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**MEMORANDUM**

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**TO:** SAN LUIS & DELTA-MENDOTA WATER AUTHORITY DIRECTORS  
**FROM:** DAN KEPPEL, EXECUTIVE DIRECTOR  
**SUBJECT:** UPDATE REPORT  
**DATE:** JULY 10, 2023

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This memo is intended to keep you apprised as to what is happening regarding policy issues the Family Farm Alliance (Alliance) is engaged in. In the past month, much of our efforts have focused on advancing farm bill ideas with Western Senators and committee staff, Colorado River and federal affairs outreach, and engaging in litigation and administrative matters. These issues and other matters important to our members are further discussed in this memo.

**BIDEN ADMINISTRATION**

**1. Environmental Protection Agency (EPA): Clean Water Act “Waters of the U.S.”**

The Biden Administration’s EPA and the Army Corps of Engineers (Corps) have announced they will quickly and surgically amend their final “Waters of the U.S.” (WOTUS) Rule to incorporate the Supreme Court decision in *Sackett v. EPA* by September. The May 25 decision in *Sackett* rendered parts of the Biden final WOTUS rule moot when a five-justice majority endorsed a narrower test, based on a “relatively permanent” surface-water connection from late-Justice Scalia rather than the “significant nexus” test from then-Justice Kennedy in the Supreme Court’s previous *Rapanos* decision, for determining whether wetlands and other waterbodies are considered WOTUS, with allowances for “temporary interruptions” in that connection. The Administration’s final WOTUS rule relied on both the Scalia test, as well as the broader Kennedy “significant nexus” test. As such, any revised rule is, at a minimum, expected to excise the “significant nexus” test, but also would define key terms left unaddressed by the high court’s ruling in *Sackett*. The current rule has already been stayed by the courts in approximately half of the country, and the agencies say they are interpreting WOTUS consistent with the *Sackett* decision even in those states where it is not stayed. Several Corps Districts have also placed a hold on issuing approved

jurisdictional determinations (AJDs) under the Clean Water Act (CWA) pending updated guidance from an amended final WOTUS rule.

a. WOTUS Litigation

Meanwhile, industry and GOP-led state plaintiffs have filed motions on June 28 in the U.S. District Court for the Southern District of Texas to vacate the Biden final WOTUS rule entirely, forcing the agencies to write a new rule from scratch to account for the Supreme Court’s ruling in *Sackett* even as they work to revise the rule by September. In their motions in *State of Texas, et al., v. EPA, et al.*, the plaintiffs charge the Biden rule violates the agencies’ CWA authority as interpreted by the Supreme Court, and that it also violates the Constitution, as argued in their initial complaints to the court. Plaintiffs also call on the court to require the agencies to issue a new rule within 45 days and to require the Corps to immediately resume issuing AJDs for projects to move forward in the permitting process.

In other litigation over the final WOTUS rule, EPA filed a motion on June 26 before Judge Daniel Hovland of the U.S. District Court for the District of North Dakota asking for a stay of the ongoing litigation brought by 24 Republican state attorneys general, announcing plans to revise and amend its 2023 WOTUS rule by September to account for the *Sackett* decision. EPA also asked the court to direct the parties to submit proposals for further proceedings within 21 days of the September rule’s release, and to direct EPA and the Corps to file status reports every 45 days during the duration of the stay.

On July 3, the U.S. Court of Appeals for the 6th Circuit, without comment, granted EPA’s recent motion seeking abeyance in the suit *Commonwealth of Kentucky v. EPA, et al.*, appearing to agree with the agency’s argument that the upcoming WOTUS rule would help narrow any future litigation. Whether or not the other courts will side with the motions to vacate the rule or EPA’s motion to stay the litigation, these actions portend almost certain future court challenges ahead as the Biden Administration continues to grapple with redefining WOTUS under the CWA.

**2. Proposed ESA Rule Revisions...and Other Federal Rulemaking Efforts**

The U.S. Fish and Wildlife Service (“FWS”) and National Marine Fisheries Service (“NMFS”) (collectively, “the Services”) last month published three proposed rules related to implementation of the Endangered Species Act (“ESA”). The Biden Administration will proceed on other rulemaking efforts important to Western water users in the year ahead. The proposed revisions are made in response to President Biden’s Executive Order 13990, which directed the Services to review and revise certain agency actions taken by January 2021. The three proposed rules would:

- Revise regulations regarding interagency consultation, including broadening the scope of the Services’ conditioning authority;
- Reinstate a blanket protection for threatened species managed by FWS; and
- Clarify any misconceptions created by the Trump administration when it removed language

in 2019 referencing economic impacts within the context of the classification process. This rule would also change the Services' critical habitat designation rule regarding not-prudent determinations and unoccupied areas.

The Biden Administration agreed to rewrite the three ESA rules in response to a lawsuit filed by Earthjustice on behalf of the Center for Biological Diversity, Defenders of Wildlife, the Sierra Club, the Natural Resources Defense Council, and other litigious environmental organizations.

a. Implications for Western Water Users

Implementation of the ESA certainly impacts the management of land and water throughout the West. For example, federal water supplies that were originally developed by the Bureau of Reclamation primarily to support new irrigation projects have, in recent years, been redirected to ESA uses. The result is that these once-certain water supplies – one of the few certainties in Western irrigated agriculture – have now been added to the long list of existing uncertainties. Given the nature of water storage and delivery, Alliance members are often directly impacted by the implementation of the ESA and other federal laws. A constant frustration our members experience is the lack of accountability for success or failure for the implementation of these federal laws. The ESA has at times been interpreted to empower federal agencies to take action intended to protect listed species without consideration of the societal costs of such action, even when it is not clear that the action taken will actually yield benefits for the particular species.

b. Alliance Actions

The Alliance has consistently and strongly supported efforts to reform the ESA and its implementing regulations – like the effort initiated by the Trump Administration - to provide clearer direction to the agencies in applying and enforcing the law. The Alliance in November 2021 developed a detailed comment letter to the Services that reaffirmed the support the organization placed behind the substance and process used to finalize the 2020 ESA rules that were rescinded by the current administration. It looks like we'll go back to the drawing board again and reiterate those concerns to the agencies once more: comments are due August 21, 2023.

c. FWS Announces Final ESA Section 10(j) Rule

FWS announced that it has finalized [revisions to section 10\(j\) regulations](#) under the ESA to improve the conservation and recovery of imperiled ESA-listed species. The final rule was published on July 3 in the *Federal Register* with a 30-day waiting period before it kicks in. According to the FWS, growing impacts from climate change and invasive species have caused habitats within species' historical ranges to shift or become unsuitable. Prior regulations restricted the reintroduction of experimental populations to only the species' historical range except under extreme conditions. FWS has designated more than five dozen experimental populations that have been used to help advance the recovery of numerous listed species, such as California condors, whooping cranes and Sonoran pronghorns.

The new section 10(j) rule would only apply to future designations and is expected to provide regulatory flexibility and predictability for partners in their recovery efforts. FWS has used section 10(j) to designate populations as “experimental” in support of collaborative reintroduction efforts with partners that foster listed species’ recovery. FWS announced that it will continue to coordinate closely with the public before establishing an experimental population in or outside of a species’ historical range. The rulemaking processes for designating a 10(j) experimental population are said to not change with this revised regulation or require reevaluation of existing experimental populations, according to FWS.

d. More Federal Rulemaking on the Horizon

Mark Limbaugh reports that the Biden Administration on June 13 -about two months late - released their spring Unified Agenda, which describes upcoming rule making across the federal government, including at the Environmental Protection Agency (EPA), the Interior and Energy Departments. The Unified Agenda shows a number of major rulemakings planned to be finalized in the spring of 2024, an election year. Mark said the Administration knows that any rules finalized late in the year will be within the timeframe for Congressional Review Act resolutions. That could undo many rules if Republicans win the White House and gain control of Congress in the election. Several climate-related rulemakings have been moved up on the schedule and the White House Council on Environmental Quality plans to release their Phase 2 National Environmental Policy Act reforms soon, with final climate guidance under NEPA due in February.

## **DEVELOPMENTS IN CONGRESS**

### **3. Western Water Bills Introduced in Advance of Senate Legislative Hearing**

In advance of a legislative hearing planned by the Senate Energy and Natural Resources (ENR) Committee later this month, Western Senators have introduced a slew of bills intended primarily to address persistent drought in the West. We are reviewing all of them with an eye towards preparing written testimony for the hearing. I recently shared with you a legislative tracker, prepared by Mark Limbaugh and his team at The Ferguson Group, which lists legislation already introduced in this Congress. The bills we are closely tracking are summarized below.

a. Water Legislation Introduced by Senator Feinstein

The Alliance worked with the office of Senator Dianne Feinstein (D-CALIFORNIA) on three bills she introduced last month:

- The *Support to Rehydrate the Environment, Agriculture and Municipalities Act* or *STREAM Act* – co-sponsored with Arizona Senators Kelley and Sinema - authorizes water infrastructure funding and provides programmatic authorization for non-Federal Reclamation water projects.

- *The Restore Aging Infrastructure Now (RAIN) Act* – co-sponsored with Senator Alex Padilla (R-CALIFORNIA) - would authorize grant funding for 15% of the cost of aging infrastructure projects out of the \$3.2 billion appropriated for these purposes in the Bipartisan Infrastructure Law (BIL), if the projects are modified to add public benefits including drinking water for disadvantaged communities. Senator Feinstein introduced a very similar version of this legislation last Congress as the extraordinary operation and maintenance provisions in section 107 of the STREAM Act.
- *The Canal Conveyance Capacity Restoration Act* would fund 1/3 of the cost of restoring the original conveyance capacity of three important canals in California’s Central Valley: the Friant-Kern Canal, Delta Mendota Canal, and California Aqueduct. It provides additional authorized funding for the Restoration Goal of the San Joaquin River settlement.

All three bills are fairly similar to legislation Senator Feinstein introduced last Congress, which we supported. After soliciting your input, we developed a letter to Senator Feinstein expressing formal Alliance support for all three of these bills.

b. *The Water for Conservation and Farming Act*

Last month, Senators Ron Wyden and Jeff Merkley (D-OREGON) reintroduced S. 963, the "Water for Conservation and Farming Act." The bill would establish a \$300 million fund at Reclamation for water recycling, efficiency, and dam safety projects. The legislation would also authorize another \$40 million to support water and conservation projects in disadvantaged communities. The legislation would authorize \$25 million for fish passage projects through 2029 via the Fisheries Restoration and Irrigation Mitigation Act (FRIMA). Our members in California, Idaho, Oregon, Montana, and Washington are strong supporters and benefactors of FRIMA, which supports voluntary fish screen and passage projects. When funded, this has been a successful program to protect native and endangered fish and other aquatic species. The bill also includes the "Deschutes River Conservancy Reauthorization Act," which would authorize up to \$2 million in funding annually for 10-years for water quality and conservation.

c. *The Watershed Results Act*

Senator Wyden has also reintroduced his *Watershed Results Act* (WRA) in the 118<sup>th</sup> Congress (bill number not yet assigned). Specifically, the Watershed Results Act directs the Secretary of the Interior to work in coordination with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, to establish two to five watershed restoration pilot programs across the country. To maximize cost effective restoration, each pilot will incorporate predictive data analysis to analyze the watershed to precisely locate the most effective acres for restoration that will make the largest measurable impact and shall establish milestones, outcome targets, an implementation plan, and a timeline for achieving full implementation. Each pilot watershed must work with state, local, and Tribal representatives, nongovernmental organizations, and private sector representatives to achieve these measurable results. Measurable outcomes for these pilots can include a quantifiable reduction in nutrient or sediment runoff or thermal load, quantifiable

increases in dissolved oxygen and surface water or groundwater that functionally benefits fish and wildlife species, and any other quantifiable benefit identified to support watershed restoration.

The Alliance has co-lead the advocacy for this legislation, along with our partners at The Freshwater Trust. If enacted, the bill would break new ground in the way the government and stakeholders approach improving watershed health and maximizing the use of various funding sources in doing so. By using advanced forms of data analytics to identify key acres for restoration projects, the WRA identifies pilot projects and implements the most cost-effective and high-impact restoration activities for watersheds -- the land leading into streams, rivers, or lakes. This work will result in more measurable environmental outcomes using a new results-oriented approach.

d. *The Urban Canal Modernization Act*

Senator Jim Risch (R-IDAHO) has introduced the *Urban Canal Modernization Act* to allow Reclamation aging infrastructure funding to help address repairs for urban canals with extraordinary maintenance issues. Many western canals, like the New York Canal in Idaho's Treasure Valley, have gone from being rural in nature to being surrounded by urban infrastructure over time. Many urban canals need repairs that, if left unattended, could pose substantial danger to the communities that have been built around them. This bill establishes access to existing aging infrastructure funds to address these extraordinary maintenance issues. We support this bill.

e. *The Open Access Evapotranspiration Data Act*

Senator Catherine Cortez Masto (D-NEVADA) and Senator John Hickenlooper (D-COLORADO) earlier this year reintroduced *The Open Access Evapotranspiration (OpenET) Act*, legislation intended to get critical water use data in the hands of farmers, ranchers, and decision-makers for improved water management across the Western U.S. The bill would establish a program to use publicly available data from satellites and weather stations to provide estimates of evapotranspiration (ET), a measure of actual water use. We share the concerns expressed by other agricultural producers in the West regarding this OpenET bill, which would inject major federal funding into the OpenET program. We have proposed alternative language that would scale down the scope, remove the linkage to federal conservation program compliance programs, and address privacy and data quality concerns raised by farm groups through the use of pilot projects.

f. *The Voluntary Agricultural Land Repurposing Act*

Senator Alex Padilla (D-CALIFORNIA) has introduced the *Voluntary Agricultural Land Repurposing Act*, legislation that is intended to build drought resiliency and reduce water use by providing federal funding to states and tribes that work to voluntarily "repurpose" certain agricultural lands. In California, it is estimated that at least 750,000 to 1 million acres of farmland will need to come out of development due to water scarcity. If this land transition is not proactively managed, it could result in increased dust, pests and weeds, and widespread economic impacts. In response, the California State Legislature established the Multibenefit Land Repurposing

Program to help regions “repurpose” agricultural land. Specifically, the federal bill would modify Reclamation’s emergency drought authority and its WaterSMART program to authorize funding for states and tribes to run voluntary and multibenefit land repurposing programs.

Given the current backdrop of recent severe drought conditions in the Western U.S., significantly inflated food costs, global food supply challenges, and a looming global famine, the Alliance believes taking additional Western American agricultural land out of production must be carefully and thoughtfully evaluated. The Alliance worked constructively with Senator Padilla’s office to raise this issue as draft legislation was being contemplated in the last Congress. We’ll continue to advocate for a more narrowly focused, pilot approach, administered by USDA or funded through a state-run program, and intended to be implemented in a voluntary manner, as a last resort.

#### **4. Snake River Dam Forums**

Environmentalists concerned about salmon spawning have advocated to undam the Snake River for decades, focusing their efforts on four dams on the lower part of the Snake, just above its confluence with the Columbia River. Western Republicans in Congress and the *Wall Street Journal* last month pushed back, and publicly highlighted the importance of dams in the Pacific Northwest and their impacts on river commerce, agriculture and energy production. In a one-week period, Republicans from the House of Representatives hosted a Capitol Hill forum on the importance of hydropower and conducted a field tour and hearing in Eastern Washington focusing on plans to breach the dams. The Western Republicans’ hydropower forums took place just days after the *Wall Street Journal* published an editorial explaining how removal of the four lower Snake River dams would make electricity far costlier and harm local residents, with the salmon seeing little benefit. The Biden administration says it has not taken a position on whether it will recommend that Congress authorize breaching the four lower Snake River dams.

#### **5. House Committee Approves FY 2024 Energy-Water Appropriations Bill**

The House Appropriations Committee last month followed the GOP playbook setting FY 2024 spending levels below the spending caps agreed to in the debt ceiling deal and approved their version of the FY 2024 spending legislation last month, with deep cuts to Biden Administration priority renewable energy and climate-related spending. The bill funds the Department of Energy, Corps and Reclamation and passed by a 34-24 vote. The Corps would receive more than \$9.5 billion in the proposal, significantly more than the \$7.4 billion proposed by the Biden Administration in their budget request, and \$900 million more than FY 2023 levels. But Reclamation would see current FY 2023 spending levels slashed by \$91 million, even though the bill calls for FY 2024 spending levels for Reclamation to be \$392.4 million more than the Biden budget request. During the markup, Committee Republicans rejected amendments offered by the Democrats that would have funded Inflation Reduction Act (IRA) climate initiatives, diversity initiatives, or advanced critical race theory.

Republicans say the spending bill would reduce appropriations for programs that are unnecessary

and wasteful and would reprioritize spending that help with the overall economy and our Nation's security. While the bill contains targeted cuts to clean energy, climate, and diversity efforts at the Department of Energy, it also offsets proposed spending increases by clawing back \$6 billion in spending approved in last year's IRA and the 2021 bipartisan Infrastructure Investment and Jobs Act (IIJA). The bill also includes some controversial policy and legislative riders, including Rep. Valadao's (R-CA) H.R. 215, the *WATER for California Act* and Rep. McClintock's (R-CA) H.R. 186, the *Water Supply Permitting Coordination Act* in their entirety. Among other things, the bill would kill the Biden Administration's WOTUS final rule, which has already been significantly weakened by the recent Supreme Court decision in *Sackett v. EPA* (see Item 1).

The Senate Appropriations Committee is planning to markup their version of the bill in the coming weeks, which will likely turn out to be much different than the House counterpart. The Senate Appropriations Committee held two markups last month, including the Agriculture and the Military Construction-Veterans Affairs bill. Senators are skipping subcommittee markups to expedite the process, as they hope to send all 12 spending bills to the floor before August recess. The debt ceiling deal enacted last month included a provision that would reduce FY 2024 spending by 1% across the board if the 12 bills were not enacted by January 1, 2024, incentivizing Congress to move FY 2024 spending bills in 2023.

#### **6. House WWF Subcommittee Legislative Hearing**

The Committee on Natural Resources, Subcommittee on Water, Wildlife and Fisheries last month held a legislative hearing on the following bills:

- H.R. 1607 (Rep. Schweikert), To clarify jurisdiction with respect to certain Bureau of Reclamation pumped storage development, and for other purposes;
- H.R. 3027 (Rep. Porter), "*Reclamation Climate Change and Water Program Reauthorization Act of 2023*"; and
- H.R. 3675 (Rep. Boebert), To amend the Water Infrastructure Improvements for the Nation Act to extend certain contract prepayment authority.

The Alliance is on record for supporting H.R. 3675. Alliance Director Cannon Michael represented the Alliance and the San Luis & Delta-Mendota Water Authority at this hearing. Many thanks to Cannon, who was already planning on being in D.C. for other Authority meetings, for stepping up on this at the last minute. We worked with Authority lobbyists on the written testimony, using, in part, materials we have in our archives on this topic. The concept of contract prepayment was something we started advocating for way back, starting around 2005. It was codified into law in P.L. 111-11, and once again in the 2016 WIIN Act, where this authority expired in 2020. While many districts have already taken advantage of this authority, there are still a few out there who could benefit from having these provisions made permanent.



## 7. 2023 Farm Bill

The House and Senate return this week from a two-week recess for the July 4<sup>th</sup> holiday. Negotiations surrounding the debt ceiling legislation in May delayed much of the progress on other priorities. With that now behind Congress, lawmakers will turn their attention to other matters, including the 2023 Farm Bill. The farm bill is an omnibus, multiyear law that is typically renewed about every five years. All signs point to a short-term extension for several Farm Bill-related provisions from the 2018 Farm Bill covering numerous food and nutrition policies and programs. Like government funding, the Farm Bill expires on September 30, 2023, creating a critical time crunch for lawmakers, who have yet to release draft text of the legislation. House Agriculture Committee Chair GT Thompson (R-Penn.) aims for an early September markup of the House bill. That would leave just a few weeks for the Senate to pass and both chambers to conference the bill.

The Senate and House are on a collision course over the topic of SNAP (food stamp assistance), as reported recently by *Politico Morning Ag*. Senate Agriculture Chair Debbie Stabenow (D-Mich.) told *Politico*, that, from her perspective, Congress is “done” with any discussion around SNAP changes, since the debt limit agreement included some work requirement changes requested by Republicans. But Speaker Kevin McCarthy (R-CALIFORNIA), in his speech last month celebrating the House’s passage of the debt bill, appeared to gear up House Republicans for a farm bill battle over SNAP work requirements. The House Appropriations Committee also approved an annual spending bill last month that would slash funding for climate change and rural energy programs at USDA next year, in the face of strong opposition from minority Democrats.

### a. Alliance Engagement

Engaging in the development of the next 2023 Farm Bill is one of our top priorities this year for the Alliance. The Alliance in April publicly rolled out its “Six Point Plan” intended to guide the organization’s advocacy efforts in Washington, D.C. Passing a 2023 Farm Bill that addresses Western agricultural challenges was a top priority. Flexibility in farm bill conservation title programs is a critical underpinning to successful implementation in the West. For example, climate mitigation should not just focus on carbon reduction and assume that planting more carbon-sequestering trees or no-till farming activities will solve the problem. We want to see 2023 Farm Bill conservation title programs that are administered efficiently and effectively, and support projects like irrigation modernization that provide multiple, stacked benefits, rather than simply focusing on climate fixes. The IRA contains massive funding for climate-smart agriculture through existing Farm Bill conservation programs.

Once again, we’re working with our partners in the Western Agriculture and Conservation Alliance -the “WACC” – on the conservation title. The WACC earlier this year finalized its Farm Bill platform, which, among other things, puts priority on improving implementation of the Watershed and Flood Prevention Operations (“PL-566”) and the Regional Conservation Partnership Program, encouraging active management for grazing, and seeking to provide better and faster conservation program technical assistance and compliance. The Alliance has also been

working with Western Growers and several Western state Farm Bureaus to push more ag-centric priorities, starting with Western Senators and Ag Committee Members. The Congressional Western Caucus in May released its 2023 Farm Bill Priorities, which are fairly closely aligned with those of the Alliance: Supporting Production Agriculture, Improving Voluntary Conservation Programs, Enhancing Forest Health and Active Management, and Strengthening Rural Communities through Development.

b. PL-566 update

Finding ways to make the NRCS PL-566 watershed program implementation nimbler and one that prioritizes projects that generate multiple benefits (like irrigation modernization projects in the West) is one of our priorities for the 2023 farm bill. We've been working with the office of Senator Bennet (D-COLORADO) on draft legislation that will place higher priority on multi-benefit projects and also set mandatory funding levels for PL-566. There is bipartisan interest in the "multi-benefit" part of this, but fiscally conservative Republicans are leery about the mandatory spending provisions of the draft bill.

## JUDICIARY

### 8. Arizona v. Navajo Nation

The Supreme Court of the United States (SCOTUS) last month ruled 5-4 against the Navajo Nation, supporting the U.S. argument that the treaty at issue does not require the federal government to take the affirmative steps that the Navajo Nation contends. The Family Alliance was part of a Western water user *amicus* brief filed in support of the federal government and Arizona in this case. In its decision, the Court specifically recognized the concerns raised in the Western Water Users *amicus* brief and cited that brief. The Court also embraced the Alliance's and water users' argument that water right claims should be made in water right adjudications. We are pleased by the Court's judgment, which eliminates another possible layer of uncertainty regarding Western water decision-making. From a practical standpoint, this decision should eliminate the possibility of a new method being established for tribes to pursue water outside of the established process of filing and pursuing claims in basin-wide adjudications, involving all affected water users and States. Alliance General Counsel Norm Semanko said this demonstrates the importance that *amicus* briefs can play in these kinds of cases.

## ALLIANCE INITIATIVES

### 9. Colorado River Initiative

The Colorado River serves 40 million individuals and irrigates 5.5 million acres of farmland across seven states. More than two decades of drought have significantly diminished flows in the 1,450-mile-long river, and drained water supplies in lakes Powell and Mead, which also provide hydropower to millions of people. The Alliance will continue to underscore the importance of

protecting Western irrigated agriculture, using policy principles adopted by the board of directors in March 2022.

a. DOI Announces Long-Term Colo. River Planning Process

As previously reported, the Colorado River Lower Basin states have coalesced around a plan to voluntarily conserve a major portion of their river water in exchange for more than \$1 billion in federal funds. The availability of those federal funds, as well as improved recent hydrology, helped grease the Lower Basin deal. The June 2023 forecast from the Colorado Basin River Forecast Center shows a projected inflow of 13.85 million acre-feet into Lake Powell for 2023, which is 144% of the average inflow. Now, all 7 Basin states can focus on the critically important long-term solution: advancing the process for the development of new operating guidelines replacing the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead at the end of 2026.

The Department of the Interior last month initiated a formal process for the development of a long-term but interim operating plan for the Colorado River Basin, commencing a multiyear process that will shape the future of the river. The Bureau of Reclamation will oversee efforts to create a new operating plan for the river and its reservoirs. The agency expects to release a draft proposal for public comment late in 2024. Now, Reclamation is taking comments on what stakeholders would like to see (or not see) in a new operating plan for the system through a 60-day comment period. The *Federal Register* notice also revealed that Reclamation plans to release a web-based tool that will allow users to "explore, create, and compare potential operating strategies" for the Colorado River. The online tool is set to be released in the fall of this year.

b. Alliance Actions

Colorado River policy engagement has been a top priority for the Alliance in recent years. I spent nearly a week in May in Arizona, where I spoke to the Yuma Fresh Vegetable Association industry briefing and at the CLE Colorado River Law conference in Scottsdale. Alliance President Pat O'Toole spoke at the 43<sup>rd</sup> Annual Conference on Natural Resources at the Getches-Wilkinson Center for Natural Resources, Energy and the Environment on June 9. Pat participated in a panel titled, "How Can Agriculture Thrive with Less Water?", and his fellow panelists were Meghan Scott (who works for Advisory Committee member Wade Noble's law firm in Arizona), Mark Squillace (University of Colorado Law School) and Jim Holway (Babbitt Center for Land and Water Policy). The panel discussion took place following opening remarks by former Interior Secretary Bruce Babbitt, who continued his criticism of agricultural water use. [Wyoming Rancher Says Stop Blaming Agriculture For Colorado River Crisis](#) is a good story that captures some of Pat O'Toole's comments at the Colorado River conference in Boulder.

Our recent outreach work generated some interest from journalists in the weeks that followed. I authored a 7,500-word article on Colorado River agricultural water that will be the cover story for this month's *The Water Report*. That publication provides monthly detailed analyses from a variety

of industry experts across the West who are trying to address challenging water issues. Hopefully, it will provide an opportunity to tell a story much different from this garbage: "[Hay – yes, hay – is sucking the Colorado River dry](#)" - another horrible piece from the interns at *High Country News*. Also – check this out and maybe you can change your diet to help the drought: [The Hidden Link Between Western Water Crisis and Our Food Choices - One Green Planet](#).

I also did an interview with a D.C. trade publication, an *Agri-Pulse* reporter and an ag journalist from Colorado. Here's the *Agri-Pulse* story: <https://www.agri-pulse.com/articles/19520-colorado-river-water-cutbacks-could-hit-alfalfa-yields-livestock-producers>. Alliance Advisory Committee Member Tina Shields (Imperial Irrigation District) and our friends Mike Wade (California Farm Water Coalition) and Stefanie Smallhouse (Arizona Farm Bureau President), are also quoted, among others. I was recently quoted in *NACSAA News*, a quarterly compilation of climate smart agriculture developments in this story: "[States Reach Deal to Protect Drought-Stricken Colorado River](#)". *Irrigation Today* magazine also interviewed me for this story: "[Water agreement quells the flames of Colorado river dissension](#)".

Pat O'Toole is featured in a soon-to-be-released documentary called "Green Desert", which Pat and I recently previewed. It's powerful, and Pat is prominently featured, being interviewed on the roof of the hotel before our conference in Reno last February. On Friday, I talked with a producer of a feature-length documentary that is being developed on the ongoing water situation in the Western US. The producers were compelled by Pat's statements at the recent Getches-Wilkinson Center's Summer Conference in Boulder. Pat will likely be included in the final film.

### **10. 2023 Farmer Lobbyist Trip**

As previously reported, we plan to schedule the 2023 Alliance farmer lobbyist trip for this fall in D.C. After polling those of you who are interested in traveling back to D.C. this fall, the majority of those who responded said **the week of September 25** works for them. That means September 25 (Monday) will be a travel day, we'll have two solid days of meetings on Tuesday and Wednesday, some more meetings on Thursday morning, with Thursday p.m. and Friday a.m. set aside as times to travel back West. Please mark your calendars!

## **ADMINISTRATIVE & MISCELLANEOUS**

- I'll be traveling to Palm Springs (CALIFORNIA) later this month and making a presentation with Mike Wade (California Farm Water Coalition) to the Agricultural Media Summit, which will be attended by over 100 journalists from around the country.

*This is a quick summary of just a few of the issues the Alliance has been engaged in. Please do not hesitate to contact me at [dan@familyfarmalliance.org](mailto:dan@familyfarmalliance.org) if you would like further information about what the Alliance is doing to protect water for Western irrigated agriculture.*