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**Testimony before the Subcommittee on Water and Power
Committee on Natural Resources
United States House of Representatives**

**Oversight Hearing
on
Bureau of Reclamation's Fiscal Year 2011 Budget
and the Future of the Bureau of Reclamation**

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Good afternoon, Chairwoman Napolitano, Ranking Member McClintock, and Members of the Subcommittee.

My name is Sandy Denn, and I am a member of the Board of Directors of the Family Farm Alliance (Alliance). I also have served as Vice President of the Board of Directors of Glenn-Colusa Irrigation District in Northern California for several years, and I am the former President of the Central Valley Project Water Association.

The Alliance is a grassroots organization of family farmers, ranchers, irrigation districts, and allied industries in 16 Western states. The Alliance is focused on one mission: to ensure the availability of reliable, affordable irrigation water supplies to Western farmers and ranchers. We are also committed to the fundamental proposition that Western irrigated agriculture must be preserved and protected for a host of economic, sociological, environmental, and national security reasons – many of which are often overlooked in the context of other policy decisions.

I am a third generation farmer from Willows, California, where I grow rice at Snow Goose Farms with my husband, Wallace Denn. Snow Goose Farms, situated near the Sacramento National Wildlife Refuge, is a winter haven to migratory waterfowl. Similar to the philosophy espoused by the Family Farm Alliance, my family has long believed that agriculture and the environment can coexist in harmony if common sense and sensitivity are applied to agricultural practices and environmental reforms.

Thank you for this opportunity today to testify on the Bureau of Reclamation's Fiscal Year (FY) 2011 budget. In the context of this general topic, I would like to further discuss the past, recent and future role of the Bureau of Reclamation (Reclamation).

The Family Farm Alliance believes strongly that Reclamation should focus on fulfilling its core mission of 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 Reclamation's core mission is the need to prioritize the expenditure of federal funds and other resources of the Department of the Interior.

Reclamation projects in the West have added greatly to the economic and social well being of entire communities, western states, and the nation over the past century. These important federally developed and owned projects continue to provide many benefits to the region, but have aged to the point that, in many cases, expensive major rehabilitation will be necessary in the near future. Yet, over the past several years, Reclamation's budget requests and congressional appropriation levels for operation, maintenance, and rehabilitation of these aging facilities has remained generally flat. In contrast, budgets and appropriations have risen for Reclamation's environmental restoration and mitigation activities and for construction of rural domestic water supply projects and Title XVI urban wastewater re-use projects. While the Alliance recognizes the benefits of these activities and projects, we do not believe that they should be pursued at the expense of Reclamation's core mission. Protecting the national investment in the *existing*

Western water supply infrastructure requires significantly more resources than are being devoted to that purpose now.

Overview of Reclamation's FY 2011 Budget Request

The Bureau of Reclamation's FY 2011 overall budget request is for nearly \$1.1 billion in new budget authority. Of that amount, \$913.6 million is requested for Reclamation's Water and Related Resources account, which funds the Agency's primary functions, including facility operation, maintenance and rehabilitation (OM&R); water and energy management; construction; and fish and wildlife management and development. The Administration's Water and Related Resources request is nearly \$40 million less than the FY 2010 level. It includes a three percent increase in funding for facility OM&R, and a 29 percent increase in fish and wildlife management and development. While the Administration's FY 2011 request would double funding for Title XVI urban waste water reclamation and re-use projects as compared to the FY 2010 level, it would cut rural water supply project funding by half, as compared to FY 2010.

The FY 2011 Reclamation budget request combines the Title XVI program and other Reclamation and Interior Department water conservation, study, and grant programs to form the new WaterSMART (*Sustain and Manage America's Resources for Tomorrow*) program. Reclamation describes the WaterSMART program (formerly known as the Water Conservation Initiative) as an effort to expand limited water supplies in the West in order to reduce conflict, facilitate solutions to complex water issues, and meet the growing needs of expanding municipalities, the environment, and agriculture. Reclamation's \$62 million request for the WaterSMART program in FY 2011 would provide funding for three ongoing programs including: WaterSMART Grant program (formerly known as Challenge Grant) at \$27 million; Reclamation's Basin Study program at \$6 million; and the Title XVI Water Reclamation and Reuse program at \$29 million.

Reclamation intends WaterSMART programs to: 1) provide competitive grants for water marketing and conservation projects; 2) conduct basin-wide planning studies that will help identify the impacts of climate change; 3) identify potential adaptation measures; 4) address comprehensive water supply and demand in the West; and 5) continue funding of water reuse and recycling projects.

The WaterSMART Grant Program request of \$27 million in FY 2011 is significantly more than the \$18 million Congress provided last year. Grants are intended to support projects that improve water management through voluntary water banks, demand reduction, improved water conservation, and implementation of re-use projects. The grants also are available for activities and projects to improve energy efficiency, promote renewable energy, and reduce environmental conflicts.

This grant program is strongly supported by the Family Farm Alliance and we are encouraged that the Administration has proposed a robust level of funding for it in FY 2011. We have some suggestions for improving the administration and effectiveness of the WaterSMART Grant program, which I will discuss later in my testimony.

The Administration's proposed budget for the Water and Related Resources Account includes \$423.7 million, slightly more than the FY 2010 level, to fund OM&R activities at Reclamation facilities, including dam safety. These programs are essential to Reclamation's core mission. Yet funding for OM&R has remained virtually the same for several years, and the current levels will not meet the rehabilitation and extraordinary maintenance needs of an aging federal infrastructure.

We respect Reclamation's responsibility to focus on the protection and restoration of the aquatic and riparian environments affected by its operations, and we understand the obligation to fulfill the requirements of the Endangered Species Act (ESA). Some of Reclamation's environmental restoration and mitigation activities are essential components of agreements and programs intended to ensure greater water supply reliability for irrigators.

However, many of our members are concerned that approximately one-quarter of this budget request is dedicated to the newly-coined "Restoring Rivers" program. The Department of Interior and Reclamation in particular are among the very few federal entities that have a direct relationship with and understand the importance of Western irrigated agriculture. Numerous other federal agencies with significant funding from Congress are already focusing on environmental restoration activities. Many of these endeavors - while commendable - are not part of Reclamation's central mission and they should instead be funded from the budgets of federal fishery and wildlife agencies.

The Alliance' View of Reclamation's Role in the West

As I have emphasized, the Family Farm Alliance believes Reclamation's primary focus should be on fulfilling its core mission of 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. The WaterSMART Program, so long as it continues to recognize that transfers and the use of market mechanisms must be voluntary and pursuant to state law, could provide Reclamation with an essential tool in helping to meet future water needs of the West.

It is imperative that Reclamation provide for the operation, maintenance, and modernization of existing water supply infrastructure. Many Reclamation facilities are approaching the end of, or are past their design life. In addition, 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.

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. The Alliance does not propose eliminating federal support for Title XVI projects. In fact, we are on record as supporting the American Recovery and Reinvestment Act (ARRA) stimulus 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.

In a time when federal financial resources are limited, Reclamation should develop criteria that can ensure federally-funded Title XVI projects are indeed good federal investments and will yield credible results. We are encouraged that Reclamation intends to take such an approach as part of the WaterSMART program.

We also understand the need for Reclamation to support environmental / ecosystem restoration efforts intended to make Western U.S. rivers, streams, and estuaries healthy. However, these restoration efforts should be focused on direct water supply benefits for Reclamation project water users.

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 agricultural water infrastructure.

The FY 2011 Reclamation budget proposal clearly emphasizes environmental restoration projects and new urban, tribal, and rural domestic water programs. The Alliance believes the Congress must refocus Reclamation's priorities back to its core mission through the appropriations process.

The Bureau of Reclamation's WaterSMART (Challenge) Grant Program

Reclamation's Water Conservation Challenge Grants – now renamed WaterSMART Grants - leverage federal funding by requiring a 50 percent non-Federal cost-share contribution. Grants are available to States, tribes, irrigation and water districts, and other entities with water or power delivery authority. Many members of the Family Farm Alliance have benefited from this program in recent years. The Alliance will testify on March 16 before the Senate Energy and Natural Resources Committee and provide specific observations about experiences our members have relative to this grant program.

In general, the keys to success of the grant program have been: 1) Paying close attention to grant requirements; 2) Sufficient planning to demonstrate a thoughtful and consistent approach; and 3) Recognition that a “phased” approach can be used to incrementally fund larger projects. Alliance members have also identified shortcomings in the administration of the WaterSMART Grant program and have developed the following recommendations on how to address those problems:

- A. There is often a “disconnect” between required funding timelines and needed National Environmental Policy Act (NEPA)/National Historic Preservation Act (NHPA) reviews. In California, for example, 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.
- B. Federal administrators sometimes have a lack of understanding about the limited construction “window” that is available when working on water delivery systems. Early “kickoff meetings” with project proponents and Reclamation personnel should be a required step in these projects.
- C. Grant applicants sometimes face financial and time-management difficulties looking for multiple partners to share the benefits of a proposal, especially for smaller grants. If multiple benefits and collaborative efforts are to be emphasized, commensurate funding should be made available to support these necessary administrative actions.

The vast majority of Family Farm Alliance members who have benefited from water conservation grants believe that there is not enough money to address the needs that are out there (see “Alliance Concerns Beyond FY 2011 Budget” below). We were pleased to see that the Bureau of Reclamation’s Fiscal 2011 budget request includes \$27 million of WaterSMART Grants. This is a good start.

Importance of Federal Climate Change, Conservation, and Infrastructure Assistance

Water conservation and water transfers are important tools for improving management of increasingly scarce water resources. However, these demand-management actions must be balanced with supply enhancement measures that provide the proper mix of solutions for the varying specific circumstances in the West.

Supply enhancement should include rehabilitation of existing facilities and construction of new infrastructure. Rehabilitation measures should focus on maximizing the conservation effort through increased delivery efficiencies, construction of re-regulation reservoirs to minimize operational waste, and construction of new dams and reservoirs in watersheds with inadequate storage capacity to increase beneficial use and provide operational flexibility. Additional groundwater supplies should also be developed, but in a manner where groundwater use falls

within the safe yield or recharge parameters of the aquifer. Conjunctive management of surface and groundwater supplies should be encouraged. Installation of additional stream gauges, water meters, groundwater recharge projects to employ during times of high surface flow, groundwater monitoring wells, and better estimates of consumptive use are of paramount importance for the equitable management of available water supplies. These supplies need to be evaluated on a basin-wide regional basis and Reclamation's Basin Studies in the WaterSMART funding should allow for these activities to participate.

The federal government needs to seriously consider adopting a policy of supporting new projects to enhance water supplies while encouraging state and local interests to take the lead in the planning and implementation of those projects. Local and state interests have shown enormous creativity in designing creative water development projects. For example, Reclamation settlement contractors in the Sacramento Valley of California are partnering with other public agencies and counties to complete an Integrated Water Resource Management Plan (IWRMP) that will be a locally driven program to identify and prioritize water supply, wastewater, and flood control projects. Water agencies have obtained funding through appropriations; however, Reclamation could also supplement this effort by providing funding for local partnership agreements, especially where Reclamation and its water contractors are identified as potential beneficiaries.

Many water projects are ready to be developed in the West, as demonstrated by studies completed by the Family Farm Alliance and the Bureau of Reclamation in 2005. While conservation and recycling programs have done a tremendous job of meeting new growth, only a small amount of new water storage capacity has been developed in the past 30 years.

Maintaining the status quo simply isn't sustainable in the face of unstoppable population growth, diminishing snow pack, increased water consumption to support domestic energy production, and increased environmental demands. It's time to start building the water infrastructure needed to cope with a changing climate, meet the needs of a burgeoning population, and support a healthy agricultural base in the West. In California, since 1992 over 3.5 million acre-feet has been re-directed from the Central Valley Project to environmental purposes. New facilities will be necessary to mitigate and replace this reallocation of supplies in order to maintain the state's nationally important agricultural economy.

Reinforcing the *SECURE Water Act*

Last year, Congress moved to address the potential impacts of climate change on Western state water supplies. It approved the *SECURE Water Act* (signed into law by President Obama in March 2009 as P.L. 111-11, Title IX, Subtitle F) creating federal inter-agency programs to assess the effects of climate change on water supplies, develop strategies and technologies to address potential water shortages, and increase the collection of data on current and future water supply availability. The Family Farm Alliance supported the *SECURE Water Act* in part because it provides water managers with highly beneficial "on-the-ground" solutions to infrastructure

problems exacerbated by global climate change. *SECURE* authorizes the Secretary of the Interior to provide cost-shared grants for planning, designing, or constructing improvements to water infrastructure that conserve water, provide management improvements, and promote increased efficiencies. This expands opportunities for the types of projects planned to be funded through Reclamation's WaterSMART Grant Program. These projects should provide for improved water management, enhanced supplies, water conservation, and greater efficiencies, thereby stretching dwindling water supplies.

Alliance Concerns Beyond FY 2011 Budget

The *SECURE Water Act* and Reclamation's WaterSMART Grant Program are two important tools that improve the availability of reliable, affordable irrigation supplies and partially mitigate for climate change impacts to Western water resources. However, critical problems remain to be solved, and the Bureau of Reclamation and Congress can help address these needs.

1. Create Flexible Financing Options to Help Water Managers Proactively Deal with Aging Infrastructure and Climate Impacts to Western Water Supplies

The Bureau of 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 to 100 years old, approaching the end of its design life, and needs to be rebuilt and rehabilitated for the next century. The Congressional Research Service has calculated the original development cost of this infrastructure to be over \$20 billion, and Reclamation estimates the current replacement value of its water supply and delivery infrastructure at well over \$100 billion. These facilities are an essential component of the nation's food-production system and their operation helps ensure our ability to provide reliable and secure food for our own citizens and the rest of the world.

The problem with fixing aging public infrastructure is primarily financial. There are not enough federal dollars to go around for these burgeoning needs. Yet, in the case of Reclamation water facilities, most of the rebuilding of this federal water infrastructure is paid for by the end users who contract with Reclamation for their water supplies. Reclamation estimates that \$3 billion will be needed from project users in the near-term to provide for essential repairs and rehabilitation of Reclamation facilities.

This is where the problem begins: under its legal authority, Reclamation must treat expensive, major rehabilitation and replacement 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 years, with little time for water users to prepare. 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 offered its water users direct loans to cover their share of these major expenses, allowing them to finance over many years their contractual share of these costs. 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 of these cases, the unthinkable happens: these vital rehabilitation and replacement projects are delayed or dropped, leaving the facility in badly decomposing or unsafe condition for future generations to deal with, and setting up the “perfect storm” of facility failure and resulting in damages to property and persons.

Congress has sought creative ways to address this challenge, and we are encouraged by two recent key legislative fixes:

- A. P.L. 111-11, signed into law last March, includes 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, over 50 years. The 50-year repayment option applies to both reserved works 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.
- B. 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.

I regret to report that this latter tool – 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. This is not what Congress intended. In 2008, we shared with this Committee our findings that showed OMB’s conclusions are 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.

We need your help, through Congressional oversight and possibly new legislative language, to tell OMB that they are wrong, and to allow the Reclamation to proceed with implementation of the loan guarantee program as Congress intended it to function. In addition, further Congressional attention and effort will be necessary in order to help Western water managers deal with aging water infrastructure and climate impacts to Western water supplies.

2. *Streamline the Regulatory Permitting Process*

Modern, integrated water storage and distribution systems can provide tremendous physical and economic flexibility to address climate transformation and population growth. However, this flexibility is limited by legal, regulatory, or other institutional constraints, which can take longer to address than actually constructing the physical infrastructure. The often slow, cumbersome and *highly expensive* federal regulatory process is a major obstacle to realization of projects and actions that could enhance Western water supplies.

The Family Farm Alliance has long worked on finding ways to streamline the regulatory process, and worked closely with past Administrations and Congress towards that end. In the past year, our members have become increasingly concerned about the number of environmental policies that are currently being re-written by this Administration. It appears the changes being contemplated could result in stricter requirements that would further slow down federal approvals on water projects that are already very time-consuming and challenging. We are concerned about the following administrative actions that could carry the risk of real potential harm for Western irrigators:

- Economic and Environmental Principles & Guidelines for Water and Related Resources Studies. In December, the White House released a draft of new standards for federal water projects that for the first time put environmental goals on the same plane as economic development concerns. The proposed overhaul of 1983 standards for the Army Corps of Engineers (Corps) directs the Agency to fold non-monetary benefits into project assessments by measuring improvements to wildlife habitats and biodiversity. These proposed changes for the Corps and Reclamation may have a significant impact on new water project planning and federal funding in the future.
- National Environmental Policy Act Expansion. It is our understanding that the Administration may soon issue an executive order adding climate change to the list of factors federal agencies must take into account when evaluating projects and policies. Some conservation groups have pushed for the expansion of the 40-year-old National Environmental Policy Act (NEPA), which currently requires agencies to consider environmental factors such as land use, biodiversity, and air quality. Our members fear that requiring analysis of climate change impacts during the NEPA process, especially at the project-specific level, will slow economic recovery while providing no meaningful environmental benefits.

- ESA Administrative Revisions. The U.S. Fish and Wildlife Service (USFWS) is considering wide-ranging revisions to the 1973 Endangered Species Act (ESA), that could provide new definitions for some key provisions, including those addressing critical habitat and consultations between service biologists and other agencies over projects that could impact protected animals and plants. For example, the USFWS earlier this year proposed to revise a 2005 designation of critical habitat for the bull trout, a threatened species protected under the ESA. If finalized, the proposal would increase the amount of stream miles originally designated as bull trout critical habitat in five Western states by 18,851 miles and the amount of lakes and reservoirs designated as critical habitat by 390,208 acres. For many Western water users, this presents a problem. The maze of requirements for ESA permits can restrict activities or delay projects for months or years. We essentially supported the administrative regulatory changes put forward prior to 2009 that would have streamlined the consultation process. It now looks like those changes have been reversed, with no apparent request for agency input offered to the regulated community.
- EPA Pesticide Restrictions. EPA is making a precedent-setting decision to impose pesticide restrictions that will essentially prohibit their use in large areas of Washington, Oregon, California, and Idaho. The most serious deficiency in EPA's announced plan involves expansion of no-use buffer zones to every ditch, drain, canal, and irrigation furrow that might eventually drain from an agricultural field into a salmon habitat. EPA also recently singled out the state of Florida as the first state in the nation on which they are proposing to establish a nutrient standard for all bodies of water. These proposed standards are being imposed on the basis of an EarthJustice lawsuit and will establish nitrogen and phosphorus standards different from the rest of the country. This is another very disturbing development, but consistent with other recent Administration actions.
- EPA Reconsideration of the "Water Transfers Rule". A 2008 U.S. EPA rule allows water transfers from one water body to another without Clean Water Act (CWA) permits. We now understand that EPA is planning on reconsidering the "Water Transfers Rule," which states that a mere transfer of water from one meaningfully distinct navigable body of water to another does not require a NPDES permit, even though the water being transferred may add new pollutants to the receiving body of water. The Justice Department in a recent document says EPA may abandon the rule, a move that would subject water transfers throughout the nation to pollution permitting requirements. This could have severe consequences in my state, where huge quantities of water are moved from one basin to another as is the case with the Central Valley Project.

Many of the above administrative changes are drawing praise from environmental organizations that have been advocating them for some time. The Family Farm Alliance hopes that the

Administration will give equal consideration to the concerns of agricultural organizations. We pledge to work with the Administration, Congress, and other interested parties to build a consensus for improving the regulatory processes associated with improving water conveyance systems.

Conclusion

The Family Farm Alliance is proud of its partnership with Reclamation. The Bureau of Reclamation has much to be proud of in its 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 that are so important to all our communities in the face of such an uncertain and challenging future. We must emphasize, however, that we are facing water problems right now. As evidenced by the situation just hours south of my farm, in the San Joaquin Valley, state legislation, water transfers and data collection alone will not resolve these problems. The amount of water on the planet remains the same. 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 these problems and avoid even more severe consequences that loom on the horizon.

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