

Monthly Briefing

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

Battle Over New Dams Sinks California Water Bond Plan

California's state Senate has failed to pass two water bond proposals that – in part – would have helped alleviate long-term future problems of the type currently brewing in the San Francisco Bay – San Joaquin / Sacramento River Delta (“Bay-Delta”) region.

After Democrats shot down Governor Arnold Schwarzenegger's \$9.1 billion plan (which included two new large surface water storage projects and one dam enlargement), Republicans opposed a \$6.8 billion Democratic-written plan that would only fund regional or local surface water storage projects, and instead focus on more water conservation measures and groundwater storage.



Gov. Schwarzenegger

THE ISSUE blocking progress focuses on whether the state should directly participate in expanding the state water resources development system as compared to assisting local dam projects.

According to witnesses who were present during committee hearings held on the water legislation, opponents of the new dam projects appeared to accept arguments made by some environmental organizations. Several committee members claimed that current surface storage projects have caused all manner of environmental problems. New projects would only exacerbate the problem, they predicted.

Prior to the hearing, more than 200 proponents of new water storage from around California

attended a Capitol news conference and made calls on many lawmakers' offices.

IN A STATEMENT before a Senate policy and fiscal committee, Bob Reeb of the Valley Ag Water Coalition said decisions such as U.S. District Judge Oliver Wanger's recent ruling on the delta smelt will become more frequent and have longer term impacts on water supply.

“The Legislature is allowing the judiciary to operate the federal and state water projects, and with the impact of global warming on the Sierra Nevada snowpack, California's water security will be threatened increasingly,” said Reeb. “The negative impacts will not fall only to water districts

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'Classic Bait And Switch'

How The 'Clean Water Restoration Act' Would Expand, Not Restore Federal Powers

The Family Farm Alliance earlier this year formally opposed CWRA, and Alliance Advisory Committee member Norm Semanko delivered our opposition testimony to a Congressional committee last summer. The following was written by the National Center for Public Policy Research.

A letter signed by over 100 people representing diverse interests and millions of Americans was delivered to Congress earlier this month contending that the Clean Water Restoration Act (CWRA) would achieve the opposite of what its sponsors claim and is being called a "classic bait and switch."

The bill, sponsored by James Oberstar in the House and Russell Feingold in the Senate, was

introduced ostensibly to restore protections under the Clean Water Act lost due to Supreme Court decisions in 2001 and 2006 and to clarify which waters would be subject to federal jurisdiction.

ACCORDING TO the coalition, the legislation would "achieve the opposite: It would expand the scope of the Clean Water Act far beyond its original intent while increasing confusion over what is and isn't to be protected... [and] runs counter to the principle of accountable government as it seeks to transfer legislative power from elected officials" to the courts.

The coalition effort, spearheaded by the Washington (D.C.)-based National Center for Public Policy Research, is signed by conservationists, family advocacy groups, civil rights leaders, sportsmen organizations, seniors' advocates, think tanks and taxpayer action groups, among others.

AMONG THE SIGNERS: John Berthoud, the late president of the National Taxpayers Union; G. Ray Arnett, former president and a long-time director of the National Wildlife Federation; Jim Handley, Executive Director of the Florida Cattlemen's Association; Former U.S. Senator Malcolm Wallop (WYOMING), Chairman of Frontiers of Freedom; Niger Innis, National Spokesman for the Congress of Racial Equality, one of the nation's oldest civil rights organizations; Adrian T. Moore, Vice President of Research of the Reason Foundation; Chris Derry, President of the Bluegrass Institute; and Linda Runbeck, President of the American Property Coalition, an organization founded by former U.S. Senator Rod Grams (MINNESOTA) which has led a national education effort on the CWRA.

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California Bonds

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and water project beneficiaries, it will hit the state economy, which means it will have a negative impact on the state General Fund."

WITH THE SPECIAL LEGISLATIVE session called by the governor effectively at an end, supporters of both plans are gearing up to launch signature-gathering drives to put competing measures on the November 2008 ballot.

However, Governor Schwarzenegger still held out hope that a legislative deal could be reached in time to put a compromise bond proposal on the February 2008 ballot.

"We just see things a little differently, but I think in the end we can come together on this," Schwarzenegger told the media. "All we want to add is storage. If we don't have storage, we're not going to solve the major problem."

Clean Water Act 'Restoration' Would Be Major Federal Power Increase

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"The 'Clean Water Restoration Act' is classic bait-and-switch," said David Ridenour, Vice President of The National Center for Public Policy Research. "Congressman Oberstar and Senator Feingold advertise that their initiative is designed to reassert congressional intent and add clarity to the Clean Water Act. But that's not the product they're actually selling. Indeed, the Clean Water Restoration Act would be an unprecedented expansion of federal power."

The CWRA would, according to the letter, give the federal government the power to regulate all interstate and intrastate waters, including non-navigable waters.

In so doing, the bill would exceed the original scope of the Clean Water Act and likely violate the Constitution. Non-navigable waters are unlikely to fall under the Constitution's commerce clause.

"This bill would extend federal authority to literally all waters in America right down to intermittently wet drainage ditches," said Ridenour. "But its reach wouldn't end at water's edge. It also regulates 'activities affecting these waters' providing an enormous opening for regulation of dry land, too."

The National Center for Public Policy Research is a non-profit, non-partisan educational foundation based in Washington, D.C now in its 25th year.



BEST BEST & KRIEGER covers the broad spectrum of legal needs for its agriculture clients. Our firm is widely recognized for its expertise in environmental and water issues, including ESA, water rights and quality, and federal reclamation and grazing laws. Our attorneys also assist our agricultural clients with matters such as land use, valuation and purchases; crop damages; business transactions and regulations; governance and succession planning; and organic crop certification and pesticide regulations.

Best Best & Krieger is proud to support the Family Farm Alliance



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Annual Meeting Information Will Be Sent Out Next Month

Advance information and registration materials for the Family Farm Alliance's 20th Annual Meeting and Conference will be sent during November to the Alliance's members and friends.

The Alliance will again gather at the Monte Carlo Resort and Casino in exciting Las Vegas.

Directors and Advisory Committee members will meet February 27 while the Alliance's always interesting and informative general sessions will take place February 27-28.

An exciting program is currently being planned. Details will be announced soon.

Saluting And Thanking The Alliance's Members

RECENT DONOR SUPPORT

September 13-October 11

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Nebraska Water Users
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East Columbia Basin Irrigation District

Join the Family Farm Alliance...

Your membership will allow the Alliance to continue to work with Congress, federal agencies and other interested parties to improve the regulatory process and to show that new water supply projects are ready and waiting to be developed. We will continue to ensure that Bureau of Reclamation operates in the most cost-effective way possible. We will continue advocating for the importance of preserving our food production capability. Our activities will ensure the availability of reliable, affordable irrigation water supplies to Western farmers and ranchers. Visit us at www.familyfarmalliance.org or call (541) 850-9007.

...Your Involvement and Support Make the Difference!

‘SECURE’ Water Act

Bill Tackles Climate Change, Water Challenges

Fulfilling his oft-stated commitment to craft a comprehensive water resources bill sometime this Congress, Senator Jeff Bingaman (D-NEW MEXICO) earlier this month introduced the Science and Engineering to Comprehensively Understand and Responsibly Enhance Water Act.

The SECURE Water Act is intended to address a range of water resource issues within the jurisdiction of the Senate Energy and Natural Resources Committee, which Senator Bingaman chairs.

THE BILL includes water science initiatives (several based on National Research Council [NRC] recommendations); water efficiency programs; and an attempt to better understand and adapt to the water-related impacts of climate change. An oversight hearing conducted by Chairman Bingaman’s committee last June generated written testimony from conservation groups, water managers, and others – including Family Farm Alliance President Patrick O’Toole (WYOMING). Many of the concepts discussed at the hearing found their way into the SECURE Water Act.

“**THIS BILL CONTAINS** some provisions that are very close to recommendations provided by the Family Farm Alliance and other parties in testimony before Mr. Bingaman’s committee last June,” said Alliance Executive Director Dan Keppen (OREGON).

The SECURE Water Act would direct the Bureau of Reclamation (Reclamation) to assess the risks of climate change to water resources in its service area and develop strategies and conduct feasibility studies to address water shortages, conflicts and other impacts to water users and the environment. Reclamation would also be authorized to provide financial assistance to states, tribes and local entities to construct improvements or take

actions to increase water-use efficiency to address water-related crises.

The bill directs the Interior Secretary to establish a panel to review the science on climate change and water, and develop strategies to better forecast impacts to water availability.

THE SECURE Water Act would task the U.S. Geological Survey (USGS) with administering a water data enhancement and planning program. USGS – consistent with NRC recommendations – would implement a National Water Use and Availability Program to provide better information on water resources in the U.S.; identify trends in use and availability; and help forecast water availability for future needs. USGS would also maintain a national inventory on water and provide grants to states to enable locally-generated data to be integrated with national datasets.

Before Chairman Bingaman’s committee in June, Alliance President O’Toole provided five recommendations regarding proactive measures that the federal government could take to tackle water resources challenges associated with climate change, including putting a priority on research needs and quantifying projected West-wide hydrologic impacts.

“We have more review to do,” said Keppen. “But so far, this bill looks like a solid step forward toward helping the thirsty West.”



Senator Jeff Bingaman

Water, Power Customers Helping ‘Right-Size’ USBR

The Family Farm Alliance and other Western water and power organizations have banded together to send a clear message to the U.S. Bureau of Reclamation (Reclamation): Ongoing efforts to “right-size” the century-old agency must instill a “climate of collaboration.”

More than two dozen water and power user groups are working to develop principles for Reclamation to consider as it develops a process that will enable it to determine the size and composition of the engineering and technical services staff that it needs to carry out its mission.

RECLAMATION SINCE EARLY 2006 has formulated what it calls its “Managing for Excellence” (M4E) Action Plan and process that provide opportunities to address key concerns of Reclamation’s water and power partners. The water / power coalition formed in Portland (OREGON) last month, where Reclamation hosted its sixth public meeting on M4E.

At that meeting, water and power customers voiced concerns about Reclamation’s draft business model, proposed collaboration policy and proposed customer collaboration directives and standards. In Portland, those customers requested that Reclamation re-draft the current documents to address their concerns.

THE LOOSE water / power caucus created in Portland is now in the process of developing objectives that will be used to provide specific recommended revisions on Reclamation’s revised business model and related policy documents.

Alliance Executive Director Dan Keppen (OREGON) is acting as the lead coordinator of the effort to develop objectives and recommended revisions.

“As we work further with Reclamation in this process, these objectives will allow us to easily determine whether this process has been a success,” said Keppen. The water and power customers will

meet face-to-face with Reclamation leadership on November 7th, at the National Water Resources Association conference in Albuquerque (NEW MEXICO), to discuss Reclamation’s response to proposed revisions.

“In Portland, we decided to tackle the right-sizing issues first,” said Keppen. “Then, if necessary, we

‘These objectives will allow us to easily determine whether this process has been a success’

—DAN KEPPEEN, *Alliance Executive Director*

can weigh in at a later time to provide input to Reclamation on final implementation actions, proposed policies, and proposed directives and standards related to the wider M4E effort.”

PACIFIC NORTHWEST REGIONAL Director Bill MacDonald, leader of this effort, said the final work product would not include a single “right-sized” number that suggests recommended staff size for Reclamation to deliver services. Instead, the final product will be a recommended business model that explains organizational arrangements and business practices.

Reclamation also recently announced the availability of the Efficiency, Transparency and Accountability (ETA) website. The ETA website provides the opportunity to track the implementation progress of the 41 individual items in the M4E Action Plan.

USERS CAN VIEW a report, organized by action item number, which summarizes each task to be completed by Reclamation. To visit the ETA website, and follow the implementation of the Managing for Excellence items, visit: www.usbr.gov/eta.

Snake River Headwaters Legislation Bad For Idaho

By **NORM SEMANKO**

*Executive Director, Idaho Water Users Association
Member, Family Farm Alliance Advisory Committee*

Let me make the most important point right up front: The Snake River Headwaters wild and scenic rivers bill in Congress is bad legislation and Idaho's water user community stands firmly united in its opposition.

It is important that we not lose perspective. The issue is not whether the Snake River is one of our most important treasures. Certainly it is. But sometimes the best intentions result in the worst of all possible results. A federal "wild" designation for the 42 miles of the Snake River between Jackson Lake Dam and Palisades Reservoir is one of those situations.

THERE IS AN INHERENT feel-good factor when the environmental community and their friends seek to have Congress officially designate a stretch of river as "wild." To raise even a smattering of opposition to what is portrayed as such a noble cause is guaranteed to earn you membership in the environmentalists' hall of shame.

But there are two sides to every issue. Sometimes a cause that is well intended later turns out to be a disaster. Just ask General George Custer.

And so it is with those now charging forward, flags flying, intent on securing federal protection for that particular segment of the Snake River. Contrary to the rhetoric being trumpeted by the liberal, pro-environmental press, a "wild" designation *does* pose a serious threat to farmers, ranchers and other water users from Idaho Falls to Twin Falls.

THE WATER STORED in Jackson Lake Reservoir plays a central, crucial role in the economic lifeblood of Idaho's agricultural economy. Hundreds of thousands of acres of irrigated farmland depend on the annual delivery of that water. The only real knee-jerk reaction has come from the ill-informed, short-sighted editorial writers who cannot

see the forest for the trees when it comes to Idaho's most crucial natural resource,

The issue is what happens when federal bureaucrats decide – or are forced by environmental lawsuits – to use the "wild" designation to change reservoir operations, thereby reducing our precious water supplies.

Don't be misled by claims that "wild" status has no affect on water rights. Federal attorneys are already using existing wild and scenic river designations in Idaho to challenge central Idaho irrigators' long-standing water rights in the Snake River Basin Adjudication.

IDAHO'S POLITICAL LEADERSHIP and the Idaho water user community have a long, painful history of dealing with federal bureaucrats and environmental groups who try to manipulate policies, statutes or rules to achieve results never intended.

Given that track record, it is only a matter of time before those same forces attempt to use a "wild" designation to drive Jackson Lake water management, resulting in reduced water storage supplies for Idaho irrigators.

Just imagine how that would exacerbate existing surface water and groundwater conflicts in Idaho. The more senior storage water rights are lost to the "wild" river designation, the more demands will be placed on junior groundwater users to make up the difference. That is added pressure on the water resource that we just can't afford.

If Idaho is to maintain sovereignty over its water, someone had better be standing guard when the environmental groups and feel-good editorial writers run out to jump on the bandwagon *de jure*, no matter how feel good it may be. Senator Larry Craig led Idaho's opposition in the Congress to this misguided Snake River Headwaters wild and scenic rivers legislation. The Idaho water user community will continue to do so here at home.

Regional Approach

Alliance Advisory Committee Chairman Advocates Broad Resource Management Approach in San Joaquin Valley

The chairman of the Family Farm Alliance Advisory Committee testified last month before the House Subcommittee on Water and Power and advocated for new legislation (HR 2498) that would coordinate diverse and sometimes parochial San Joaquin Valley water interests in Central California.

Richard M. MOSS (CALIFORNIA), a professional registered civil engineer and the Vice President for Water Resources for the engineering firm of Provost and Pritchard Engineering Group Inc., provided a history of integrated regional water management plan resource management plans (IRWMP) in California, and the potential benefits of employing a similar program in the San Joaquin Valley.

USING THE IRWMP APPROACH, a broad spectrum of water resources issues are investigated, involving diverse interests through public and stakeholder involvement and attempts to integrate multiple water management strategies to solve multiple priority challenges.

By building a broader coalition in support of an array of projects, the hope is to leverage that regional cooperation to successfully address multiple water resource objectives. This approach can be especially effective if principle state and federal funding agencies for such water projects support this approach and are willing to defer prioritization of how the their money gets spent to the local planning interests.

ACCORDING TO MOSS, the fundamental planning for the water resource needs of the San Joaquin Valley has been around for a very long time, including the notion of developing plans on more of a regional basis.

However, in recent years, most of the water resource planning has come as the result of addressing a specific need within a region or a specific water district.



Friant Water Authority

The Friant-Kern Canal, one of scores of water conveyance and management facilities within Central California's San Joaquin Valley, winds its way along the Sierra Nevada foothills of Tulare County.

“That planning has consisted of little more than developing a plan to implement a project to address a specific need,” Moss noted. “As water resource engineers, we were told that the era of big projects was dead and to focus our thinking on making better use of the resources that our forefathers had already developed. We have now entered into yet another era of water resource planning.”

THE IDEA OF AN INTEGRATED and comprehensive approach to water management planning, encompassing a variety of water management needs with the potential for a variety of entities which have water management responsibilities to engage, is a relatively new idea in California.

Moss testified that at least some of the current focus on IRWMPs in California can be traced to development of the Santa Ana River Watershed Project in Southern California.

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San Joaquin Takes New Look At Regional Planning

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“This was a region rife with conflict over the management of their water,” said Moss. “After much struggle it was determined to address the various needs of the parties in a comprehensive manner and to try to do so using non-local financial resources.”

THE INTEGRATED REGIONAL approach employed in the Santa Ana River watershed is now serving as the preferred model for addressing water resource issues where the need for assistance outweighs the ability of the state agencies to provide help. Thus, regional priorities need to be set.

“Who better to set those priorities than the local folks?” Moss asked.

Unfortunately, says Moss, the San Joaquin Valley has been slow to embrace the concept of IRWMPs and as a consequence is behind much of the rest of the State in development of IRWMPs.

“This slowness is not a result of recalcitrance or of lack of water management insight,” he said. In part, and importantly, he believes it is due to the defensive posture that most of the San Joaquin Valley water community has been in relative to trying to protect existing water supplies and suffering significant reductions in those supplies.

MOSS SAID a number of “sub-regional” planning efforts have emerged and the level of communication and of activities to begin the development of a regional plan is clearly catching hold.

California Congressmen Costa, Radanovich, Cardoza, and Nunes initiated the development of the San Joaquin Valley Regional Water Plan almost two years ago. Congressman McCarthy has now also joined in support of the Plan’s development. The California Water Institute (CWI) at California State University, Fresno was asked to facilitate the regional planning effort.

‘Who better to set those priorities than the local folks?’

—RICHARD M. MOSS

Subsequently, Governor Schwarzenegger convened the San Joaquin Valley Partnership, which brings state agency secretaries and Central Valley representatives together to make recommendations to the Governor regarding changes that would improve the economic well being of the San Joaquin Valley.

With the comprehensive nature of the congressional regional water planning effort already developing, the Partnership agreed to synchronize its water planning efforts with the ongoing process in its development of the Partnership’s water action plan and associated recommendations to the Governor.

A WATER MANAGEMENT CRISIS is facing much of the San Joaquin Valley. While supplies and their reliability are shrinking, at the same time the demands for water are increasing, as the region is one of the fastest growing in the country. The need for new, integrated solutions to the region’s water problems is clear.

“We are in unprecedented times where we are faced with population increases, drought, climate change, endangered species issues, major river restoration programs, and the desire to maintain a certain way of life, that necessitates the need for a well thought out, comprehensive regional water plan”, Moss testified.

“The passage of HR 2498 and the funding of the continued development of the San Joaquin Valley Regional Water Plan would be tremendously helpful.”

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