

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

**Before the Committee on Natural Resources
Subcommittee on Water, Power and Oceans
United States House of Representatives**

**Oversight Hearing on
"The Implications of President Obama's National Ocean Policy"
Washington, D.C.
May 17, 2016**

Good morning Chairman Fleming, Ranking Member Huffman and Members of the Subcommittee.

My name is Dan Keppen, and on behalf of the Family Farm Alliance (Alliance), I thank you for this opportunity to present this testimony on the implications of the Obama Administration's National Ocean Policy. 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 national policy decisions.

The Family Farm Alliance has a reputation for helping to solve Western water challenges in a constructive way. There are critical issues that the Western family farmers and ranchers we represent are confronted with at this time. At the top of the list is the daunting number of federal administrative policy initiatives that are facing Western agricultural producers.

In this instance, we are uncertain how the Administration's ocean policy will be implemented. What will the role of states and stakeholder user groups be? Have potential impacts to the economy, the federal budget, and existing statutes and regulatory processes been assessed? How will this complement or conflict with the authority of states? For these reasons, we are concerned that this policy could dramatically increase the role of federal agencies on inland rivers and adjacent lands as they might pertain to the much larger problem of ocean health, as further outlined in this testimony.

Background of Executive Order 13547

On July 19th, 2010, President Obama signed Executive Order 13547 to adopt the final recommendations of the Interagency Ocean Policy Task Force to implement a new National Ocean Policy (NOP). The policy sets forth yet another level of federal management and oversight intended to improve the way inland, ocean and coastal activities are managed.

Unfortunately, this has the potential to impose negative impacts – intended or not - across a spectrum of sectors, including the Western agricultural producers and irrigation organizations we represent.

In early 2012, the White House released its draft National Ocean Policy Implementation Plan, which made it clear that activities that might adversely affect the ocean ecosystems may also be impacted – no matter how far inland they may occur. While the NOP states that National Ocean Policy nor marine planning “creates or changes regulations or authorities”, it also proposes that agencies will “coordinate to use and provide scientifically sound, ecosystem-based approaches to achieving healthy coastal and ocean habitats.” From our standpoint, this presents significant uncertainty as to whether the Administration intends to revise existing regulations or impose new regulations on activities that are already permitted by the federal government.

Support for the NOP’s Voluntary Incentive-Driven Provisions

The Family Farm Alliance has long advocated a voluntary, incentive-driven philosophy to advance conservation, and thus we support the NOP’s intent to provide financial assistance to private landowners seeking to apply voluntary conservation practices. We were pleased to see the NOP acknowledge that “collaborative watershed restoration efforts are important to the overall success of coastal and marine habitat conservation,” a principle we also embrace.

However, the NOP then points to restoration efforts for Pacific Northwest salmon as an “excellent example of collaborative, voluntary upland watershed conservation and restoration.” Unfortunately, the courts do not always agree, as underscored by the recent decision by U.S. District Judge Michael H. Simon, who ruled the federal government hasn’t done nearly enough to improve Northwest salmon runs. “These efforts have already cost billions of dollars, yet they are failing,” he wrote earlier this month.

Now, certain environmental groups say the Snake River Dams –which fuel much of the Northwest’s baseload power supply (backing up wind energy and other renewables) and make possible irrigation and navigation for moving agricultural commodities to market - are seen as the problem, and must come down. As further described below, our members fear that the “federal regional planning bodies” proposed under the Ocean Policy framework could dramatically increase the role of federal agencies on inland rivers and adjacent land uses, including all uses (ag, irrigation, ports, etc.), at a time when other hydropower dams are under ongoing litigation by certain environmental groups.

Concerns of Western Family Farmers and Ranchers

The Family Farm Alliance certainly can support the goals of the NOP, which are intended to guide federal agencies to "ensure the protection, maintenance and restoration of the health of ocean, coastal and Great Lakes ecosystems and resources, enhance the sustainability of ocean and coastal economies, preserve our maritime heritage, support sustainable uses and access, provide for adaptive management to enhance our understanding of and capacity to respond to climate change and ocean acidification, and coordinate with our national security and foreign policy interests." However, we have several concerns that extend beyond this broad intent.

Funding concerns

We believe NOP will affect already budget-strapped agencies that interact closely with Western agricultural irrigators, including the U.S. Department of Agriculture (USDA), the National Oceanic and Atmospheric Administration (NOAA), the Departments of Commerce and the Interior, the Environmental Protection Agency (EPA), and the Army Corps of Engineers (Corps). Despite USDA's involvement in the National Ocean Policy over the past three years, the full extent of the department's activities and role in the process is not clear. As federal budgets are further reduced, it is unclear how much funding the agencies will be taking from existing programs to develop and implement this new initiative.

Uncertain Impacts to Inland Areas

The NOP proposes that, working through the U.S. Coral Reef Task Force, agencies will coordinate to address key threats to coral reef ecosystems, including impacts from land-based sources of pollution. Through "more effective use" of voluntary programs, partnerships and pilot projects, agencies will work to "reduce excessive nutrients, sediments and other pollutants". The NOP would also establish a framework for collaboration and a shared set of goals to promote "ecosystem-based management", where agencies will "develop principles, goals and performance measures" that support this management philosophy.

The 'Ecosystem-based management' objective created by this executive order would allow federally-dominated Regional Planning Bodies to reach as far inland as deemed necessary to protect ocean ecosystem health. It could potentially impact all activities that occur on lands adjacent to rivers, tributaries or watersheds that drain into the ocean. For example, although the policy is portrayed by the Administration as primarily targeting ocean-related activities, the draft implementation plan specifically states that the policy plans to address "the major impacts of urban and suburban development and agriculture—including forestry and animal feedlots."

The 'ecosystem based management' objective involves vague and undefined goals and policies that we know from experience can be used by critics of irrigated agriculture as the basis for lawsuits to stop or delay Federally-permitted activities. For example, the National Marine Fisheries Service (NMFS) has determined that Central Valley salmon populations will go extinct unless government agencies change their water operations in California. In a draft ruling, NMFS concluded that the southern resident population of killer whales may go extinct because its primary food – salmon – is imperiled by California's network of dams and canals. Similar sinister linkages between orcas and potato farmers (located hundreds of miles from the Pacific Ocean) were contemplated as a biological opinion was being drafted by NMFS for the Klamath Irrigation Project. In addition to opening up the possibility of further such 'ecosystem-based' relationships, the NOP sets up 'pre-application consultations' where requested federal permits would be subject to additional consultation processes prior to any formal consideration, adding yet another layer of federal oversight and bureaucratic controls.

Finally, we believe there is a high risk of unintended economic and societal consequences associated with implementing this policy, due in part to the unprecedented geographic scale under which the policy is to be established. As currently set forth, the National Ocean Policy

creates the potential for unforeseen impacts to inland sectors such as agriculture, which is connected via the “ecosystem”-based approach to the ocean. The family farmers and ranchers we represent are part of a \$172 billion contribution the “Irrigated Agriculture Industry” – made up of direct irrigated crop production, agricultural services and the food processing and packaging sectors – makes to our economy every year. Our producers also contribute to a luxury our nation’s citizens enjoy: spending less of their disposable income on food than anywhere else in the world.

Recommendations

Rather than expend federal funds to support new bureaucracies, procedures and regulations that could lead to further uncertainty, restrictions and delays, scarce taxpayer dollars should be allocated to existing entities, programs and activities that have already been authorized by Congress and are necessary for businesses and the economy to properly function. Given these concerns, Congress should work to delay implementation of the National Ocean Policy. This would provide more time for oversight and examination of potential impacts of the NOP, and help ensure an ocean policy that appropriately reflects and enhances the role that our oceans, coastal areas and marine ecosystems play in our nation’s economy, national security, culture, health, and well-being.

USDA is a member of the National Ocean Council, and USDA representatives have been identified to serve on “Regional Planning Bodies” charged with developing “Coastal and Marine Spatial Plans” in regions including the Northeast and Gulf of Mexico. Since the National Ocean Policy was established pursuant to Executive Order 13547 in July 2010, entities across the federal government, including USDA, have been committing unknown amounts of resources and personnel toward the development of an initiative that has not been authorized by Congress. Requiring a report on the activities that USDA and other entities across the federal government have engaged in and the resources expended in furtherance of National Ocean Policy implementation could lead to better public policy and would ensure the kind of transparency that the American taxpayer deserves and expects.

Cumulative Impact of New Regulations in the West

The proposed National Ocean Policy is just one federal regulatory initiative of dozens that we have been tracking in recent years. As with many of these administrative proposals, the related implications and estimated impacts on our members are often difficult to ascertain. However, our members are wary of how these plans may impact existing and ongoing watershed planning efforts being conducted at the state and local levels, some with the assistance of these federal agencies themselves.

Thousands of watershed councils exist throughout the West and they are engaged in a variety of conservation and restoration projects which could be derailed or delayed by the imposition of new federal planning requirements. Water users are often active participants in these efforts and have a large stake in ensuring that these projects continue. We need to be sure that new overarching planning groups and programs are really necessary or are wasteful expenditures of public resources. In addition, the Obama Administration needs to be cognizant of the difference

between water resource regulation under federal environmental laws and water resource management which is conducted pursuant to state law.

At a time when our nation is struggling to return to the path of economic prosperity, we cannot support the creation of a new federal watershed planning program linked to ocean health, particularly for those states that already have existing, productive watershed programs in place. Federal participation should be channeled through these existing state programs, rather than creating uncertainty through potentially cumbersome, overarching new federal requirements which threaten to derail important water quality and water conservation projects already underway.

We have yet to see if many of the administrative policy initiatives proposed by the Obama Administration in the past seven years have been successful in their intent. More importantly, we still are trying to determine what their cumulative impacts will be on Western irrigated agriculture. These types of federal water resources actions and regulatory practices could potentially undermine the economic foundations of rural communities in the arid West by making farming and ranching increasingly difficult.

At multiple times over the past seven years, we have updated a growing list of these and other newly proposed actions. While we are not yet sounding the alarm of imminent destruction of irrigated agriculture as we know it, we do believe many of these processes and actions will have very real and yet-to-be measured negative impacts on Western irrigated agriculture. Others simply offer the potential for disruption.

We ask that you, the Members of this Subcommittee, put yourself in the shoes of our family farmers and ranchers as they view these daunting administrative initiatives in the course of growing food and fiber for our nation and the world in an already daunting environment of risks beyond their control. It is difficult to assess the cumulative effects of these regulatory measures, which really should be assessed and calculated before adding additional chapters to what our members already see as a very large rulebook.

Conclusions

American family farmers and ranchers for generations have grown food and fiber for the world, and we will have to become more innovative than ever before to meet the critical challenges ahead, including feeding a growing world population on less land and with less resources. That innovation must be encouraged rather than stifled with new layers of federal regulations and uncertainty. Unfortunately, many existing and proposed federal water resource policies make it even more difficult for farmers in an arena where agricultural values are at a disadvantage to federal ecological and environmental priorities.

Many of these administrative changes are drawing praise from environmental organizations that have been advocating for them for some time, but ultimately the huge negative impacts of such destructive policies will be aimed at the heart of the economy in rural America. We can only hope that the federal government will give equal consideration to the concerns of our farmers, ranchers and agricultural organizations.

We welcome your leadership to help make that possible. We are pleased that your Committee is paying attention and providing this opportunity to voice our concerns. We look forward to working with you and other Members of Congress towards this end.

Thank you for this opportunity to provide this testimony today.