



MEMORANDUM

TO: SAN LUIS & DELTA-MENDOTA WATER AUTHORITY BOARD
FROM: DAN KEPPEL, EXECUTIVE DIRECTOR
SUBJECT: UPDATE REPORT
DATE: MARCH 4, 2024

The last week has been a tough one, coping with the loss of our friend and leader Pat O'Toole, who passed away on February 25 in Grand Junction, Colorado. He suffered a stroke at his ranch in Wyoming on February 13. Pat passed away surrounded by his family. A memorial service for Pat will be held at Ladder Ranch, likely in early July. The response this past week from those who knew Pat has been extraordinary and overwhelming. Our team here at the Alliance wanted to share with our members and those we work with a sampling of the wonderful things that people around the country have said about Pat's legacy, which were put together and shared via email on Friday. We're going to miss Pat dearly. However, the board of directors has appointed a new Second Vice-President (Paul Orme, of Arizona) who will spearhead a committee tasked with selecting a new president of the Alliance board of directors at board retreat that will take place in July in Denver.

The remainder of 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, preparing for, and hosting our 2024 annual meeting and conference, monitoring federal agency administrative proposals, engaging with Congress on new legislation, public outreach, and organizational administrative matters. These issues and other matters important to our members are further discussed in this memo.

BIDEN ADMINISTRATION

1. President Signs Stopgap Spending Bill, Averting a Partial Government Shutdown

Mark Limbaugh reports that President Joe Biden last Friday [signed](#) the "Extension of Continuing Appropriations and Other Matters Act, 2024" ([H.R.7463](#)) into law, extending government funding

at enacted Fiscal Year (FY) 2023 funding levels from March 1 to Friday, March 8, 2024, for some federal agencies and programs, and from March 8 to Friday, March 22, 2024, for others. On Thursday, the House passed the Continuing Resolution (CR) by a vote of [320-99](#), followed by the Senate, which passed the CR by a vote of [77-13](#). Congress will use the additional time to continue negotiations on final Fiscal Year (FY) 2024 spending bills at the \$1.59 trillion top-line funding level agreed to by House Speaker Mike Johnson (R-La.) and Senate Majority Leader Chuck Schumer (D-NY) in early January.

The first deadline of Friday, March 8 covers federal agencies funded under four appropriations bills: 1) Agriculture – Rural Development – Food and Drug Administration; 2) Energy – Water Development; 3) Military Construction – Veterans Affairs; and 4) Transportation – Housing and Urban Development. The remaining eight appropriations bills which need to be enacted into law by Friday, March 22 include: 1) Commerce – Justice – Science; 2) Defense; 3) Financial Services—General Government; 4) Homeland Security; 5) Interior—Environment; 6); Labor—Health and Human Services—Education; 8) Legislative Branch and 9) State—Foreign Operations.

As the next deadline for a potential shutdown looms large for next Friday, March 8, Speaker Johnson shared plans that the House will combine the four spending bills with agency and department funding authorizations expiring on March 8, in addition to the Commerce-Justice-Science and Interior-Environment spending bills, as part of one “minibus” package, allowing the House and Senate to vote on all six bills at once during the week of March 4. It is expected that the remaining six FY24 spending bills which face a March 22 deadline will also be packaged together as a second minibus package and will likely be considered by the House and Senate during the week of March 18.

We just (Sunday afternoon) received the text of the six-bill package of FY 2024 spending bill, including Energy and Water. Of interest to the Alliance are the following provisions in addition to non-conflicting language in the Senate and House reports:

- Rep. Valadao *WATER for California Act* was NOT included in the final bill text as per the House version;
- WIIN Act received another \$134M for grandfathered storage projects;
- San Joaquin Settlement Fund (zeroed out in the House bill) was reinstated at \$20.5M;
- WaterSMART funding was bumped up to \$54M, Drought up to \$30M and Title XVI recycling program to \$30M.

In the House, the chamber must pass the bill with a two-thirds majority, meaning Republicans will need votes from Democrats to pass the package.

2. Appointment: New Acting EPA Water Chief

Bruno Pigott, the Principal Deputy Assistant Administrator for Water at the Environmental Protection Agency (EPA), on March 1 stepped into the role of the EPA's top water official,

succeeding the outgoing Assistant Administrator, Radhika Fox. Mr. Pigott, who joined the EPA's water office in December 2021 following a lengthy tenure at the Indiana Department of Environmental Management, will initially serve in an acting capacity. Mr. Pigott's experience as a former state regulator and his leadership roles within environmental organizations have garnered praise from colleagues and industry insiders, who see him as a well-suited candidate to navigate the complexities of water policy, but it remains uncertain if the White House intends to nominate him for a permanent role, a move that would require Senate confirmation. Ms. Fox was hired by Xylem to advise the company on water challenges, including dealing with “forever chemicals” in water supplies and reducing greenhouse gas emissions in the sector.

3. Department of Interior (DOI), U.S. Fish and Wildlife Service (USFWS): Refuge Rule

USFWS has proposed a regulation ([2024-02076.pdf](#)) that would establish a policy to prohibit farming and grazing on public lands in the national wildlife refuge system, unless new, extra-statutory criteria are satisfied. This proposal is an update of a policy issued during the last week of the Clinton Administration, and targets, and points to the elimination of longstanding and widespread agricultural practices on those public lands. USFWS later on Friday notified our friends at American Farm Bureau that the comment period for the proposed regulation is being extended by 60 days. They also said they are happy to take these 60 days to do meetings with interested parties. So, the Family Farm Alliance final letter to USFWS won't be wrapped up today, as originally planned. We will urge anyone who works closely with federal wildlife refuges to develop letters of their own.

4. DOI, Bureau of Reclamation (Reclamation): IJA Implementation

The Alliance helped lead nation-wide coalitions in support of Congressional action to advance the IJA and the IRA. The IJA includes \$8.3 billion for Reclamation, as part of a proposal advanced by over 230 water, ag and urban organizations. That coalition was led by a steering committee that included the Alliance, Association of California Water Agencies (ACWA) , California Farm Bureau Federation, National Water Resources Association (NWRA) and Western Growers. The IJA investment will repair aging water delivery systems, secure dams, complete rural water projects, and protect aquatic ecosystems. The Alliance now wants to ensure that most of these dollars would be spent on-the-ground for the intended purpose. Over the past two years, we worked with a subset of Reclamation leadership, led by the Commissioner’s office, to find ways to make implementation of the IJA - particularly the Aging Infrastructure Account (AIA) and the WaterSMART program - more efficient and responsive to water user concerns.

a. Directives & Standards (D&S)

As previously reported, Reclamation last week and this held (and will hold) public outreach workshops on two important draft D&S out for public review. Last Wednesday, at the request of the Alliance, Reclamation hosted a public outreach session on CMP 08-01 (Capital Investment and Repair Needs). Comments are due March 15. Our comment letter will focus primarily on what

Mark Limbaugh brought up in the webinar. We were concerned when Sen. Barrasso teed up the *Transparency Act* provisions 5 years ago that Reclamation would release all information on transferred work extraordinary maintenance (XM) projects they believe are high priority, with the contractor not being able to afford the work. This presents potential liability for those contractors. That's what Reclamation appears to be doing now. Here are the slides from Wednesday's session: [Feb 28, 2024 CMP 08-01 Public Outreach Session Slides](#). Reclamation will host another webinar on PEC 05-03 (Funding and Extended Repayment of XM Costs) to review the current proposed revisions to the directive and standard on March 6, 2024, at 2 pm MST. [Click here to join the meeting](#), or call in (audio only) [+1 202-640-1187,,216657827#](#). The proposed Directive and Standard is available at www.usbr.gov/recman.

5. Army Corps of Engineers (Corps): Proposed ASPs for Implementation of PR&Gs

The Corps have [proposed a rule](#) establishing Agency Specific Procedures (ASPs) for the Corps' implementation of the Principles, Requirements, and Guidelines (PR&Gs) for federal water resources investments. It provides a framework to govern how the Corps would evaluate proposed water resource investments, including identification of which Corps programs and activities are subject to the Principles, Requirements, and Guidelines. The Corps is proposing this rule in response to congressional direction provided in authorizing language in the Water Resources Development Act (WRDA) of 2020. Comments must be received on or before April 15, 2024. For more information, see [Federal Register :: Corps of Engineers Agency Specific Procedures To Implement the Principles, Requirements, and Guidelines for Federal Investments in Water Resources](#).

6. EPA: New Office to “Expand Opportunities” With Ag and Rural Communities

EPA on March 1 announced that it was establishing a new office to expand engagement opportunities with agricultural and rural communities. The creation of the first-ever EPA Office of Agriculture and Rural Affairs was announced by EPA Administrator Michael Regan and U.S. Secretary of Agriculture Tom Vilsack while delivering remarks at the 2024 Commodity Classic in Houston, Texas, the largest farmer-led annual convention in the country. The new office will be led by Rod Snyder, who has served as Administrator Regan's Senior Advisor for Agriculture since October 2021. The new office will expand on the work of the Ag Advisor and increase coordination with a network of existing agriculture policy advisors located in all ten EPA regional offices across the country.

In close coordination with EPA's program offices and regions, the office will “forge practical, science-based solutions that protect the environment while ensuring a vibrant and productive agricultural system”. Additionally, the new office will facilitate closer coordination with relevant federal and state partners such as the U.S. Department of Agriculture, U.S. Food and Drug Administration, and state departments of agriculture. The office will also house EPA's existing Farm, Ranch and Rural Communities Federal Advisory Committee. Please visit the [Office of Agriculture and Rural Affairs website](#) for more information.

7. U.S. Department of Agriculture (USDA)

a. U.S. Forest Service: Wildfire and Forest Health

Agriculture Secretary Tom Vilsack last month announced that nearly \$500 million will be invested to expand work on the [USDA Forest Service's Wildfire Crisis Strategy](#) to reduce risk to communities, critical infrastructure and natural resources from the nation's ongoing wildfire crisis. USDA has announced that approximately \$400 million of the IRA and IJA funds will be allocated to ongoing efforts on the [21 designated priority landscapes](#) identified in the strategy, making the total investment to date \$1.6 billion. An additional \$100 million will be allocated under a new program established by the Forest Service - [the Collaborative Wildfire Risk Reduction Program](#) - to expand work outside these landscapes. Inspired by past example and success of programs such as the [Collaborative Forest Landscape Restoration Program](#), the new program expands work in high-risk wildfire areas outside the 21 priority landscapes.

In January 2022, the Forest Service [launched the Wildfire Crisis Strategy](#) with the goal of safeguarding communities and the resources they depend on by increasing hazardous fuels treatments to reduce wildfire risk. This work includes the treatment of more than a million acres across the 21 priority landscapes that is beginning to reduce wildfire risk for some 550 communities, 2,500 miles of power lines, and 1,800 watersheds that supply drinking water to millions of Americans. The Forest Service claims that in 2023 - working with a wide range of partners, communities, and Tribes - accomplished more than 4.3 million acres of hazardous fuels reduction, including nearly two million acres of prescribed burning, on national forests and grasslands across the nation - both are record highs in the agency's 119-year history and over a million acres more accomplished than the previous year.

The recent effort to confront the wildfire crisis in the Western U.S. is making the Klamath River Basin the largest of 11 new landscape designations for extra support. The new landscapes range in size from 285,000 to the Klamath River Basin's 10,000,000 acres. USDA says that acreage spans across the Oregon-California state line where the U.S. Forest Service manages about 55% of that landscape which "generate 80 percent of the mean annual surface water supply to the Klamath River." It also includes parts of five national forests.

b. USDA Climate Initiatives

The Alliance continues to engage and discuss potential effects and impacts of climate change in the West, building upon the interest created by the 2007 Alliance report on climate change and active engagement addressing climate change on Capitol Hill and three administrations. Through involvement with Solutions from the Land and the Steering Committee of the North American Climate Smart Agriculture Alliance (NACSAA), the Alliance has been monitoring United Nations (U.N.) global climate talks over the past several years and bringing the voice of North American producers and land managers to the discussion table. The U.N., mainstream media and many Democrat leaders continue to place high priority on climate change initiatives.

i. Carbon Markets

USDA last week published the report, Intent to Establish the [Greenhouse Gas Technical Assistance Provider and Third-Party Verifier Program](#) (PDF, 248 KB), authorized under the Growing Climate Solutions Act (GCSA). The GCSA was signed into law on December 29, 2022, as part of the Consolidated Appropriations Act of 2023. This report justifying the Secretary's intent to establish the program follows USDA's earlier publication of [A General Assessment of the Role of Agriculture and Forestry in U.S. Carbon Markets](#), which found that voluntary carbon markets offer a promising tool to achieve greenhouse gas reductions from the agriculture and forest sectors and support producer livelihoods. By adopting science-based practices to reduce emissions or sequester carbon on their land, private landowners can access a new income stream through carbon credit sales while also combatting climate change.

The new report explains how the Greenhouse Gas Technical Assistance Provider and Third-Party Verifier Program will facilitate farmer, rancher, and private forest landowner participation in voluntary carbon markets. USDA will work towards formal establishment of the program in 2024, following the release of the report and additional preparatory steps, as outlined in the authorizing legislation. As a first step, USDA will soon solicit information on protocols to be evaluated for inclusion in the list to be published as part of the program. As well as seeking public input, USDA will establish the charter for the program's advisory council and seek membership nominations in Summer 2024.

ii. EU Farmers Push Back on Climate Mandates

In recent weeks, farmers across the European Union (EU) have protested heavy-handed climate and biodiversity measures that are harming their livelihoods and strangling them with red tape. Thousands of farm tractors and heavy equipment blocked traffic in capitals across Europe, including hundreds that disrupted the EU summit in Brussels last month at a volume that kept some leaders away at night. The disruption triggered reactions from politicians at national and EU level: they committed to rolling back policies, some of them years in the making, on everything from the use of pesticides to limiting the amount of manure that could be spread on fields. A nature restoration law which was seen as another element in the Green Deal aspiration was also watered down to appease farmers before it went to a final legislative. And at a national level, politicians have been bending the same way, from France to Spain and Belgium. (GREENWIRE).

At a hearing of the House Agriculture Committee last month, Secretary Vilsack became embroiled in a debate with Rep. Mary Miller (R-Ill.) over the mandated climate measures in Europe and those in the U.S., where USDA programs on climate change and agriculture are based on voluntary conservation programs. The reason farmers in Europe are upset about climate change regulations is that the system there is mandatory, Secretary Vilsack said.

DEVELOPMENTS IN CONGRESS

8. 2023 Farm Bill

The farm bill is an omnibus, multiyear law that is typically renewed about every five years. The House leadership chaos of January 2023 had wide implications for the farm bill — including holding up work on the bill and complicating its eventual path to passage. Given the delays from the debt ceiling and appropriations negotiations, lawmakers have yet to release the draft text of the Farm Bill legislation in both chambers. Key topics of debate between Democrats and Republicans include SNAP (food stamp assistance) and funding levels for climate change and rural energy programs.

a. Food Aid Funding, Conservation Disputes Raise Farm Bill Stakes

The prospects for the 2024 Farm Bill remain uncertain as deep divisions between Democrats and Republicans over key priorities like nutrition, conservation, and funding were evident in a recent House Agriculture Committee hearing. Chairman Glenn "GT" Thompson (R-PA) pledged Republican support for bolstering the farm safety net while maintaining conservation and nutrition benefits, including Supplemental Nutrition Assistance Program (SNAP – formerly known as food stamps). However, Democrats, led by Rep. David Scott (D-GA), are adamant against any cuts to SNAP and resist GOP efforts to redirect climate-friendly conservation funding. Agriculture Secretary Tom Vilsack defended the Biden Administration's priorities, advocating for a more consistent funding stream for disaster assistance and opposing efforts to divert funding from climate law provisions in the IRA. Despite the challenges, Chairman Thompson remained committed to advancing the bill this year, emphasizing bipartisan opportunities for funding shared priorities without compromising SNAP benefits or essential conservation programs. However, significant hurdles, including a tight legislative calendar and partisan disagreements, may impede progress towards the passage of a comprehensive Farm Bill in the 118th Congress.

b. WACC Meeting in Reno

Once again, the Alliance has worked closely on this with its partners in the Western Agriculture and Conservation Alliance (WACC) on the next Farm Bill. The Alliance and many of its members are strong supporters of the NRCS Watershed and Flood Prevention Operations Program (WFPO, often referred to as the "PL-566" Program). We held our 12th annual WACC meeting on Saturday, February 24, under a cloud of sadness for Pat O'Toole's illness and subsequent death. Our focus was on our Farm Bill strategy and in particular determining what should be our next steps in the House. We learned that the Farm Bill Conservation Title is cooked, meaning that the House and Senate have agreed on the substantive provisions of the Committee bill. The next opportunity to amend it is when the bill goes for a committee markup, and individuals can try to get the committee to adopt an amendment. House Ag Committee staff strongly believe the Committee's bill will be available for floor action before the end of the summer.

9. America's Wildlife Habitat Conservation Act

Last week, House Committee on Natural Resources Chairman Bruce Westerman (R-Ark.) rolled out H.R. 7408, America's Wildlife Habitat Conservation Act (AWHCA), intended to restore and maintain habitat for America's wildlife. While the Alliance generally supports the provisions in H.R. 7408, we have grave concerns over the choice of offsets used to pay for authorized spending in the bill, namely by clawing back significant funding from Bureau of Reclamation (Reclamation) accounts provided by the bipartisan "*Infrastructure Investment and Jobs Act of 2021*" (IIJA – P.L. 117-58). The bill rescinds \$700M from aging infrastructure account and \$50M from aquatic ecosystem restoration, as well as unobligated funds (\$25m) from the solar over canals provision of the IRA (\$25M), the NOAA funds, and Council on Environmental Quality (CEQ) funds. While this likely will not go anywhere, it's disturbing that our allies in the House Resources Committee want to rescind funding from our \$8.3B BOR funding efforts...especially the aging infrastructure account. We're working on brief, draft testimony for next week's hearing on this bill that makes that point, while we continue to work with committee staff and our allies to determine why those important funds were targeted.

10. House WWF Subcommittee Holds Heated Hearing on ESA / Other Bills

During a hearing last month before the House Natural Resources Subcommittee on Water, Wildlife and Fisheries, members engaged in heated debate over the Endangered Species Act (ESA), particularly focusing on [H.R. 6784](#), a bill introduced by Rep. Pete Stauber (R-MN). Rep. Stauber argued that the ESA is flawed and emphasized concerns regarding the uplisting of species like the northern long-eared bat. His bill aims to increase flexibility in regulations, particularly regarding the "take" of threatened and endangered species. However, Democratic members, including Subcommittee Ranking Member Jared Huffman (D-CALIFORNIA), criticized Stauber's bill, arguing that it would undermine species conservation efforts. The hearing briefly considered other bills, such as [H.R. 6854](#), supported by both Republicans and Democrats, which focuses on habitat enhancement for ducks, and [H.R. 7157](#), authored by Rep. John Duarte (R-CA), aimed at easing import regulations for wood products. The USFWS opposed several of these bills, including Stauber's and Duarte's, citing concerns about the impact on species conservation efforts.

11. Drought/Title Transfer/Fish and Wildlife Bills Passed by the House

Last month, eight bills from the House Committee on Natural Resources passed the U.S. House of drought in the West. The legislation is coming up under suspension of the rules, a way to fast-track noncontroversial measures. Bills that passed include (among others):

- [H.R. 4385](#), the "*Drought Preparedness Act*," from Reps. Joe Neguse (D-COLORADO) and Juan Ciscomani (R-ARIZONA), to reauthorize the *Reclamation States Emergency Drought Relief Act* through 2028.

- [H.R. 3415](#), by Rep. Harriet Hageman (R-WYOMING), to provide for the eventual conveyance of the federally owned Butte power plant to the Midvale Irrigation District located in Pavillion, Wyoming.
- [H.R. 5009](#), by Rep. David Joyce (R-OH), to reauthorize the *Wildlife Innovation and Longevity Driver Act*. Among other provisions, it would extend program we strongly support - the Partners for Fish and Wildlife Program, which funds wildlife and habitat conservation nationwide.

12. House T&I Committee Passes Water Permitting, Pesticides Bills

The House Transportation and Infrastructure (T&I) Committee has passed the "*Creating Confidence in Clean Water Permits Act*" in the by a party-line vote of 32 to 30. Sponsored by Water Resources and Environment Subcommittee Chair David Rouzer (R-NC), the legislation, [H.R. 7023](#) aims to make significant changes to the permitting process for energy, mining, and manufacturing projects affecting wetlands and waterways. T&I Democrats raised objections to the legislation, expressing concerns about the potential threat to water quality while Republicans argued that the bill would ensure efficient and timely permitting for important projects. The bill includes measures restricting the EPA's ability to veto Corps Clean Water Act (CWA) permits, limiting litigation time, and shielding permittees from liability. Amendments, including one directing EPA and the Corps to provide more guidance after a landmark Supreme Court ruling on wetlands in *Sackett v. EPA*, were approved. Additionally, the committee voted on a bill clarifying previously approved pesticides from needing CWA discharge permits, and approved a bipartisan bill focused on wildfire recovery and FEMA. The House may take up H.R. 7023 on the floor soon.

13. Senate Bill Would Authorize Enhanced Corps' Drought Programs in the West

Senator Mark Kelly (D-ARIZONA) is spearheading the development of the "*Drought Resilient Infrastructure Act*," aimed to authorize the Army Corps of Engineers to further address prolonged drought conditions affecting the Western United States. The legislation, to be introduced when Congress returns from recess, would establish new programs within the Army Corps and expand its mandate to undertake projects focused on combating Western drought. Senator Kelly, Chairman of the Environment and Public Works (EPW) Subcommittee on Transportation and Infrastructure highlighted the importance of providing necessary support to Arizona communities through this proposed legislation.

The bill aligns with broader efforts to address water supply challenges within the framework of the WRDA. The proposed legislation aims to mitigate water losses by empowering the Army Corps to factor in drought conditions when managing water resources, thus optimizing water usage and conservation efforts. The House has already passed related legislation, [H.R. 4385](#), the "*Drought Preparedness Act*" for the Bureau of Reclamation, indicating bipartisan recognition of the urgency of addressing drought concerns. Drafts of the upcoming WRDA are anticipated in the spring, with committee leaders evaluating project proposals for potential inclusion. Sen. Kelly's

efforts also complement similar legislative efforts by Representatives Grace Napolitano (D-CA) and Susie Lee (D-NV).

14. More WRDA

On February 28, the Senate EPW Committee held a hearing focused on steps the Corps has taken to implement prior WRDA provisions. In his opening remarks, Chairman Tom Carper (D-DE), identified consistent themes of the more than 1200 Senators' requests for consideration in WRDA 2024 which included affordability, flexibility, and concerns about climate change. He noted that the past several authorizations have included changes to Corps policy to address these issues, but that implementation is taking longer than expected. Assistant Secretary Michael Connor and Chief Engineer Lt. General Scott A. Spellman testified on several WRDA implementation actions including: (1) progress on establishing federal advisory groups; (2) issuing a proposed rule to establish ASPs for the Corps' implementation of the PR&Gs for water resources investments; (3) establishing the Army Civil Works research and development program; and (4) the authorization of 25 construction projects, 94 feasibility studies, and 131 new environmental infrastructure projects.

15. HYDRO Act of 2024

Last month, we sent a letter to key Senate and House committees in support of the bipartisan, bicameral HYDRO Act of 2024, legislation that is critical to mitigate significant drought impacts for federal hydropower customers in Arizona and across the Colorado River Basin. This bill would ensure that Hoover, Parker-Davis, and Colorado River Storage Project hydropower ratepayers are not responsible for covering certain non-power costs associated with these federal facilities when they face significant reductions in power production and delivery. Without this legislation, hydropower customers will essentially be forced to pay for power they are not receiving, along with a significant portion of costs that benefits other stakeholders. At the same time, they will also confront the massive additional costs to replace lost federal hydropower deliveries in a very difficult and expensive power market. The Alliance fully supports this legislation, as we did in the 117th Congress.

16. Watershed Protection and Forest Recovery Act

On February 8, Senators Mitt Romney (R-UTAH) and Michael Bennet (D-COLORADO), along with Representatives Celeste Maloy (R-UTAH), John Curtis (R-UTAH), Joe Neguse (D-COLORADO) and Yadira Caraveo (D-COLORADO), introduced the *Watershed Protection and Forest Recovery Act* (S. 3760 and H.R. 7294). The bill would help communities protect their water supply after natural disasters on U.S. Forest Service (USFS) lands. The bill directs the creation of a new Emergency Forest Watershed Program, a dedicated funding source for the protection of downstream water resources. It authorizes USFS agreements with project sponsors who would assume the risks, waives matching requirements, and classifies the work as emergency response actions under the National Environmental Policy Act.

IN THE COURTS

17. Texas, Idaho File Lawsuit Over Biden Administration’s Revised WOTUS Rule

Two Republican-led states, Texas and Idaho, have filed a motion urging a federal court in Texas to immediately dismiss the Biden Administration's revised CWA “waters of the U.S.” (WOTUS) rule, arguing that it still exceeds the agencies' authority and does not comply with the Supreme Court's decision in *Sackett v. EPA*. The Supreme Court's 2023 landmark ruling placed new limits on the EPA and the Army Corps of Engineers' authority to protect wetlands under the CWA, stating that wetlands must have a "continuous surface connection" to a relatively permanent waterway to be considered a WOTUS and require a federal CWA permit. The agencies had revised the WOTUS rule to align with the *Sackett* decision, but Texas and Idaho, along with other Republican-led states, remain dissatisfied with the revisions and are seeking a court ruling to block the revised rule and tell the agencies to start the rulemaking process over. The states argue that the revised rule continues to leave individuals uncertain about federal jurisdiction under the CWA.

ALLIANCE INITIATIVES

18. 2024 Annual Conference

The 2024 Alliance Annual Conference took place two weeks ago in Reno (NEVADA). While the conference set another attendance record, the mood in Reno was somber and Pat O’Toole’s absence was keenly felt and noted by many of those who spoke at the event. First Vice-President Schwindt and Alliance Second Vice-President Paul Orme (ARIZONA) will lead a committee set up by the board of directors to select the next Alliance president. In the meantime, Mr. Schwindt will oversee Alliance business and lead board meetings. The special conference addition of our “Monthly Briefing” – due out in the coming week - will feature more coverage from the event.

19. Colorado River Initiative

The Colorado River is a vital water resource in the southwestern United States and northwestern Mexico. It irrigates nearly 5.5 million acres of farmland and sustains life and livelihood for over 40 million people in major metropolitan areas. The Colorado River provides water to two countries, seven western states, 30 Tribal Nations and 40 million residents. It is currently experiencing the longest and worst drought on record, driven by hotter temperatures under climate change. Efforts continue across the Colorado River Basin to find ways to stabilize water storage volumes in Lakes Powell and Mead. Reclamation and water agencies are working to take extraordinary actions to protect the River System. A recent [Reclamation study](#) found that an average of 1.3 MAF of water is lost annually as it evaporates between Lake Mead and Mexico.

Despite the diversity of Colorado River policy opinions within its membership, the Alliance board of directors in 2015 and again in 2022 adopted principles and recommendations intended to guide

state and federal decision-makers as they negotiate a long-term operating agreement on the Colorado River. The 2022 policy paper – which has also been adopted by several water agencies served by the Colorado River– has as its top principle the need to “recognize that Western irrigated agriculture is a strategic and irreplaceable national resource”.

a. States Go Separate Ways on Colorado River Post-2026 Ops Plans

Negotiations among the seven states that share the drought-stricken Colorado River have stalled ahead of a March target date to propose new operating plans for the waterway, as officials split over which states should absorb the brunt of cuts triggered by the region's ongoing drought. The states — Colorado, New Mexico, Utah and Wyoming in the Upper Basin and Arizona, California and Nevada in the Lower Basin — are now expected to submit separate plans to the Biden administration early next month, rather than a single cohesive plan, according to representatives of states from both regions. The split lands the Interior Department in a precarious position as it moves to update its long-term operating plan for the Colorado River, which must be in place when current plans expire in 2026. State officials had been working toward a March goal of submitting their plans, but the date is not an official deadline. The timing would allow the National Environmental Policy Act process to move ahead as quickly as possible, with a final plan in place by early 2026 (*GREENWIRE*).

NEWS FROM AROUND THE WEST

20. Columbia River Basin (ID/OR/MT/WA)

a. Judge Stays Legal Battle Over Pacific NW River Management for 5 Years

The Biden Administration has successfully secured a five-year stay in a longstanding litigation concerning the operation of 14 federally owned dams in the Columbia River Basin in the Pacific Northwest. The decision, issued by U.S. District Judge Michael Simon, allows for the implementation of a \$1 billion settlement agreement aimed at safeguarding the region's salmon and steelhead trout populations. The agreement involves the White House, several tribal nations, and the states of Oregon and Washington. Despite objections from opponents, including the states of Idaho and Montana, as well as industry groups such as Northwest RiverPartners and the Public Power Council, Judge Simon upheld the stay, emphasizing that the court is not passing judgment on the settlement itself.

GOP lawmakers have expressed concerns about the potential removal of four dams on the Lower Snake River, citing their importance for hydroelectric power, flood control, and transportation. Washington Rep. Dan Newhouse led a cadre of Northwest Republicans in their pledge to protect the lower Snake River hydropower system by introducing anti-dam breaching legislation in late January. The bill - the *Defending Against Manipulative Negotiators Act* - would forbid the use of federal funds to breach or alter the four lower Snake River dams. It also blocks federal money from being used to implement the Columbia Basin Restoration Initiative. However, environmental

organizations, represented by Earthjustice, have welcomed the ruling, viewing it as a crucial step towards the restoration of Columbia River salmon runs.

Our policy and communications consultant, Todd Ungerecht, moderated a great panel discussion at our recent conference on this topic, which included Doc Hastings, the past Chair of the House Committee on Natural Resources, Paul Arrington (Executive Director, Idaho Water Users Association), Scott Corwin (President and CEO of the American Public Power Association), and Chris Voigt (Washington State Potato Commission).

21. Klamath River Basin (CALIFORNIA/OREGON)

On February 15, the Klamath River Renewal Corporation (KRRC) announced the completion of the initial drawdown phase in the timeline for the Klamath Dam removal. The draining process for the Iron Gate, Copco, and JC Boyle reservoirs has allowed restoration crews to begin revegetation seeding work on the 2200 acres of exposed reservoir area. The facilities are expected to refill during spring runoff as the river retraces a path through the reservoir footprints. KRRC plans to begin demolition of Iron Gate, Copco, and J.C. Boyle Dams in May. They plan to breach the cofferdams for each dam in August, reconnecting Klamath river flows permanently.

Klamath Water Users Association (KWUA) has signed a memorandum of understanding (MOU) with the Klamath Tribes, the Yurok Tribes, the Karuk Tribes (Tribes), and DOI to further the common goals of achieving sustainability and resilience for the Klamath Basin. The MOU sets out a plan to identify and seek funding for restoration projects and other efforts to improve water quality, stability and reliability. There are many laws and initiatives at the state and federal levels, including the IJA and IRA, that have created sources of significant funding for restoration activities and efforts to address water supply challenges. To leverage these resources, all participants agree to meet within the next 30-days to identify restoration projects that can be started and finished within two years using existing federal or state funding. Then within 60 days, the group will send to the Departments of Interior, Commerce and Agriculture a joint letter identifying the prioritized projects. The MOU was signed by Interior Secretary Deb Haaland on January 29.

22. Willamette Valley (OREGON)

The editors of *Capital Press* over the past weekend opined on a recent court-ordered drawdown of two Oregon reservoirs in the Willamette River watershed, meant to improve passage through two dams for endangered spring chinook and winter steelhead. Instead, the actions left a “path of destruction” in their wake. The Army Corps was forced to empty the Green Peter and Lookout Point reservoirs by a September 2021 federal injunction, the result of a lawsuit filed by environmental groups. Within weeks, the South Santiam River below Green Peter Reservoir was choked with dead fish, drinking water was tainted, some residents’ wells dried up and the region lost tourism dollars, officials said. When reservoirs dropped, kokanee and trout were flushed through dams and killed by the rapid and extreme change in water pressure. And when the reservoirs were drawn down, boaters and other tourists stopped coming to the lakes, hurting local

businesses. “Were the intended fish actually helped?,” *Capital Press* asked. A Corps scientist said it isn’t clear — and won’t be for years.

ADMINISTRATIVE & MISCELLANEOUS

- Rep. Cathy McMorris Rodgers (R-WASHINGTON) has announced that she will not run for Congress again. She has been a good ally on many issues we’ve engaged on over the years.
- The number of farmers in the U.S. continues to tumble as the industry consolidates, the latest figures from USDA show. The USDA said its five-year [Census of Agriculture](#) showed the biggest five-year decline in number of farmers since at least 2000, which Agriculture Secretary Tom Vilsack said highlights the need to do more to help medium-sized and small operations. If the U.S. keeps hemorrhaging farms as it has over the past four decades, far more than its rural economies will be threatened, he said. State and county profiles are forthcoming, and additional data on specific topics such as irrigation and aquaculture will also follow later this year. (*E&E News PM*).
- Americans are spending more than 11% of their disposable income on food — the highest level in 30+ years, matching 1991, *The Wall Street Journal* [reports](#). Groceries and restaurants are both getting more expensive. This measure could help explain why Americans [feel badly](#) about the economy, despite [promising signs](#) for the nation as a whole. Prices [ticked up again](#) in January, even with overall inflation cooling.
- Registered voters in the West are worried about the future of the region's landscapes, along with air and water quality, but are not as concerned about climate change or oil and gas development hurting the environment, according to a recent annual bipartisan survey. Colorado College's 14th annual ["Conservation in the West" poll](#), which surveyed nearly 3,400 registered voters in eight states, found that 67 percent of respondents answered that they are “worried” when they “think about the future of nature, meaning our land, water, air and wildlife.” But only 53 percent listed climate change as an extremely or very serious problem, while 25 percent responded that they do not consider it a problem at all. (GREENWIRE).
- Former Bureau of Reclamation Commissioner Robert W. Johnson passed away on February 3 at Barrows Neurological Institute at St. Joseph’s Hospital in Phoenix (ARIZONA). Commissioner Johnson dedicated over 35 years of service to Reclamation and the West. He is survived by his wife, Mary, two children and four grandchildren. His family has elected to mourn and celebrate him in private. In lieu flowers, friends are encouraged to donate to the National Brain Tumor Society in Bob’s honor [here](#).

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.