Farm, Ranch, and Rural Communities Federal Advisory Committee (FRRCC) Meeting

August 25–27, 2009
Sheraton Grand Sacramento
Sacramento, CA

DRAFT MEETING SUMMARY

TUESDAY, AUGUST 25, 2009

Call to Order and Introductions
James Moseley, Committee Chair

Mr. Jim Moseley (Jim Moseley Farms, Inc.), Chair of the FRRCC, called the meeting to order at 8:39 a.m. and welcomed the Committee members and other participants to the meeting. He thanked the Committee members for their hard work and dedication and noted that their efforts are greatly appreciated.

Mr. Moseley noted that Mr. Rich Rominger, Former Deputy Secretary for Agriculture at the United States Department of Agriculture (USDA), was in attendance and would be speaking later in the day. Mr. Moseley thanked Mr. Rominger for his service, noting that he is one of many unsung heroes in public service.

Opening Remarks
Larry Elworth, Agricultural Counselor to the Administrator, EPA

Mr. Larry Elworth (EPA) explained that he has worked in agriculture for 30 years on areas ranging from farm management to regulation. Throughout his career, he has had the opportunity to work closely with farmers on a number of large-scale projects. As Agricultural Counselor to the Administrator at EPA, he advises Administrator Lisa Jackson on issues related to agriculture and the environment. He has spent much time becoming familiar with EPA's operations and works closely with USDA. In fact, USDA Secretary Tom Vilsack and Administrator Jackson have a good working relationship, which is crucial to resolving complex scientific issues. He emphasized that the agricultural and environmental communities must work together to protect the environment.

Mr. Elworth thanked the Committee members for their service on the FRRCC and indicated that he was eager to learn more about the Committee's work. He would like to obtain feedback from the Committee members on: the Committee's work, the intersection of agriculture and the environment, and how EPA can best support the FRRCC.

Mark Joyce, Associate Director, Office of Cooperative Environmental Management (OCEM), EPA

Mr. Mark Joyce (EPA) explained that when the FRRCC was created, it was intended that the Committee would occasionally meet outside of Washington, DC, to learn about agricultural issues in other areas of the country. He thanked Ms. Kathy Taylor (EPA) and EPA Region 9 employees for their assistance in organizing this meeting. He also thanked the Committee members for participating in this meeting and for all of their hard work, noting that the accomplishments of federal advisory committees would not be possible without the dedication and commitment of the Committee members.

Mr. Joyce stated that Mr. Rafael DeLeon (EPA), who was unable to attend the meeting, sent his regards to the Committee members.

Kathy Taylor, Associate Director for Agriculture, EPA Region 9

California agriculture is a 27 billion dollar industry, with California producing more than one-half of the Nation's fruit and vegetables. California has the largest concentration of dairy cows in the United States and employs more than 25 percent of the Nation's farmworkers.

Over the next few days, some of California's exceptional agricultural leaders will discuss innovations and successes, but also the challenges faced by California agriculture. Some of these challenges include: an inadequate amount of water to grow crops, plummeting milk prices, and Clean Air Act (CAA) nonattainment in some major agricultural areas. Representatives from the California agricultural industry will discuss their vision for achieving a sustainable, vibrant agricultural industry in California in the next decade. The hope is that the field trip tomorrow will help inform the FRRCC on some of the issues that it is working to address on the national level.

Ms. Taylor thanked the Committee members for taking time out of their busy schedules to attend the meeting.

Renewable Fuels and Agriculture
Paul Argyropoulos, Senior Policy Advisor, Office of Transportation and Air Quality (OTAQ), EPA

On May 5, 2009, Administrator Jackson signed the Renewable Fuel Standard (RFS2) proposal. This proposal interprets the Energy Independence and Security Act of 2007 (EISA) revisions to the original EPAct RFS Program and details these proposed changes, including alternative options, for public comment.

Some of the revisions that are interpreted and discussed in the proposal include: significantly increased volumes of renewable fuel (36 billion gallons by 2022), separation of the volume requirements into four different categories of renewable fuels, changes to the definition of renewable fuels to include minimum lifecycle greenhouse gas (GHG) reduction thresholds, restrictions on the types of feedstocks that can be used to produce renewable fuels and on the types of land that can be used to grow feedstocks, and the inclusion of specific types of waivers.

On May 26, 2009, the Notice of Proposed Rulemaking (NPRM) was published in the *Federal Register* with a 60-day public comment period ending July 27, 2009; the public comment period was later extended with a new closing date of September 25, 2009. A public hearing on the proposal was held June 9, 2009, in Washington, DC, and a 2-day lifecycle workshop was held June 10-11, 2009, in Washington, DC. EPA intends to finalize the rule by the end of 2009 and implement the program in 2010.

Four separate standards are proposed. For cellulosic biofuel, the proposed standard is 16 billion gallons by 2022, with a minimum 60 percent GHG reduction. For biomass-based diesel, the proposed standard is 1 billion gallons by 2012 and beyond, with a minimum 50 percent GHG reduction. For advanced biofuels, the proposed standard is a minimum of 4 billion additional gallons by 2022, with a minimum 50 percent GHG reduction. For conventional biofuels, the proposed standard is up to 15 billion gallons, with a minimum 20 percent GHG reduction. GHG-threshold standards can be adjusted downward by 10 percent. All biofuel facilities that began construction prior to the enactment of the EISA will be grandfathered into the program and will not need to meet the GHG-reduction standards.

EISA restricts the types of renewable fuel feedstocks and land that feedstocks can come from, but EISA language does not prohibit a scenario in which food crops are moved to new agricultural land while existing agricultural land is used to grow fuel feedstocks. EPA is proposing that renewable fuel producers be required to maintain records to support their decision on whether to generate Renewable Identification Numbers (RINs) for a given batch of renewable fuel.

Regardless of the volumes of cellulosic biofuel required in EISA, EPA is required to determine the standard for the following year based on projections of production. EPA is proposing annual Production Outlook Reports for all renewable fuels through which renewable fuel producers will provide EPA with their expansion and new construction plans. If the projected volume is less than the EISA volume, EPA will make cellulosic biofuel credits available up to the level of the standard set for that year.

Formal independent expert peer reviews were conducted or currently are underway on four areas of the lifecycle assessment (LCA) including: land use modeling (use of satellite data/land conversion GHG emission factors), methods to account for variable timing of GHG emissions (time horizon and discounting), GHG emissions from foreign crop production (modeling and data used), and EPA's use of models to provide overall lifecycle estimates.

Projected impacts from RFS2 include: GHG emissions reductions from transportation of 6.8 billion tons of CO_2 equivalent (or approximately 160 million tons per year), which is equivalent to removing approximately 24 million vehicles from the roads; displacement of about 15 billion gallons of petroleum-based gasoline and diesel fuel through the use of biofuels; an estimated increase in gasoline costs of between 2.7 and 10.9 cents per gallon by 2022 and an estimated reduction in diesel fuel costs of 0.1 cents per gallon; and energy security benefits associated with a reduction of U.S. imported oil of approximately $12.38/barrel, with energy security benefits associated with the proposal totaling $3.7 billion.

The proposed rule still may change. Legislative changes already have been proposed; the cap and trade bill may change the definition of renewable biomass; the LCA may be revised to exclude indirect land use and the analysis could potentially be delayed for 3 to 5 years for compliance purposes. Also, the biomass-based diesel category may be revised to grandfather in all previously constructed facilities.

Discussion

Mr. Dave Nelson (Global Ethanol) asked from what section of EISA EPA determined its authority to consider international land use. Mr. Argyropoulos said that this is not explicitly stated in EISA, but EPA is required to determine significant impacts and these can occur both nationally and internationally. EPA's legal team concluded that international impacts should be included in the analysis. Mr. Nelson asked if EPA takes into account the fact that the political climates in other countries are beyond the control of the United States and thus, changes in land use in those countries are beyond the control of EPA. Mr. Argyropoulos replied that EPA considered the policies in other countries and their impacts on land use.

Mr. Moseley said that it seemed that the current approach penalizes or alters existing biofuels approaches and asked why the production of biofuels is not being incentivized. Mr. Argyropoulos responded that EPA works to interpret congressional intent by reviewing the Congressional Record and discussing the subject with those involved in drafting the bill. Through this process, EPA determined that the intent of the legislation was that the biofuels industry increase production. As EPA has worked on the Rule, problems have arisen in terms of the disconnect between the advanced and cellulosic biofuels, but Congress' intent was good. Mr. Moseley acknowledged that EPA was handed a complex issue by Congress. His concern was that, although Congress' intention was good, the reality may be that biofuels advancement ultimately will be slowed and the Nation's reliance on fossil fuels will continue for longer than intended. Mr. Argyropoulos noted that Congress recognized the need for flexibility by building in waiver provisions. EPA, however, has had difficulty determining the waiver specifics and how to apply them.

Mr. Jim Andrew (Andrew Farms, Inc.) observed that the biofuels industry mounted a major effort over the past year to encourage the agricultural community to submit positive comments on ethanol. Is the Administrator's decision based on the number of positive versus negative comments received? Mr. Argyropoulos responded that in any rulemaking EPA categorizes the comments received, but the decision ultimately is based on the scientific evidence.

Ms. Martha Noble (Sustainable Agriculture Coalition) asked if the biofuel amounts are mandated or if they are linked to the tax credit system for biofuels. Mr. Argyropoulos answered that RFS2 mandates the production of volumes of different types of biofuels.

Mr. Earl Garber (Louisiana Association of Conservation Districts) noted that international actions over which the United States does not have control seem to play a large part in the biofuel production pathways. Mr. Argyropoulos replied that, at least in the beginning, much of the sugar cane feedstock for biofuels will be grown in Brazil. EPA is neutral in terms of where the feedstock originates. The pathways are prioritized based upon expected volumes. The ultimate benefit will come from less reliance on imported crude oil. Still, the more feedstock that can be produced domestically, the better.

Mr. Andrew observed that with all of the legislation changes, it seemed that some of Congress' intent had been misinterpreted. The high number of carryover RINs from last year were a drag on the market. Are there plans to sunset the RINs each year? Mr. Argyropoulos responded that currently 20 percent of RINs can be carried forward from one year to the next. Some of the proposed changes include alternative approaches to RINs, with some proposals increasing and others decreasing the carryover amount. There is some flexibility in the program to ensure that the market is not affected significantly; he expects that some semblance of the 20 percent carryover number will continue. The bigger issue is that there are different types of RINs.

Mr. Andrew asked if the indirect land use change analysis would be ongoing. Mr. Argyropoulos responded that the analysis may continue under the cap and trade legislation that Congress is drafting now. EPA plans to re-evaluate the LCA every 3 years, and this will include a re-evaluation of feedstock pathways.

Climate Change and Agriculture: Introduction to Offsets and Cap and Trade
Reid Harvey, Chief, Climate Economics Branch, Office of Atmospheric Programs (OAP), EPA

A cap and trade program sets a mandatory limit on the aggregate emissions of all affected sources to achieve emissions reductions. The government distributes emission allowances—either freely (allocation) or by sale (auction)—that total no more than the cap. Allowances may be traded (purchased and sold), which creates a market for allowances and establishes the price. This creates an incentive to reduce emissions. Control requirements are not specified under a cap and trade program. Each affected source must surrender allowances for compliance equal to its actual emissions. The cap ensures the achievement of the emission reduction goal while also providing flexibility to sources and predictability for the allowance trading market.

For example, if SO_2 emissions are to be reduced by 15 tons and there are three plants that collectively emit 30 tons of SO_2, these plants can determine the most cost-effective method to reduce their total emissions by 15 tons. The plant with the lowest abatement costs would likely sell its reductions to the other plants.

This approach was taken to reduce SO_2 emissions from electric generators by 8.5 million tons (50% below 1980 levels) to address the acid rain problem. This program was both an environmental success (reduced emissions by 50% by 2000) and an economic success (the cost of emissions reductions was 25-55% less than it would have been under the typical command and control approach).

Another approach is to use offsets in sectors that are not amenable to trading. Offsets are emissions reductions occurring at sources that are not capped (e.g., landfills). Offsets provide incentives for reductions in sectors that are not amenable to trading and offer potential cost savings for capped facilities. An example would be a landfill that emits methane and could reduce its emissions and sell those emissions reductions to a power plant.

Potential offset sources in agriculture and forestry include sequestration through afforestation, forest management, and agricultural soil carbon sequestration; and emissions reductions through fossil fuel mitigation from crop production and agricultural CH_4 and N_2O mitigation.

The House of Representatives passed an energy and climate bill (Waxman-Markey) on June 26, 2009. Senate committees are developing bills by September 28, 2009. Domestic offsets in the Waxman-Markey Bill are not explicitly designated and are to be determined by USDA (agriculture and forestry offsets) with EPA's input.

Major findings from EPA's analysis of the Waxman-Markey Bill include:

- ✧ Energy consumption levels that would be reached in 2015 without the policy are not reached until 2040 with the policy;
- ✧ The share of low- or zero-carbon primary energy (including nuclear, renewables, and carbon capture and storage [CCS]) rises substantially under the policy to 18 percent of primary energy by 2020, 26 percent by 2030, and 38 percent by 2050;
- ✧ The largest sources of emissions abatement will be the electricity sector and offsets;
- ✧ Offsets lower costs significantly; and
- ✧ There will be a relatively modest impact on consumers, assuming the bulk of the revenues from the program are returned to households ($80-$111 per household).

Models were used to determine the implications of alternative policy decisions. Modeling assumed that the actors would make the most economically rational decisions and that some emissions credits would be banked initially and used later.

Implications for agriculture include: (1) substantial potential for GHG offsets in the agricultural and forestry industries, (2) possible stimulation of commodity prices by potential increases in bioenergy crops and changes in the agricultural land base, and (3) potential increases in fuel and energy prices over the long term. After accounting for bioenergy and offsets, USDA analysis showed a net positive impact on farm income as a result of climate policy.

How Do We Fit in the Team Photo (and Other Questions Asked by Perennial Crop Farmers)?
Jean-Mari Peltier, President, National Grape and Wine Initiative (NGWI)

NGWI is a nonprofit that represents U.S. grapes and grape product research needs. NGWI focuses on research to improve the productivity and profitability of grape production across the United States.

Grapes are America's largest processed specialty crop by value. There are 5,000 wineries across the United States, with at least one winery in each of the 50 states, and grapes are cultivated in 44 states. The health contribution of grapes is vast and grapes represent a significant farm gate value. The grape industry pays $17 billion in federal, state, and local taxes annually.

Sustainability is a key focus of the NGWI. In fact, the wine industry has been at the forefront of the development of sustainable practices in California. A Winery Water and Energy Manual was published and distributed to NGWI Board members, with sixty manual requests received in the first 2 weeks. A grape health workshop held in 2008 brought health researchers together to discuss the many health benefits of grapes. Future plans include using National Health and Nutrition Examination Survey (NHANES) data to study grape consumption and cancer, immune responses, and so on.

NGWI applied for four sustainability grants in 2009: (1) Developing Sustainable Solutions Water Management in Irrigated Vineyards, (2) Vineyard Mechanization for Enhanced Economic Sustainability, (3) Development of a Grape Community of Practice for the eXtension System, and (4) a Climate Change Planning Grant. A grant was received for the Development of a Grape Community of Practice for the eXtension System.

Perennial crops may provide more sequestration potential because they have deeper root depth distribution and because they have woody structures including trunks, cordons, and roots for sequestering carbon. Also, canes, leaves, and pomace can be incorporated into the soil. The amount of carbon that can be sequestered depends on: seasonal environmental variation, grape variety, rootstock, and different management systems (e.g., training and trellising, hedging, irrigation, fertilization, cover cropping, and vine density and row orientation).

More research is needed on carbon dioxide production and carbon sequestration, nitrous oxide production, and methane production. Research on carbon sequestration and nitrous oxide production should focus on above and below ground carbon storage across a range of soils and climates. Also, more information is needed on carbon and tissue decomposition. Technology certification is a good role for government, as this would help growers use the most environmentally friendly technologies.

Discussion

Mr. Garth Boyd (Camco) asked why the graph on the impact of climate change legislation depicted a sharp initial increase in emissions. Mr. Reid Harvey explained that the regulations would be implemented incrementally at first. Mr. Moseley said that it appeared that the environmental goal was not met in the graph displayed. Mr. Harvey explained that the graph indicated that the goal would be met, assuming that the actors behaved in an economically rational manner.

Ms. Jean-Mari Peltier pointed to the graph depicting domestic and international offsets and asked if offset credits would be given for actions such as maintaining existing rainforests. Mr. Harvey said that the Waxman-Markey Bill includes a provision to grant credit to countries with current agreements with the United States to preserve forests. Ms. Peltier said that it seemed that requesting credits for maintaining domestic orchards and vineyards was not out of line with the international plans. She asked if the offset goal would be reached through domestic actions alone. Mr. Harvey explained that the offset goal would not be reached through domestic offsets alone, but could be met with the addition of international offsets.

Ms. Martha Guzman Aceves (California Rural Legal Assistance Foundation) asked if there were any limitations on the purchase of offsets based on the toxicity of co-pollutants. Mr. Harvey responded that while the CAA includes regulations to prevent firms from exceeding co-pollutant emissions levels, there is a concern that economically motivated behavior under this bill may have this unintended effect.

Mr. Tom McDonald (Five Rivers Ranch Cattle Feeding, LLC) asked if the cost analysis per household included only electric bill savings or if it also included the expected impact on the cost of goods and services. Mr. Harvey replied that the analysis included all cost impacts.

Dr. Teferi Tsegaye (Alabama A&M University) asked how often the models used are validated. Is there cooperation from the international community on this work? Mr. Harvey said that peer-reviewed models that are widely respected in the modeling community were used. There is much interest in this type of analysis internationally and there is work underway to determine the cost of controls in different countries.

Mr. Jay Vroom (CropLife America) observed that much of what had been learned in the grape industry would be applicable to other crops. It may be wise for the grape industry to join with other crop interests to have more clout in the political process. Has the grape industry had any success with this? Ms. Peltier said that she does not work in advocacy, but there is a specialty crop working group that analyzed the

different production cost impacts for specialty crops versus other crops. One of the points noted in Mr. Harvey's presentation was that most of the increased crop production costs would not be from transportation cost increases. Specialty crops tend to be located on the coasts, so transportation costs for these crops are different. Another issue is that much of Midwestern agriculture depends on rural electric cooperatives that disproportionately depend on coal for energy production. Was this taken into account in the analysis? Mr. Harvey responded that the transportation cost analysis focused on the effects of increased fuel costs on the different sectors.

Ms. Noble noted that with acid rain, the CAA required certain emissions reductions, so it was clearer in the beginning what types of reductions would be achieved. The situation is different for agriculture, so what are the margins of error for the graphs and models used? Mr. Harvey agreed that the acid rain cap and trade program was different. For this reason, monitoring emissions is crucial to determining the program's effectiveness.

Mr. Andrew asked if the economic effects of these pollution reductions had been calculated. Mr. Harvey replied that under the bill, U.S. Gross Domestic Product would continue to grow but at a slightly decreased rate. He added that the United States is working to encourage other countries to reduce their emissions.

Mr. Ralph Grossi (American Farmland Trust) noted that there is still much that is unknown about agriculture and environmental effects. Is there enough scientific knowledge to implement this bill? Does the legislation allow for adjustments as the science advances? Some agricultural sectors have more information, so some crops and some producers are going to be in a better position to meet these requirements. Ms. Peltier said that there will be some winners and losers based on the data currently available. Mr. Elworth commented that the bill would need to address some of these key questions on research limitations and increased costs for farmers. The success of the bill will depend on whether or not cost increases are sufficiently mitigated. He added that the presentations were intended to inform the Committee on the complicated issues with which EPA is grappling; these are new issues and EPA's work is in the beginning stages. Ms. Noble noted that organic systems are designed to sequester carbon. Science is just starting to answer some of the complicated questions on carbon sequestration. She encouraged the Committee not to focus on winners and losers, but on how to produce the crops needed in the best system possible. Ms. Michele Laur (USDA) noted that USDA is working to identify data gaps and prioritize the research and will work closely with EPA on this issue. In terms of the economic impact of the bill, she suggested that the other Committee members visit the USDA Web Site for more detailed information. Ms. Aceves asked what percentage of the emissions are from agriculture. Mr. Harvey answered that almost all of the emissions are from agriculture and promised to follow up with Ms. Aceves with more detailed information. The offset sources will depend on the final legislation.

Mr. Vroom noted that 18 of the 30 Committee members were present at the meeting and asked if the Committee could make decisions with only this number of members present. Mr. Joyce replied that one-half of the Committee members plus one must be present to make decisions, so there were enough Committee members in attendance to make decisions.

Mr. Vroom asked if any representatives from the media were in attendance. If not, is there time to ask representatives from the California media to attend? He was concerned about a new *Time Magazine* article that maligned agriculture. It would be beneficial to show the media this Committee's reasoned dialogue on these issues. Mr. Elworth said that he did not know of any media representatives in attendance and suggested that the Committee discuss the issue later. Ms. Alicia Kaiser (EPA) added that the meeting is open to the public, so there may be media representatives in attendance. An EPA Public Relations Office representative was in attendance to offer Committee members assistance with reaching out to the media.

Panel Discussion: Developing a Strategic View for California Agriculture
Rich Rominger, Former Deputy Secretary for Agriculture, USDA

California is the top agriculture producing state in the United States, producing 400 different crop and livestock commodities worth $27 billion annually. California leads the Nation in the production of 80 of those commodities and is the sole producer of at least 12. California supplies about 50 percent of the Nation's fruits and vegetables. California also is the most populous state in the country, with a current population of 37 million, projected to rise to 49 million by 2050.

California has the climate, soil, and water to produce this bounty. The natural resource base, however, is being threatened by urban sprawl and much farmland is disappearing under concrete. California's Central Valley is the last great Mediterranean climate agricultural area in the world and it is being threatened by urban sprawl. This great food producing capability must be protected. Policies that protect the environment but also help farmers to remain on the land are needed.

Land use is an ongoing issue in California. Smart growth policies that have been enacted include incentives for infill, higher densities, and less sprawl. The recession has slowed development pressures for now, but they will continue in the future.

Water has been a contentious issue in the State of California since the Gold Rush in 1849. The California climate requires irrigation to produce crops. Three-quarters of the precipitation in the State of California falls north of the Sacramento-San Joaquin Delta and three-quarters of the population and land in the State are south of the Delta, so water must be transported. It often is stated that agriculture uses 80 percent of California's water. From a farmer's perspective, 40 percent of the this water is used for agriculture, with the balance going to environmental uses such as water quality improvement, wildlife refuges, and so on.

The current situation is not sustainable. A solution that will protect the environment, allow for the production of needed food, and provide water in the appropriate locations is needed. There is no doubt that more conservation, reclamation and reuse, and desalinization are needed.

The California State Legislature is considering five bills related to agriculture and the environment on topics ranging from improving air quality to addressing invasive species. GHG legislation is moving forward and ultimately may put California agriculture at a disadvantage.

The next presenters will discuss the work underway to protect the environment while also ensuring that California agriculture can still provide the food needed to feed the Nation.

Karen Ross, President, California Association of Winegrape Growers

California is home to between 12 and 15 percent of the Nation's population and the largest number of threatened and endangered species in the country. California also is home to many pioneering environmental regulations, including a rule that will be finalized in the next 15 days that will require the phase out of older agricultural equipment. California is the only state with 100 percent mandatory pesticide use reporting.

For the drafting of the most recent California Farm Bill, the Secretary of Agriculture solicited feedback from a wide range of groups on what should be included in the bill. Society depends on agriculture for food, jobs, etc., so the different constituencies need to work together to find solutions.

Two years ago, the California Department of Agriculture was asked to provide input into the San Joaquin Valley blueprint development process. As a result, the Department recognized the need for agricultural input throughout the State and began work on a statewide basis to develop a vision for California agriculture. The Secretary of Agriculture commissioned the California State Board of Food and Agriculture to develop an agriculture plan for the State through 2030. Seven listening sessions were held

to collect input from interested parties. Major themes that emerged were the need for a rational regulatory process and a reliable water supply. A subcommittee used the input gathered to develop a draft vision for California agriculture entitled California AgVision 2030. The Vision states that three policy priorities can result in a sustainable agri-food system for California: better health and wellbeing for Californians, a healthier state and world, and thriving communities. The American Farmland Trust was commissioned to develop specific policy recommendations from the framework. The hope is that there will be ongoing collaboration among the various stakeholders to ensure that the environment is protected and agriculture can continue to be productive.

Ralph Grossi, Senior Advisor, American Farmland Trust

The American Farmland Trust was asked to use the California AgVision 2030 framework to develop specific policy recommendations. One major challenge will be to convince people to move beyond the current crises in the State and think longer term, as population growth will create even greater demands on agriculture.

The American Farmland Trust identified more than 100 people reflecting the cross section of interests in the State and assigned them to one of three working groups based on the three priorities outlined in the Vision.

The Better Health and Wellbeing Priority Working Group identified a number of important issues including nutrition, food access, addressing hunger in farming communities, animal welfare, farm labor, and farmworker health. The Healthier State and World Priority Working Group is working to address environmental and conservation issues, but also land use issues to ensure that adequate land is available for farming. The Thriving Communities Working Group is focused on ensuring the economic and social health of communities.

The working groups identified both opportunities and challenges. One major challenge that agriculture faces is the regulatory systems and structures in the State of California. California farming is highly regulated. There often are problems with regulatory inconsistencies among the different agencies and farmers often have difficulty understanding the regulations. There is a great desire for simplification of the regulatory structure. The working groups identified a need for more consumer education. In terms of sustainability, the working groups discussed developing economic incentives to achieve sustainability objectives. To address California's water challenges, the working groups focused on the issues of water quality, transfer, and storage. Climate change will make this challenge even greater.

A draft document will be submitted to the California State Board of Food and Agriculture in the fall of 2009. The Board then will solicit public comments. The target date for release of the final report is March 2010.

Discussion

Mr. Moseley noted that some people in the country believe that Californians are living beyond their means and asked if the California deficit was considered in these discussions. Ms. Ross responded that many in California believe that the scope of government in the State is not sustainable. Society wants environmental regulation, but aren't there smarter, more cost-efficient means of achieving this?
Mr. Rominger explained that Proposition 13 capped property taxes in the State, so the State relies disproportionately on income taxes, which are lower when the economy is in a recession. Another issue is that a two-thirds majority is required for the California legislature to increase taxes and pass a budget. There is discussion about rewriting the California constitution to address this issue. Another problem is that districts in California tend to be strongly Democratic or strongly Republican, so the State Legislators often have difficulty compromising on issues. Recently, some areas were redistricted, so the hope is that this issue will improve.

Mr. Leonard Blackham (Utah Department of Agriculture and Food) asked if the issue of maintaining agricultural land and private property rights was being addressed. Mr. Grossi said that a structure giving landowners a voice in decision making is under development. It is a difficult issue that requires finding the appropriate balance between property rights and protecting the environment. Ms. Noble commented that property rights are not being taken away from agriculture in California. Instead, agricultural areas are not being provided with taxpayer-funded infrastructure. Mr. Grossi stated that this is an example of what is politically feasible in a given state. The taking away of property rights is a separate issue. Public policy changes will inevitably create winners and losers.

Mr. Tom Franklin (Theodore Roosevelt Conservation Partnership) asked what actions had been taken by California agriculture to enhance wildlife habitat and biodiversity. Ms. Ross said that safe harbor agreements have been developed for wine grapes. Also, sustainable grape growing practices are in place at many Sonoma County wineries. Mr. Rominger noted that the work varies by the area. The Natural Resources Conservation Service (NRCS) has created resource conservation districts where local landowners are working with NRCS to protect wildlife habitats. Mr. Grossi added that some land trusts and local farmland preservation groups are paying farmers a bonus if they set aside a portion of new land acquired for conservation purposes.

Mr. Vroom stated that the California AgVision 2030 message should be shared with the rest of the states. It is important for people to understand why domestic agriculture is so important.

In response to a question about where to find more information on California AgVision 2030, Ms. Ross suggested that those interested visit www.cdfa.ca.gov or Google search "AgVision California".

Panel Discussion: California Water Issues
Jason Peltier, Chief Deputy General Manager, Westlands Water District, California

Three-quarters of the precipitation in California occurs north of Sacramento and three-quarters of the demand (agriculture and urban) for water occurs south of Sacramento. Shortly after the Civil War, a survey of the State's natural resources identified the location and timing of the water supply in the State as a problem. A system of reservoirs and canals was created to store water in the winter and transport it to where it is needed.

The Sacramento River flows from the north into the Sacramento-San Joaquin Delta, accounting for about 80 percent of the water flow in the Delta. The San Joaquin River flows from the south. The two rivers converge at the Delta and flow out into the San Francisco Bay. The Delta is important for the support of agriculture, but it also is important for other reasons, including power transmission and water storage.

Fresh water from the Delta supports 25 million Californians, regional ecologies, agriculture, and industry. Four million acres of farmland receive water from the Delta; $400 billion of the State's economy depends on transporting water. Any harm to the Delta impacts both the economy and the environment.

Until recently, the Delta was a highly reliable water supply. In recent years, water supplied by the Delta has been reduced by increasing amounts, with a 90 percent decrease last year. Some of the cutbacks are the result of drought and some are the result of regulation. Risks to the Delta include: fishery declines, seismic activity, and flooding.

In recent years, $30 million per year has been spent to study how to maintain and improve the Delta's ecosystem. There has been conflict over how to interpret the data generated by these studies. For example, U.S. Fish and Wildlife Service focuses on pumps and their effects on the fish population, but other factors that might be adversely affecting the fish population are ignored. Currently, fish are caught at the pumps and relocated. A ballot proposal to build a canal off of the Delta to separate the fish from the water supply did not pass.

A number of different groups are working on Delta solutions, including the Bay Delta Conservation Plan (BDCP), the CALFED Bay-Delta Program, Delta Vision, the Governor's Office, the Public Policy Institute of California, and the State Water Resources Control Board.

Mike Chrisman, Secretary, California Natural Resources Agency (CNRA)

CNRA works to manage natural resources in the State of California, including water.

California's water distribution system was built to support 15-20 million people, but the current population is 37 million. The rejection by the voters of a proposal to build a peripheral canal to move water more effectively through the Delta was a major setback for water planning in the State. Despite this, actions are being taken to address the water supply problem, including the building of reservoirs in Southern California.

When the Delta system was built in the 1940s and 1950s, fish and wildlife protection was not a primary concern. At the same time that this was becoming a concern, an agricultural industry that would depend on a steady flow of water was being built in the State. A plan drafted in the 1990s to better manage water in the State fell short of its goals. In the early 2000s, the Governor issued an Executive Order detailing aggressive goals and objectives for the Delta, and a stakeholder group then developed the Delta Visioning Strategic Plan that explicitly laid out the objectives for the Delta. These objectives currently are being debated in the State Legislature. This Delta Visioning Strategic Plan has two equally important goals: (1) protecting the Delta's ecosystem and (2) ensuring water system reliability.

The hope is that a new governing structure for the Delta will be created and Delta planning will be integral to planning efforts throughout the State of California. With the California population expected to reach 45-50 million in the next 20 years, there is a great need for additional storage and water conveyance around the Delta.

Richard Roos-Collins, Director of Legal Services, Natural Heritage Institute

In 25 years, water supply will be decreased in every state in the Nation. This is partly because of the Endangered Species Act and other statutes, but also because of climate change. In California alone, climate change will reduce reliable water storage by 25 percent or more. The BDCP is a habitat conservation plan aimed at solving California's problems, but the lessons learned will be applicable to the entire Nation. BDCP will identify a set of water flow and habitat restoration actions to contribute to the recovery of endangered and sensitive species and their habitats in the Sacramento-San Joaquin Delta. The goal is to provide for both species/habitat protection and improved reliability of water supplies. The plan includes the issuance of a permit to the California Department of Water Resources and the U.S. Bureau of Reclamation, which are the state and federal regulators that supply 25 million people with drinking water and generate $400 million of income supplying water to the Nation.

The BDCP is redesigning how government regulates. Regulatory agencies today operate within their jurisdictions and do not coordinate very well. BDCP includes provisions for governments to administer their laws in a coordinated manner. The draft plan includes a dispute resolution requirement and redesigns how permits function. Permits will cover 30 to 50 year terms and changes based on different future circumstances will be built into the permits. The challenge is to design permits that will function throughout a number of years and will withstand litigation. One major challenge is the fundamental uncertainties in scientific data that make it impossible to state with certainty that the new design of the system will have the intended effects. The approach being taken is to use the best available data, while also building in the ability to make adjustments as more data become available.

Some may wonder why California is taking on such a huge investment when the State is nearly bankrupt. The answer is that this issue must be addressed and will just become more expensive over time.

Mr. Jason Peltier commented that farmers have made tremendous investments to use less water to grow crops. He noted that some recent court challenges to regulations have been successful; one recent ruling required the U.S. Fish and Wildlife Service to comply with the National Environmental Policy Act (NEPA) in the implementation of the Endangered Species Act by providing the court with detail on how their regulations will impact the environment. He added that next year there will be even less water available for agriculture. This year alone, about 300,000 acres are out of production because of the lack of water.

Mr. Richard Roos-Collins said that the challenge is to make decisions in the face of scientific uncertainty. Decisions must be made, so the best approach is adaptive decision-making.

Discussion

Mr. Moseley posed the question: If water is not available, won't the projected population growth be addressed by people migrating out of or not moving to California? Mr. Mike Chrisman stated that most of the population growth is from people already living in California having children. Mr. Peltier added that California's urban agencies have done an excellent job of providing a reliable water supply to the people of the State. Mr. Grossi noted that the cost of water is so low that people often do not think of it as a precious resource that must be conserved. He asked Mr. Chrisman what it was about the current climate that made him optimistic about developing a solution. Mr. Chrisman replied that with the situation as bad as it is, the farming and environmental communities must come together to develop a solution. Mr. Peltier disagreed, noting that if history is the guide, the groups will not be able to work together to develop a solution. Mr. Roos-Collins noted that most Californians have lost faith in the State Government. He encouraged everyone to work to restore that faith by noting when government actions deserve praise. The current Administration deserves praise for bringing these groups together to address the problem.
Ms. Noble said that part of the problem is that the water appropriation system does not provide any incentive to conserve. Will California revisit the junior and senior appropriations system? Mr. Peltier agreed that there are tremendous disparities in the appropriation of water in the State. There also are more simple ways to transport water to where it is needed. A water bank was created to address this issue, but there were problems with the environmental restrictions on water trading. Mr. Roos-Collins noted that the State Water Board determines water rights and the process is too slow. One potential solution to this is to have Administrative Law Judges make water rights determinations. Also, the State Water Board is considering a proposal to allow water rights holders in a particular basin to informally trade water rights as long as the environmental impacts do not change.

Ms. Aceves said that she hoped drinking water problems would be included in the discussion of water rights and transfers. Solutions to the drinking water problems could be integrated with this other work and could provide jobs and a better quality of life for many people. Mr. Chrisman agreed, noting that groundwater also should be included in the discussions, as this is another problem looming on California's horizon.

Review and Discussion of Committee Work Products

Mr. Grossi introduced the letter on the FRRCC's position on nanotechnology and agriculture. The letter was approved at the last Committee meeting. He proposed some minor language revisions, including changing the paragraph on page 5 that refers to the Organisation for Economic Co-operation and Development's (OECD) conference in Paris, France, on July 15-17, 2009, to the past tense and updating the date on the cover letter. Mr. Vroom put forth a motion to approve the letter as amended. Another Committee member seconded the motion. Mr. Moseley asked the Committee members for additional comments on the letter. Ms. Aceves said that she was concerned about the paragraph on page 6 of the attachment, as it seemed to advocate omitting some of the toxicology analysis under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Mr. Vroom explained that the intent was not to recommend that FIFRA be preempted in any way; the paragraph is simply recommending a simplified method for considering a new product that is similar to a product already on the market. Ms. Aceves

pointed to the last sentence that reads, "FIFRA registration applicants may overcome the presumption that a nanoscale material is a 'new' FIFRA active or inert ingredient by the submission of test data demonstrating similarities in key properties of the nanoscale ingredient when compared to the macro-scale form of the ingredient, if there is one, for which there are data." Mr. Vroom clarified that this sentence indicated that an active ingredient already in the marketplace should not be deregistered and have to go through the FIFRA review process again. Mr. Elworth suggested changing the wording from "overcome the presumption" to "seek determination" and both Ms. Aceves and Mr. Vroom agreed to this change. Ms. Noble noted that most of the regulatory decisions in the draft letter were last minute Bush Administration decisions and suggested that feedback be solicited from EPA on the current status of those decisions. Mr. Joyce said that it seemed to be a summary of the work performed by EPA's Office of Pesticide Programs (OPP) to date, and thus, would not require review. The group agreed and proceeded with a vote. Sixteen Committee members voted in favor of the letter, one member was opposed, and one member abstained. The letter was approved.

Mr. Grossi introduced the letter entitled, "Emerging Issues: Land Use Challenges and U.S. EPA Opportunities," noting that the revisions suggested in a previous conference call had been incorporated. Mr. Grossi put forth a motion to approve the letter. Mr. Vroom seconded the motion. Mr. Andrew asked that the misspelling of "public polices" in the third paragraph on page 1 be corrected to "public policies." The change was noted. Ms. Aceves observed that many communities still lack basic infrastructure, including septic and drinking water systems; often, these problems are related to land conservation policies. She suggested adding text to the letter about ensuring a proper quality of life for these communities. Mr. Grossi agreed that this was an important issue, but suggested that it be included in a separate letter. The Committee voted on the letter as written. The letter was approved.

Mr. Gary Cooper (Cooper Farms) then discussed four letters produced by the Livestock and Poultry Workgroup. The letters were drafted with the intent of improving the relationship between EPA and the agricultural community by increasing positive communications. Mr. Cooper put forth a motion to approve the first letter entitled, "Improving Communications with the Agricultural Community." Another Committee member seconded the motion. Ms. Noble raised a concern about the recommendation that this newsletter be sent to interested organizations and related agricultural entities by the FRRCC, as the renewal of the FRRCC is uncertain. Mr. Cooper agreed to delete the sentence, "This electronic news update should be designed such that it would be first e-mailed to the FRRCC, then forwarded on from that group to all interested organizations and related agricultural entities." The Committee discussed changing the recommendation that the EPA Agricultural Counselor's Office be the main coordinator of the electronic news update, but ultimately decided against this change. Mr. Franklin suggested adding the words "wildlife habitat" to the last sentence in the Background section, with the revised sentence reading, "Through expanded and improved communications, we believe the level of perceived negativism could be reduced and ultimately reversed, allowing a greater level of partnering and collaboration to enhance the Nation's air, water, wildlife habitat, and soil quality." He also suggested adding "wildlife habitat" to the third bullet under Guidelines. The Committee members agreed to these changes. Mr. Nelson suggested adding the National Corn Growers Association and American Soybean Association to the last line suggesting organizations that might receive the newsletter. The Committee voted and the letter was approved.

Mr. Blackham made a motion to approve the letter entitled, "Cooperation with the National Association of State Departments of Agriculture." Another Committee member seconded the motion. The Committee voted and the letter was approved.

Mr. McDonald introduced the letter entitled, "Producer Recognition Program" and explained that the letter suggests that EPA recognize producers who are making efforts to protect the environment, as this would help to increase positive relations between EPA and the agricultural community. He made a motion to approve the letter. Another Committee member seconded the motion. Dr. Tsegaye suggested adding land grant institutions to the fifth bullet under Recommendations. The group agreed to this change. The Committee voted and the letter was approved.

Mr. Cooper introduced the letter entitled, "EPA Inspection Policy Regarding Concentrated Animal Feeding Operations (CAFOs)." He suggested adding some points made in a comment letter from the Delmarva Poultry Industry, Inc. One point would suggest that EPA provide an oral discussion of inspection results before leaving the premises and another would suggest that the inspection report be returned to the producer within 6 weeks. Mr. Cooper put forth a motion to approve the letter with the bullets added. The Committee voted and the letter was approved.

The Committee members then discussed the future of the FRRCC. Mr. Joyce explained that Federal Advisory Committees are re-chartered every 2 years; toward the end of the 2-year charter, the Administrator reviews the federal advisory committee and determines if the committee will continue for another 2 years. Committee members can generally serve up to a total of 6 years. Committee membership is determined based on the range of expertise needed for the issues that the Committee will address. Committee members who do not anticipate being able to serve another 2 years on the FRRCC should inform Ms. Kaiser, as she will begin working on Committee membership in the next few months.

Mr. Vroom commented that he had drafted a letter to the Administrator on the 6th Circuit Court of Appeals decision in the National Cotton Council versus EPA case and asked to distribute it to the Committee members. Mr. Moseley approved the distribution of the letter and asked the Committee members to review the letter, as it would be discussed on Thursday morning.

Public Comment
Alicia Kaiser, Designated Federal Officer (DFO) for the Committee

Ms. Kaiser called for public comments.

Ms. Alegria De La Cruz, an attorney with the Center on Race, Poverty, and the Environment (CRPE), explained that CRPE represents rural, farmworker, and environmental justice communities in the San Joaquin Valley. She said that she noticed that the Committee members referred to themselves as the agricultural committee, but the FRRCC also was intended to represent rural communities. She encouraged the addition of Committee members representing the rural and farmworker communities.

The meeting was adjourned at 5:45 p.m.

WEDNESDAY, AUGUST 26, 2009

Committee members engaged in fact-gathering activities.

THURSDAY, AUGUST 27, 2009

Mr. Moseley called the meeting to order at 8:14 a.m.

Committee Feedback
Larry Elworth, Agricultural Counselor to the Administrator, EPA

Mr. Elworth asked for the Committee members' input on their experiences serving on the Committee, particularly what worked and did not work well in the Committee, what the Committee can offer EPA, and recommendations for moving forward. The points made in the discussion will be compiled and sent to Committee members for their review. The main points were as follows:

What Worked:

- ✧ Committee members were eager to make a difference and worked well together.
- ✧ Committee members represented diverse interests, but worked together to develop solutions. The Committee is uniquely stationed to work to achieve both a high level of sustainability and agricultural production.
- ✧ The Committee offers EPA an opportunity to hear from farmers and offers farmers an opportunity to build relationships with EPA employees.
- ✧ With his experience working in both agriculture and the environment, Jim Moseley was an excellent choice to chair the Committee.
- ✧ The work group chairs provided excellent direction and moved the work forward to ensure that the Committee provided meaningful advice to Administrator Jackson.
- ✧ Field trips are valuable as they allow Committee members to experience what is happening on the ground level in agriculture. They also allow EPA employees to see firsthand the impact of environmental regulations.

Suggestions for Improvement:

- ✧ Public health expertise, rural community representation, and minority farmer representation are needed on the Committee.
- ✧ Additional workgroup time is needed.
- ✧ Workgroup members should commit to one work group; it became difficult to produce products when workgroup members moved between the workgroups.
- ✧ Additional staff support is needed for logistical tasks such as planning conference calls.
- ✧ Presentations could be given via webinars prior to face-to-face meetings to allow more time for interaction and discussion at the face-to-face meetings.
- ✧ Conference calls should be used more to accomplish the work of the Committee, leaving more face-to-face meeting time to bring new issues to the Committee's attention.
- ✧ Face-to-face meetings should allow time for the Committee members to provide EPA with their input on emerging issues.

Recommendations for Moving Forward:

- ✧ The Committee members would like more input and direction from the Administrator in terms of the issues that the Committee should address; it was suggested that the Administrator meet with the Committee at least once per year.
- ✧ There are many complex emerging issues (e.g., climate change) that will benefit from the Committee's input.
- ✧ It was suggested that the Committee discuss enforcement issues as they relate to small farmers.

Mr. Vroom asked Mr. Elworth to consider including some Committee members (Chair Moseley and/or some of the Workgroup Chairs) in his dialogue with the Administrator. Mr. Nelson suggested that Mr. Elworth discuss with the Administrator how President Obama's climate change and health initiatives will affect agriculture.

Mr. Elworth thanked the Committee members for their comments and encouraged them to e-mail him any additional comments. EPA values the formal and informal interactions that have been fostered by this Committee. The Administrator is aware of the FRRCC. Mr. Elworth, however, was not at liberty to divulge any information on her thoughts on re-chartering the Committee.

Mr. Joyce noted that the Committee members had expressed some frustration about the lag in receiving feedback from the Administrator. This, however, occurs every time there is an administration change.

Discussion of Current National Pollutant Discharge Elimination System (NPDES) Permitting Issues
Allison Wiedeman, Rural Branch Chief, Water Permits Division, EPA

Mr. Vroom began the discussion on the draft letter to the Administrator on the 6th Circuit Court of Appeals decision in the National Cotton Council versus EPA case that had been distributed to Committee members on Tuesday, August 25, 2009. The intent of the original letter had not changed, but the letter was revised to put it into today's context. The letter is not making any policy recommendations, but is simply discussing the possible ramifications of the ruling, pointing out the fact that this ruling will create additional permitting burdens for EPA.

Ms. Allison Wiedeman explained that the 6th Circuit Court had ruled that EPA's determination of how the Clean Water Act (CWA) applied to pesticides was incorrect. EPA now is legally bound to move forward with issuing permits. The letter seems to be asking the Administrator to reconsider moving forward with complying with the Court ruling. Mr. Vroom explained that the letter expresses the Committee's concerns about how moving forward under the decision creates additional burdens on EPA and other agencies and that the diversion of resources from other activities could have unintended consequences. The letter simply alerts the Administrator to the fact that there are ongoing concerns in the agricultural community about the ramifications of this decision. Ms. Wiedeman said that industry had requested a rehearing of the decision, but it was declined by the 6th Circuit Court. The next course of action would be to appeal to the Supreme Court. Mr. Vroom said that an appeal of the ruling is under discussion, with a decision on how to proceed likely to be reached in November.

Mr. Moseley asked about the ground level implications of the ruling. Is the ruling limited to restricted use pesticides or does it cover all chemical compounds that might be applied across the scope of agriculture? Ms. Wiedeman explained that the court ruled on January 7, 2009, that EPA's final rule on NPDES permits for the application of pesticides to waters of the United States was not a reasonable interpretation and vacated the rule. The court held that NPDES permits are required for: (1) all biological pesticide applications that are made in or over, including near, waters of the United States; and (2) chemical pesticide applications that leave a residue or excess pesticide in water when such applications are made in or over, including near, waters of the United States. EPA requested a 2-year stay to allow time to develop, propose, and issue final NPDES general permits for unauthorized NPDES states, territories, and tribes for pesticide applications covered under the decision and to provide outreach and education to the regulated and environmental communities. The court ruling was clear on the need for permitting in the case of pesticide application to, over, or near waters, but did not make clear if permitting was required for terrestrial applications. EPA's current thinking is that this will not be the case, but the final decision has not been made.

Mr. Vroom moved that the Committee approve the letter. Another Committee member seconded the motion. The letter was approved, with one vote against and one abstention.

Discussion

Mr. Vroom asked if the permit coverage area had been determined. Ms. Wiedeman said that EPA is considering a number of different possibilities; a decision has not yet been made.

Dr. Cliff Snyder (International Plant Nutrition Institute) asked if EPA is considering other types of drainage beyond surface soil runoff. Ms. Wiedeman responded that EPA currently is focused on surface soil runoff issues, but recognizes that there are other issues that may need to be addressed. Dr. Snyder said that there may be pathways over which farmers have no control; his concern is that there may not be enough input from the farming community on these types of issues. Ms. Wiedeman stated that EPA would appreciate input from the agricultural community and encouraged the submission of detailed comments in response to the public notice of permit. Also, EPA is working closely with USDA on all of these issues.

In response to a question from Ms. Noble, Ms. Wiedeman confirmed that EPA is reviewing California's pesticide use reporting requirements.

Mr. Andrew asked if farms with riparian buffer strips would be exempted. Ms. Wiedeman clarified that a permit would likely not be required for the terrestrial application of pesticides. She added that the process of determining which activities would be permitted had just begun; currently, the thinking is that terrestrial applications would not need to be permitted.

Mr. Blackham asked if farmers with crops near water bodies would be required to monitor those water bodies for pesticides. Ms. Wiedeman replied that pesticide applicators will need to report pesticides discharged, but at the moment there is no plan to make farmers responsible for water monitoring. Mr. David Brown (Past President of the Mosquito Control Association) noted that under California's pesticide permitting requirements, monitoring is achieved through keeping records of the pesticides applied. He added that while there are issues with pesticides reaching waterways, his personal opinion is that this permitting process may not be the best way to address the issue.

Mr. Moseley asked if all of EPA's work on the issue could be negated by a Supreme Court decision. Ms. Wiedeman acknowledged this possibility; EPA's work always is performed under this type of uncertainty. Mr. Moseley noted that the argument could be made that every human activity pollutes waters in some way.

Mr. Andrew pointed out that there is a concern about prescription drugs excreted by humans reaching waterways. Is EPA working on this issue? Ms. Wiedeman answered that EPA's Office of Research and Development is conducting research on this topic, but policy decisions have not yet been made.

Mr. Elworth added that EPA will continue to consult with interested parties, including the FRRCC, throughout the NPDES permitting process. He promised to keep the Committee members informed on the process. Committee members are welcome to participate in public meetings and provide comments.

Mr. Blackham suggested that the Committee discuss this issue further on a conference call and make a formal recommendation to the Administrator.

Public Comment
Alicia Kaiser, DFO for the Committee

Ms. Kaiser called for public comments.

Ms. De La Cruz stated that she thought the previous discussion exaggerated the 6th Circuit Court decision. The lawsuit that resulted in this decision was initiated because EPA tried to illegally exempt certain point sources from NPDES permitting. EPA itself acknowledged that pesticides and pesticide residues are pollutants under the CWA. The ruling is applicable nationwide because the Cotton Council filed its appeal across all circuit courts.

FIFRA and CWA are two separate but complementary regulatory regimes that address two different environmental concerns. CWA's purpose is to restore and maintain water quality by requiring pollutant dischargers to obtain permits for point source discharges into the Nation's water supply. FIFRA is designed to protect human health and the environment from harm caused by pesticides. To that end, FIFRA established a national uniform labeling system. A pesticide applicator can comply with both regulations by following the instructions on the pesticide label.

Under the NPDES Program, EPA can issue permits on a case-by-case basis, taking into account local environmental conditions. Many environmental justice communities already are severely impacted by pollutants, so CRPE applauds and supports the development of a fair permitting process that takes into consideration local impacts.

Mr. Blackham said that everyone wants clean water and farmers are willing to follow the rules by applying pesticides according to the label instructions. It seems that this permitting process is just adding another layer of bureaucracy. Also, there is concern about EPA abdicating its responsibilities by requiring farmers to perform water monitoring. Ms. De La Cruz responded that no determination has been made requiring farmers to assume monitoring responsibilities.

Ms. Taylor said that despite the fact that FIFRA labels are easily understood, pesticides are still causing water impairments, which indicates that labeling alone is not enough. EPA still faces many challenges in making this permitting program work. She asked that EPA be given some space to work through the process.

Ms. Heather Hansen (Washington Friends of Farms and Forests) stated that her organization represents pesticide applicator groups. Washington State issues NPDES permits for aquatic pesticide applications. One major concern is that the NPDES permitting system was not designed for this type of application. Ms. Hansen cautioned that even if a regulator indicates that a program is working smoothly, this may not be the case from the applicant's perspective. Regulations in Washington State require applicators to provide public notification a certain number of hours before pesticide application, but this can be a logistical problem if, for example, the temperature rises and the mosquito population grows faster than anticipated. Ultimately, because of these regulations, a farmer might miss the best window for applying pesticides, which can result in the use of greater amounts of pesticides and less effective control. She added that she hoped it would be possible for existing state NPDES programs to be considered the equivalent of obtaining a new NPDES permit. Also, EPA will soon make a decision under the Endangered Species Act on boundary zones to protect salmon; if the decision is based on the biological opinion issued by National Oceanic and Atmospheric Administration (NOAA) Fisheries, this could have a devastating impact on agriculture in Washington State. She asked that EPA come to a rational decision in this case.

Mr. Brown commented that while it is important to protect waterways from pesticides, there are other important issues that should be considered, including the need to control the mosquito population to protect public health.

Mr. Vroom said that the FRRCC has an opportunity to provide recommendations to the Administrator about addressing conflicting and confusing regulatory requirements. He suggested three topics for Committee action: (1) EPA's decision to not hold a public hearing on the revocation of tolerances for the pesticide carbofuran prior to potential cancellation of the product, (2) EPA's recent settling of a lawsuit that will require several hundred foot buffer zones around pesticide use areas in the Bay Area, and (3) the soil fumigant, methyl iodide, which has yet to be considered for registration in California, but has been recognized as safe by EPA and has even received an EPA Ozone Layer Protection Award.

Closing Remarks

Mr. Grossi stated that there is an urgent need for a better regulatory structure. He suggested that the Administrator consider appointing a task force to develop a more flexible regulatory system.

Mr. Elworth thanked the Committee members for their service. He promised to be in touch with them about their observations on the Committee and to keep the Committee members updated on his discussions with the Administrator. He encouraged the Committee members to call or e-mail him with questions or comments.

Mr. Moseley said that he appreciated the opportunity to get to know all of the Committee members and thanked them for their efforts.

The meeting was adjourned at 12:35 p.m.

Action Items

- ✧ Mr. Harvey will send Ms. Aceves further information on agriculture's contribution to GHG emissions.

- ✧ Mr. Elworth will compile the points made in the Committee Feedback discussion and distribute them to the Committee members for review.

- ✧ Mr. Elworth will communicate with the Committee members on the NPDES permitting process and on his communications with Administrator Jackson.

Farm, Ranch, and Rural Communities Federal Advisory Committee (FRRCC)
August 25-27, 2009 Meeting Participants

Committee Chair:

James R. Moseley
Owner
Jim Moseley Farms, Inc.

Members:

Martha Guzman Aceves
Legislative Advocate
California Rural Legal Assistance Foundation

James O. Andrew
Owner
Andrew Farms, Inc.

Leonard M. Blackham
Commissioner
Utah Department of Agriculture and Food

Marion Long Bowlan
Farmer
Long-Bowlan Farms

Garth W. Boyd, Ph.D.
Senior Vice President
Camco Global

Gary A. Cooper
Owner
Cooper Farms

Thomas M. Franklin
Senior Vice President
Theodore Roosevelt Conservation Partnership

Earl J. Garber
President
Louisiana Association of Conservation Districts

Ralph Grossi
Senior Advisor
American Farmland Trust

Karri M. Hammerstrom
Co-Owner
Hammertime Ranch

Michele Laur
National Atmospheric Resource Specialist
Natural Resource Conservation Service

Tom McDonald
Vice President for Environmental Affairs
Five Rivers Ranch Cattle Feeding

Martha L. Noble
Senior Policy Associate
Sustainable Agriculture Coalition

Dawn R. Riley
Owner
Dawn Riley Consulting

Clifford S. Snyder, Ph.D., CCA
Nitrogen Program Director
International Plant Nutrition Institute

Teferi Tsegaye, Ph.D.
Associate Professor
Department of Plant and Soil Science
Alabama A&M University

Jay Vroom
President
CropLife America

Designated Federal Officer:

Alicia Kaiser
Special Assistant for Agricultural Policy
U.S. Environmental Protection Agency

EPA Participants:

Karma Anderson
U.S. Environmental Protection Agency

Paul Argyropoulos
U.S. Environmental Protection Agency

Pat Cimino
U.S. Environmental Protection Agency

Rick Colbert
U.S. Environmental Protection Agency

Tom Davenport
U.S. Environmental Protection Agency
Region 5

Debra Denton
U.S. Environmental Protection Agency
Region 9

Larry Elworth
U.S. Environmental Protection Agency

Damon Frizzell
U.S. Environmental Protection Agency
Region 7

Ann-Marie Gantner
U.S. Environmental Protection Agency

Reid Harvey
U.S. Environmental Protect Agency

Don Hodge
U.S. Environmental Protection Agency
Region 9

Mark Joyce
U.S. Environmental Protection Agency

Van Kozak
U.S. Environmental Protection Agency
Region 6

John Larmett
U.S. Environmental Protection Agency

Richard Mattick
U.S. Environmental Protection Agency

Roberta Parry
U.S. Environmental Protection Agency

Cara Peck
U.S. Environmental Protection Agency
Region 9

Bill Schrock
U.S. Environmental Protection Agency

Patti Tenbrook
U.S. Environmental Protection Agency
Region 9

Allison Wiedeman
U.S. Environmental Protection Agency

Amy Zimpfer
U.S. Environmental Protection Agency
Region 9

Other Participants:

David Brown
Sutter-Yuba Mosquito Control District

Casey Walsh Cady
California Department of Food and Agriculture

Jeff Case
CropLife America

Mike Chrisman
California Natural Resources Agency

Alegria De La Cruz
Center on Race, Poverty, and the Environment

Kari Fisher
California Farm Bureau Federation

Johnny Gonzales
State Water Resources Control Board

Heather Hansen
Washington Friends of Farms and Forests

Tom Jacob
Dupont

Scott Kohne
Bayer

Gabriele Ludwig
Almond Board of California

Paul Martin
Western United Dairymen

Gilbert Mohtes-Chan
Community Alliance with Family Farmers

Ian Nachreiner
California Farm Bureau

Paula Paul
Paul Association

David Pegos
California Department of Food and Agriculture

Jean-Mari Peltier
National Grape and Wine Initiative

Brian Phillips
Rural Community Assistance

Renee Pinel
Western Plant Health Association

Josh Rolph
California Farm Bureau

Rich Rominger

Richard Roos-Collins
Natural Heritage Institute

Karen Ross
California Association of Winegrape Growers

Joshua Saltzman
CropLife America

Mary-Ann Warmerdam
California Department of Pesticide Regulation

Support Contractor:

Jen Hurlburt
The Scientific Consulting Group, Inc.

These minutes are an accurate depiction of the matters discussed during this meeting.

Signed by James R. Moseley October 9, 2009

_____

James R. Moseley
Chair
Farm, Ranch, and Rural Communities Committee

The Farm, Ranch, and Rural Communities Committee is a federal advisory committee chartered by Congress, operating under the Federal Advisory Committee Act (FACA; 5 U.S.C., App.2). The Committee provides advice to the Administrator of the U.S. Environmental Protection Agency on a broad range of environmental issues. The findings and recommendations of the Committee do not represent the views of the Agency, and this document does not represent information approved or disseminated by EPA.