



## MEMORANDUM

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**TO:** SAN LUIS & DELTA-MENDOTA WATER AUTHORITY DIRECTORS  
**FROM:** DAN KEPPEL, EXECUTIVE DIRECTOR  
**SUBJECT:** UPDATE REPORT  
**DATE:** DECEMBER 5, 2022

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This memo is intended to keep you apprised as to what is happening on policy issues the Family Farm Alliance (Alliance) is engaged in. In the past month, much of our efforts have focused on planning for our 2023 annual conference, trekking water legislation with Senate committee staff, preparing two white papers on the importance of alfalfa production in the West, and expanding public outreach associated with global food insecurity and the importance of Western irrigated agriculture. These issues and other matters important to our members are further discussed in this memo.

### THE 2022 MIDTERM ELECTIONS

Republicans on election day secured a majority in the House of Representatives, and Democrats maintained control in the Senate. In the House, Republicans will carry a slim majority –a 222 Republicans to 213 Democrats final tally. The 50-seat majority for Senate Democrats could grow as high as 51-49 after the Georgia runoff between incumbent Senator Raphael Warnock (D-GA) and his Republican challenger Hershel Walker on December 6th. A runoff win by Republicans would ensure that Vice President Harris continues to serve as the Senate’s tie breaking vote.

Many pundits and lawmakers expected a healthy Republican majority in the House and a majority in the Senate in what some were anticipating as a “red wave.” Looking at national results, many political observers believe the likely factors that largely kept Democrats in power were voter turnout efforts, the lingering effects of the US Supreme Court’s *Dobbs* decision, and the quality of the candidates. Unaffiliated voters who were also concerned with crime and inflation ultimately didn't choose Republican candidates in the numbers that were anticipated. Environmentalists are touting their successful organizing and outreach strategy that brought “climate voters” to the polls

in record numbers to help achieve key Democratic victories in the 2022 midterms and limit GOP gains. Some argue that their successes could help bolster ongoing and future advocacy on climate and environmental policy matters. Of note, the 2022 midterms saw \$16.7 billion in federal and state spending, setting a record for a midterm cycle.

## **BIDEN ADMINISTRATION**

### **1. White House Council on Environmental Quality (CEQ)**

#### **a. CEQ Releases ‘Version 1.0’ of Controversial *Justice40* Mapping Tool**

CEQ has released the first formal version of its Climate & Economic Justice Screening Tool (CEJST), which increases the number of communities eligible for funding under the Biden Administration’s *Justice40* initiative to 27,251, nearly 4,000 over a beta version of the mapping tool. The November 22 release of [CEJST “Version 1.0”](#) means that federal agencies may now use it to identify disadvantaged communities eligible for *Justice40* dollars, including under the bipartisan infrastructure law and Inflation Reduction Act. *Justice40* aims to ensure overburdened and underserved areas reap at least 40 percent of the benefits of federal infrastructure investments, including remediation and reduction of legacy pollution, the development of drinking water and wastewater infrastructure, and resources to fund clean energy and climate change strategies.

#### **b. CEQ Plans for January 2023 Release of Phase 2 NEPA Rule**

CEQ has announced that it intends to issue its highly anticipated Phase 2 National Environmental Policy Act (NEPA) implementing rule for public review and comment in January 2023. Phase 2 of the rule is anticipated to address some of the more-difficult NEPA-related issues the Biden Administration left out of their Phase 1 NEPA rule. The Phase 2 rule was originally planned to be released last August but was delayed by interim developments, such as the enactment of the Inflation Reduction Act which provides billions in climate change funding and, as such, impacts the proposed rule. The proposed rule must also go through the prepublication interagency review process, which can take up to 90 days. Litigation over the Trump Administration’s NEPA rule, *Iowa Citizens for Community Improvement, et al. v. CEQ, et al.*, has been stayed but is still pending in the U.S. District Court for the District of Columbia. The Biden CEQ has asked the court to continue to hold the case in abeyance through February in order that their rulemaking replacing the Trump NEPA rule can run its course. The Family Farm Alliance will continue to transmit formal comments to CEQ as this rulemaking proceeds.

### **2. U.S. Department of Agriculture (USDA)**

#### **a. USDA Farmers Survey**

USDA is conducting a nationwide anonymous survey, which is due January 31, 2023. It takes about 10 minutes to complete, and can be found at [www.farmers.gov/survey](http://www.farmers.gov/survey). [Linked here](#) is a

stakeholder's toolkit with a draft email message, newsletter article, social media posts, and a poster to help you easily share the survey. The USDA's Farm Production and Conservation (FPAC) mission area, which includes the program agencies of Farm Service Agency, Natural Resources Conservation Service and Risk Management Agency, works to support agriculture by helping farmers, ranchers and forest managers leverage natural resources and mitigate the significant risks of farming through crop insurance, conservation programs, farm safety net programs, lending and disaster programs. From helping farmers recover after natural disasters and market fluctuations, to providing financial and technical assistance to improve operations through voluntary conservation,

b. USDA Requests Public Input on Implementation of IRA Funding

USDA is asking for public input through a Federal Register request for information on implementation of more than \$19 billion provided by the Inflation Reduction Act (IRA). The Natural Resources Conservation Service (NRCS) will use the investments provided through IRA-funded conservation programs to support farmers and ranchers in adopting and expanding climate-smart activities and systems. NRCS is requesting comments on how to target program benefits, quantify impact, and improve program delivery and outreach, especially for underserved producers. The IRA directs USDA funding to support agricultural practices of enhancements that directly improve soil carbon, reduce nitrogen losses, or reduce, capture, avoid or sequester greenhouse gases (GHGs) associated with agricultural production. The controlling language of the law applies to the Environmental Quality Incentives Program, Conservation Stewardship Program, Regional Conservation Partnership Program and easement programs funding.

The Family Farm Alliance is working to address the concerns of some Western producers that the carbon-centric priority of the IRA program does not endanger projects that also address broader matters. Climate mitigation should not just focus on carbon and assume that planting more carbon-sequestering trees will solve the problem. Projects that help producers and water managers adapt to the impacts of climate change must also be encouraged. Efforts to control invasive species like tamarisk, juniper, and salt cedar are important and should not be seen as being somehow bad, simply because carbon-capturing vegetation is being removed. Deliberate and sensitive removal of invasives prevent much more serious GHG emissions from being generated via fires tearing through unhealthy forests in the future. A recent University of Chicago study found that California wildfire emissions in 2020 essentially negated 18 years of reductions in GHG emissions from other sectors in the state by a factor of two. This comment process might be a good opportunity to get policy makers to look at this issue in a more nuanced way.

There are also indications that Republicans in control of the House Agriculture Committee will likely look to repurpose some of the \$20 billion IRA dollars towards USDA's conservation programs if it's possible. NRCS will consider comments received by December 21, 2022. Please go to <http://www.regulations.gov>, search for Docket ID: NRCS-2022-0015 and follow the online instructions for submitting comments.

### **3. USDA Forest Service: Actions on Hazardous Fuels Reduction, Watershed Health**

Increasingly fierce Western wildfire disasters are becoming an annual occurrence and underscore the importance of improving on-the-ground vegetation management actions that can lead to improved forest health. Improving the condition of the West's forested lands is of primary importance to water providers. National Forest lands are overwhelmingly the largest, single source of water in the U.S. and, in most regions of the West, contributing nearly all the water that supplies our farms and cities. The Biden Administration in the past month announced several actions intended to reduce wildfire and protect watersheds on federal forests and grasslands.

#### **a. Importance of Federal Lands to Western Water Supplies**

In September, the U.S. Forest Service (USFS) published a paper quantifying surface water supplies that originate on USFS forests and grasslands, sometimes transported to big cities through inter-basin transfers. The USFS used a Water Supply Stress Index model to provide data that was linked with Environmental Protection Agency surface drinking water intake information and a new database of inter-basin transfers compiled for this study. In the West, USFS lands comprised 19.2% of the land area, but contributed 46.3% of the surface water supply, the study showed.

#### **b. Interactive Map Showcases Wildfire Reduction Projects**

USFS last month launched a new interactive map showing the progress the agency and its partners have made in addressing the wildfire crisis in eight western states as part of the Forest Service's 10-year wildfire crisis strategy. This "story map" gives users the opportunity to see the impact of the investments from the Infrastructure Investment and Jobs Act (IIJA) - signed into law by President Biden just over one year ago - across 10 initial landscapes in Washington, Oregon, California, Idaho, Montana, Colorado, New Mexico and Arizona. This online story map is designed to be easy to use and is continually updated to show the progress of wildfire reduction efforts on national forests and grasslands as well as other federally managed, state, and private lands. Individual landscape maps allow users to interactively identify national forests, Congressional Districts, active partners, landscape boundaries and "firesheds," or areas where wildfire is likely to pose the greatest risk to communities and resources.

Since it was first announced earlier this year, USFS and its partners have identified the highest risk landscapes for treatment projects as part of the 10-year wildfire crisis strategy. USFS found that around 80% of the wildfire risk to communities is concentrated in fewer than 10% of firesheds. These initial investments focus on firesheds of the highest risk, where projects are ready to begin or to expand. The first-year investments are a part of the strategy to reduce the exposure of communities and infrastructure to the risk of catastrophic wildfire. Each year the Forest Service will plan and implement more work as part of the 10-year strategy as funding allows, continuing to reduce the risks of extreme wildfire for communities in these vulnerable areas.

c. Grants Available to Protect Water, Increase Wood Processing Capacity

USFS last month also announced \$20.5 million in grants to help states or federally recognized tribes establish temporary bridge programs to protect water resources during forest-related operations and to assist wood processing facility owners to establish, reopen, retrofit, or expand. The grants are focused on sawmills or other wood processing facilities that purchase and process byproducts from forest restoration activities in areas of severe fire risk and insect or disease infestation. The funds, made available by the IJA, support the U.S. Department of Agriculture's efforts to ensure tribes and historically marginalized or underserved communities receive equal access and opportunities to funding and programs, and to support community efforts vital to forest health. The \$20.5 million being committing in fiscal year 2022 includes:

- \$12.5 million targeted as financial assistance for owners of facilities that purchase and process byproducts from forest restoration projects including thinning, wildfire resilience activities and habitat management.
- \$8 million is available to states and tribes to support the establishment of temporary bridge rental, loan or cost-share programs to protect water resources and reduce water quality degradation during forest-related operations. The funding is to help states and tribes create a program that provides portable skidder bridges, bridge mats or other temporary water crossing structures to loggers and others working in forest areas.

As an example, in 2022, the San Carlos Apache Tribe (ARIZONA) was awarded \$1 million as part of the Forest Service Community Wood Energy and Wood Innovations grant program to purchase a lumber dry kiln and planing mill. The funding will help the Tribe improve forest management while providing significant employment opportunities for tribal members. More information about these funding opportunities is available at the Forest Service website and on [Grants.gov](#).

d. USFS, TU Invest \$40 Million to Restore Watersheds

USFS last month announced it would provide up to \$40 million to Trout Unlimited (TU) as part of a five-year agreement to improve watersheds on national forests and grasslands – home to many of America's most important trout and salmon species. Projects include clean-up of abandoned mines and removing barriers to improve fish passage, as well as stream habitat improvements. Made possible by the IJA, this five-year National Watershed and Aquatic Restoration Initiative aims to increase the pace and scale of watershed restoration on national forests and grasslands, with priority given to projects that use local employees and contractors to improve water quality in underserved communities and on Tribal lands.

TU is the nation's oldest and largest cold-water fisheries conservation organization dedicated to caring for and recovering America's rivers and streams. TU and the Family Farm Alliance helped co-found the Western Agriculture and Conservation Coalition over a decade ago, a coalition that has helped inject a stronger Western flavor into recent Farm Bill conservation programs. Over the

coming years, TU will use the funding from this agreement to work alongside partners to protect and restore these waters to improve fish population diversity, resilience and productivity.

#### **4. EPA: Early Pesticides Protections for Endangered Species**

Last month, the U.S. Environmental Protection Agency (EPA) released an [Endangered Species Act \(ESA\) Workplan Update](#) that outlines major steps to increase protections for wildlife and regulatory certainty for pesticide users. The Workplan Update details how EPA will pursue protections for nontarget species, including federally listed endangered and threatened (i.e., listed) species, earlier in the process for pesticide registration review and other Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) actions. These early protections will help EPA comply with the ESA, thus reducing EPA's legal vulnerability, providing farmers with more predictable access to pesticides, and simplifying the ESA-FIFRA process that, left unchanged, creates both significant litigation risk and a workload far exceeding what EPA has the resources to handle.

Elsewhere, more than 300 agricultural, environmental, and other stakeholder groups last month encouraged Congress to reaffirm federal authority over pesticide products. The coalition notes that the statute governing pesticides, FIFRA is not being fully enforced. In a letter to congressional leaders, the 332 organizations point out that states are overstepping the bounds of FIFRA labeling parameters.

### **DEVELOPMENTS IN CONGRESS**

After a month-long recess and the November 8th midterm elections, Congress returned to Washington last month for a two-month sprint to bring the 117th Congress to a close. In the lame duck session for the remainder of 2022, Congress will consider two must-pass bills: 1) the FY 2023 omnibus spending package; and 2) the National Defense Authorization Act (NDAA). These two bills will receive the majority of attention from Congress, and lawmakers will use the bills to pass other legislative items, including the Water Resources Development Act (WRDA), emergency supplemental provisions, and tax extenders for expiring or expired provisions. The Senate on November 29 passed legislation to enshrine protections for same-sex marriage in federal law, sending the measure back to the House. The upper chamber will then shift back to the annual defense authorization package, a must-pass bill with significant bipartisan, bicameral support. Items not expected to see congressional action in the lame duck session are energy permitting reform and the debt ceiling.

Republicans on election day secured a majority in the House of Representatives, and Democrats maintained control in the Senate. In the House, Republicans will carry a 9-vote slim majority. The 50-seat majority for Senate Democrats could grow as high as 51-49 after the Georgia runoff between incumbent Senator Raphael Warnock (D-GA) and his Republican challenger Hershel Walker on December 6th. A runoff win by Republicans would ensure that Vice President Kamala Harris continues to serve as the Senate's tie breaking vote.

## **5. The 118<sup>th</sup> Congress: Senate**

In the Senate, Democrats retain the majority in the 118th Congress. Senate Democrats will vote on leadership on December 8, with Senate Majority Leader Chuck Schumer (D-NY) to continue to lead the party. The Georgia runoff will determine whether the Democrat margin will be either the current 50-50 tie, with Vice President Harris breaking any tie votes for the Democrats, or a 51-49 majority, which would result in rebalancing committee assignments in favor of Senate Democrats. Senate Republicans held leadership elections last month, where Minority Leader Mitch McConnell (R-KY) won a secret ballot vote over challenger Rick Scott (R-FL) on a 37-10-1 vote. Western Senators John Thune (R- SOUTH DAKOTA) and John Barrasso (R-WYOMING) won third and final terms in their current roles as Minority Whip and Conference Chair, respectively. Montana Republican Senator Steve Daines replaces Senator Rick Scott to oversee the party's efforts to win control of the Senate in 2024.

## **6. The 118th Congress: House of Representatives**

Meanwhile, with the House now in slim GOP control for the 118<sup>th</sup> Congress, the House GOP Caucus re-elected Rep. Kevin McCarthy (R-CALIFORNIA) their choice to gain the House Speaker's gavel beginning in January 2023. Rep. McCarthy beat opponent Rep. Andy Biggs (R-ARIZONA), who put himself forward as the conservative alternative. Rep. McCarthy must now win a majority vote of the entire House in January to be elected Speaker. House Republicans last Wednesday against a proposed earmark ban during a conference rules meeting, a vote that held larger implications as House Minority Leader McCarthy seeks to become speaker. The conference voted 52-158 against an amendment proposed by Rep. Tom McClintock (R-CALIFORNIA), that would get rid of the current conference rule allowing members to earmark spending bills if they meet certain transparency criteria (*Roll Call*).

House Democrats met last week to elect their leaders for the next Congress. Reps. Hakeem Jeffries of New York, Katherine Clark of Massachusetts and Pete Aguilar of California secured the top three positions of minority leader, minority whip, and caucus chair, respectively. Senate Dems are said to be holding their leadership elections this week. Current Speaker Nancy Pelosi (D-CALIFORNIA) will not run for the party's top leadership spot in the 118<sup>th</sup> Congress.

The Republican party is sure to use control in the House as a check to President Biden, congressional Democrats, and their legislative agenda over the next two years. Incoming House Natural Resources Chairman Bruce Westerman (Ark.) outlined his priorities for a Republican-majority committee on a call with reporters last week, identifying potential areas of bipartisan agreement but saying he did not believe climate change to be the House panel's sole charge (*The Hill*). With little chance of legislative compromise on major initiatives under the GOP-controlled House, the White House will be forced to rely on federal agencies to advance much of President Biden's priorities over the next two years, pushing to enact major regulations and develop new ones during his remaining time in office.

## **7. “Must Pass” NDAA and Spending Bills on Menu**

Congress returned from the Thanksgiving holiday for the last month-long dash to address several legislative priorities and two must-pass bills: the fiscal year (FY) 2023 government spending package and the NDAA. The federal government is currently funded through December 16 and Congress has yet to settle on topline spending numbers. Additionally, the White House requested \$37.7 billion in funding for Ukraine, \$10 billion for Covid relief, and funding for hurricane and other natural disaster relief. Republican support for funding to Ukraine and COVID wanes as calls for spending accountability grow.

Leadership is mulling a week-long extension to December 23, providing additional time for negotiations centering around top-line spending numbers. The extension would occur through a one-week continuing resolution (CR) and, hopefully, end with an omnibus spending bill. Currently, there is no agreement on funding levels and several policy riders. In addition, the Senate’s process for passage will take multiple days, given the need for bipartisan support. Senate Minority Leader Mitch McConnell (R-KY) will prove critical to negotiations, deciding whether to clear 10 Republican votes to break a filibuster on an omnibus package. Many believe the potential, while still slim, is growing for a year-long CR, which would fund the government at prior fiscal year funding. Several leaders outside of Congress have called for an omnibus spending package in lieu of a CR. Congressional leaders last week signaled that talks on reaching a long-term agreement to fund the government remained difficult ahead of a mid-December deadline, following a meeting with President Biden at the White House (*The Wall Street Journal*).

The House Armed Services Committee Chair and Ranking member predict a final version of the NDAA bill could be ready for a vote this week. Added to the Senate’s \$847 billion NDAA bill is the WRDA bill, which would provide the Army Corps of Engineers authorization to carry out activities concerning water resources development projects, ecosystem restoration, water supply and wastewater infrastructure, and other projects.

## **8. Permitting Reform on the Backburner**

One priority not receiving lame-duck consideration is permitting reform. Advocates in the fossil fuel and clean energy industries are eyeing the divided government as a chance to rekindle interest in a bipartisan permitting overhaul (*E&E Daily*). Senator Joe Manchin (D-WV) had hoped to resurrect the stalled bill in Congress’ upcoming lame duck period, either as an amendment to the pending defense authorization bill or as an inclusion on the must-pass government spending package. So far, we are hearing that the Manchin permit reforms are not included in negotiations on the bill, since many Republicans and Democrats continue to be opposed to the reforms. We do believe, however, that some type of environmental permitting reform for infrastructure projects will be a high priority in the 118<sup>th</sup> Congress.



## **9. Senate ENR Committee Hearing on Energy, Drought, and Resource Bills**

The Senate Energy and Natural Resources (ENR) Committee last Thursday held a legislative hearing to consider several bills on the Strategic Petroleum Reserve, domestic mining, nuclear energy, hydrogen infrastructure and drought. As for water resources, the Committee took up [S. 4579](#), the "*Colorado River Basin Conservation Act*," from Sen. John Hickenlooper (D-COLORADO) and Sen. John Barrasso (R-WYOMING) to reauthorize the System Conservation Pilot Program aimed at shoring up water levels in lakes Mead and Powell. Also on the docket is [S. 4542](#), from Sen. Michael Bennet (D-COLORADO), to establish the Dolores River National Conservation Area and the Dolores River Special Management Area. Western Senators are working on a package of non-controversial water bills that may move in the lame duck. We're also working with ENR staff to see if there is a way to make the OpenET legislation a bit more manageable and palatable. There are other ag organizations who may flatly oppose this bill.

## **10. 2023 Farm Bill**

Next year's rewrite of federal farm policy should put greater emphasis on climate resilience and organic agriculture, according to a new set of recommendations from a network of conservation and farm groups (*E&E Daily*). The National Sustainable Agriculture Coalition (NSAC) called for changes to key farmland conservation programs to better manage rural land in an era of climate change. Recommendations range from boosting programs that promote healthier soil to reducing crop production in some circumstances. The group released [the 144-page report](#) but crafted it well before Republicans took control of the House in the midterm elections. How its priorities will fare in a 2023 farm bill written with more Republican influence remains to be seen.

Democrats definitely want to make farming more climate friendly. Republicans could be on board, especially if it helps farmers save money (*Politico Pro*). Democrats and Republicans have been bitterly divided over whether measures to address climate change should be part of the half-trillion-dollar farm bill that Congress will write next year. But a push to include funding for so-called regenerative agriculture is appealing to GOP lawmakers who are watching farmers contend with sky-high fertilizer prices and other mounting costs. Democrats want to expand regenerative agriculture in the farm bill and direct USDA to put more resources toward improving soil health across existing conservation programs. Republicans are cautiously on board with the idea of helping farmers save money while they improve their soil, within limits.

The planning and budgeting process for the 2023 Farm Bill has begun, and Congressional Agriculture committees are starting to outline the next five years' spending for national conservation, food, farm and nutrition programs. The Alliance throughout the year has prepared for the next farm bill by engaging with agricultural and conservation partners, developing written testimony for Congressional hearings, and working with its members to prioritize its energies in the farm bill debate. A large portion of our energies at the Alliance will be devoted to the 2023 Farm Bill conservation title. Once again, we'll work closely on this with our partners in the

Western Agriculture and Conservation Alliance (WACC).

## **JUDICIAL DEVELOPMENTS**

### **11. Federal Court Says Trump Administration's ESA Rules Still on the Books**

A federal judge has ruled that some key Trump Administration rules that govern the Endangered Species Act (ESA) are still in force while the U.S. Fish and Wildlife Service (FWS) and NOAA Fisheries complete a new rulemaking. U.S. District Court for the Northern District of California Judge Jon Tigar rejected a request by environmental groups to vacate the Trump-era rules, stating he could not grant such a request without first making a full decision on the merits of the challenge. The Biden Administration had requested that the Trump ESA rules remain in place while they reconsider the regulations, stating that a vacatur could be too disruptive and cause confusion in implementing the ESA. Judge Tigar's decision reversed his earlier ruling that vacated the Trump rules, but that was overturned by the 9th U.S. Circuit Court of Appeals. One of the Trump Administration's rules in question concerns how FWS and NOAA Fisheries designate listed species' critical habitat. Another eliminated FWS's former policy of automatically extending to threatened species the protections against "take" that the law provides for endangered species. And a third rule changed how FWS and NOAA Fisheries work with federal agencies to prevent proposed agency actions that could harm listed species or their critical habitat.

The Alliance developed significant and detailed comments with both the Trump and Biden administrations, in strong support of the ESA direction taken by the Trump Administration.

### **12. Interior Department v Navajo Nation**

The Supreme Court of the United States (SCOTUS) has agreed to consider *Interior Department v. Navajo Nation*, deciding whether the federal government has a duty to protect the Navajo Nation's access to the dwindling flows of the Colorado River. The federal government argues in the case that it is not legally obligated to assess the Navajo Nation's needs because no treaty, agreement or law explicitly addresses the tribe's claim to Colorado River water. The 9th U.S. Circuit Court of Appeals sided with the Navajo Nation and said Interior had a "duty to protect and preserve the Nation's right to water." The Biden Administration argued that the lower court ruling would complicate ongoing efforts among seven Western states to reduce their use of water from the drought-plagued Colorado River that serves the needs of 40 million people and millions of acres of important food-producing farms and ranches. There is activity afoot to develop amicus support for the petitioners in the *Navajo Nation* case. Oral argument is likely in the late March timeframe and the Court will likely issue a decision by June 30, 2023.

### **13. Sackett v. EPA**

Fearing a Supreme Court ruling that could curb Clean Water Act (CWA) protections for wetlands and other water bodies, environmentalists are eyeing a series of alternative protections that they

say can be used to temporarily protect waters, including increased conservation funding, stepped up local enforcement and new local mandates (*IWP News*). In [an issue paper](#) released Nov. 1, the coalition of five groups -- Natural Resources Defense Council, Anthropocene Alliance, Earthjustice, Environment America, the National Wildlife Federation and the Southern Environmental Law Center -- say that such protections are “at best, stopgap measures”. They believe that Congress will have to “step in and reaffirm” the original intent of the CWA: “to establish broad protections for the nation’s waterbodies.” The issue paper, “Clean Water Act on Trial: The Devastating Potential Consequences of *Sackett v. EPA*” examines possible outcomes if the Supreme Court sides with the petitioners in [the Sackett case](#), in which agriculture and water groups (including the Alliance) have asked the justices to reinterpret the CWA and exclude most wetlands and streams from the definition of “waters of the United States” (WOTUS). The paper says that Congress needs to step in and reaffirm the original law’s intent to protect all waters.

## ALLIANCE INITIATIVES

### **14. 2023 Annual Meeting and Conference**

Jane, Josh and I have been working on our first public outreach effort for the 2023 Annual Meeting and Conference, scheduled for February 22-24, 2023 at the Silver Legacy Resort in Reno (NEVADA). Our internal meetings typically take place all day on Wednesday, which would be February 22. For the upcoming conference, we’ll also be having a full day board strategic session starting on Tuesday, February 2021, so we can more efficiently conduct business at our traditional Wednesday meetings. An initial "Save the Date" announcement, with links to conference and hotel registration went out via email last month. The conference theme is "A Wake-Up Call for America-WHY FARMS, WATER AND FOOD MATTER".

I’m working on setting up the general session schedule now. In addition to our traditional “Reclamation Roundtable” and “A Look at D.C. from The Hill” panels, I’m working on a legal panel (moderated by Norm Semanko) that would tackle the importance of recent Supreme Court decisions in regard to Western water; a “Bushels of Nature” panel (finding ways to get producers paid for carbon, nutrient, and habitat services); and a panel of young farmers. We’ll also have panel discussion on PL-566 (Small Watershed Program), Ag Climate Solutions, and implementation of the Bipartisan Infrastructure Law and Inflation Reduction Act. Our “virtual tour” on Friday afternoon this year will be a working lunch off-site, where leaders of the Western Agriculture and Conservation Coalition (WACC) will lead an informal discussion of the 2023 Farm Bill. We’re calling it “Farm (Bill) to Fork”.

### **15. Alfalfa 101**

With Western farmers struggling 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. In response, the Alliance and California Farm Water Coalition (CFWC) have produced a White Paper titled, “Our Food Supply at Risk;

The Importance of Alfalfa Production in the American West,” detailing the valuable role alfalfa plays as a principal feed source for the nation’s livestock and dairy industries, its environmental benefits, and contribution to effective drought management.

The new alfalfa report outlines many of the additional benefits that come from alfalfa production, including enhanced soil health because of deep rooting and the nitrogen alfalfa naturally adds to the soil during its growth cycle. This reduces the amount of chemical fertilizers that have to be used to grow crops that follow alfalfa during crop rotation. Alfalfa also contributes to the health of pollinators, such as bees, when it grows because of the crop’s prolific flower production. Bees use alfalfa for honey production, more of which comes from alfalfa farms than any other source in the U.S. And alfalfa is an efficient water user, producing a crop year-round in warmer climates, but is also able to survive droughts as well as intentional “dry down” to make water available for other so-called high-value crops that face drought-driven water shortages.

I presented another alfalfa report to the World Alfalfa Congress Symposium last month in San Diego. Mike Wade from CFWC addressed the report as part of his remarks to the Columbia Basin Development League Conference last month in Moses Lake (WASHINGTON). *Water Wrights*, a publication that caters to Central Valley agriculture, did a nice piece last week on our report, [HERE](#). I love this editorial comment at the end of the article: *"Alfalfa is not a monster plant, some kind of giant, carnivorous flytrap grown by Morticia Adams."*

## **16. Western Water Climate Change Initiative**

The two-week 2022 United Nations Climate Change Conference (UNFCCC COP27) kicked off early last month in Sharm el-Sheikh, Egypt. This year’s international climate change deliberations were influenced by the underlying global currents of conflict and economic crisis. President Joe Biden and his leadership team were present, as were American agricultural producers represented by Solutions from the Land (SfL). The Alliance through its involvement with SfL has been monitoring United Nations (U.N.) global climate talks over the past several years, bringing the voice of North American producers and land managers to the discussion table. Alliance President Patrick O’Toole traveled to Scotland one year ago and participated in the COP26 talks.

### **a. Farmers Engage**

The United Nations Framework Convention on Climate Change (UNFCCC) in 1994 established an international environmental treaty to combat "dangerous human interference with the climate system", in part by stabilizing greenhouse gas concentrations in the atmosphere. One way we build support for agriculture is by working with the UNFCCC Farmers Constituency, which is made up of farmers and agricultural NGOs from around the world. SfL served on the drafting team that constructed the Farmers Constituency statement, affirming “the world’s farmers must be at the heart of climate policy to ensure that it reduces global agricultural emissions, increases the climate resilience of the global food system and contributes towards ending the global food security crisis.”

b. Biden Advances ‘Unwavering’ Commitment to Combat Climate Change

President Biden – accompanied by a phalanx of Administration appointees and climate advisors - pressed his “unwavering” commitment to combating climate change as he sought to allay concerns the country’s efforts would backslide after the midterm elections (*Bloomberg*). Secretary of Agriculture Tom Vilsack highlighted USDA’s initiatives and investments in climate-smart agriculture and forestry, noting that global food security depends upon the ability of farmers and producers worldwide to increase their productivity while strengthening their climate resilience and minimizing their climate impacts.

c. Partnerships for Climate-Smart Commodities

Secretary Vilsack used the international platform of COP27 to showcase the Partnerships for Climate-Smart Commodities, through which USDA is investing in new revenue streams for America’s climate-smart farmers, ranchers and forest landowners. These projects will expand markets for climate-smart commodities, leverage the greenhouse gas benefits of climate-smart production and provide direct, meaningful benefits to agriculture, including for small and underserved producers. At numerous COP27 events, Secretary Vilsack highlighted USDA’s initial \$2.8 billion investment in 70 pilot projects from the first funding pool that will deliver significant benefits for producers and communities in all 50 U.S. states. The projects will result in the application of climate-smart production practices on more than 25 million acres of working land, with expanded market opportunities and revenue streams for producers of all sizes and types. The Secretary also announced that USDA will direct an additional \$300 million to the second pool of pilot projects by the end of the year, bringing USDA’s total expected investment to \$3.1 billion.

d. Challenges Ahead for the Biden Administration

Governments from around the world agreed at the end of the summit to have wealthy countries help pay vulnerable nations for the damage they’re suffering from climate change (*POLITICO*). However, the Biden administration will have a trickier time of advancing its \$3.5 billion program to encourage climate-smart food production, following last month’s midterm elections. According to *E&E Daily*, Republicans on the House Agriculture Committee are making the Partnerships for Climate-Smart Commodities program an early target for oversight as they prepare for the likelihood of taking the majority in the House. Rep. Glenn Thompson (R-Pa.), the likely new chair of the House Agriculture Committee, has already publicly criticized the USDA initiative.

## **WESTERN WATER “HOT SPOTS”**

The drought that has engulfed southwestern North America since 2000 is the most severe in 1,200 years, according to a paper published in the journal *Nature Climate Change*. The “megadrought” -- a dry spell that lasts two decades or more -- surpassed a drought from the late 1500s that was previously identified as the driest going back to at least the year 800, according to the study. The current megadrought is more extreme because of the heat and low rainfall from summer 2020

through summer 2021. Drought covers more than 87% of the nine western U.S. states, according to the U.S. Drought Monitor. California's drought has helped stoke massive wildfires as well as create water shortages around the most populous U.S. state. Human-caused climate change is responsible for about 42% of the soil moisture deficit since 2000, the paper found.

## **17. Klamath Basin**

PacifiCorp has won federal approval from the Federal Energy Regulatory Commission (FERC) to remove four hydropower dams along the Klamath River in Oregon and California, the largest dam removal project in the nation. The decision affirms the utility's plan to surrender licenses and remove the dams, a project years in the making after concerns over the dams' alleged effect on water quality. After several years of trying to relicense the dams originally licensed in 1954, PacifiCorp and 47 other parties, including the Yurok and Karuk Tribes and state officials in Oregon and California, reached a settlement agreement in 2010 to decommission and remove the J.C. Boyle, Copco No. 1, Copco No. 2, and Iron Gate dams. While no objections were raised during the hearing, Congressmen Cliff Bentz (R-OREGON) and Doug LaMalfa (R-CALIFORNIA) have publicly voiced their opposition to the decommissioning of the Klamath River hydroelectric dams.

Klamath Water Users Association (KWUA)– whose members divert and deliver Klamath River water to farmland – expressed disappointment about the failure of dam removal proponents to adhere to commitments made to agricultural parties after Klamath River settlement legislation was not approved by Congress in 2015. KWUA took a neutral position on the 2016 Amended Klamath Hydroelectric Settlement Agreement (AKHSA), which led to the FERC decision. However, KWUA and many other state and regional agricultural organizations – including the Family Farm Alliance – supported legislation intended to implement the Klamath Basin Restoration Agreement (KBRA) – which would have provided a Basin-wide solution regarding river usage and water rights. Discussion of the KBRA began in 2005. With FERC approval of the decommissioning project, removal of the Klamath River dams could commence as early as 2024.

## **18. California**

The Department of Water Resources (DWR) on December 1 announced an initial State Water Project (SWP) allocation of 5 percent of requested supplies for 2023. The SWP provides water to 29 public water agencies that serve 27 million Californians. As the state prepares for a fourth dry year and continued extreme drought conditions in California, DWR will also assess requests for additional water that may be necessary for health and safety including minimum domestic, sanitation, and fire suppression needs. Growers continue to face mounting economic challenges. In a new report about the financial toll of the state's extreme drought conditions, researchers estimated that the state's irrigated farmland dropped by 752,000 acres from 2019 to 2022.

*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.*