not to issue a new rule, but instead to issue guidance in interpreting Clean Water Act (CWA) jurisdiction under *Rapanos*.

"The definition used in the EPA draft permit is very similar to the definition of waters of the U.S. used in Rep. Oberstar's bill, which was lifted almost verbatim from the 1986 Corps/EPA regulatory definition in place prior to *SWANCC*," said Mark Limbaugh, the Family Farm Alliance's representative in Washington, D.C. "The problem with using this definition is obvious. It was used by EPA prior to *SWANCC* and *Rapanos* Supreme Court rulings and does not refer to any connection with "navigable waters", the jurisdictional term currently in the federal Clean Water Act."

The Alliance and many other organizations representing producers who are already heavily regulated, are concerned that this may be an attempt to set a precedent for EPA to begin using this definition again in other regulations, using language that is not in the law or actually refer to the law as currently written and interpreted. The Alliance submitted a detailed comment letter outlining its concerns with EPA's use of the "Waters of the U.S." definition which can be downloaded at the Family Farm Alliance website.

"Preliminarily, given the current state of the law, the fact that the new regulations use this definition could be challenged from a legal standpoint," said Gary Sawyers, legal counsel for the Alliance. "The Supreme Court has clearly said that definition is wrong."

The Alliance has concluded that the proposed permit uses a regulatory definition that is inconsistent with the current law, incorporates language from antiquated definitions and effectively attempts by administrative action to overturn Supreme Court precedent.

The Bush-era guidance memo is much more detailed as to what is jurisdictional and what is not under *Rapanos* (see inset box, Page 5, for a summary of the guidance memo). The Alliance recommended in its letter to EPA that the section of the new rule that defines and addresses "Waters of the United States" be rewritten to provide consistency with the Bush guidance memo.

"The draft definition of "Waters of the United States" opens up the potential for non-navigable "Waters of State" enforcement through CWA citizen suits and federal penalties," said Alliance executive director Dan Keppen. "State NPDES permits should limit their enforcement to federally protected waters of the US, and not extend federal enforcement via citizen suits to every pond or other water of the state."

EPA Issues Draft Pesticide General Permit

Alliance Comment Letter Focuses on “Waters of the U.S.” Definition

The Environmental Protection Agency (EPA) on June 2 issued its draft National Pollutant Discharge Elimination System (NPDES) permit for point source discharges from the application of pesticides to waters of the United States. This permit is also known as the Pesticides General Permit (PGP). The PGP was developed in response to a decision by the Sixth Circuit Court of Appeals (*National Cotton Council, et al. v. EPA*). As a result of the Court’s decision, EPA is moving forward with the assumption that discharges to waters of the U.S. from the application of pesticides will require NPDES permits when the court’s mandate takes effect, on April 9, 2011.

While the permit would not apply to application to agricultural crops, the proposed tougher regulation raises fears that the new permit could lead to even tougher rules down the road or open the door to future litigation from environmental groups. One key concern with this draft general per-

mit is that the definition of “Waters of the United States” looks similar to recent legislative efforts (Clean Water Act “improvements” suggested by Rep. Oberstar and Senator Feingold) that the Alliance and other agricultural interests have opposed.

The Alliance is concerned that this may an attempt to set a precedent for EPA to begin using this definition again in other regulations, using language that is not in the law or actually refer to the law as currently written and interpreted. A July 18 letter from the Alliance to EPA formally spells out concerns with the PGP, with emphasis placed on the draft permit’s definition of “Waters of the U.S.”.

EPA intends to issue a final general permit by December 2010. Once finalized, the PGP will be implemented in six states and the territories, Indian Country lands and federal facilities where EPA is the NPDES permitting authority.

Key Provisions of the December 2, 2008 guidance memo issued by the U.S. Army Corps of Engineers and EPA that takes into account the *Rapanos* decision in implementing the Clean Water Act.

The agencies **will assert** jurisdiction over the following waters :

- Traditional navigable waters;
- Wetlands adjacent to traditional navigable waters;
- Non-navigable tributaries of traditional navigable waters that are relatively permanent where the tributaries typically flow year-round or have continuous flow at least seasonally (e.g. , typically three months); and
- Wetlands that directly abut such tributaries.

The agencies **will decide** jurisdiction over the following waters based on a fact-specific analysis to determine whether they have a significant nexus with a traditional navigable water:

- Non-navigable tributaries that are not relatively permanent;
- Wetlands adjacent to non-navigable tributaries that are not relatively permanent; and
- Wetlands adjacent to but that do not directly abut a relatively permanent non-navigable tributary.

The agencies generally **will not assert** jurisdiction over the following features :

- Swales or erosional features (e .g., gullies, small washes with low volume, infrequent, or short duration flow);
- Ditches (including roadside ditches) excavated wholly in and draining only uplands and that do not carry a relatively permanent flow of water.

The agencies **will apply the significant nexus standard** as follows:

- A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions per formed by all wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical and biological integrity of downstream traditional navigable waters; and significant nexus includes consideration of hydrologic and ecologic factors.

Idaho Delegation Asks EPA to Drop Aquatic Herbicide Permit

Idaho’s largest water user group is praising the state’s Congressional delegation for sending a letter to the head of the U.S. Environmental Protection Agency asking the EPA to drop plans to require a Federal permit before Idaho irrigation districts could use aquatic herbicides to manage the growth of aquatic weeds in irrigation canals and ditches. Aquatic weeds choke-off conveyance systems, impeding the delivery of water to end users and causing flooding.

“This is a critical issue for the Idaho water user community. So the Idaho Water Users Association and its 300 members deeply appreciate the strong, unanimous support of our Congressional delegation in our efforts to reverse this troublesome EPA proposal. This proposed burdensome and unnecessary new layer of bureaucracy needs to be stopped dead in its tracks”, said IWUA President Marcia Herr. A copy of the letter, signed by all four members of the Idaho Congressional delegation, is available on the IWUA web site at www.iwua.org

The current Clean Water Act specifically exempts irrigation return flows from the Federal permitting process, including the use of aquatic herbicides. The use is already heavily regulated under federal pesticide laws, including strict label restrictions. But the EPA now has proposed a

new permit that would require irrigation delivery operations to complete extensive site monitoring, record keeping and annual reporting.

“The proposal would impose significant new costs on irrigation districts, precisely at a time when they can ill-afford any additional economic burden. We are deeply concerned about the adverse impacts that EPA’s proposal will have on water users in Idaho and throughout the country,” the Congressional delegation wrote in the letter sent July 22 to EPA Administrator Lisa Jackson.

“In these troubled economic times, many of our members are already facing tough choices about how to continue to best serve the state’s agricultural interests. The absolute last thing they need is another, costly, and completely unnecessary layer of regulatory control. Especially when it is already regulated under existing pesticide laws. The Congressional delegation’s strong efforts go a long way towards helping us make that point crystal clear to the EPA,” Herr added.

IWUA consists of approximately 300 irrigation districts and canal companies, agri-businesses, public water supply organizations, professional firms and individuals from around the state that manage water supplies for more than 2 million acres of irrigated Idaho farmland.



ABC 2010 Annual Business Meeting

Each year, the Agri-Business Council (ABC) hosts an Annual Business Meeting. ABC’s purpose is to ensure the vitality and sustainable profitability of the agriculture industry; and to further ensure that it remains a strong contributor to the overall diversified economic health of Arizona. This year’s Annual Meeting was held on Friday, May 21st at the Phoenix Zoo (top left).

Family Farm Alliance Executive Director Dan Keppen (pictured below left, with ABC President Bill Plummer) delivered the luncheon keynote address at the ABC meeting.

“This meeting is one of two major events ABC holds each fiscal year to benefit the entire agriculture community in the State of Arizona,” said ABC Executive Director Chris Udall. “Our speakers were outstanding and we had the best turnout yet.”

EPA Seeks Public Comment of 5-Year Strategic Plan

The U.S. Environmental Protection Agency (EPA) is seeking public comment on its draft FY 2011-2015 strategic plan, which helps advance Administrator Lisa P. Jackson's priorities and the mission to protect human health and the environment.

The draft plan identifies the measurable environmental and human health benefits the public can expect over the next five years and describes how EPA intends to achieve those results. The draft plan proposes five strategic goals and five cross-cutting fundamental strategies that aim to foster a renewed commitment to accountability, transparency and inclusion. The plan is prepared in accordance with the Government Performance and Results Act of 1993.

"Based on the draft plan, it appears that EPA will place more emphasis on regulating greenhouse gases, setting nutrient standards for water bodies, environmental cleanup, chemical regulation, and enforcing environmental laws through "vigorous and targeted civil and criminal enforcement" actions," said Family Farm Alliance Executive Director Dan Keppen.

Plan Summary

The draft (Plan) will provide a blueprint for accomplishing agency priorities for the next five years. The Strategic Goals outlined in the draft Plan are:

- Taking action on climate change and air quality;
- Protecting America's waters;
- Cleaning up our communities;
- Ensuring safe management of chemicals and preventing pollution; and
- Enforcing environmental laws.

The draft Plan also sets forth five cross-cutting fundamental strategies as a companion to these goals:

- Expanding the conversation on environmentalism;
- Working for environmental justice, and children's health;
- Advancing science, research, and technological innovation;
- Strengthening state, tribal, and international partnerships; and
- Strengthening EPA's work force and capabilities.

Strategic Goals Summary

Climate Change/Air Quality – The draft Plan recognizes current EPA efforts to reduce greenhouse gas (GHG) emissions under the Clean Air Act, and states that climate change must be considered and integrated into all aspects of EPA work. The draft Plan also mentions that EPA will use all available regulatory tools as warranted, including the Clean Air Act. The draft Plan sets forth EPA's efforts to implement a national system of GHG reporting, issue new emissions standards for cars, all trucks, and stationary sources such as land-based non-road equipment, and set permitting requirements for facilities emitting large amounts of GHGs. EPA will also outline adaptation initiatives to increase resilience of communities and ecosystems to the impacts of climate change. The draft Plan sets forth both regulatory and voluntary approaches in accomplishing these tasks.

"We are encouraged to see that EPA has set forth a plan to work with partners on the state and local level on attaining this goal," said Mark Limbaugh, the Alliance's representative in Washington, D.C. "However, the draft Plan does not specifically mention working with industry or agriculture in developing and implementing these tasks under this goal."

Potential impacts to agriculture could include increased costs associated with new requirements for tractors and other equipment to meet tighter air quality/GHG reduction goals.

Protecting Waters – The draft Plan focuses on nutrient loading from non-point sources, including pollution discharges from industrial, municipal, agricultural, and stormwater sources, as major causes of declining water quality in streams, rivers, and other water bodies.

The draft Plan also mentions that other significant contributors to water quality degradation include loss of habitat and habitat fragmentation, hydrologic alteration, invasive species, and climate change. The draft Plan states that EPA has two objectives in protecting water quality – protecting human health and restoring watersheds and aquatic ecosystems. EPA will, in the next five years, finance public water system infrastructure, strengthen compliance with water quality standards, protect sources of drinking water from contamination, develop new and revised water quality standards, and support states, tribes, territories, and local water systems in implementing new standards. The EPA will also expand science to improve understanding of emerging potential waterborne health threats.

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EPA Issues Draft Strategic Plan *(Cont'd from Pg. 6)*

In restoring watersheds and aquatic ecosystems, the EPA will finance wastewater treatment infrastructure, conduct monitoring and assessments, establish pollution reduction targets, update water quality standards, issue and enforce discharge permits, and implement programs to prevent and reduce nonpoint source pollution. EPA will lead efforts to restore and protect key geographically located ecosystems and wetlands, and elsewhere, will focus on reducing nutrient pollution, and will work aggressively to reduce and control pollutants discharged from point sources.

Adequate financing for public drinking water and wastewater treatment infrastructure has always been a challenge for many communities, and the draft Plan states this as a priority. EPA will also promote “green” infrastructure and sustainable landscape management in restoring natural hydrologic systems and reduce stormwater runoff.

“Improving science and understanding of potential waterborne threats to public health and safety is a noble cause,” said Keppen. “However, setting water quality standards is usually a state responsibility, and EPA should not usurp state roles in this activity.”

Updating water quality standards, especially for nutrients, could prove both controversial and costly, as “numeric” nutrient pollution standards have not been universally used. Yet, EPA has shown a preference for such standards in Florida and other states where they have taken a more aggressive role.

“Preventing and reducing nonpoint sources must recognize Clean Water Act exemptions for regulating agricultural runoff,” Keppen said.

Cleaning Up Communities – The draft Plan will promote sustainable and livable communities, setting “livability” principles and partnering with other federal agencies in guiding and coordinating EPA efforts. The draft Plan also recognizes that minority and low income communities are many times disproportionately exposed to environmental harm and risks.

“Recognizing federal responsibilities in environmental cleanup activities has not always been a priority, especially where additional funding is required,” said Keppen. “This is a positive aspect of the draft Plan. However, local governments have traditionally taken the lead on community planning and setting “livability” standards – not the federal government.”

Ensuring Chemical Safety/Preventing Pollution – The draft Plan directs EPA to track chemicals in commerce and add data requirements to better inform the Agency and the public about releases of toxic chemicals into the environment. EPA will manage a comprehensive pesticide risk reduction program through science-based registration and

reevaluation processes, a worker safety program, certification and training activities, and support the use of alternative methods of pest control. EPA will promote “green” chemistry through the development and use of innovative chemical technologies.

“Promoting “green” chemicals and other alternative approaches could lead to more effective pest control that minimizes impacts to the environment and people,” said Limbaugh. “However, EPA registration and regulation of chemicals can be overly bureaucratic and cost time and money in approving some very beneficial products (including “green” and alternative registrations). Improvements to the process are needed.”

The Alliance believes ensuring that new and existing chemicals are evaluated in a timely fair and accurate process using a science-based approach, especially ones important to agriculture and a safe, reliable food supply is good public policy and should be highlighted as a priority for EPA.

Enforcing Environmental Laws –The draft Plan states that EPA will target the most serious water, air, and chemical hazards using vigorous civil and criminal enforcement, and advance environmental justice by protecting low income, minority, and tribal communities that are disproportionately impacted by such hazards. EPA shares accountability for environmental and human health protection with states and tribes, with EPA also overseeing state and tribal implementation of federal laws for uniform application across the Nation. EPA will also increase transparency by making information on violations both available and understandable. However, increased use of enforcement actions can lead to overzealous application of environmental laws and cause undue burdens on businesses and the economy, where simply working with first-time polluters to improve environmental practices can alleviate noncompliance activities quickly and at minimal cost to business and the environment.

“EPA professional judgment will be key to making good public policy decisions with respect to enforcement of environmental laws,” Limbaugh predicts.

The public comment period closes July 30. EPA will use stakeholder feedback to prepare the final strategic plan, which will be released by September 30. Comments on the draft strategic plan may be submitted through www.regulation.gov. The Docket ID number is EPA-HQ-OA-0486.

For the first time, EPA is using a discussion forum to solicit ideas and feedback on the cross-cutting fundamental strategies, a new element of EPA’s strategic plan. The agency will use the feedback provided through blog.epa.gov/strategicplan as it implements the fundamental strategies and takes actions to change the way EPA does its work.

Alliance Engages in Freshwater Summit

Representatives from the Family Farm Alliance in June joined twenty-five national leaders at the Johnson Foundation's Wingspread conference facilities in Racine, Wisconsin to discuss the nation's freshwater challenges, needed actions, and individual commitments in pursuit of sustainable and resilient U.S. freshwater resources. This Freshwater Summit builds on nearly two years of conversations, first exploring various concepts and topics for focused attention by The Johnson Foundation, and in 2009 drilling deeper through expert meetings to define the scope of the challenges around U.S. freshwater resources and potential solutions.

These conferences set the stage for The Johnson Foundation at Wingspread Freshwater Summit held on June 8th and 9th, 2010, in which leaders in business, government and not-for-profits were asked to develop a national call-to-action and a set of key water initiatives. Participants included senior level representatives from Mars Incorporated, Diversey, Inc., Kohler Co., U.S. Department of Interior, U.S. Department of Agriculture, U.S. Environmental Protection Agency, the White House Council of Environmental Quality, Pacific Institute, World Wildlife Fund and Iowa Soybean Association. In total more than 25 leaders convened at Wingspread to discuss the challenges, opportunities and solutions to addressing the nation's freshwater crisis. Over the summer months, the groups' collective thoughts will be compiled into a National Call to Action that they will deliver to the Administration and Congress in September.

The Johnson Foundation Freshwater Summit and this National Call to Action to Address U.S. Freshwater Challenges represent the culmination of an intensive collaborative effort that began in 2008. Building on its long history of catalyzing environmental and community solutions and approaching issues without preconceived ideas or fixed agendas, The Johnson Foundation at Wingspread convened a wide range of experts in a series of working sessions to

better understand and bring national attention to the myriad challenges facing United States freshwater resources. Known as *The Johnson Foundation Freshwater Forum*, the sessions reached across disciplines, and interest group affiliations, involving more than 100 experts who approach freshwater issues from different vantage points, including climate science, municipal water management, ecosystem protection, agriculture and food production, energy, public health and more.

"The questions posed to these experts revolved around what it will take to achieve a resilient freshwater system by the year 2025, the approximate time it will take for today's children to enter adulthood," said Lynn Broaddus, Director of Environmental Programs at the Johnson Foundation.

Throughout *The Freshwater Forum* sessions, there was broad consensus among participants that the current path will,

unless changed, lead to a national freshwater crisis in the foreseeable future. "Participants recognized that we are attempting to deal with 21st century freshwater problems using 20th century strategies and technologies, and falling short," said Broaddus. "Participants also made it clear that addressing our water challenges, if done correctly, will be a critical tool in helping to mitigate the impacts of climate change."

Estimates vary, but it is generally thought that 10 to 20 percent of our nation's energy supplies go to the treatment, movement and use of water.

"By boldly addressing our water use, we have the opportunity to simultaneously address one significant component of our nation's energy budget," Broaddus noted.

The federal agency participants in the Freshwater Forum series and Freshwater Summit took part to help inform the deliberations. The findings and recommendations in the *Call to Action* are being delivered by the non-federal participants for the consideration of federal leadership and other senior decision makers.

The Family Farm Alliance is currently reviewing the latest draft of the *Call to Action* and is considering its level of future involvement with this process.



Sharon O'Toole, Deanna Archuleta (Deputy Ass't Secretary of the Interior) and Alliance President Patrick O'Toole talk water at the Freshwater Summit.

Source: The Johnson Foundation at Wingspread

Alliance Testifies Before House Subcommittee *Oversight Hearing Focuses on Stimulus Spending*

The Family Farm Alliance on July 15 testified before the House Water and Power Subcommittee in a hearing titled "The Bureau of Reclamation and the American Recovery and Reinvestment Act (ARRA): A Progress Report and Planning for the Future." Executive Director Dan Keppen (OREGON) represented the Alliance in Washington, D.C. Keppen previously testified before this committee in April of 2009 after reviewing the Interior Department's proposed plan for the allocation of \$1 billion in economic stimulus funding to projects and programs of the Bureau of Reclamation (Reclamation).

"At the time, we were generally pleased by the plan, which proposed to fund some vitally important projects intended to ensure security of water supplies in several states," Keppen said. "However, we were concerned that the proposal allocated only about \$130 million to the rehabilitation of Reclamation's aging existing infrastructure, which the agency estimates is in need of approximately \$3 billion worth of repairs. We were also concerned that the proposal did not provide a more aggressive response to the water supply crisis in California."

Some of these concerns remain, he said, and were reiterated in his testimony at the July 15th hearing.

In the American West, Federal water supply systems are essential components of communities, farms, and the environment.

"These facilities are an integral part of the nation's food-production system and their consistent operation helps ensure our farmer's ability to provide a reliable and secure food supply for our own citizens and the rest of the world," said Alliance President Patrick O'Toole, a rancher from Wyoming. "Population growth, environmental demands and climate change are placing an unprecedented strain on aging water storage and conveyance systems designed primarily for agricultural use."

The hearing was important for the opportunity it presents to assess the effectiveness of stimulus projects completed by Reclamation. Keppen's testimony sought to address whether ARRA projects are aligned with Reclamation's mission, summarize lessons learned in the past year, assess whether projects identified for ARRA funding will shift Reclamation's priorities in the future, and make a determination as to whether or not the allocation of ARRA funds to Reclamation met the goals of the original stimulus legislation.

"Funding for water conservation and management projects was well received and will provide lasting benefits for many of our members." Keppen said. "However, funding for rehabilitation of existing aging infrastructure was inadequate

when compared to the total funding provided and the huge economic and societal risk associated with aging facilities across the West."

The Alliance believes streamlined environmental processes would have helped get projects started and funding out quicker, resulting in more jobs being created.

"Even with the language in the ARRA bill directing agencies to create a streamlined process, not enough was done to make these processes more efficient or effective," said Keppen. "In the bigger picture, streamlined regulations are also needed to kick-start the development of new projects that enhance water supplies."

Moving forward, prioritizing the expenditure of existing agency funding toward the rehabilitation of aging facilities and accelerating construction of water conservation and management infrastructure in partnership with non-federal water management entities will create jobs without adding to existing federal spending requirements.

The Subcommittee consists of members of the House Natural Resources Committee and is chaired by Rep. Grace Napolitano (D-California). The Ranking Republican on the Subcommittee is Rep. Tom McClintock, who represents Northeastern California. While the intent of the hearing was to focus on overall spending of the \$1 billion Interior Department stimulus program, much of the question and answer session was driven by Mr. McClintock, who was critical of the \$11 million being spent to study dam removal on the Klamath River.

Rep McClintock questioned stimulus spending in general and said that some actions by the Administration are inconsistent with the goal of economic recovery and job creations, including Interior's efforts to "willfully destroy" four hydroelectric dams that generate cheap, clean energy at a time when California residents pay some of the highest electrical rates in the nation. He said there is no plan to replace that power.

"This is insane," he said.

Under questioning from Chairwoman Napolitano, Bureau of Reclamation Commissioner Michael Connor confirmed that dam removal would be paid for by Oregon ratepayers and California bonds and not with federal funds. In response to questions from Rep. McClintock, Commissioner Connor said that the dam removal studies being conducted by Interior are to determine if the science and economics support dam removal. Mr. Connor said that if the dams are not removed, the power they generate will not remain "cheap" because of additional costs to meet fish requirements.