



Agriculture and Natural Resources Policy Committee

Thursday, May 31, 2012 · 10:30 a.m. – 12:00 p.m.

Hyatt Regency – 1209 L Street, Sacramento, CA 95814

Regency Ballroom A-B

AGENDA

Supervisor, Richard Forster, Amador County, Chair
Supervisor Kim Vann, Colusa County, Vice- Chair

- 10:30- 10:40 a.m. **I. Welcome and Introductions**
Supervisor Richard Forster, Amador County
Supervisor Kim Vann, Colusa County
- 10:40- 11:00 **II. Legislative & Budget Update**
Karen Keene, CSAC Senior Legislative Representative
Cara Martinson, CSAC Senior Legislative Analyst
- 11:00- 11:30 **III. ACTION ITEM: Proposed Voluntary Memorandum
of Agreement (MOA)**
Karen Keene, CSAC Senior Legislative Representative
Supervisor Richard Forster, Amador County
Supervisor Kim Vann, Colusa County
- 11:30- 11:50 **IV. ACTION ITEM: CSAC to Join Agricultural Flood
Management Alliance (AFMA)**
Supervisor Kim Vann, Colusa County
- 11:50-12:00 p.m. **V. Other Items & Adjournment**

ATTACHMENTS

Attachment One: CSAC Background Memo on AFMA

Attachment Two:**ACTION ITEM: AFMA Principles**

Attachment Three:..... CSAC Background Memo on MOA

Attachment Four:.....**ACTION ITEM: MOA**

Attachment One

Memo on the Proposed Voluntary Memorandum of Agreement (MOA)



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May 11, 2012

To: CSAC Agriculture & Natural Resources Policy Committee
CSAC Board of Directors

From: Supervisor, Richard Forster, Amador County, Chair
Supervisor Kim Vann, Colusa County, Vice- Chair

Re: **ACTION ITEM: Memorandum of Agreement with the U.S. Forest Service and Bureau of Land Management**

Recommendation. A subcommittee of the Agriculture and Natural Resources (ANR) Policy Committee recommends that the full ANR Policy Committee and the CSAC Board of Directors approve the attached Memorandum of Agreement (MOA).

Background. In March 2010, Supervisors and staff met with representatives from the U.S. Department of Agriculture (USDA) to discuss the strained relations some California counties had been experiencing with local representatives of U.S. Forest Service (USFS) Region 5. At that meeting, staff was strongly encouraged to work with Region 5 staff to jointly develop a strategy to help counties alleviate some of the difficulties with their local forests before pursuing other means to force better relationships. Specifically, the concept of working out and signing a Memorandum of Understanding or Memorandum of Agreement between relevant federal land management agencies and the counties was recommended.

As a step towards solving some of those difficulties, RCRC and CSAC staff members have been negotiating with USFS and BLM to create a statewide, **voluntary** MOA outlining a structure under which counties and federal public land management agencies consent to communicate and work with one another. RCRC and CSAC began discussions with USFS and BLM in mid-2010 and have continued these discussions over the past several years. A subcommittee of the CSAC ANR Policy Committee met in August of 2011 to discuss the MOA. The subcommittee recommended that the full ANR Committee and the CSAC Board of Directors approve the attached document. In addition, the RCRC Board of Directors has approved the MOA. The attached document incorporates changes and suggestions received over several months from multiple counties and county counsels. The proposed MOA is a voluntary process.

Action Requested. ANR subcommittee recommends the CSAC ANR Policy Committee and the CSAC Board of Directors approve the attached Memorandum of Agreement (MOA).

Staff Contact. Please contact Karen Keene (kkeene@counties.org or (916)327-7500 x511) or Cara Martinson (cmartinson@counties.org or (916) 327-7500 x504) for additional information.

Attachment Two
Proposed Voluntary Memorandum of Agreement (MOA)

MEMORANDUM OF AGREEMENT (MOA)
AMONG
CALIFORNIA, USDI BUREAU OF LAND MANAGEMENT,
USDA FOREST SERVICE
AND THE
CALIFORNIA STATE ASSOCIATION OF COUNTIES and
REGIONAL COUNCIL OF RURAL COUNTIES,
REPRESENTING CALIFORNIA COUNTY GOVERNING BODIES

Definitions. As used in this MOA, the following terms shall be defined as stated below:

“CSAC” means California State Association of Counties.

“RCRC” means Regional Council of Rural Counties.

“County” means a county in California that has a national forest or public land administered by the USDA Forest Service or the Bureau of Land Management within its boundary, and that elects to participate in this MOA.

“USFS” means Region Five, USDA Forest Service, and that part of Region Four including its National Forests in California.

“BLM” means California, USDI Bureau of Land Management, including its Districts and Field Offices in California.

Preface:

1. The USFS and BLM, under the laws of Congress, executive orders, and federal regulations are responsible for the management of the federal public lands, national forests and their resources. The USFS and BLM have a responsibility to sustain the health, diversity, and productivity of these federal public lands and national forests for the use and enjoyment of present and future generations.

2. CSAC and RCRC represent all of California’s 58 counties, which encompass large amounts of federally held land. CSAC and RCRC work with federal and state governments and other stakeholders to improve the ability of county governments to serve California’s citizens efficiently and effectively.

Statement of Purpose:

The USFS, BLM, and counties share a long partnership in the management of federal public lands and national forests in California. The purpose of this MOA is to help improve interagency relationships by facilitating early and frequent communication between the defined federal agencies and counties to foster a more

productive partnership that results in positive land management decisions for all parties.

Specifically, this MOA is intended to establish enhanced mutual communication between the USFS, BLM, and county governing bodies to assure consistency in process and outcomes among all parties. This regular, consistent communication is intended to build positive working relationships; maximize trust; minimize misunderstanding and potential conflicts; and produce actions that result in better conclusions for California, thereby enhancing community support for those actions.

It is agreed that with the implementation of this MOA;

- a. The governing body of each county that chooses to participate in this MOA shall designate a county contact for the USFS and BLM. This contact can be a "position" such as "County Planner," rather than a specific individual. This agreement is only in effect for counties that choose to participate by officially designating a county contact.
- b. The USFS Regional Forester shall designate a USFS contact for each participating county. This contact can be a "position" rather than a specific individual.
- c. The BLM State Director shall designate a BLM contact for each participating county. This contact can be a "position" rather than a specific individual.
- d. After these designations have been finalized, within each county the designees from each entity shall convene a meeting at the request of either entity to discuss the MOA, and the process by which it will be implemented in that county.
- e. This MOA is a beginning point and individual counties and federal agencies may agree to additional processes and norms that will enhance their communications and understanding of each other's work and be effective in their particular area.
- f. The USFS Regional Forester or BLM State Director and county governing bodies shall convene to discuss and resolve issues related to overall land management in California as needed.

I. THE USFS and BLM SHALL:

- A. Include the County in any planning processes to assure that the County's plans and policies are considered throughout the process
- B. Request the participation of the County in any planning process before public scoping. The federal managers will mail an updated list of potential projects to the County designated contact. County participation at this stage provides the opportunity for county concerns and ideas to be accommodated in the development of the project description prior to public scoping. Such notification shall be to the

designated key county contact, who will advise the key federal contact regarding desired County participation in such planning activities.

C. Understand that county plans and other adopted policies reflect the objectives of the Board of Supervisors on behalf of the residents of the County.

D. Meet with the County Board of Supervisors on an agreed upon time frame to update and confer with the County on upcoming programs, projects and other matters of interest.

E. Meet with the County at their request.

F. The federal agencies will evaluate written comments from the County regarding how project proposals affect county plans and other adopted policies, and where consistent with federal laws, regulations, policies and agencies objectives, make every effort to make their decisions consistent with the identified county plans and other adopted policies. If the federal manager's decision is not consistent with identified county plans and other adopted policies, then the manager will notify the county and document in writing how they considered county plans and other adopted policies and input, and why they could not achieve consistency.

II. THE COUNTY SHALL:

A. Participate in requests for involvement at the earliest possible time, preferably before public scoping and identify concerns, needs and relevant county plans and other adopted policies in writing.

B. Within the County's constraints, make available staff support at the federal managers' request to enhance the agencies' interdisciplinary capability as a partner.

C. Provide written interpretations of germane sections of county plans and other adopted policies when the County thinks a proposed project is inconsistent.

D. The County will endeavor to provide written feedback with sufficient specificity that the federal managers are able to respond with particularity. Additionally, the County will attempt to provide alternative approaches to proposed projects.

E. Meet with the federal agencies at their request.

F. Request the participation of the federal managers in any county planning process relevant to the federal agencies, and consider written information received from the BLM or USFS during County land-use and project planning decisions.

G. Make every effort, consistent with state and county plans, policies, laws, regulations, agency goals, to harmonize county land-use planning decisions with current USFS and BLM plans and regulations regarding lands managed by USFS and BLM within the county boundaries.

Limitations:

The USFS, BLM, and county governing bodies recognize that this MOA is not intended to replace presently existing lines of communications or alter existing required communications, such as communications made pursuant to state or federal statutes or regulations, Resource Advisory Committees, federal or county

workgroups, and informal or formal policy meetings between the USFS or BLM, and CSAC, RCRC, or an individual county.

Nothing in this MOA shall require the USFS, BLM, CSAC, RCRC or an individual county to violate or ignore any laws, rules, directives, or other legal requirements imposed by state or federal law.

This MOA is adopted to enhance communication and working relationships between the USFS, BLM, and counties. It does not create any other right, benefit, or responsibility, enforceable by any party against the USFS, BLM, CSAC, RCRC or county governing bodies, their agencies, officers, employees or any other person.

This MOA becomes effective <Date TBD> upon signature of all parties.

This MOA is expected to continue for five years, after which it will automatically renew for additional five year terms, unless canceled according to the termination clause.

This agreement is neither a fiscal nor a funds obligation document. Any endeavor to transfer anything of value involving reimbursement or contribution of funds between the parties to this agreement will be handled in accordance with applicable laws, regulations, and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate documents that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This agreement does not provide such authority. Specifically, this agreement does not establish authority for noncompetitive award to the cooperator of any contract or other agreement.

FREEDOM OF INFORMATION ACT (FOIA). Any information furnished to the agencies under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552).

MODIFICATION. Modifications within the scope of the instrument shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by all parties, prior to any changes being performed.

PARTICIPATION IN SIMILAR ACTIVITIES. This instrument in no way restricts the agencies or the counties from participating in similar activities with other public or private agencies, organizations, and individuals.

TERMINATION. Any of the parties, in writing, may terminate the instrument in whole, or in part, at any time.

ESTABLISHMENT OF RESPONSIBILITY. This MOA is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural,

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enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.

AUTHORIZED REPRESENTATIVES: By signature below, the signatory certifies that the individuals listed in this document as representatives of the signatory are authorized to act in their respective areas for matters related to the development of this agreement.

Signatories for this MOA are:

USDA-Forest Service, Pacific Southwest Region-Randy Moore

California Bureau of Land Management-Jim Abbott

CSAC-Paul McIntosh

RCRC-Greg Norton

DRAFT

Attachment Three

Memo on the Agricultural Flood Management Alliance (AFMA)



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May 11, 2012

To: CSAC Agriculture & Natural Resources Committee
CSAC Board of Directors
From: Karen Keene, CSAC Senior Legislative Representative
Cara Martinson, CSAC Senior Legislative Analyst

RE: ACTION ITEM: The Agricultural Flood Management Alliance (AFMA)

Recommendation: Staff recommends that the CSAC become a member of the Agricultural Flood Management Alliance (AFMA). This would include an endorsement of the AFMA's Principles (see attachment). Staff's recommendation is predicated on the caveat that any particular legislative proposal sponsored or supported by AFMA must be brought back to the CSAC Agriculture & Natural Resources (ANR) Committee and CSAC Board of Directors for consideration.

Background: Over the last three months, a group of local agencies and landowners organized themselves to pursue the creation of a new agricultural flood hazard area under the National Flood Insurance Program (NFIP). This new zone would apply to established agricultural areas that would otherwise be mapped into the 100-year floodplain and would help ensure that agriculture and the communities it supports continue to thrive. On February 17, 2012, the Agricultural Flood Management Alliance (AFMA) was formed as a coalition of local agencies, organizations, and individuals interested in protecting the long-term viability of agricultural communities, industries, and operations located in the regulatory floodplain. These communities have a significant historic cultural presence and play an integral role in the viability of agriculture locally, regionally, and nationally.

The Alliance strongly supports the mission of FEMA and the NFIP to identify and mitigate flood risk and protect life and property in all floodplain communities. However, the Alliance is concerned that the current approach under the NFIP places a disproportionately impactful economic burden on agricultural communities in the mapping of Special Flood Hazard Areas (SFHA) which imposes highly restrictive flood protection regulations and establishes burdensome flood insurance rates.

Policy Considerations: By joining the Alliance, CSAC would endorse the AFMA Principles, located in the following attachment. However, any legislative proposal sponsored or supported by the Alliance would have to be brought back to the CSAC ANR Policy Committee and CSAC Board of Directors for consideration.

CSAC has extensive policy direction in place that recognizes the importance of agriculture and its contribution to the state's economy. The CSAC California County Platform specifically states that, "If California is to continue as the leading

agricultural state in the nation, the remaining viable agricultural lands must be protected.” Participation in AFMA would provide CSAC with the opportunity to contribute to solution- oriented discussions, concerning the impacts of NFIP mapping requirements on agriculture, from a statewide perspective.

As of April 2012, the following entities have formally joined the Alliance and endorse the Guiding Principles:

- Butte County
- Central Valley Flood Control Association
- California Farm Bureau
- Colusa County
- Knights Landing Ridge Drainage District
- Levee District #1
- Local landowners in California
- Reclamation District 108
- Reclamation District 1500
- Regional Council of Rural Counties
- Sacramento County
- Sacramento River West Side Levee District
- Sacramento Valley Landowners Association
- San Joaquin County
- Sutter Butte Flood Control Agency
- Sutter County
- Yolo County
- Yolo County Farm Bureau
- Yuba County
- Yuba Sutter Farm Bureau

Action: Staff recommends that the CSAC become a member of the Agricultural Flood Management Alliance (AFMA), and support the AFMA’s Principles.

Staff Contact. Please contact Karen Keene (kkeene@counties.org or (916)327-7500 x511) or Cara Martinson (cmartinson@counties.org or (916) 327-7500 x504) for additional information.

Attachment Four
Agricultural Flood Management Alliance (AFMA) Background & Principles

AGRICULTURAL FLOODPLAIN MANAGEMENT ALLIANCE (AFMA)

Communities Working toward Necessary Changes to the National Flood Insurance Program in Light of its Impact on Agriculture

Agricultural economies have a dramatic impact on the economy of the United States, and the local and state economies in the areas of the country with the most agriculture production rely on the viability and success of this robust industry. In these states, a significant portion of agricultural lands are being mapped within the Federal Emergency Management Agency's (FEMA) regulated floodplain. In order for these states to continue to sustain a strong agricultural economy, changes are needed to the National Flood Insurance Program (NFIP) that will promote the sustainability of agriculture in the floodplain. The proposed changes will promote prudent floodplain management principles and minimize the risk of increased urbanization of the floodplain.

Throughout the history of the United States, people have settled near waterways for reasons that include transportation, irrigation and water, aesthetics, and the fertile soils that benefitted from active floodplains. As the nation's population grew, so did the damage associated with flooding from these waterways. Landowners and river communities attempted to protect themselves from flooding by constructing levees around their property. During the 1960s, people began to question the effectiveness of structural facilities to reduce flood losses. Studies indicated that, although flood control structures continued to be built and reinforced, flood losses continued to increase. In response, the NFIP was established by Congress in 1968. The program works by allowing communities to receive federally-backed flood insurance, in return for the community regulating development within the established floodplain.

Through the NFIP, FEMA regulates development in areas subject to flooding from a base flood, or a flood that has a 1-percent chance of occurring in any given year. Through the 1970s and 1980s, FEMA comprehensively mapped all communities in the United States within the base floodplain and delineated them on Flood Insurance Rate Maps (FIRMs). The original FIRMs showed areas protected by levees in a Zone X, not a Special Flood Hazard Area (SFHA) bound by the requirements of the NFIP floodplain development regulations. These levees often had no engineering documentation supporting the level of protection provided by that levee. After years of repeat stress from flooding, changing hydrology and hydraulics within the levee systems, and changed engineering standards, many levees had become deficient in their ability to protect from the base flood. In 2001, the Map Modernization Program was initiated by FEMA to update FIRMs that had become outdated and digitize those maps to reduce paper and make them more easily accessible by the public.

As a result of FEMA's Map Modernization Program and the limited financial ability of most rural communities to improve their levee systems to meet FEMA's 100-year certification criteria, these rural agricultural communities have been, or will be, remapped into an SFHA. The restrictions on development in an SFHA, while effectively curbing development in the floodplain, do not provide the flexibility needed to sustain agriculture. The strict regulations have made reinvestment in agricultural operation facilities, commercial facilities in support of agriculture, equipment repair facilities, livestock and crop processing facilities, housing for agricultural operators, or temporary farm worker housing financially infeasible and/or unattainable in these areas. Agriculture represents a necessary and vital component of our nation's economy. In addition, maintaining rural open space and agriculture is an integral component of prudent floodplain management. However, as currently implemented, the result of NFIP policies will be to displace vibrant agricultural communities with rural "ghost towns," which will have long term implications to the decline of agriculture in the floodplain.



GUIDING PRINCIPLES OF THE ALLIANCE

Over the last three months, a group of local agencies and landowners organized themselves to pursue the creation of a new agricultural flood hazard area under the NFIP. This new zone would apply to established agricultural areas that would otherwise be mapped into the 100-year floodplain and would help ensure that agriculture and the communities it supports continue to thrive.

On February 17th, 2012, the Agricultural Flood Management Alliance (AFMA) was formed as a coalition of local agencies, organizations, and individuals interested in protecting the long-term viability of agricultural communities, industries, and operations located in the regulatory floodplain. These communities have a significant historic cultural presence and play an integral role in the viability of agriculture locally, regionally, and nationally.

The Alliance strongly supports the mission of FEMA and the NFIP to identify and mitigate flood risk and protect life and property in all floodplain communities. However, the Alliance is concerned that the current approach under the NFIP places a disproportionately impactful economic burden on agricultural communities in the mapping of SFHAs which imposes highly-restrictive flood protection regulations and establishes burdensome flood insurance rates. In particular, changes must be made to the building limitations on structures needed to support agricultural production, storage, and processing. Further, flood insurance must be offered at a rate which is variable depending upon the risk, but which makes flood insurance a meaningful and affordable option for the property owner.

The Alliance is also concerned about the small dependant towns located adjacent to these agricultural communities. The fate of these small communities has a direct bearing on the sustainability of agriculture in the regulatory floodplain as these are the communities where people gather to worship, shop, socialize, educate their children, and conduct business. The NFIP does not currently take into consideration the unique interdependency and tenuous economic balance that exists between the agriculture industry and adjacent small communities as compared to urbanized economies. Without recognizing the unique characteristics of agricultural and small communities in the NFIP structure, and by instead applying an urban-focused flood insurance standard, the existing agriculture enterprises and their dependent small communities will continue to degrade and ultimately fade away.

The Alliance adopted the following guiding principles to describe its members' common concerns and interests. The Alliance believes that the framework of flood risk management as applied in agricultural areas and agricultural communities must:

1. Support and protect the economic viability and vitality of agriculture industries and dependant small communities.
2. Recognize the benefits locally and nationally of the agricultural uses of the floodplain as a practical means to limit long-term flood risk while supporting a critical element of our economy and the security of our food supply.
3. Include provisions for agricultural and small dependant communities that allow for practical and feasible replacement of and reinvestment in industrial and commercial structures, to ensure long term socio-economic sustainability.
4. Establish flood insurance rates for agricultural and small dependant communities that are economically manageable by property owners while contributing to the overall fiscal viability of the NFIP.
5. Provide a role for representatives of the agricultural and small dependant communities to participate in the process of developing recommended modifications to the NFIP that are specific to address these and related issues.



PROPOSAL FOR AN AGRICULTURAL FLOOD HAZARD AREA

Legislative changes are required to allow the NFIP and its implementation to not devastate agricultural communities. Those changes are required to address the inability of these communities, after being mapped into the floodplain, to reinvest in the economic activities that make them strong, and to allow affordable and available flood insurance to help these communities after the rare flood event.

- Congress should establish a FEMA flood zone for agriculturally-based communities to allow replacement or reinvestment development in historically agricultural floodplains. This program would not require expensive elevation of structures or dry flood proofing, but would have requirements for wet flood proofing certain structures.
- Congress should instruct FEMA for these special agricultural zones to adjust the NFIP rate to be more actuarially structured to evaluate the actual flood risk based on levees providing historical protection, as opposed to assuming that no protection actually exists. This would lower the base rates for people in lower risk areas while not affecting rates for frequent claims and higher risk areas.

The Alliance is developing a proposal for Congress and the Administration that addresses its concerns. A few of the issues and ideas that have been discussed in this regard include:

- Agricultural Properties in areas protected by levees that are not accredited by FEMA, but where the levees do provide protection with at least 1' of freeboard above the FEMA 1/100 year water surface elevation, may construct agricultural and non-residential structures directly related to the support of agricultural production, storage, and processing, without needing to meet any wet or dry flood-proofing requirements. For existing residential structures in these areas, substantial improvements must be constructed to NFIP standard; however, the substantial damage test (due to causes other than flood) shall be increased from the traditional 50% to 100% damage.
- Legacy Communities in areas protected by levees that are not accredited by FEMA, but where the levees do provide protection with at least 1' of freeboard above the FEMA 1/100 year water surface elevation, with population less than 2000 (where defined by the NFIP community), may allow repair, rehabilitation, or replacement of existing residential and non-residential structures. This repair, rehabilitation, and replacement exception should not be applicable to repetitive loss structures.
- FEMA and the Department of Agriculture (USDA) should be directed to convene a task force which should produce a report on the challenges of legacy communities surviving in an NFIP floodplain. The report should include recommended changes to the NFIP to strengthen the economic viability and vitality of these communities, including such considerations as allowing infill development and building expansion. The task force should be co-chaired by the Administrator of FEMA and by the Agriculture Secretary, or their designees, and include representatives from the following: one from a national farm organization; one from a national banking organization; one from a national floodplain management organization; one from a national organization of flood and stormwater management agencies; one from a national agricultural commodities organization; two from states affected by these issues; one each from flood control associations in California's Central Valley, the Mississippi Valley, and the Missouri Valley; two from legacy communities; and three at large members with an interest in the topic.
- In light of the national interest in preserving agricultural lands and the legacy communities which support agriculture, flood insurance should be made available for all structures in the first two bullets above at a rate equal to the Zone X rate which would otherwise apply to the structures.



ALLIANCE MEMBERSHIP AND ORGANIZATION

The Alliance is in the initial stages of organization and invites participation from any interested agency, group, or individual. While initially started in California, the Alliance is particularly interested in working with local communities from other states to learn how NFIP practices may impact their agricultural industries.

As of April 2012, the following entities have formally joined the Alliance and endorse the Guiding Principles:

- Butte County, California
- California Central Valley Flood Control Association
- California Farm Bureau
- Colusa County, California
- Knights Landing Ridge Drainage District
- Levee District #1
- Local landowners in California
- Reclamation District 108, California
- Reclamation District 1500, California
- Regional Council of Rural Counties (RCRC), California
- Sacramento County, California
- Sacramento River West Side Levee District
- Sacramento Valley Landowners Association
- San Joaquin County, California
- Sutter Butte Flood Control Agency, California
- Sutter County, California
- Yolo County, California
- Yolo County Farm Bureau, California
- Yuba County, California
- Yuba Sutter Farm Bureau, California

On April 16, 2012, the first Executive Committee of AFMA was elected by the member agencies. Members of the Executive Committee include:

- Tara Broker, Landowner
- Supervisor James Gallagher of Sutter County, California
- Lewis Bair of Reclamation District 108, California
- Elisa Noble of the California Farm Bureau
- Supervisor Don Nottoli of Sacramento County, California
- Melinda Terry of the California Central Valley Flood Control Association
- Supervisor Denise Carter of Colusa County, California

For more information about AFMA, please contact Kristi More of The Ferguson Group at (916) 985-3740 or kmore@tfqnet.com or Scott Shapiro of Downey Brand at (916) 444-1000 or sshapiro@downeybrand.com.

