

**Response to Questions Posed by Senate Energy and Natural
Resources Committee Members
Patrick O'Toole
President
Family Farm Alliance
January 14, 2008**

Questions from Senator Bingaman:

1. **Your testimony recommends a comprehensive quantification of climate change induced streamflow reductions to help plan for developing supplies necessary to replace the loss of those flows.**
 - ***Do you believe that the data is currently available to perform this analysis or do we still need to develop that database before proceeding?***

Response:

The answer to this question is both “yes” and “no”. In some parts of the West, we may have enough data, in others, not enough. We need to focus the research that is out there to deal with a comprehensive quantification of climate change induced streamflow reductions. Sometimes, the desire for more research and more data stifles actual progress required to reach solutions.

In the big picture, we understand that prehistoric climate and hydrology research, such as Greenland ice studies and tree-ring analysis, indicates that the climate in North America has been the most stable from 1850 to the present. This type of research suggest that we will likely see much more volatile climate conditions and longer drought periods at some point in the future, similar to what occurred centuries ago.

With that said, we have enormous amounts of data that tell the story of recent climate conditions. However, even with all the data we have today – we will ultimately only know the real facts regarding climate change-induced prolonged drought “after the fact”. We will not have the right data until decades from now when we have actually experienced such a drought. Often times, you only know you are in a problem situation once you are three years into the drought.

Focused research must lay out a range of expected scenarios that prudent water managers should use in their planning.

An initial priority research item should be a comprehensive validation of West-wide changes in climate change-driven streamflow. We offer the following recommendations

that might be used to guide a comprehensive quantification of watershed yield in the Western United States:

- Catalog the research and data collection that has already been completed, on a watershed-by-watershed basis;
- As these studies are assessed and compiled, the margin of error associated with different climate change models and data sets must be acknowledged so that realistic plans lead to real political solutions for Western watersheds.
- A range of predicted watershed yield values should be developed for each watershed, reflecting the variability and uncertainty associated with climate change models.
- Consideration of legal and political influences should also be assessed. For example, in North Dakota and other states, pending Native American water rights settlements create tremendous uncertainty regarding potential impacts to water supply on sources like the Upper Missouri River. Understanding these ramifications is critical for water managers and decision-makers. Similarly, we believe it is important for policy makers to understand the often significant differences that exist between what natural stream flows are what regulatory agency-driven biological assessments and opinions call for. We need to recognize that a changed hydrology could change the resultant biology which in turn may lead to a change of biological / hydrological expectations that are more realistic.
- Quantify the amount of additional above- and below-ground reservoir storage, conservation targets, and other actions that would be required to address anticipated hydrologic changes. To optimize water management for beneficial use, researchers should look at scenarios where storage is spaced through the drainage. Potential storage sites should be located at high and low elevations to regulate and subsequently re-regulate the water supply to maximize beneficial use. We believe a study of this type would quickly illustrate to policy makers the need to start modernizing our water infrastructure.
- Data collection and research on climate change must be properly peer-reviewed.

Climate change research and data collection must be guided by neutral, peer-reviewed processes and diligence will be required to minimize political manipulation of these efforts. Agricultural water users and their communities need to be confident climate research will be used to develop the best solutions, not simply the most expedient solutions, which always seem to focus on transferring agricultural water to urban and environmental uses without regard for the long-term consequences.

- ***Can you provide some specific examples of the water supply enhancement projects that the Family Farm Alliance has looked at to make up for streamflow losses?***

Response:

The Board of Directors of the Family Farm Alliance in 2005 launched a project that pulled together a master data base of potential water supply enhancement projects from throughout the West. Our goal was to gather together ideas from around the West and put them into one master data base.

The types of projects contained in the resulting *Western Water Supply Enhancement Study* database are not monstrous dams like China's Three Gorges project. Instead, they are supply enhancement projects that range from canal lining and piping, to reconstruction of existing dams, to integrated resource management plans. There are also some very feasible new surface storage projects. The benefits from these projects include providing certainty for rural family farms and ranches, additional flows and habitat for fish, and cleaner water.

Along with basic information included on a CD-ROM, the database that was generated from the compilation of the survey has a Global Information System (GIS) element and includes pictures, maps and a description of up to 500 words for each project or proposal. New GIS format technology is embedded that permits viewers to see a map of 17 Western states and then "drill down" to see map details of a project area.

Examples

There are over 100 projects included in our data base. Some specific projects include:

- **Atterberry Irrigation Reservoir (Washington)** is a small proposed project that involves construction of an irrigation water reservoir (500 acre-feet) which would reduce irrigation water withdrawal from the Dungeness River during periods of low streamflow. The project will provide substantial increases in available side channel spawning/rearing habitat as well as reduced water temperature benefits.
- **Plateau Reservoir (Colorado)** would be operated in conjunction with McPhee Reservoir to improve downstream fishery habitat. The Dolores Water Conservancy District (DWCD), Bureau of Reclamation, State of Colorado and Federal fishery agencies have identified the need to provide at least 3,300 acre-feet per year of additional water for the fishery flow downstream of McPhee Reservoir in southwest Colorado. McPhee Reservoir and related delivery facilities are part of the Bureau of Reclamation Dolores Project a multi-purpose

water storage project that supplies water for irrigation, municipal, fishery below the dam, and other uses. The fishery downstream of McPhee Dam is an excellent cold water trout fishery. DWCD has been studying methods to provide the additional fishery water and has identified the construction of Plateau Reservoir as an option to supply additional fishery water. Plateau Reservoir would be approximately 21,000 acre-feet in capacity formed by a 120 foot high dam with a surface area of approximately 750 acres. Detailed topography and preliminary soils testing has been conducted to confirm the availability of suitable embankment material. A preliminary embankment design, including spillway location and sizing, has been prepared for the selected dam site. Discussions are ongoing with the involved entities to assess the available methods to supply additional fishery water and the development of Plateau Reservoir is one of the considerations.

- **Viva Naughton Reservoir (Wyoming)** is one of several alternative storage sites under investigation on the Hams Fork River above Kemmerer. The recent drought has greatly changed the water agreement between downstream irrigators and PacifiCorp, the owner of Viva Naughton Reservoir. Local sponsors are interested in proceeding forward with permitting of the most desirable reservoir alternatives, but that process cannot begin until more information is obtained on site specific geology and wetlands. Investigations completed for the Green River Groundwater Recharge and Alternate Storage Study published in late 2001 indicate enlarging Viva Naughton Reservoir is one of the more efficient water development projects in the state. The permitted enlargement of Viva Naughton Reservoir reserves 10,752 acre-feet for irrigation on the Hams Fork downstream of the dam, and would provide a much needed source of late season water for users below the dam, like the Hams Fork Water Users Association, and the Towns of Kemmerer and Diamondville.
- **Santa Cruz River Offstream Storage (Arizona)** would aid the Tohono O'odham Nation reservation, located in the desert of south central Arizona. Groundwater forms the primary locally available water supply. The Santa Cruz River, once a perennial river, now only flows intermittently for most of its course except for stretches supported by discharges from municipal wastewater plants. At times these flows are great enough to cause extensive flood damages at the village of Chui Chu and surrounding areas on the reservation and on the surrounding non-Indian lands and communities. The Nation and others have investigated opportunities to capture the intermittent flows of the Santa Cruz River and put them to beneficial use on the reservation.
- **Sites Reservoir (California)** has been identified by the Department of Water Resources and the CALFED Program as one of the most cost-effective and environmentally beneficial new facilities under consideration in California. The

Sites project would enhance water supply reliability for environmental, urban and agricultural uses throughout the state. It would provide water supplies in average and dry years for urban, agricultural and environmental purposes, increase San Francisco Bay-Sacramento / San Joaquin Delta outflows during critical times, improve flood control, enhance groundwater recharge, bolster fish flows, and improve flexibility for existing projects, such as Shasta Reservoir. Sites reservoir can greatly increase reliability of water supplies by reducing water diversions on the Sacramento River during critical fish migration periods.

- **Strawberry Valley Rehabilitation and Betterment Projects (Utah)** are proposed to decrease the water seepage and losses in the Strawberry Valley Project, as well as provide gravity pressure for the continued migration toward sprinkler irrigation systems, which would then provide additional water savings. These projects could save approximately 15,000 to 20,000 acre-feet of water per year in an agricultural area that is rapidly urbanizing.
- **Temperance Flat Dam (California)** would be a new structure constructed on the San Joaquin River, above Friant Dam, which would provide much needed water supplies and hydroelectric power. The Upper San Joaquin River Basin Storage Investigation was completed by the U.S. Bureau of Reclamation, in cooperation with the California Department of Water Resources, consistent with recommendations in the CALFED Bay Delta Program Record of Decision.
- **Teton Dam Re-Construction (Idaho)** would replace Teton Dam, which failed in 1976 just as it was completed, causing massive flooding in the Rexburg, Idaho, area. Fremont-Madison Irrigation District is considering participating in a reconstruction of this dam, which, in 1990, was estimated to cost \$168 - \$265 million. The project would yield 41,000 acre-feet of water to benefit the fishery, 24,000 acre-feet for trumpeter swans, and 20,000 acre-feet for irrigation.
- **Water for Irrigation, Streams, and Economy Project (WISE - Oregon)**, is a collaborative effort in Oregon to improve the health of the Little Butte Creek and Bear Creek systems and increase the effectiveness and efficiency of local irrigation districts. The WISE Project utilizes a combination of strategies including: piping and lining canals, increasing the storage capacity of selected reservoirs, and installing a pumping system that will provide access to water that has been allocated for agricultural purposes. Collectively, more water will be available for management for irrigation and environmental instream purposes.

Shortly after the Alliance's data base was released, the Bureau of Reclamation in November 2005 submitted a report to Congress that identifies nearly one thousand potential hydroelectric and water supply projects in the Western United States that have been studied, but not constructed. The report was required by the Energy Act of 2005.

The 2005 Alliance and Reclamation efforts show that, in most areas of the West, water resources are available to be developed. Environmentally-safe and cost-effective projects exist. They await the vision and leadership needed to move them to implementation.

2. **In addition to streamflow losses, increasing temperatures and a drying climate will likely dry rangelands and have other negative impacts to agriculture. This industry, particularly in the Rocky Mountain region, is already stressed.**
 - ***What is your sense of the future of agriculture in the West – do the opportunities outweigh the challenges or do you have concerns about the long-term viability of family farms?***

Response:

The family farmers and ranchers that make up the membership of our organization convey varying degrees of optimism and pessimism when they discuss the future of irrigated agriculture in the West. Unfortunately, in recent years, when our association gathers in Nevada for our annual meeting and irrigators from Western states begin to swap stories, the mood appears to be getting more pessimistic each year.

Defining Optimism

Where does our wealth come from, if we have it? How do we measure up with others? The answers to these questions are also factors that influence how optimistic today's family farmers and ranchers are. Farming is unique because of the tremendous amount of money that is tied up in our investment to work the land. By the time the year is over, despite good markets and efficient operations, the financial pickings are slim, compared to other occupations. One of the founding members of the Family Farm Alliance – a successful rancher and businessman from Arizona – was astounded later in life when he found out how relatively easy it was to make money running an auto parts store. The rate of investment in farming is very high, but the rate of return is often very low. It's easy to sound like a pessimist when you look at how all of your money is tied up, with very little return to show for, and your kids are leaving the farm to try to live like the people they see on television.

Tough Times to Get Things Done

Many farmers and ranchers are pessimistic about the future of agriculture because it is getting increasingly more difficult to accomplish anything. As a nation, it seems that we

have become rich, spoiled losing the drive to get things done the way we used to. One of my fellow board members is a farmer in the Dolores Water Conservancy District in Colorado. His district put together a plan for an outstanding and feasible water delivery project that would have added another 4,000 acres of productive farmland to his community. The project was ready to go, but then the 2002 drought arrived, and community leaders became gun shy, and reigned in their efforts. When interest was revived a few years later, the price of petroleum (and thus, piping) had risen considerably. The district had to scale back its original plan, re-engage with the regulatory agencies, and before long, the momentum faltered, and the project never materialized.

We built Hoover Dam in less than five years, ahead of schedule and under budget, during the midst of the Great Depression. In this day and age, the environmental permitting and litigation alone for such a project would take at least twice that time.

Family Farms in Crisis

Family farms and ranches are experiencing a crisis in numbers. In the 1930s, there were close to seven million farms in the United States. Today, just over two million farms remain. Of the remaining farms, roughly 565,000 are family operations, farming just over 415 million acres or 44 percent of total farmland. And 330 farm operators leave their land every week.

One of the most troubling aspects of the on-going farm crisis is the decline in the number of young farmers entering the field. More than half of today's farmers are between the ages of 45 and 64, and only six percent of our farmers are younger than 35. Some of my fellow directors on the Alliance board will admit that we ranchers are becoming dinosaurs. Both statistically and anecdotally, for the first time in many generations we see sons and daughters of farmers opting to leave the family farm because of uncertainty about agriculture as a career.

Urbanization and competition for water supplies are driving Western farmers off the land at a time when American food production in general is following other industries "off-shore" in search of lower costs. Traditional farms and ranches are disappearing, and our country is becoming a net importer of food, drawing frightening parallels to our dependence on foreign sources of energy.

Meanwhile, according to USDA's Economic Research Service statistics for 2005, Americans are spending, on average, 9.9 percent of their disposable income on food. To put this into perspective, just 70 years ago, the figure was more than 25 percent. So, while more, better and safer food is being produced by our farmers, they continue to feel the pinch – and it is only a matter of time before that pinch translates itself back into the supermarket.

Ironically, it is because Western irrigated agriculture has been so adaptive and successful at providing plentiful, safe and affordable food that it is now jeopardized – nobody believes there can be a problem. The last Americans to experience food shortages are members of the so-called Greatest Generation and their parents. For the most part, they have left us, taking with them the memories of empty supermarket shelves. When the issue has never been personalized, it's easy to be complacent.

Agriculture is not the Reservoir of the West

A February 2007 report by a National Research Council (NRC) committee says agriculture is the likeliest target for shifting use to urban needs in the fast growing West. But that study - which focuses on the Colorado River - cautions that “the availability of agricultural water is finite.” It adds that rising population and water demands “will inevitably result in increasingly costly, controversial and unavoidable trade-off choices” in managing a shrinking resource.

We are also troubled to hear more and more anecdotal accounts from Western farmers and ranchers of important agricultural lands being converted to residential and commercial development and of agricultural water being used (transferred or bought) to support these new demands. New environmental water demands imposed by regulatory agencies or courts also first look to agriculture. This is happening in every state, but farmers and ranchers point to some striking examples:

- A report released in April by Environment Colorado found that, from 1987-2002, Colorado lost an average of 460 acres per day of agricultural land. The report predicts 3.1 million more acres will be lost to development by 2022.
- Arizona's Salt River Project (SRP) is the “poster child” for transfers of agricultural water to urban areas. In a few years, the SRP will cease to provide water to agriculture in order to meet new demands exerted by development.
- In Las Vegas, over 70,000 new residents are moving in every year, and Southern Nevada Water Authority is looking to rural areas to satisfy its growing thirst.
- A restoration agreement developed for the Platte River could potentially dry up hundreds of thousands of acres of farmland in Nebraska and Wyoming, in order to reallocate water to meet the perceived needs of ESA-listed fish and wildlife.
- According to the American Farmland Trust, the California Department of Conservation documented more than 1 million acres of farmland in the state that were converted between 1988 and 1998. Last year, California's population officially topped 37 million, and it is predicted that the state's population will reach 59.5 million by the year 2050.

The continued focus on moving agricultural water to meet other Western water demands- urban, industrial, and environmental – is very disturbing to us. It is short-sighted and complacent to believe the illusion that water can be taken from agriculture to take care of new urban and environmental demands.

We cannot continue long-term hypothetical processes that focus primarily on continued conservation and downsizing of Western agriculture. The U.S. needs a stable domestic food supply, just as it needs a stable energy supply. The post 9/11 world of terrorist threats makes the stability of domestic food supply even more pressing.

In this era of shrinking agricultural landscapes, there does not appear to be much talk of saving agriculture, let alone trying to increase production acreage. If these things are not done, we're afraid we will lose it all. The continued focus on eliminating farming and tightening water conservation as means of freeing up water to meet other demands could set us up for a train wreck. While we are a free-market country, some of our members believe we need to get aggressive about finding ways to keep water available for agriculture rather than just allowing individuals to sell their water – developed with government assistance to encourage agricultural development decades ago - to fund their retirement.

Our entire society needs that water because we need a strong domestic agricultural base. Americans are justifiably concerned about the recent contamination of wheat gluten imported from China and used in pet food that killed thousands of animals in the United States. Yes, the U.S. has recently experienced failures in its own food safety systems. But domestic food safety issues are within our power to address. Contamination of food stuffs produced by factories and farms beyond our borders is not. That is why the Family Farm Alliance believes that a national response to climate change should include as one of its goals self- sufficiency in food production. It is time for our national leaders to stand up and focus on improving the security, stability, and economic aspects of domestic food production so that our food remains readily available, ample, affordable, and safe.

If Congress wants to do something truly meaningful, it too, should look at the bigger picture. For farmers to survive; for food to be produced in America; a stable water supply must be available. The federal government must adopt a policy of supporting new projects to enhance water supplies while encouraging state and local interests to take the lead in the implementation of those projects.

**Response to Questions Posed by Senate Energy and Natural
Resources Committee Members
Patrick O'Toole
President, Family Farm Alliance**

Questions from Senator Domenici:

- 1. Do you believe that the inter-agency coordination required by the bill will help achieve federal coordination of water resources research?**

Response:

Section 7 of the SECURE Water Act outlines the climate change and water intragovernmental panel, which would be comprised of federal agency leaders. We believe this proposed panel and the actions they will be tasked with should improve federal coordination of water resources research. We support the Section 7 provisions that direct this panel to coordinate with state water resources agencies and relevant water user, environmental and non-governmental organizations. For this panel to achieve success, coordinating with the state water resources agencies is critical.

- 2. Please describe the opportunities and challenges in the West regarding the current and future water demands for energy production.**

Response:

Throughout the West, we are seeing proposals to build plants to make ethanol, another "answer" that may (or may not) lower greenhouse gas emissions. An April 2007 Sacramento Bee editorial provides a reality check on how much water it would take to grow all the corn required to meet California's goal of producing a billion gallons of ethanol a year. According to the Bee's calculations, that's about 2.5 trillion gallons of water for 1 billion gallons of ethanol, which is more than all the water from the Sacramento-San Joaquin Delta that now goes to Southern California and valley farms. Because there is only so much water for agriculture in California and other Western states, this means that some other existing crops will not be grown, thus furthering our dependence on imported food sources.

We believe a thorough, comprehensive and peer-reviewed analysis is also needed to pin down future water needs for ethanol production, followed by identification of measures required to meet that new demand.

Another growing demand that will be placed on Western water resources is driven by power requirements. The total water consumed by electric utilities accounts for 20 percent of all the non-farm water consumed in the United States. By 2030, utilities could

account for up to 60 percent of the nonfarm water, to meet the water needs required for cooling and pollutant scrubbing. This new demand will likely have the most serious impacts in fast-growing regions of the U.S., such as the Southwest. Even without warming climate conditions, continued growth in these regions will put the squeeze on both water and power use. When you throw in climate change considerations, the projections look worse.

Elsewhere in the energy sector, opportunities exist to better manage water produced in the development of coal bed natural gas resources in Rocky Mountain states. Large amounts of water, sometimes saline, are produced from coalbed methane wells, especially in the early stages of production. While economic quantities of methane can be produced, water disposal options that are environmentally acceptable and yet economically feasible, are a concern. Water may be discharged on the surface if it is relatively fresh, but often it is injected into rock at a depth where the quality of the injected water is less than that of the host rock. According to the U.S. Geological Survey, another alternative, not yet attempted, is to evaporate the water and collect the potentially saleable solid residues; this scheme might be feasible in regions having high evaporation rates.

3. Please describe the relative costs of demand-management actions in relation to supply-enhancement measures as described in your written testimony.

Response:

Individual supply enhancement proposals and proposed demand management actions must be evaluated and the associated benefits and risks must be viewed in a net, comprehensive manner. While some environmental groups focus on perceived negative impacts associated with new facility construction (e.g. loss of habitat, disruption of “natural” stream flow patterns, and potential evaporative losses), these perceived impacts must also be compared to the wide range of multi-purpose benefits that storage projects can provide. Properly designed and constructed surface storage projects provide additional water management flexibility to better meet downstream urban, industrial and agricultural water needs, improve flood control, generate clean hydropower, provide recreation opportunities, and – yes, create additional flows that can benefit downstream fish and wildlife species.

Conservation is often seen as the solution to water supply issues. While conservation is surely a tool that can assist in overcoming water supply problems, it cannot be viewed as the single answer to water shortages. Conserved water cannot realistically be applied to instream uses, as it will more likely be put to beneficial use by the next downstream appropriator or held in carryover storage for the following irrigation season. Also, reliance on demand management alone – particularly to meet growing municipal and industrial water demands - ultimately leads to “hardened” demand that could lead to

volatility in extended droughts. A more productive federal role in conservation would involve the development of programs that foster locally-based conservation tailored to the unique circumstances of each region by providing genuine incentives, rather than the issuance of directives or attempts to inspire conservation by artificially manipulating economics through vehicles like compelled tiered pricing.

The Alliance supports continued voluntary implementation of efficient water management practices and opposes mandatory or enforceable requirements for agricultural water use efficiency. Only practices that reduce irrecoverable losses actually increase the total useable water supply. Furthermore, water saved within a water district or on-farm is used elsewhere within the same district or farm. Western agriculture in many areas is already highly efficient in its use of water and that more efficient water application does not necessarily increase useable water supplies.

The relative costs of demand and supply management actions can only be properly assessed by looking at the full range of benefits generated and beneficiaries served. For the most part, new water supplies are not being proposed to meet the expanding needs of agriculture. On the contrary, we are seeing a move in the opposite direction, where agricultural lands are going out of production and being lost to expanding urban development. Water that was originally established for agriculture and the communities it supports is now being reallocated to meet new growing urban and environmental water demands. The growing numbers of urban water users in the West and the public interest served through improved environmental water supplies should naturally be part of equitable financing schemes.

In addition to developing the proper mix of demand management actions and new water supply infrastructure, it is imperative that we find creative ways to provide for the operation, maintenance, and modernization of existing water supply infrastructure. In 2005, we attended a briefing with the Bureau of Reclamation and learned at that time that there were 80 Western water projects in need of repair in the next ten years and that 40% of those would require major rehabilitation. The total estimated cost, including dam safety projects, was estimated to be \$800 million. Sound business practices dictate that this existing infrastructure, and the water supply provided by these facilities, be protected and preserved.

4. Please describe the current interest within your membership to implement the rural water project Federal loan guarantee program.

Response:

The Family Farm Alliance –driven by its members (particularly in Washington and Idaho) - advocated for the loan guarantee provisions contained in the Rural Water Supply Act of 2005. This new program addresses an important issue to western water

users: the inability of irrigation and water districts to pay for expensive repairs to Bureau of Reclamation dams, canals and other facilities

As noted above, many Reclamation facilities are near the end of their design life, and maintaining the West's aging water infrastructure is a major financial challenge for Reclamation. It is also a challenge for irrigation districts and communities that depend upon these projects because in most cases, project beneficiaries are obligated by contract to pay 100 percent of operation, maintenance and repair costs at Reclamation facilities. Repair and replacement of aging gates, canals and other facilities often involve major construction projects costing millions of dollars. Under Reclamation law, project beneficiaries are required to pay these costs immediately; they cannot be repaid over time.

Private financing is difficult for many local entities to obtain because they do not own the facilities that are being repaired. In the past, programs such as the Rehabilitation and Betterment Act provided federal loans and other assistance for meeting the costs of repairs and replacement of equipment. However, such programs are no longer available.

The alternative financing mechanism contained in the Rural Water Supply Act – which would provide a government loan guarantee to allow local entities to amortize expensive operation, maintenance and replacement (OM&R) projects – will be helpful to some local agencies struggling to afford repairs to federally owned facilities. By making it easier for certain local agencies to meet their financial responsibilities, loan guarantees would make it easier to protect the federal investment in the West water supply infrastructure.

The Alliance is very concerned that the Department of the Interior has not yet implemented the loan guarantee. The Department's apparent lack of action is difficult to understand given the Administration's strong support for the Act when it was pending in Congress. We urge the Committee to take a close look at the Department's handling of the program and to take steps to remedy whatever problems are hindering the full implementation of the law.

5. Please describe how you could streamline the regulator permitting process to provide for the necessary improvements to augment our existing and future water supply systems.

Response:

The Family Farm Alliance believes that without new sources of water, increasing urban and environmental demands will deplete existing agricultural supplies and seriously

threaten the future of Western irrigated agriculture. The often slow and cumbersome federal regulatory process is a major obstacle to realization of projects and actions that could enhance Western water supplies.

The federal government has played a pivotal role in the development and subsequent regulation of water resources in the West over the past century. However, this involvement has grown exponentially over the past several decades through legislative enactments such as the Endangered Species Act (ESA), National Environmental Protection Act (NEPA) and the Clean Water Act (CWA). Implementation of these and other laws has challenged traditional notions about continued control of water resources by the States. In addition, there exists within some agencies a defeatist attitude that no dams or water supply projects will be built. So, there is no commitment to earnestly begin and engage the difficult problems we face. The increased control exerted by federal agencies through a variety of means has led to gridlock in the management of water supplies in the West.

For the most part, expanding agricultural development is not driving the need for new water supplies. Those new demands are coming from expanding urban development and more emphasis on environmental water needs. New water does not necessarily have to be developed for agriculture but it can be developed to prevent water from being taken from agriculture. That means regulatory streamlining will benefit urban water managers as well as Western irrigators.

The Family Farm Alliance is hopeful that a concerted good-faith effort to address these problems will result in a streamlined regulatory process that will be efficient, fair and effective. Over the past three years, we have developed and proposed specific recommendations on how to streamline ESA and NEPA processes, which we believe would make the regulatory process less daunting for state and local water agencies trying to enhance water supplies.

Recommended Changes to Modernize and Streamline ESA Implementation

The Family Farm Alliance strongly affirms the goals of the ESA. However, this 30-year old law could stand some targeted reforms, including common-sense changes to make it work better, encourage incentive-driven recovery efforts, and discourage litigation. Our specific recommendations – developed by our members in 2005 – include:

- Encourage regulatory agencies to pull in senior policy officials to help solve ESA problems. Districts should be able to meet directly with upper level managers.
- Find ways to streamline the consultation process. Establish time limits, and force the agencies to comply.

- Require agency work on biological opinions to keep pace with development of NEPA compliance documents.
- Enhance congressional budgets of the lead agency (often Bureau of Reclamation) to cover additional costs associated with consultation.
- Employ better science in the consultation process.

Recommended Changes to Streamline NEPA Implementation

The Alliance also developed a number of recommendations to streamline NEPA implementation associated with new water supply enhancement projects. These include:

- Implement – either legislatively or administratively, the recommendations of the 2006 final report of the NEPA Task Force, chaired by U.S. Rep. McMorris-Rodgers (Washington).
- Restrict agency NEPA regulators from dismissing potential benefits or uses of future water supplies from “Purpose and need” requirements. Planning opportunities and purposes for which a project may be permitted should not be restricted, which narrows the planning horizon, and makes it impossible to plan for projects with long-term benefits.
- Require that impacts of drought and continuing water demands be assessed and built into the NEPA process.
- Amend NEPA to create a “NEPA Ombudsman” within the CEQ. This recommendation would direct the CEQ to create a NEPA Ombudsman with decision making authority to resolve conflicts within the NEPA process.
- Direct CEQ to control NEPA-related costs.
- Amend NEPA to add mandatory timelines for the completion of NEPA documents.
- Amend NEPA to create a citizen suit provision. This provision would clarify the standards and procedures for judicial review of NEPA actions.
- Amend NEPA to clarify that the alternative analysis must include consideration of the environmental impact of not taking an action on any proposed project.
- Require that “reasonable alternatives” analyzed in NEPA documents be limited to those which are economically and technically feasible.

NEPA documents should only pertain to the proposed action and only address issues raised in public scoping that are directly tied to the proposed action. A common ploy of certain activist groups is to throw a “laundry list” of issues and concerns at a federal agency, knowing full well it will distract, confuse, and lengthen the process, thereby creating a document with potential loop holes that might later be appealed. We believe alternatives should be limited to the proposed action being analyzed. The number of alternatives should be constrained only to the range of activities and associated impacts of the proposed action.

**Response to Questions Posed by Senate Energy and Natural
Resources Committee Members
Patrick O’Toole
President, Family Farm Alliance**

Question from Senator Salazar:

- 1. Mr. O’Toole, the Family Farm Alliance’s recent report, *Water Supply in a Changing Climate*, discusses the increase in ethanol and energy production as another demand on water resources in the West. Do you think the SECURE Water Act goes far enough in assessing impacts to water from energy use, or would you suggest other changes to the Act?**

Response:

Section 9 of the SECURE Water Act directs the Secretary of Interior to work with an advisory committee and state and local water resource agencies to develop a water use and availability assessment. One of the tasks charged to this group is to work towards an improved ability to forecast the ability of water required for energy production uses. This specific charge – while fairly broad – should provide a vehicle to develop a thorough, comprehensive and peer-reviewed analysis to pin down future water needs for ethanol production, and new power plants, followed by identification of measures required to meet that new demand.

We also recommend that this assessment identify opportunities to better manage water produced in the development of coal bed natural gas resources in the Rocky Mountain states. A basin-by-basin quantification of the potential “new” water that could be generated through coal bed methane production operations should also be undertaken.