



MEMORANDUM

TO: SAN LUIS & DELTA-MENDOTA WATER AUTHORITY BOARD
FROM: DAN KEPPEL, EXECUTIVE DIRECTOR
SUBJECT: UPDATE REPORT
DATE: JULY 8, 2024

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 assessing and engaging on the development of the 2024 farm bill and Bureau of Reclamation (Reclamation) administrative matters, addressing an Environmental Protection Agency (EPA) water quality workshop, preparing for this month's board of director retreat in Colorado, assisting with testimony for an upcoming House legislative hearing, public and media outreach, and organizational administrative matters. These issues and other matters important to our members are further discussed in this memo.

BIDEN ADMINISTRATION

1. Appointments

Bureau of Reclamation (Reclamation) Commissioner Camille Calimlim Touton last month announced the appointment of Roque Sánchez, as Reclamation's deputy commissioner. In this role, Mr. Sánchez oversees Reclamation's internal and external relations strategies with Congress and the American public to increase awareness and understanding of Reclamation's mission priorities, policies, and programs. Sánchez was named as senior advisor at the Bureau of Reclamation in October 2022. Prior to joining Reclamation, he served at the White House as policy advisor for the Office of Domestic Climate Policy and startup facilitator for the Office of Clean Energy Innovation and Implementation. Prior to joining the Biden-Harris administration, Roque worked in several roles to advance climate resilience and clean energy, including President Obama's White House Office of Energy and Climate Change. Sánchez holds degrees in civil and environmental engineering from Rice University and was raised in the Rio Grande valley of New Mexico.

2. Agency Climate Plans

More than 20 federal agencies have released updated climate adaptation plans to prepare for climate change hazards. These plans are part of the Biden Administration's initiative to address risks such as extreme heat, flooding, and wildfires. The updated plans, covering 2024 to 2027, aim to make federal buildings and operations more resilient, protect federal workers from climate hazards, and promote climate resilience in federal lands and waters. All plans are available at www.sustainability.gov/adaptation.

3. White House: “America’s Groundwater Challenges”

The White House earlier this year invited [public input](#) on “America’s Groundwater Challenges”. The comment period ended last Monday. Thanks to a “heads up” from the American Farm Bureau Federation, we quickly put together a letter that we transmitted to the White House in response to the April 25, 2024 announcement of the President’s Council of Advisors on Science and Technology’s (CAST’s) creation of the “Groundwater Working Group”. Our letter expressed concerns that tasking EPA, DOI and other federal agencies to develop a “national strategy” on groundwater would inevitably result in yet another one-size-fits-all, top-down approach. This would add a new layer of conflicting regulatory interference in existing state groundwater management and undermine water rights and the flexibility of local water users. Our letter also noted our concern with the lack of meaningful public notice or engagement with affected local, state and agriculture stakeholders for this effort.

The day after we sent off our letter, I received an invite from the White House CAST Groundwater Working Group to participate in a one-day workshop to aid in the formulation of a policy recommendation report that will “propel government-wide action” on groundwater concerns. This event will take place at Arizona State University in Tempe on Monday, July 22nd and will concentrate on three pivotal themes: governance and incentives, data gaps and opportunities, and community empowerment and engagement. I’ll participate virtually. It sounds like the Arizona Farm Bureau has also been invited, and a similar workshop is planned in Illinois.

4. EPA

a. Nutrient Workshop

The Alliance last month joined other agriculture and conservation partners in a two-day workshop hosted by the Environmental Protection Agency in Washington, D.C. to discuss the need and recommended durable solutions for scaling up action and funding for nutrient reductions to address the national challenge of nonpoint source (NPS) pollution. I joined Joe Whitworth (President and CEO of The Freshwater Trust) and Tim Male (Environmental Policy Innovation Center) for a 45-minute panel discussion on the first day of the two-day workshop. The goal of the workshop was to scale up and sustain nonpoint source pollution reductions to restore water quality in U.S. waters.

Our panel was set up to make the case for a data-driven, incentive-based, coordinated funding approach that works for Western producers.

Results from the National Rivers and Streams Assessment show that over 40% of the nation's flowing water bodies are in poor condition due to excess nutrients. In many of these systems, NPS are the predominant source of pollutants. In addition to the continued effective regulation of point sources, EPA believes improved tools and approaches are needed to catalyze NPS investment to achieve watershed-scale solutions. The Nutrient Funding Discussion Group (NFDG)– which the Alliance is a part of - has been created to fine tune a bipartisan policy approved by the agricultural community to improve the environment and provide fiscal sustainability. Other core participants in the NFDG include EPA, The Freshwater Trust (co-leader with the EPA), Blue Forest Conservation, Environmental Policy Innovation Center, Electric Power Research Institute, National Association of Clean Water Agencies, and the Soil & Water Outcomes Fund. The NFDG over the past two years has met virtually to examine how to convert many of the elements from EPA's April 5, 2022 *Accelerating Nutrient Pollution Reductions in the Nation's Waters* Memorandum into actionable steps. Since the memo's release, EPA has acted by proposing a new rule that would state explicitly that National Pollutant Discharge Elimination System Permits may allow the use of market-based approaches to comply with water quality-based effluent limitations as part of the EPA's efforts to expand the use of market-based approaches to achieve greater water quality improvements on a watershed scale.

Day 1 of the workshop was kicked off with opening remarks from EPA Acting Assistant Administrator Bruno Pigot, who oversees EPA's Office Water. Over the course of the two-day workshop, planners walked through the NFDG framework, explored examples of operating frameworks currently in the field, and heard from various partner groups on how they can collectively accelerate NPS results. The NFDD framework found that conservation funding is often not aligned with agricultural business needs. Operating with historically thin margins and limited resources, many agricultural producers decline to participate in conservation programs because the costs and risks often outweigh the potential returns. I noted that applicants must navigate complicated applications and bear most risks to receive funding. If you want farmers and ranchers to participate, things have to fit. Right now, many producers rightly observe that the burdens are greater than the benefits.

5. DOI, Bureau of Reclamation

b. Administrative Rulemaking

As reported extensively over the past month, Reclamation is seeking public comment on proposed revisions to seven categorical exclusions (CEs) under the National Environmental Policy Act (NEPA) of 1969 as well as changes to a directive and standard (D&S) that governs administration of financial assistance. Public webinars have been scheduled for both efforts, in response to a request made by the Alliance last month. D&S provide the level of detail necessary to ensure consistent application of policy across Reclamation.

Alliance representatives met with the Commissioner's office to discuss concerns we have with the CE package recently posted in the Federal Register and draft directive and standard (D&S) – ACM 01-01, which appears to merge DOI and Reclamation policies for financial assistance into one policy. Both of Reclamation's proposals are important actions to our members -particularly those who utilize WaterSMART grants. Meanwhile, another D&S relating to administration of Reclamation's Aging Infrastructure Account (AIA) was finalized in June.

i. Proposed CE Expansion

The White House Council on Environmental Quality (CEQ) in 2016 directed all federal agencies to begin regular reviews of the use of CEs, with the intent of making the NEPA process easier. The latest effort initiated by the Biden Administration marks the third time in three administrations that this effort has been undertaken. The latest proposed CEs pertain to water-related contracts, use authorizations, financial assistance, loans, and funding activities, such as WaterSMART grants. The revisions aim to streamline environmental reviews for infrastructure projects under the Infrastructure Investment and Jobs Act (IIJA) and Inflation Reduction Act (IRA), aligning with NEPA regulations to enhance efficiency and clarity for Reclamation, project proponents, and the public. In summary, the package will revise three existing CEs related to financial assistance, loans, and funding activities to incorporate other programs including the WaterSMART program; revise two existing CEs for water-related contracts and revise two existing CEs related to use authorizations.

The Federal Register posted the proposed expansion in early June and set a 30-day comment period that expires today (July 8). Alliance representatives met virtually with senior level Reclamation leaders from the Commissioner's office last month, raised some questions and concerns with them, and suggested that a public webinar be scheduled to provide an opportunity for Reclamation water and power customers and other stakeholders to raise additional concerns in an open forum. Reclamation two days later announced it would host an informational webinar on July 2. Unfortunately, the comment period for the CE proposal could not be extended, since there are fairly rigid timelines associated with the White House Federal Register notice process.

About 70 people participated in last week's webinar. Alliance representatives raised our key concern: What is "minor" in the proposal, and does Reclamation think this will change? While this was being billed initially as CE for WaterSMART, practically we just want to make sure they will use the new CE expansively as possible. The recording of Reclamation's webinar is available at <https://youtu.be/5yIDMbZtc1c>. It is unlisted on YouTube. The recording and PDF of the presentation are available at www.usbr.gov/NEPA. We will submit brief written comments later today. We'll basically express support for the proposed changes, suggest some more specific examples of projects / activities that should be covered under a CE, and memorialize the request we made on the webinar. Also – the Western Agriculture and Conservation Coalition (WACC) is going to include similar language in another letter to Reclamation, which will advance support for employing the stream restoration CE.

ii. Draft D&S ACM 01-01

Reclamation has proposed changes to the existing D&S ACM 01-01, which outlines requirements for award and *administration* of financial assistance agreements. The draft document includes new definitions, more citations to the Code of Federal Regulation, and descriptions of new positions at Reclamation. DOI has tightened up some of its internal financial requirements, so Reclamation is doing the same. However, since this D&S does drive some marquee programs, such as WaterSMART, it is also of interest to Reclamation’s customers. Some of our member districts and some NGOs involved with securing Reclamation financial assistance have experienced long response times, detailed and extended budget reviews, and extended periods of time to get a financial award under contract, even for a modest planning grant with no ground-disturbing activities. We suggested to Reclamation that conducting a webinar on the draft D&S would allow for some of our more vocal members to weigh in on the timelines and potential efficiencies that “could” be addressed in the newly revised D&S.

In response to the Alliance’s request, Reclamation has agreed to extend the public comment period on the draft D&S by 30 days (closing on August 9, 2024) and to host a webinar for customers and stakeholders. The webinar is scheduled for July 9 at 2:00 p.m. (Pacific, including AZ); 3:00 p.m. (Mountain), 4:00 p.m. (Central), 5:00 p.m. (Eastern). [Join the meeting by clicking HERE](#), or dial in by phone [+1 202-640-1187](tel:+12026401187) and enter pass code [921 965 494#](tel:+12026401187). You may learn more about this draft directive and standard at <https://www.usbr.gov/recman/>.

iii. D&S PEC 05-03 – Extended Repayment of Extraordinary Maintenance

Reclamation last month also finalized the most recent revisions for Reclamation’s Directives and Standards Process for PEC 05-03 (Extended Repayment of Extraordinary Maintenance Costs). Congress amended P.L. 111-11 to create the AIA in late 2020, and Reclamation revised PEC 05-03 to implement the new authority and requirements. After a few years of practical experience with the program, Reclamation started working on some revisions in hopes of resolving some legal and policy questions, of which the Alliance has been a part. Draft revisions were sent out to the Alliance, Reclamation’s customers and other stakeholders for review and comment last November, leading up to a stakeholder engagement session on November 30, 2023. Reclamation subsequently made some changes to the draft and extended the comment period until after a second engagement session last March.

Chris Beardsley (Reclamation’s Director of Mission Assurance and Protection Organization) in a letter to the Alliance said Reclamation made some notable changes, including elimination of the requirements to exhaust other funding possibilities, as well as having to first spend contractors’ reserves before receiving funding from the AIA. Another change to highlight was reducing the reserve expenditure requirement for XM funding from regular regional budgets. One item that was raised that Reclamation did not change its decision on was the ability to keep “ability-to-pay” (ATP) provisions that require a study for a repayment period of more than 30 years. Some of our

members have expressed concerns that this section would have potential impacts on existing ATP levels as set in current repayment contracts. We suggested that it would be helpful to include some language that states that the ATP for the purposes of the AIA application under PEC 05-03, does not impact or change any existing ATP values. Reclamation leadership has said the agency remains committed to working with the Alliance on identifying potential alternatives or approaches and will schedule a meeting in the future for that purpose.

DEVELOPMENTS IN CONGRESS

6. House Energy and Water Appropriators Daylight FY 2025 Spending Measure

Mark Limbaugh reports that the House FY 2025 Energy and Water development spending measure, a \$59.2 billion appropriations bill, proposes significant cuts to Biden Administration's clean energy programs while increasing overall funding for key agencies. Notably, Reclamation would receive a funding boost to \$1.77 billion—\$329.5 million over the Biden Administration's request. The bill includes a GOP-backed provision to reinstate a Trump-era policy under the ESA)to pump more water to California's Central Valley farmers through the Sacramento-San Joaquin River Delta's ecosystem. The Army Corps of Engineers also sees increased funding for projects addressing inland waterways, flood damage, and harbor maintenance. The bill would provide nearly \$10 billion to the Army Corps in FY 2025, an increase over President Biden's request of \$2.7 billion. The bill would also direct the Army Corps and EPA to provide additional guidance documents explaining the regulatory scope of the Clean Water Act and specifically the latest definition of “waters of the U.S.” (WOTUS).

7. House FY 2025 Interior and Environment Bill

Mark Limbaugh reports that the FY 2025 Interior-Environment bill, unveiled by House Republicans, proposes a \$38.5 billion funding package that aims to bolster wildland firefighting and energy production while making substantial cuts to several Biden administration priorities. Overall, the bill reflects a shift towards enhancing energy production and firefighting capabilities, while reducing environmental protection efforts and slashing key administration initiatives.

8. 2024 Farm Bill

Despite recent progress on the 2024 Farm Bill — including passage of the House Agriculture Committee's version of the bill and frameworks released by Democrat and GOP factions in the Senate Agriculture Committee — Senators in recent days have been hinting that passage of a full Farm Bill in 2024 is growing more unlikely. This means that another extension of the 2018 Farm Bill could be the most likely outcome before the end of September, when the existing deadline expires. Every five years, the farm bill expires and is updated: it goes through an extensive process where it is proposed, debated, and passed by Congress and is then signed into law by the President. Each farm bill has a unique title, and the current farm bill is called the Agriculture Improvement Act of 2018. Senate Ag Chairwoman Debbie Stabenow, D-Mich., doesn't think the House Ag

Committee's bill can pass the House and fears a Senate bill could face the same fate, she said on a recent broadcast of *Agri-Pulse* Newsmakers.

a. Alliance Farm Bill Priorities

The Alliance for the past three farm bills has worked with its partners in the Western Agriculture and Conservation Coalition (WACC) to advocate primarily on the conservation programs authorized in Title 2 of the Farm Bill, like the Regional Conservation Partnership Program (RCPP) and the Watershed Protection and Flood Prevention Program (PL-566). The Alliance and its agricultural partners have also advocated for removal of income limitations to participate in Title 2 programs and for provisions that encourage more active management of the West's drying and dying forests. Two important contracting and procurement provisions are included in the House bill: 1) USDA must streamline RCPP partnership agreements and set various timelines for administrative actions and decisions; and 2) Allow for up to 10% of the funds for an RCPP partnership agreement to reimburse the partner for administrative expenses related to the project. The new language would put things more in line with traditional federal funding.

The PL-566 provisions in the conservation title raise concerns, since they appear to prioritize flood control dam rehabilitation projects over watershed activities that address drought and water conservation. However, the House Farm Bill would provide \$150 million more per year for the program. The House farm bill eliminates the Adjusted Gross Income (AGI) limitation for all conservation programs in Title 1 and Title 2. Current AGI limitations preclude many family-owned operations from participating in voluntary conservation programs and compromise producers' ability to avail themselves of much-needed disaster programs. This represents a win for the WACC, and for many American producers who want to do more conservation work. The forestry title in the House bill would authorize expanded use of CEs for certain forest health treatments up to 10,000 acres for insect and disease, wildfire resilience, and fuel breaks. Among other things, it also reauthorizes and improves the Water Source Protection Program, which a coalition that included the Alliance asked for earlier this year.

b. Alliance Reps Meet with Western Senators

The Senate Ag subcommittee on conservation, climate, forestry and natural resources focused on federal drought investments late last month during a trip this week to Colorado and Kansas. U.S. Senators Michael Bennet (D-COLORADO), Chair of the Subcommittee on Conservation, Climate, Forestry, and Natural Resources, and Roger Marshall (R-KANSAS), Ranking Member, held a subcommittee field hearing in Burlington (COLORADO). Key Senate Democrats – led by Senators Michael Bennet and Jeff Merkley (OREGON) - have been pushing in public and private for months to boost investments in the farm bill for ag producers facing severe drought, especially in the West. Alliance Director Jim Yahn (COLORADO) attended the hearing and talked directly with Senator Bennet, thanking him for the kind words he said on the floor of the U.S. Senate last March in memory of the late Pat O'Toole, the former president of the Alliance who passed away in February. Senator Bennet, along with fellow Colorado Democrat Senator John Hickenlooper

and Wyoming Republican Senators John Barrasso and Cynthia Lummis delivered a tribute to Mr. O'Toole that lasted over twenty minutes. Earlier in the month, I participated in a meeting in Klamath Falls (OREGON) where local ag leaders met with Senator Merkley, who has been a strong advocate in support of funding for Farm Bill watershed programs that farmers in the Klamath Basin and other parts of the West utilize.

c. Recent Intel

The WACC met two weeks ago to share the latest info on the Farm Bill. Lobbyists from ag and conservation groups shared their observations, the day after the presidential debate, which sent many Democrats reeling. The lobbyists in DC felt that the debate performance gave the Republicans some significant leverage. Prior to the debate, some rank-and-file Democrats - anticipating that they would win the House majority in November - quietly stated that they'd rather wait to pass a farm bill until 2025 when they believe they'll have the House majority and, therefore, more leverage to include their own priorities on climate and nutrition. But Democrats are growing anxious in the wake of President Biden's disastrous debate performance. This could sidetrack some House Ag Democrats' plans to wait to seriously negotiate a farm bill until next year, with new trouble facing their plans to retake the House.

In Congress, the "four corners" can refer to one of two groups: the House Speaker, House Minority Leader, Senate Majority Leader, and Senate Minority Leader; or the House and Senate chairs and ranking members of a certain committee or subcommittee. Based on conversations with staff from House and Senate leadership and the House and Senate ag committees, it appears that there is only one path forward on the Farm Bill. Some combination of the eight leaders from the four corners will have to sit down later this month and negotiate the top line numbers for Commodity Credit Corporation (CCC) funding, how much to cut out of the nutrition title, and the issue of the climate sideboards on the \$20 billion in IRA funds. Efforts are apparently underway to get the two Ag Committee Chairs to have conversations after the July 4 recess. Hopefully, those discussions escalate to the House and Senate leadership four corners. Then, negotiations would continue in August and September.

This currently is seen as the only path forward for the farm bill. If agreement is not reached, we'll likely see another year long extension (to September 2025) of the 2018 Farm Bill.

11. House T&I Committee Marks Up Bipartisan WRDA Bill

The House Transportation and Infrastructure (T&I) Committee last month marked up its Water Resources Development Act of 2024 (WRDA). WRDA authorizes the U.S. Army Corps of Engineers (Corps) Civil Works Program to improve the nation's ports, harbors, inland waterways, flood and storm protection, and other water resources infrastructure. This legislation aims to enhance global competitiveness, economic growth, and community protection. Committee Chairman Sam Graves (R-MO) emphasized the bill's economic benefits, faster infrastructure project delivery, and increased accountability. Ranking Member Rick Larsen (D-

WASHINGTON) highlighted WRDA's investment in jobs, economy, flood control, and infrastructure resilience. Water Resources and Environment Subcommittee Chairman David Rouzer (R-NC) and Ranking Member Grace Napolitano (D-CALIFORNIA) stressed the bill's importance for addressing water resource needs and bipartisan support.

The House version of WRDA 2024 includes 159 new feasibility studies and 12 Corps-reviewed projects. The Committee states that they have consistently developed WRDA legislation on a bipartisan, biennial basis since 2014, ensuring congressional input into Corps projects. The Senate Environment and Public Works (EPW) Committee has already marked up their version of WRDA 2024. Now, the full House and Senate must pass both individual WRDA bills. This will be followed by a Conference process to determine the final legislative language that will be included in the bill. The Conference version of the bill will need to pass both the House and Senate again before being sent to the President's desk for signature.

12. Legislation Hearing on Draft ESA Reauthorization and Reform Bill

The House Natural Resources Committee, Subcommittee on Water, Wildlife and Fisheries is conducting a legislative hearing tomorrow (July 9) on a discussion draft bill that would reauthorize and reform the ESA. Subcommittee staff approached us to provide feedback on the bill and suggest potential witnesses. The Subcommittee made a great choice: Mauricio Guardado (who serves on our Advisory Committee) will represent the United Water Conservation District at the hearing. The final document includes our suggested language on environmental baseline issues. Subcommittee staff decided to hold the hearing on the discussion draft as opposed to having the bill already introduced, so they can make adjustments to the text post-hearing.

13. Forest Health Legislation

In recent years, a priority initiative for the Family Farm Alliance has been to continue advocating for active forest management in federal Western watersheds and better quantifying watershed health improvements associated with these and other water conservation actions. Western wildfire disasters are becoming an annual occurrence and underscore the importance of improving on-the-ground management actions that can lead to improved forest health. The Alliance believes a responsible level of continuous fuels reduction includes a combination of robust mechanical thinning and prescribed fire. This can be employed to significantly reduce evapotranspiration, tree stress, disease and pest infestation, preserve healthy forest conditions, and protect species and habitats. In a year where extreme temperatures are expected to trigger widespread wildfires, Congress is taking action to promote more active management of the nation's federal forest lands.

a. Fix Our Forests Act

The House Committee on Natural Resources recently passed the bipartisan *Fix Our Forests Act* (FOFA). Chairman Bruce Westerman (R-Ark.) and U.S. Rep. Scott Peters (D-CALIFORNIA) introduced FOFA to address the 117 million acres of federal forests that are overgrown and at a

high risk for catastrophic wildfire. This bill is intended to support active and responsible management of federal lands with the best available technology and science, consistent with the Alliance position of forest management for the past decade. The bill is intended to:

- Promote federal, state, tribal and local collaboration
- Improve community resilience to wildfire and incentivize new research
- Manage frivolous and burdensome litigation that often delays critical forest management projects
- Apply state-of-the-art science and tools to treat forests at the highest risk of wildfire
- Encourage active management to protect powerlines and other critical infrastructure

b. Nullifying Executive Order 14072

The Biden Administration last month advanced a proposal from the Forest Service to amend all 128 forest land management plans to “better steward old-growth forests across the entire National Forest System”. The plan would [restrict logging](#) within old-growth forests, with exceptions that include cutting trees to make forests [less susceptible to wildfires](#). In response, Reps. Dan Newhouse (R-WASHINGTON), Doug LaMalfa (R-CALIFORNIA) and Tom Tiffany (R-WI) introduced legislation to nullify President Biden’s Executive Order 14072 and prevent the Forest Service from finalizing the Old-Growth Amendment Plan’s draft Environmental Impact Statement. Full text of the bill can be found [here](#).

IN THE COURTS

14. Supreme Court Overturns *Chevron* Deference In *Loper* Decision

The U.S. Supreme Court has overturned the *Chevron* doctrine, a significant 1984 decision that required courts to defer to EPA and other agencies’ “reasonable” interpretations of ambiguous statutory language. This move, celebrated by conservatives, argues that the *Chevron* doctrine granted the executive branch excessive power over judicial review. The 6-3 decision in the cases of *Loper Bright Enterprises v. Raimondo* and *Relentless v. Raimondo*, authored by Chief Justice John Roberts and supported by the court’s conservative bloc, mandates that courts independently interpret statutes without deferring to agency interpretations just because the language is ambiguous. This change emphasizes the courts’ role in determining the “best” interpretation of statutes rather than relying on agencies’ interpretations.

The decision retains the *Skidmore* deference, where judges give “respect” to agency expertise without being bound by it. This marks a shift from *Chevron’s* more binding deference, potentially increasing legal challenges against agencies like the EPA as they defend their regulatory actions. Although previous rulings under *Chevron* remain binding, the new ruling signals a significant change in how courts will handle federal agency interpretations moving forward. Justice Elena Kagan, in her dissent joined by Justices Sonia Sotomayor and Ketanji Brown Jackson, criticized

the majority's view, arguing that this shift would not yield more consistent judicial decisions and expressed concerns over the future judicial interpretation and respect towards agency expertise. Days after nullifying the *Chevron* deference, the Supreme Court vacated judgments in nine cases and instructed lower courts to reconsider their decisions. The cases include the appeal of a South Dakota farmer in a dispute with the USDA's Natural Resources Conservation Service over whether a pond made by snow melting into a field qualifies as wetlands. General Counsel Norm Semanko will provide an update on what's happening post-*Chevron* at our July 12 joint ZOOM meeting of the board and Advisory Committee. We may discuss developing a white paper that provides case studies of how some of our members have been on the receiving end of "*Chevron* deference".

15. Texas v. New Mexico

The U.S. Supreme Court last month rejected a settlement between Western states over the management of the Rio Grande. The 5-4 decision rebuffs an agreement that had come recommended by a federal judge overseeing the case over how New Mexico, Texas and Colorado must share water from the Rio Grande. Justice Ketanji Brown Jackson, writing for the majority, emphasized the United States' distinct federal interests in the Rio Grande Compact. The ruling returns the case to Judge Michael Melloy of the U.S. Court of Appeals for the Eighth Circuit for further proceedings. The Court found that the States cannot compromise away the obvious interests that Reclamation and Elephant Butte Irrigation District (EBID) have in the federal reservoir by entering into an agreement that only involves the States. Alliance Advisory Committee member Samantha Salopek (NEW MEXICO), who filed an amicus brief on behalf of EBID and was present during oral argument before the high court, agreed. She said the States cannot settle this case without the U.S. and impacted irrigation districts. EBID essentially has a water right that is protected by the Rio Grande Compact, and something New Mexico cannot interfere with.

Much of the media coverage on the Court's decision suggests that this case could enhance the federal government's influence in future Western water negotiations, including those involving the Colorado River. Alliance General Counsel Norm Semanko and Ms. Salopek believe this case is unique to the Rio Grande Project and the outcome may not be similar anywhere else in the country. It is important to note that the United States formally intervened in the matter and had claims that could not be settled without its consent. The take home message is that while States rightly have control over the allocation and administration of water, the vested rights of federal irrigation projects – and the farmers who have contracted with Reclamation – cannot be compromised away by the States. The irrigation water rights stored in federal reservoirs must be protected.

ALLIANCE INITIATIVES

16. Alfalfa 101

As Western farmers struggle to find adequate water supplies, competing interests are pressuring the federal government to cut the water supply farmers are using to grow our food, including alfalfa, which is a foundational food chain crop. Alfalfa is important to rural communities, and it

is grown throughout the West for good reasons. With the growing disconnect between the consumers, farmers, and the agricultural processes that sustain the world, it is clear there is a need to bridge this knowledge gap and enlighten the public about the significance of farm water in our food production – including alfalfa and forage crops. That’s why the Alliance has developed a new [webpage](#) to help the public, policy makers and journalists better understand the rest of the story about alfalfa and forage production in the Colorado River Basin and other parts of the American West. This new resource features facts, reports, opinion pieces and other information generated by the Alliance, academia, and our allies in the West, including the [California Farm Water Coalition](#) (CFWC). Last month, the Northern California Water Association published and circulated a blog I wrote for them several weeks ago, which I shared with you. It was fun to write and a great opportunity to draw attention to our "Alfalfa 101" website.

WESTERN WATER “HOT SPOTS”

17. Water Rights Compromise Reached in Idaho

After weeks of negotiations between Idaho’s surface water users and groundwater districts, a compromise was reached last month that ends the potential water curtailment order from the Idaho Department of Water Resources (IDWR). The temporary agreement avoids the need to curtail water for the 2024 irrigation season to Idaho’s farmers along the Eastern Snake Plain Aquifer. Under Idaho’s prior appropriation water law, water users with senior water rights have priority over water users with junior rights. On the Eastern Snake River Plain, IDWR has administered both surface and groundwater resources together as one whole, or “conjunctively,” since 2005. Under the senior water right-holding Surface Water Coalition’ (SWC’s) water delivery call in 2005, the Director of IDWR is required by law to issue an order at the beginning of the irrigation season and again in early July determining the shortfall in senior surface water user water supplies due to the pumping impacts of junior groundwater users. When the IDWR calculates a shortfall, junior groundwater users must mitigate their impacts or be curtailed. The curtailment order was issued May 30 as part of the SWC’s ongoing delivery call after IDWR projected Twin Falls Canal Co. might sustain a water supply shortage of 74,100 acre-feet. The order would have impacted about 6,400 junior water rights in six groundwater districts that were not operating under an approved mitigation plan. The curtailment would have cut off water to about half a million acres.

ADMINISTRATIVE & MISCELLANEOUS

- Families celebrating the Fourth of July holiday continued to find stubbornly high prices at the grocery store, according to the 2024 American Farm Bureau Federation annual market basket [survey](#). An Independence Day cookout cost \$71.22 for 10 guests this year, with the grocery bill up 5% from 2023 and almost 30% from just five years ago. A \$7.12 per-person cost represents a record high since AFBF began the survey in 2013. The cookout favorites include cheeseburgers, chicken breasts, pork chops, homemade potato salad, strawberries and ice cream.

- Food prices were among the first topics discussed at the recent presidential debate. Groceries continue to remain expensive compared to pre-pandemic levels. Despite some indicators showing a strong economy, many Americans aren't feeling the boom, according to POLITICO. New [USDA data](#) show many states continue to record high payment error rates under the Supplemental Nutrition Assistance Program, the country's largest anti-hunger program, continuing a trend that began during the pandemic.
- At the request of the O'Toole family, the Alliance in March established the [Patrick O'Toole Young Conservationist Scholarship](#) in his memory. This account – which has grown to over \$12,000 - will provide funding for young farmers and ranchers to attend the Family Farm Alliance Annual Conference. The O'Toole family will host a gathering of Pat's friends, family and loved ones to celebrate his exceptional life on July 20, 2024 at Ladder Ranch, on the Wyoming-Colorado state line near Savery (WYOMING). As many of you know, Ladder Ranch is “centrally located in the middle of nowhere”, so lodging options are limited. Check back to [this page on the Ladder Ranch website](#) for more information, including lodging options, donation information and tributes.
- I've accepted an invitation to the Colorado Water Congress summer meeting and will present at “tag-team” Ted Talks-style speech with Mike Wade (California Farm Water Coalition) on food security and Colorado River irrigated ag challenges speak on an August 20 panel in Colorado Springs. I'll be back in Colorado on September 20 to speak at the Colorado River District's Annual Water Seminar in Grand Junction. And, I'll once again take part in the Legislative Roundtable Lunch at the California Agricultural Irrigation Association's Fall Meeting in Pismo Beach in September.
- Later this week, I'll be conducting an interview with [Headwaters](#) Magazine, which is running a feature story about key trends in Colorado water. I'll be weighing in on issues regarding preserving irrigated agriculture in Colorado — specifically, ways that irrigated agriculture can be beneficial to the West, and any lessons that municipal water users might be able to learn from agriculture about water use on land.

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 541-892-6244 or dan@familyfarmalliance.org if you would like further information about what the Alliance is doing to protect water for Western irrigated agriculture.