



**Testimony of Dan Keppen
Executive Director, Family Farm Alliance**

**Submitted to the U.S. House of Representatives Committee on Natural Resources
Subcommittee on Water and Power**

**Oversight Hearing on
*“The Bureau of Reclamation and the American Recovery and Reinvestment Act:
A Progress Report and Planning for the Future.”***

July 15, 2010

Chairwoman Napolitano and Members of the Subcommittee:

Thank you for this opportunity to submit testimony on behalf of the Family Farm Alliance (Alliance). My name is Dan Keppen, and I serve as the executive director for the Alliance, which advocates for family farmers, ranchers, irrigation districts, and allied industries in 17 Western states. The Alliance is focused on one mission: To ensure the availability of reliable, affordable irrigation water supplies to Western farmers and ranchers. Our members are family farmers, ranchers and irrigation districts and water agencies, several of which are responsible for the operation and maintenance of the Bureau of Reclamation’s largest and most complex facilities.

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. Population growth, environmental demands and climate change are placing an unprecedented strain on aging water storage and conveyance systems designed primarily for agricultural use.

After engaging in numerous forums in recent years to find ways to address the critical challenges we face in the West regarding the state of our deteriorating and, in many cases, insufficient water infrastructure, we are heartened by the willingness of the Obama Administration, Congress, and this Subcommittee to apply economic stimulus funding to these types of projects.

I 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. 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 and that it ignored new repayment authorities intended to facilitate non-federal funding of major repair work. Some of these concerns remain, and are reiterated in this testimony.

Today's hearing is important for the obvious opportunity it presents to assess the effectiveness of stimulus projects completed by Reclamation. However, the types of projects undertaken in the past year – coupled with Reclamation's FY 2011 budget request – provide an indication of the future direction of the Bureau of Reclamation, at least in the mid-term of this administration. My testimony will seek 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.

Compatibility of ARRA Projects with Reclamation's Mission

The Family Farm Alliance believes Reclamation's primary focus should be on fulfilling its core mission of efficiently and effectively delivering water and power in accordance with applicable contracts, water rights, interstate compacts, and other requirements of state and federal law. Inherent in this definition of core mission is the need to prioritize the expenditure of federal funds and other resources of the Department of the Interior.

Reclamation built and manages the largest part of the critical water supply infrastructure that is the foundation of the economic vitality of the 17 Western States. Much of this federally-owned infrastructure is now 50-100 years old, approaching the end of its design life, and needs to be rebuilt and rehabilitated for the next century. Reclamation estimates that \$3 billion will be needed from project users in the near-term to provide for essential repairs and rehabilitation of its facilities. The Congressional Research Service has calculated the original development cost of the Reclamation water supply and delivery infrastructure to be about \$20 billion, and Reclamation puts the current replacement value of the system at well over \$100 billion.

It is imperative that Reclamation provide adequate funding levels for the operation, maintenance, and modernization of existing federal water supply infrastructure. Many of these facilities also need to be replaced with modern designs and technology that can provide for greater water management efficiency. Sound business practices dictate that this existing infrastructure and the water supply provided by these facilities, be protected and preserved.

The \$1 billion Congress provided in the Recovery Act presented Reclamation with a unique opportunity to make the investments necessary to secure a more reliable water supply infrastructure for the West, while creating jobs in economically distressed rural areas. We were, therefore, disappointed to see that, out of the \$700 million in Reclamation stimulus funding not

allocated to Title XVI, rural water projects, CALFED, and other established programs, only \$130 million was spend on addressing existing federal water infrastructure needs. In our view, funding for the repair and rehabilitation of existing aging infrastructure was inadequate when compared to the total ARRA funding provided to Reclamation and the huge economic and societal risk associated with aging water management facilities across the West.

With respect to the Title XVI Program, the Alliance recognizes that wastewater reclamation and reuse projects can augment existing urban water supplies and thereby reduce pressure on agricultural and rural supplies. It is also true that many of the current and potential recipients of Title XVI funds are entities that have the financial capacity to fully fund the development of alternative water supplies without federal assistance. Again - the Alliance does not propose eliminating federal support for Title XVI projects. In fact, we are on record as supporting stimulus (ARRA) resources directed to fund the federal share of existing Title XVI projects that are ready for construction within the timeframe prescribed by the stimulus legislation. Rather, our position is that Title XVI projects should not be supported with resources shifted away from the maintenance and rehabilitation of Reclamation's existing infrastructure.

We also understand the need for Reclamation to support environmental / ecosystem restoration efforts intended to make Western rivers, streams and estuaries healthy. However, these restoration efforts funded through Reclamation should have direct water supply benefits for Reclamation project water users. The fish passage improvement project funded under ARRA at Red Bluff Diversion Dam (California) is a perfect example of one such project. There are numerous other government agencies tasked with clear directives and adequately funded to steward environmental restoration efforts and fund urban water conservation projects. At the same time, there are very few programs that provide funding to support extraordinary maintenance and modernization of aging federally owned agricultural water infrastructure.

Lessons Learned from Reclamation's ARRA implementation

In general, our members have had a positive experience overall relative to the ARRA funding. However, many of the irrigation districts have considerable experience in working with Reclamation and other federal agency grant programs. That experience prepared them going into this process with an understanding of the challenging federal requirements and the requisite issues that accompany federal grants. Several of our members who benefited from ARRA funded projects provided some generalized findings that we hope will assist the Subcommittee as it assesses Reclamation ARRA implementation.

The Fish Passage Improvement Project at Red Bluff Diversion Dam in California may prove to be an effective investment of Reclamation's ARRA funding. This "shovel-ready" project, sponsored by the Tehama-Colusa Canal Authority (TCCA), is critical to the preservation of the regional agriculturally-based economy, and will provide great benefits to endangered and

threatened fish species in the Sacramento River. The completion of this project will also benefit water users statewide through near-term benefits to the fishery resource, thereby helping to resolve some of the regulatory issues that are crippling the ability to effectively manage water in California. The Fish Passage Improvement Project is the culmination of over 40 years of collaborative efforts by various entities to find a balanced solution that improves both fish passage and the reliability of irrigation water deliveries.

The selected project includes construction of a pumping plant near the existing canal headworks with an initial installed capacity of 2,000 cfs and a footprint that will allow expansion to 2,500 cfs. Design of the pumping plant, fish screen, bridge, siphon, utility relocations, cofferdams, and pumps is 100 percent complete. Under an accelerated schedule, construction is anticipated to be completed and operational by spring of 2012.

Although the project received over \$109 million from the American Recovery and Reinvestment Act (ARRA), with an estimated price tag over \$220 million, full project funding remains a top priority to meet the court-mandated schedule. If the construction schedule is not met, the ability to meet the irrigation demand for 150,000 acres of agriculture in the TCCA will be severely compromised. The TCCA and Reclamation are working cooperatively to meet this aggressive schedule, and TCCA is very satisfied with Reclamation's collaboration on this important project.

1. Water users in other parts of the West appear to be satisfied with ARRA funding of their projects as well.

Funding for water conservation, rural water management projects was well received and will provide lasting benefits. We understand that Fort Peck and Rocky Boy North Central in Montana collectively received over \$60 million in ARRA rural water funding. Both areas have made significant progress in moving their projects forward. Both projects have been in the works for over a decade and both serve very large areas. Both are collaborative tribal partnerships with other non-tribal rural water projects. Both are truly shovel-ready projects, where locals have been struggling for years to receive funding from Congress. The partners involved are very grateful and pleased that the funding was afforded to the two reservation rural water project and have nothing but praise for what has been accomplished to date with the funding. Though the funding went to the reservation projects – all feel they will benefit equally by what the reservations are accomplishing with the funds and construction. The Family Farm Alliance Advisory Committee representative from Montana told me, “If the administration ever needed an example of what the ARRA was to design to accomplish – these two projects are perfect examples of success – putting people to work with positive long range outcome.”

2. Stimulus funds could have been leveraged through more challenge grants and the use of loans and loan guarantees to finance non-federal costs, which would have been returned to the Treasury over time, yet Reclamation has not developed a program for either of these authorized financing tools.

Reclamation must treat the expensive, major rehabilitation and replacement of federal water projects as operation and maintenance costs (O&M) that must be paid for by the water users both in advance, and in the year in which the costs are incurred. For some of these projects, it is not uncommon for annual O&M bills for these rehabilitation projects to be thousands of times larger when compared to previous year's annual costs, with little time for water users to prepare to meet such non-federal funding requirements. With the federal government holding title to these facilities, water users cannot easily obtain financing to meet their O&M obligations, nor can they simply pass along huge increases in costs to their water customers in such a short period of time.

In the past, Reclamation has offered its water users direct loans to cover their share of these major expenses, allowing them to affordably and efficiently finance their contractual share of these costs over a period of years. However, these direct loans have been discontinued, as mounting pressures on the federal budget redirected funds that were traditionally dedicated to these loan programs. As a result, in most recent cases the unthinkable happens: these vital rehabilitation and replacement projects are delayed or dropped, leaving the facility in badly decomposing or even unsafe condition for future generations to deal with, and setting up the "perfect storm" of facility failure and resulting damages to property and livelihoods.

Congress has very recently sought creative ways to address this challenge:

- i. P.L. 111-11, signed into law in March 2009, included new authorities to address aging canal systems in urbanized areas of the West. An important part of this law, (Title IX, Subtitle G) authorizes the Secretary of Interior to advance funding for the costs of "extraordinary operation and maintenance work" that can be repaid by local authorities, with interest, up to 50 years. The 50-year repayment option applies to both "reserved works" (those federal projects managed and maintained by Reclamation, but paid for by both federal and non-federal funding sources) and those works whose management has been transferred to local entities by Reclamation. This extended repayment authority has been welcomed by our members as a means of securing affordable financing for repairs to federal facilities.

The Conference Report in the final ARRA bill authorized the Secretary of the Interior to extend the repayment period up to 50 years for the reimbursable costs of extraordinary maintenance and replacement activities carried out on federal water projects with stimulus funding. Extended repayment is with interest and is not subsidized. However, Reclamation has apparently ignored this authority and has failed to carry out the provisions of the stimulus act authorizing up to 50-year

repayment periods for the non-federal share of extraordinary maintenance of federal water projects.

- ii. Title II of the Rural Water Supply Act of 2006 (PL 109-451) authorized a loan guarantee program within Reclamation that would leverage a small amount of appropriated dollars into a large amount of private lender financing available to qualified Reclamation-contractor water districts with good credit. In other words, the Congress has given the authority to Reclamation to co-sign a loan to help their water contractors meet their contract-required, mandatory share of rebuilding and replacement costs of federally-owned facilities.

Unfortunately, the Reclamation loan guarantee option continues to be held up because of incorrect interpretations of clear Congressional direction by the Office of Management and Budget (OMB). An April 3, 2008, memo prepared by OMB concluded that the Bureau can carry out the loan program only if it is willing to siphon large amounts of funding away from other programs and needs within its budget to fully cover the total value of guaranteed loans in the event of default. This is not what Congress intended. In 2008, we shared with this Committee our findings that showed OMB's conclusions were wrong and that they are driven by a desire to prevent implementation of the program. We are baffled by OMB's opposition to a device specifically designed to help non-federal entities raise non-federal money to repair federally owned infrastructure at little or no cost to the federal government.

3. Reclamation's program specifically EXCLUDED transferred works.

There are two general classifications for Reclamation-owned facilities, depending on the entity responsible for operating those facilities. "Reserved facilities" are those operated by Reclamation, while "transferred facilities" are operated by non-federal authorities, several of which we represent. Reclamation claimed that it had no "obligation to finance the maintenance and replacement of these facilities".

While that may be legally correct, it is also counterproductive in the context of the ARRA's goal to create jobs by repairing federally owned infrastructure, especially given the context of Congressional intent in ARRA to allow these costs to be repaid over 50 years with interest. Some of the largest projects in the Reclamation system are transferred works. Why would they be made ineligible for stimulus funding? Using stimulus money to repair or upgrade federally owned transferred works would not relieve non-federal contractors from their obligation to pay for such projects; it would only make it easier for them to repair and rehabilitate the federal asset faster. Further, it is illogical to make distinction between reserved and transferred works in stimulus funding allocation because non-federal interests are responsible for their share of O&M cost for both kinds of projects. Who performs the actual work seems to us to be irrelevant to the question of where stimulus funding should be applied.

4. Streamlined (not weakened) environmental processes would have helped get projects started and funding out quicker, resulting in more jobs being created.

ARRA directed agencies to create a streamlined environmental review process, yet not enough was done to make these processes more efficient or effective. Our members had the most trouble securing the environmental approval from Reclamation for ARRA projects to begin. We have seen a “disconnect” between ARRA and other Reclamation grant program’s required funding timelines and needed National Environmental Policy Act (NEPA)/National Historic Preservation Act (NHPA) reviews. For example, in California, one project had previously completed a California Environmental Quality Act (CEQA) review for which the water district had received a Negative Declaration. Based on this finding, the district initially believed it would be able to tier off of that with an Environmental Assessment (EA) to secure National Environmental Policy Act (NEPA) compliance in a streamlined manner. Unfortunately, this turned into a 5-month process to secure a Finding of No Significant Impact (FONSI) and U.S. Fish and Wildlife Service (USFWS) concurrence on Endangered Species Act (ESA) issues.

In this and other cases, the Administration’s intentions and messaging when ARRA was initially rolled out did not match how Interior actually administered the program. Those involved in the process – local water users and federal officials alike - expressed frustration that, on the one hand, being told to get ARRA projects quickly out the door, but on the other hand getting no relief or even guidance on expediting the environmental process. In at least one case, this ultimately led to the project proponent requesting an extension before the project even broke ground, and then ultimately having to blame things on Reclamation.

Local water users believe these reviews could be satisfied in a much more expeditious manner by relying on existing, similar state reviews. For aging water infrastructure, the historic review requirements should be modified, perhaps by developing a programmatic approach to the NHPA requirements for water facilities.

5. The contracting process was, for the most part, efficient.

For the most part, payment claims submitted by local project proponents were quickly reimbursed by the government. The reporting requirements for the Reclamation grant (quarterly) and the ARRA process (monthly – online) are somewhat redundant. Some federal administrators have a lack of understanding about the limited construction “window” that is available when working on water delivery systems (e.g. construction activities only during times when water is not being delivered, such as late fall, winter, early spring timeframes). Early “kickoff meetings” with project proponents and Reclamation personnel should be a required step in these projects.

As is the case in any sort of project, the competence and communication skills of the project manager plays a big part in the success of the project. Reclamation project managers who are practical, amenable, and personable, and who can find ways to work with project proponents, are the key to smooth project implementation.

6. Time Constraints Stopped Some Important Projects from Moving Forward

Some “shovel ready” projects (reserved works) such as Idaho’s Minidoka Dam rehabilitation project (construction could have commenced last fall) were not funded by Reclamation because (they were told) the project would not be completed in time (two years). However, the completion time for the Minidoka Dam Spillway project could have been shortened if funding were provided at that time. Currently, this project is estimated to cost \$60 million, with the federal government covering 58% and the non-federal water users responsible for 42% of costs. The benefit of stimulus dollars for the Minidoka Dam spillway project would have been that additional funds could have covered both the federal and non-federal share of the construction costs, with the non-federal share repaid over time, as directed in the stimulus bill. Now, future funding of this project will significantly impact Reclamation’s annual budget priorities in the future.

There are other areas of the West where Reclamation determined that large areas with equal payback served by significant aging infrastructures - primarily because they said they were not shovel-ready. Another question that may be asked is “Why were these aging infrastructures projects not shovel-ready, especially when Reclamation has had more time to address these challenges than they have the new rural water projects?” Again, this type of question reflects a perception of concern from water users regarding how important maintaining and modernizing water infrastructure is in the scheme of Reclamation’s current and future mission.

Impact of ARRA Project funding on Reclamation’s future priorities

The Department of the Interior ARRA package for the Bureau of Reclamation – as well as the FY2011 Reclamation budget proposal - clearly emphasizes environmental restoration projects and new urban, tribal and rural domestic water programs as priorities of this Administration. Yet even with this focus, farmers within Bureau of Reclamation service areas in California and Oregon are only receiving between 30% and 50% of their normal water supplies, despite a wet, cool spring and a full-to-the brim Lake Shasta, the largest federal storage reservoir in California. The Alliance believes the Congress must refocus Reclamation’s priorities back to its core mission beginning with the appropriations process. Reclamation must ensure continued operation of federally-owned water management and delivery facilities into the future by investing federal dollars in rehabilitation of aging facilities and in environmental restoration that directly supports and results in more reliable water deliveries to agricultural and municipal water users. We were pleased to see Reclamation acknowledge last year that ARRA investments in infrastructure reliability would create immediate construction, engineering and scientific jobs. Again, however, only \$130 million out of almost \$1 billion was actually slated for high priority infrastructure repair and replacement projects across the entire West.

Effectiveness of Reclamation ARRA funds to Meeting ARRA Goals

Title XVI of the American Recovery and Reinvestment Act generally lists the requirements for qualifying projects. In the statement of conferees report prepared for the Department of the Interior, Bureau of Reclamation, Water and Related Resources, Reclamation was directed to consider other criteria when allocating funds for stimulus programs, projects and activities. The ARRA also includes a provision authorizing Reclamation to provide for extended repayment of reimbursable repair and rehabilitation expenses by project beneficiaries, as discussed previously. Aside from these requirements, it appears that Reclamation was given wide latitude in establishing priorities and making decisions to implement projects that we hoped would maximize the water supplies, ensure that water data needs are met, and enhance infrastructure.

With that said, it would appear that Reclamation is the best source to assess whether its spending decisions and final projects satisfied the internal criteria developed by the agency. Undoubtedly, new jobs (many of them temporary construction jobs) were created as these projects were administered and constructed. Yet many projects are still pending or are underfunded by ARRA, and, if not funded into the future, could actually displace thousands of jobs and shatter local economies. For example, the Fish Passage Improvement Project at Red Bluff Diversion Dam provides improved water supply reliability to the Tehama-Colusa Canal Authority, supplies irrigation water to 150,000 acres of agricultural land, over half of which is permanent crops, such as almonds, olives, and grapes. Crops grown in the service area produce over \$250 million in crops and contribute over \$1 billion to the regional economy annually. Without adequate ARRA funding to continue the project on the court-mandated schedule, the agricultural water supply for the TCCA irrigation districts is at tremendous risk.

CONCLUSION

The Family Farm Alliance is proud of its partnership with the Bureau of Reclamation. Reclamation has much to be proud of in its history of service to water users and the public. We stand ready to assist you, Madame Chair, and the Members of this Subcommittee in furthering Reclamation's efforts important to all our Western communities in the face of such an uncertain and challenging future. As we have done 25-times in the past five years testifying before Congressional committees, I will emphasize once again: we are facing water problems right now. As evidenced by the testimony received by this very subcommittee at a May 17, 2010 field hearing in Greeley, Colorado, the furtherance of a "buy and dry" mentality for ag-to-urban transfers and a continued focus on demand reduction "solutions" alone will not resolve these problems. Consider the following statements that were heard that day:

“There are some who feel all we need to do is simply do a better job of conservation and then, magically, we will not need additional storage to meet our growing needs. These people are sadly misinformed. We simply cannot conserve our way to future supplies.....”

Kathy Peterson, Manager, Left Hand Water District
Chairwoman, Northern Integrated Supply Project Participants Committee

“It should be noted that absent the ability to develop and acquire water supplies from other sources, the default action for providing water for the region’s ever-growing population and industrial demands will be to purchase irrigated farmland and the associated water rights, dry up those farms, and transfer those senior rights to M&I users. This is by far the most serious threat to the sustainability of agriculture in this region.”

Eric W. Wilkinson
General Manager, Northern Colorado Water Conservancy District

While not widely reported in the media, the message voiced by almost all witnesses at the Greeley hearing was loud and clear: Colorado needs more water storage. And, so does the rest of the West. We need policy and decisions that are based on sound science. And we need the infrastructure to conserve, reuse, store, treat, manage and convey water to where and when it is needed, at the quality and quantity necessary, to resolve the West’s water problems and avoid even more severe consequences that loom on the horizon.

Unfortunately, in the past year, federal agencies have steadily re-written numerous environmental policies that - if not checked – will add even more red-tape and increase the potential for uncertainty and litigation. The White House Council on Environmental Quality (CEQ) has drafted new standards for federal water projects that appear to elevate environmental goals above economic development concerns. These changes – coupled with proposed CEQ NEPA rules - may have a significant impact on new water project planning and federal funding in the future.

Streamlined regulations are needed to kick-start the development of new projects and rehabilitate aging infrastructure 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

Thank you for the opportunity to testify before this Subcommittee today. I would be happy to answer any questions you might have.