



---

---

**MEMORANDUM**

---

---

**TO:** SLDMWA BOARD OF DIRECTORS  
**FROM:** DAN KEPPEL, EXECUTIVE DIRECTOR  
**SUBJECT:** EXECUTIVE DIRECTOR'S REPORT  
**DATE:** OCTOBER 5, 2020

---

This memo is intended to keep you apprised as to what is happening behind the scenes on policy issues the Family Farm Alliance is engaged in. In the past month, our efforts have focused on the federal response to COVID-19, conducting our first “virtual” farmer lobbyist “trip”, tracking water and Western wildfire legislative developments in Congress, engaging in federal agency rulemaking efforts, and addressing some important administrative matters. These issues and other matters important to our members are further discussed in this memo.

**TRUMP ADMINISTRATION ACTIONS**

**1. Administration Response to COVID-19 Pandemic**

Early Friday morning, President Donald Trump and First Lady Melania Trump announced they had tested positive for the coronavirus. The President has been at Walter Reed National Military Medical Center in Bethesda, Maryland, receiving treatment since Friday afternoon. According to the President’s medical team, he may be discharged from Walter Reed as soon as today. It is still unclear how the President’s diagnosis will affect the next two presidential debates, which are currently scheduled to take place on October 15 and October 22 in Miami and Nashville, respectively. It also remains to be seen how the President’s overall reelection campaign will be impacted, especially as other members of his team, including campaign manager Bill Stepien, also receive positive coronavirus diagnoses.

a. Labor and CDV Statistics

DOL Secretary Eugene Scalia issued a [statement](#) regarding the October 2 Employment Situation Report. The report shows 877,000 private-sector jobs added back in September, but a seasonally-adjusted loss of 350,000 jobs in public and private education. The Secretary noted gains in lower-

wage jobs in retail and leisure and hospitality, and manufacturing added 66,000 jobs. According to Secretary Scalia, more than half the jobs lost from the pandemic have now been restored.

A recent Center for Disease Control (CDC) COVID-19 national ensemble forecast indicates an uncertain trend in new COVID-19 deaths over the next month and predicts that 3,400 to 7,400 new deaths will likely be reported during the week ending October 17, bringing the national total to 214,000 to 226,000. The White House continues to emphasize that the test positivity rate is down among all age groups and has fallen below 5% for the first time since the COVID-19 pandemic began. The number of hospitalized patients has decreased by 43% from the mid-July. Nationally, people sick with COVID-19 make up only 1.5% of all emergency room visits - down to the lowest number yet. And the fatality rate has fallen 85% since April, due to lifesaving therapies and treatments. Brown University conducted a study of more than 550 schools across 46 states and found that only 0.076 percent of students had confirmed cases of COVID-19 and 0.15 percent of teachers had confirmed cases. Individuals under the age of 50 have a 99.98 percent rate of survival from COVID-19.

b. Coronavirus Food Assistance Program

President Trump and U.S. Secretary of Agriculture Sonny Perdue earlier this month announced up to an additional \$14 billion dollars for agricultural producers who continue to face market disruptions and associated costs because of COVID-19. Signup for the Coronavirus Food Assistance Program (CFAP 2) will began this month and will run through December 11, 2020. The U.S. Department of Agriculture (USDA) will use funds being made available from the Commodity Credit Corporation (CCC) Charter Act and CARES Act to support row crops, livestock, specialty crops, dairy, aquaculture and many additional commodities. USDA has incorporated improvements in CFAP 2 based on stakeholder engagement and public feedback to better meet the needs of impacted farmers and ranchers. Producers can apply for CFAP 2 at USDA's Farm Service Agency (FSA) county offices. This program provides financial assistance that gives producers the ability to absorb increased marketing costs associated with the COVID-19 pandemic. Producers will be compensated for ongoing market disruptions and assisted with the associated marketing costs. Additional information and application forms can be found at [farmers.gov/cfap](https://farmers.gov/cfap). All other eligibility forms, such as those related to adjusted gross income and payment information, can be downloaded from [farmers.gov/cfap/apply](https://farmers.gov/cfap/apply).

c. Farmers to Families Food Box Program

Secretary Perdue recently announced that more than 100 million food boxes have been distributed in support of American farmers and families affected by the COVID-19 pandemic through the USDA Farmers to Families Food Box Program. Last month, USDA announced it had entered into contracts with 50 entities for the third round of food box deliveries, which include contracts to purchase up to \$1 billion authorized by President Trump.

## 2. Other White House Policy Developments

### a. Completion of Actions Under the Western Water PM

The White House Council on Environmental Quality (CEQ) last week joined the Departments of the Interior, Commerce, Energy, the U.S. Army Corps of Engineers, and the U.S. Environmental Protection Agency in announcing the completion of all actions directed by the October 2018 [Presidential Memorandum on Promoting the Reliable Supply and Delivery of Water in the West](#) (Western Water PM). Under President Trump's directive, agencies efficiently coordinated to complete the environmental reviews of major water infrastructure projects in California, Oregon, Washington, Idaho, and Montana, to meet the needs of agricultural communities and other water users within the region. The actions in the Western Water PM, which were completed in under two years, will support reliable water supplies for the American West and promote economic prosperity in the region. For more details, please see the CEQ press release [here](#). [Click here](#) to see what the Family Farm Alliance, other stakeholders, and Members of Congress are saying about this important development.

### b. New NEPA Rule

Federal Judge James Jones of the U.S. District Court for the Western District of Virginia has denied environmental groups' request in *Wild Virginia, et al. v. CEQ, et al.* to issue a preliminary nationwide injunction. If successful, the plaintiff's claims would have prevented the White House Council on Environmental Quality's (CEQ's) rule streamlining how agencies implement the National Environmental Policy Act (NEPA) from taking effect on September 14. However, there have been several legal challenges filed against the NEPA rule which are still in the courts. A coalition of 20 "blue" (Democrat) states led by California Attorney General Xavier Becerra (D) told CEQ they intend to file more claims against the Administration's controversial updates to NEPA, with their most recent complaint claiming the changes violate the Endangered Species Act (ESA).

The White House issued its new rules on NEPA in July, arguing that the guidance will streamline the permitting process for a range of infrastructure projects. The notice of intent to sue will give the states 60 days to amend a similar complaint they have pending at the U.S. District Court for the Northern District of California to include the new ESA claims. The states say CEQ didn't do its due diligence as required by the ESA when it promulgated the new rules on how NEPA should be carried out. Other lawsuits are pending at district courts in New York, Virginia and California.

Meanwhile in Congress, House Republicans on September 22 introduced a bill that would legislate the CEQ NEPA rule changes into the law. H.R. 8333, the "*Building U.S. Infrastructure through Limited Delays & Efficient Review (BUILDER) Act*," was introduced by Rep. Garret Graves (R-LA), ranking member of the House Select Committee on the Climate Crisis and several other panels. The bill would institutionalize many of the proposed NEPA changes, imposing time limits for project reviews under NEPA and making those final actions more

difficult to challenge. Earlier in the month, Sen Mike Lee (R-UTAH) introduced the Senate companion to H.R. 8333, the NEPA Agency Process Accountability Act of 2020 (S. 4591). The Family Farm Alliance last month transmitted a letter to Rep. Graves in support of the bill, and was quoted in Rep. Grave's press release.

### **3. Environmental Protection Agency (EPA): Regulatory Guidance Transparency**

EPA last month announced their final rule on regulatory guidance transparency. The final rule will significantly increase the transparency of EPA's guidance practices and will improve the agency's process for managing guidance documents. The rule, among other elements, will:

- Establishes the first formal petition process for the public to request that EPA modify, withdraw or reinstate a guidance document.
- Ensure that the agency's guidance documents are developed with appropriate review and are accessible to the public.
- Allows public participation in the development of significant guidance documents.

In October 2018, President Trump issued Executive Order 13891, Promoting the Rule of Law Through Improved Agency Guidance Documents, to promote transparency by ensuring that all active guidance documents are made available to the public. A central principle of EO 13891 is that guidance documents should only clarify existing obligations and that they should not be a vehicle for implementing new, binding requirements on American businesses. Prior to the latest EPA action, the agency in July finalized a guidance portal that provides public access to agency guidance documents. In doing so, EPA brought over 9,000 guidance documents out of the darkness and made the entire set of active guidance available to the public for the first time. To access the portal, please visit: <https://www.epa.gov/guidance>.

### **4. Department of Interior, Bureau of Reclamation**

#### **a. WaterSMART Watershed Management Grants Available**

The Bureau of Reclamation has released the [FY 2020 WaterSMART Grants: Cooperative Watershed Management Program \(Phase II\)](#). This program provides funding to implement on-the-ground watershed management projects, collaboratively developed by members of a watershed group, that will address critical water supply needs, water quality concerns, and restoration needs, helping water users meet competing demands and avoid conflicts over water. Eligible applicants are established watershed groups, and are located in the Western United States and U.S. territories. In FY 2020, approximately \$2 million is available to support up to \$300,000 per award. Awardees must also provide 50 percent or more of project costs, and cost share may be made through cash, costs contributed by the applicant, or third-party in-kind contributions. Applications are due November 17, 2020.

## b. Title Transfers

U.S. Secretary of the Interior David L. Bernhardt last month was joined by Governor of Utah Gary Herbert, U.S. Senators Mike Lee and Mitt Romney, U.S. Congressmen Rob Bishop and John Curtis and other officials as he transferred the ownership of the first two federal water facilities to local ownership under a law signed by President Trump last year. The John D. Dingell Jr. Conservation, Management and Recreation Act expedites the title transfer process for eligible federal projects, such as dams, canals, laterals and other water-related facilities. The actions convey title and full ownership of the Emery County Project in east-central Utah to the Emery County Water Conservancy District and the Uintah Basin Replacement Project in northeastern Utah to the Moon Lake Water Users Association.

Reclamation last month also notified Congress of its intent to transfer ownership of federal irrigation facilities and lands to four other local entities in Idaho and Utah. As required by the Dingell Act, those actions trigger a 90-day congressional waiting period, after which the Department will complete the ownership transfer unless the Congress enacts a joint resolution disapproving the transfers within that time period.

Title transfer is an important issue to the Family Farm Alliance. In late 1997, the organization launched an initiative to encourage Congressional action on pending project title transfer legislation. That effort was successful, and ultimately led to the historic transfer of title to the Burley Irrigation District in Idaho two years later. For several decades, approximately 1.2 transfers per year were completed. With the new Interior authority and Dingell Act provisions, six transfers will likely be completed in less than one year.

## **5. U.S. Department of Agriculture: Agriculture Innovation Agenda**

To further USDA work on the [Agriculture Innovation Agenda \(AIA\)](#), USDA this month announced it is seeking public- and private-sector input on the most innovative technologies and practices that can be readily deployed across U.S. agriculture. USDA is looking for ready-to-go technologies and practices to achieve its goal of increasing agricultural production by 40% to meet global population needs in 2050 while cutting U.S. agriculture's environmental footprint in half. To help identify and accelerate adoption of ready-to-go innovations, USDA is currently accepting public comments and written stakeholder input through its [Request for Information](#) (RFI) through November 9, 2020, which is published on the *Federal Register*. USDA emphasizes that input is welcome from the private sector, not for profits, farmers, forest sector, trade associations, commodity boards and others involved in the supply chain or development of widely applicable practices, management approaches or technologies.

The Family Farm Alliance, working with its allies in the Western Agriculture and Conservation Coalition (WACC), is formulating a letter in response to this request, which will address water technology matters, and others. Based on stakeholder input from the RFI, USDA will develop a comprehensive U.S. agriculture innovation technology strategy for our customer-facing programs.

USDA has launched a new [AIA website](#) where visitors can access information on the latest research and data, innovative conservation technologies offered via USDA programs, and other conservation resources. Visitors can also stay up to date on USDA's accountability metrics and learn about the experiences of producers who share similar paths to success.

## **DEVELOPMENTS IN CONGRESS**

The Senate is scheduled to meet today, but it may be brief after Senate Majority Leader Mitch McConnell (R-KY) said over the weekend that he will seek to “obtain a consent agreement for the Senate to meet in pro forma sessions for the next two weeks,” through October 19. The change comes amid an outbreak of the coronavirus at the White House and on Capitol Hill. Despite seeking a recess, Leader McConnell said the fast-track schedule for confirming President Donald Trump's Supreme Court nominee, Amy Coney Barrett, will not be affected by COVID-19 diagnoses of the President and Senators Mike Lee (R-UTAH), Thom Tillis (R-NC), and Ron Johnson (R-WI); Lee and Tillis both serve as Members of the Senate Judiciary Committee. Republicans are planning to hold confirmation hearings starting the week of October 12 and have a final floor vote during the week of October 26.

Senate Minority Leader Chuck Schumer (D-NY) countered that it will not be safe for the Senate to move ahead with hearings for Judge Amy Coney Barrett given the outbreak. While acknowledging that Democrats cannot block the hearings, he said Democrats plan to use “every tool in the toolbox” to try to delay a final confirmation vote. Schumer said holding the hearings would endanger senators and staff, and he dismissed virtual hearings as insufficient for a lifetime appointment that he said could cast deciding votes on ending abortion rights, protections for pre-existing health conditions and more.

### **6. COVID Response**

On Thursday evening, the House passed a trimmed down [version](#) of the HEROES Act by a vote of [214 – 207](#). No Republican Members voted for the bill, 18 Democrats voted against it, and 10 Republicans were not present. The updated HEROES Act has a price tag of \$2.2 trillion. The original HEROES Act, which was passed by the House on May 15, totaled over \$3 trillion. The House voted on the measure after negotiations with the Administration failed to produce a compromise agreement. The House is in recess until after the elections, with a scheduled return date of November 16. With negotiations continuing, it is possible the House could return to vote on a compromise bill if an agreement between Congress and the White House is reached. However, it is likely that there will be no further action related to coronavirus relief until after the elections.

The Senate last month passed the “Continuing Appropriations Act, 2021 and Other Extensions Act” (H.R. 8337), to keep the federal government funded through December 11 at enacted FY2020 levels and avoid a government shutdown. The House passed the bill earlier in the month by a vote of 359-57-1. President Trump signed the bill into law. The CR also includes one-year reauthorizations for programs that would otherwise lapse at the end of this month, including the

National Flood Insurance Program and the expiring 2015 FAST Act surface transportation bill. The bill contains no coronavirus relief provisions.

### **7. WIFIA Improvement Act**

A bipartisan group of Congressmen earlier this month, led by Rep. John Garamendi (D-CALIFORNIA) and Dan Newhouse (R-WASHINGTON), introduced the “WIFIA Improvement Act” (H.R.8217), which would amend the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA). This bill would provide a new 55-year loan term for WIFIA financing and clarify that WIFIA financing may be used for works that were constructed by the federal government, through agencies such as the Bureau of Reclamation, but have been contractually transferred to be operated and maintained by a local non-federal agency (transferred works). The Family Farm Alliance is on record for formally supporting H.R. 8271, as are the American Society of Civil Engineers, American Public Works Association, National Water Resources Association, Friant Water Authority, and San Joaquin River Exchange Contractors Water Authority. Similar WIFIA provisions are included in the Senate version of the 2020 Water Resources Development Act.

### **8. Senator Barrasso ESA Legislation**

The Senate Environment and Public Works (EPW) Committee last month held a legislative hearing on S. 4589, the *Endangered Species Act Amendments of 2020*. The bill, introduced by Chairman John Barrasso (R-WYOMING), would amend the Endangered Species Act (ESA) to “elevate the role of states and increase transparency in the implementation of the” act. Witnesses at the hearing included Wyoming Governor Mark Gordon, Aliese Priddy (owner and Operator, JB Ranch); and Jamie Rappaport Clark (President and CEO, Defenders of Wildlife).

Senator Barrasso’s legislation was inspired by the bipartisan Western Governors’ Association’s (WGA) Species Conservation and Endangered Species Act Initiative in drafting the legislation. Representatives from the Family Farm Alliance played a prominent public role in several of the 2015 WGA public meetings and webinars, and participated in every WGA workshop associated with that initiative. The bipartisan spirit of that initiative has dissipated within the halls of Congress in recent years, a factor that may have contributed to the lack of diverse stakeholder support for the bill. The Alliance generally supports the “Endangered Species Act Amendments of 2020”. The Alliance and many others working with Senator Barrasso in this Congress expressed appreciation for his leadership on this critically important issue.

### **9. Snow Water Supply Forecasting Program Authorization Act**

The Family Farm Alliance last month sent a letter urging the Senate Committee on Energy and Natural Resources to hold a hearing and advance the Snow Water Supply Forecasting Program Authorization Act (S. 4530), to establish an airborne snow observatory (ASO) and measurement program within the Department of the Interior. The legislation would create a federal unified program for mountain snowpack readings and ensure that the most proven snowpack measurement

methods, like ASO, continue to receive federal investment. The establishment of this program will help water managers and users with water conservation, supply, and delivery forecasts across the West. A similar letter was sent to the House Committee on Natural Resources.

### **10. Congress Sends ACE Act to White House**

President Trump will soon sign into law another major bipartisan conservation package seen as a win for wildlife advocates and the sportsmen community. The legislation, S. 3051, would authorize more than \$1 billion for federal wildlife and habitat programs through 2025, as well as address the challenges of animal disease and invasive species. The House passed the measure Thursday under expedited procedure by voice vote, two weeks after the Senate passed the measure by voice vote. Among other things, the ACE Act would create a program focused on preserving fish habitats, create a Chronic Wasting Disease task force to help merge state and federal efforts to combat the disease, and reauthorize the 2003 Nutria Eradication and Control Act, which provides grants to Maryland and Louisiana to eliminate and control nutria, a giant rodent threatening waterways in the Central Valley and beyond. The President is also expected to sign into law [HR 3399](#), which would expand the program's eligibility to California and other states and provide \$12 million for nutria control, research and related efforts.

## **ALLIANCE INITIATIVES**

### **11. Climate Smart Agriculture: Sustainable Development Goals (SDG) White Paper**

Alliance President Pat O'Toole and I are part of the team developing Solution from the Land's Sustainable Development Goals white paper, which has forged consensus on the framework outline of the report and drafting is now underway. The report will offer a "farmers roadmap" for SDG attainment and is being written for an audience consisting of member states, policy makers, the research community, private sector partners, civil society and most importantly- farmers and the organizations that represent them. The report will include case studies of farmers using CSA systems and practices and hopefully a video series where the farmers we are featuring will showcase their operations on film. Pat and I recently put together a 3,000 word essay on water management and infrastructure needs associated with dealing with changing climate in the West for including in this white paper.

### **12. 2020 Virtual "Farmer Lobbyist" Meetings**

A group of Family Farm Alliance members spent much of the past week in front of their computers, virtually meeting with Trump Administration officials, Members of Congress, and Congressional staffers as part of our 2020 "virtual" Farmer Lobbyist trip. The Family Farm Alliance annual farmer lobbyist trip is one of the cornerstone programs of our organization. It was created to allow farmers, ranchers and water managers to interact directly with elected officials and other policymakers in Washington, D.C. This year's farmer lobbyist trip was a "virtual" event, presenting a unique opportunity for our members to share with Members of Congress and the Administration the important issues that impact our industry. Participants had the opportunity to



engage directly with high-level Trump Administration officials and Congressional committee staff, and gain insight into what lawmakers and policymakers are saying about the issues impacting Western irrigated agriculture. The virtual farmer lobbyist meetings allowed us to again deliver the diverse but unified voice of irrigated agriculture champions in Washington, D.C.

This year's farmer lobbyist group included representatives from Arizona, California, Idaho, Nevada, New Mexico, Oregon, Washington and Wyoming. You can be proud of the performance of this year's farmer lobbyists. Once again, Mark Limbaugh of The Ferguson Group (DC) was our fearless leader, and he was ably assisted by Chris Kearney and Zach Israel from TFG. Tina Dykstra (TFG) did a masterful job putting together an incredible itinerary and keeping us updated with schedule changes. The Teams meeting platform worked well, I thought.

Since March, much of the Alliance's attention has been focused on looking for ways to include Western water infrastructure provisions in stimulus programs intended to address the impact of the COVID-19 pandemic on our industry. Congress in recent months has been struggling with negotiating another COVID relief package. Later this fall, a separate water infrastructure package will likely be negotiated. The Trump Administration continues to make encouraging progress on modernizing implementation of decades old federal environmental laws, and taking other actions to improve water supply reliability and management flexibility for Western irrigators. Meanwhile, out West, a burning siege of massive, destructive wildfires threatens rural communities and important watershed areas.

With that backdrop, our primary focus for the 2020 Farmer Lobbyist virtual meetings was for Alliance representatives to discuss critical Western water policies and issues, through three key actions:

1. Express support for congressional action and Administration efforts to modernize implementation of federal environmental laws. Encourage continued efforts that improve water supply reliability, agency coordination, water management flexibility, and wildfire and watershed management.
2. Weigh in on current water legislation in Congress. Advocate for the need to expand and improve water supply and management infrastructure, including extending and expand federal funding/financing tools for aging water storage and delivery infrastructure.
3. Tell impactful stories about producer and water manager efforts during the pandemic, and underscore the importance of irrigated agriculture to our food supply chain and national security.

This year's Alliance participants did a great job of describing local water challenges and experiences (e.g. Yakima Basin, Columbia River, Deschutes River Basin, Central Valley, Imperial Valley, Upper Colorado River, desert Southwest), and how federal programs and policies helped or hindered developing solutions to those challenges. The amount of time this year's participants put into these meetings essentially equated to a full workday. I'm incredibly grateful for their time and professional performance last week.

### **13. Western Wildfires and Watershed Health**

The Alliance has advocated that the federal government must prioritize actions that would implement necessary forest management projects on federal lands. Those projects will reduce the existential threat posed by wildfires, to our headwaters lands and to the water supplies of the West. Fortunately, Western lawmakers on Capitol Hill are also renewing calls for additional wildfire prevention and response legislation. The Family Farm Alliance is on record for supporting S. 4431, the bipartisan *Emergency Wildfire and Public Safety Act of 2020*, which was considered at Senate committee hearing last month. The bipartisan legislation would provide for a more aggressive approach to managing forests for wildfire. The bill is cosponsored by Sen. Steve Daines (R-MT) and Sen. Diane Feinstein (D-CA), who are both arguing for a Senate vote this year. The Alliance and nearly two dozen Western water organizations signed on to a letter earlier this month supporting this legislation. Reducing the threat of wildfire to communities and watersheds is a critical issue in the West. S. 4431 would help advance necessary forest management projects in a timely and collaborative manner while preventing catastrophic wildfires.

The House Agriculture Subcommittee on Conservation and Forestry also held a hearing last month on the wildfires effecting the West. The sole witness at the hearing was John Phipps, USDA's Deputy Chief for State and Private Forestry. Western Republican House members are calling on Congress to act to pass meaningful forestry reform before the end of the year. In the last month, Rep. Doug LaMalfa (R-CALIFORNIA) led a bicameral letter to congressional leadership asking for just that and also introduced bipartisan forestry reform legislation, the companion bill to S. 4431.

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 Family Farm 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 ET, tree stress, disease and pest infestation, preserve health forest conditions, and protect species and habitats. Failure to employ this approach will continue the downward, accelerating spiral of fuel accumulation, drought, disease and invasive insects. This will lead, inevitably, to additional high-intensity fire events in the future. When these events occur, the very values for which our system of National Forests were created will be lost.

*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.*