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**MEMORANDUM**

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**TO:** SLDMWA BOARD OF DIRECTORS  
**FROM:** DAN KEPPEL, EXECUTIVE DIRECTOR  
**SUBJECT:** EXECUTIVE DIRECTOR'S REPORT  
**DATE:** MAY 9, 2022

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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, much of our efforts have focused on engaging in Biden Administration rulemaking efforts, monitoring federal agency implementation of the *Infrastructure Investment and Jobs Act*, working with Congressional staff on upcoming hearings and draft legislation, 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.

**UKRAINE, RUSSIA, DROUGHT AND GLOBAL FOOD INSECURITY**

War in Ukraine, sanctions and destroyed ports could take nearly 30% of the world's grain supply out of production or off the market this year. Drought persists across Western and central North America, the heart of our wheat, barley, corn and soybean supply. U.S. Treasury Secretary Janet Yellen last month convened a meeting of top international financial officials to address a global food-security crisis, with the world policy leaders urging action to address dire consequences of record price surges caused by Russia's invasion of Ukraine. Ukraine and Russia are among the top five grain exporters, and the war poses a massive blow to both production and shipments, causing food prices to rise at their fastest pace yet (*Bloomberg*).

In the meantime, irrigated agriculture that was built to provide security at precisely this moment, is being dried up by our government. The Alliance board at its meetings in Reno last February directed contractors to work with others in an effort to find ways to improve communications and push back on those who demonize producers and Western irrigated agriculture. Here's some recent history and developments on this initiative.

## 1. Wall Street Journal Ad

Producers in March caught in the crosshairs banded together to take out a full-page ad in the *Wall Street Journal*, sharing the viewpoint that the government's delivery of water to farmers is critical to ensuring a strong domestic food supply. Western agriculture has long wrestled with its ability to communicate with the people who take for granted that food will always be plentiful and available. In late March, an idea to sound the alarm of the pending food scarcity issue began with some Klamath Basin farmers. The idea seemed simple: tell the story in a full-page ad in a major newspaper to start the conversation with the unaware public.

It was a much bigger project than we could have imagined. The Alliance and California Farm Water Coalition (CFWC) teamed up with the Klamath interests and went to work. The paper chosen was the *Wall Street Journal* (WSJ). Circulation of that paper is the largest on Saturdays, about 900,000 copies in print. The digital version reaches even further, but the readership and reputation of the paper make it the ideal place to make an impact.

The ad ran on Saturday, April 2 and the QR code at the bottom of the ad led readers to a web page with more information about this dire situation and what must be done to correct it: <https://www.farmwater.org/food-security-and-water>. By clicking on the image of the ad you can be taken to its pdf link. The landing page links to a recent Alliance report – “[A Wake-up Call to Our National Leaders from an American Rancher](#)” – which further describes current and projected food shortages resulting from the Russia-Ukraine war. It also links to this [report](#) describing the remarkable contributions Western irrigated agriculture makes to the national economy, household income, and the ability for U.S. consumers to pay less of their disposable income on food than anywhere else in the world.

## 2. WSJ Next Steps

Consumers are aware of rising prices in the grocery store but connecting those concerns to Western farms and ranches and a lack of water is not yet on consumers' radars. That's our job. The WSJ ad was a great first step, but it was only a first step. Now we need to hammer that message home through social media and other outreach if we are to have any hope of the message penetrating. It's critical that the next phase keeps the focus on impact on consumers, not impact on farmers. We are part of a small working group that did the heavy lifting of raising the money for the WSJ ad, but without additional reinforcement of that message, it will not hit home.

Working with CFWC, efforts are underway to do some focused social media advertising, as a follow-up to the full-page ad. We ran Facebook and Instagram ads for two weeks, promoting it to audiences in Sacramento, San Francisco, Salem (OREGON), Olympia (WASHINGTON), Washington, D.C. and Los Angeles. The result was that the ad was seen by 230,000 people and generated 25,000 visits to the WSJ landing page. The average viewer was on the page a total of 4:18, which is an amazing result and shows how interested (concerned?) people are in this issue.

The second ad started last Friday. We added Portland (OREGON), Seattle and Spokane (WASHINGTON), and Colorado and Arizona to the audience mix.

Other related recent efforts include:

- We blasted out a good blog last month that draws further attention to this issue.
- Western Farm Press ran this story I authored: <https://www.farmprogress.com/commentary/food-supply-shouldnt-be-uncertainty>
- Alliance Director Paul Orme and I co-authored another guest opinion which the *Arizona Republic* published last week: "[Water Policy Threatens Our Food Supply](#)". The *Republic*, published in Phoenix, is circulated throughout Arizona and is the state's largest newspaper.
- The Alliance board last week authorized me to run a full-page ad in *The Arizona Capitol Times*, which is publishing an upcoming special Focus section that will be devoted entirely to water related topics. The ad is essentially a full-page reprint of the guest column co-authored by Paul Orme and me.
- Alliance Director Don Schwindt and I submitted a guest editorial to the *Colorado Sun* that links food security with the role Colorado River ag communities play. I learned last week that the *Sun* is going to publish this in the coming weeks.
- The Farm Bureau in Fresno County re-ran the story we wrote about food supply concerns for our April newsletter.

### **3. NBC Nightly News Coverage of California Drought**

Two of our California producers and CFWC Executive Director Mike Wade were interviewed recently for [a segment that was reported on by Lester Holt on NBC Nightly News](#). Central Valley producers Joe Del Bosque and Bill Diedrich joined Mike in some tightly scripted interviews that built upon our recent messaging regarding global unrest and inflated food prices. Mr. Wade was also interviewed by *The Daily Wire*, which ran [a story](#) about the Metropolitan Water District of Southern California board's announcement of a Water Shortage Emergency, putting forward an emergency program 6 million residents to restrict outdoor watering to 1 day per week.

### **4. Growing Attention**

We certainly have the public's attention in a way we have not had in the past. As sad as the situation is, it provides us with a tremendous opportunity to deliver a message about the value of Western farms. It's an interesting approach. Our job this time around is to keep everything we say tightly focused on consumer impacts, not impacts on farmers. Many, many businesses are struggling with inflation, workforce issues, and more. Individual families are also struggling with inflation, gas prices, COVID, kids schooling, and general life issues. So, instead of making this about farmers, we've been trying to speak to the concerns of the national audience.

As reported further below, House Republicans this week are having an oversight forum examining how the ongoing Western drought contributes to skyrocketing grocery and electricity prices nationwide. Members will hear from witnesses across the country who are experiencing these impacts firsthand and further examine the need to implement short and long-term drought solutions for American consumers. I'll be testifying at that forum and will focus on the efforts we have been involved with.

## **BIDEN ADMINISTRATION**

### **5. White House Releases Agency “Equity Plans”**

The White House last month released agencies’ equity plans, following up on an executive order that was issued on President Biden’s first day in office. Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*. The President’s Order emphasized the “enormous human costs of systemic racism”, persistent poverty, and other disparities, and directed the Federal Government to advance an ambitious “whole-of-government” equity agenda. In the time since the Executive Order was signed, over 90 federal agencies across the federal government, have mobilized in the past year to implement the Executive Order. Agencies conducted equity assessments of their agency’s high-impact services, to uncover where systemic barriers to access may exist. Using those findings, agencies developed “Equity Action Plans” for addressing equity in their mission delivery.

Equity Action Plans were required to include accountability mechanisms and to identify success metrics and key milestones toward progress. These plans are part of a broader equity agenda, which also includes implementing the first-ever national strategy on gender equity and equality; working to ensure the federal government is a model for diversity equity, inclusion and accessibility in the workforce; delivering environmental justice through the Justice40 Initiative; and advancing LGBTQI+ civil rights.

#### **a. Justice Department: New Environmental Justice Office**

The Justice Department announced last week that it will create a new office focused on environmental justice. In addition to the office, the department also announced that it would use a new environmental justice strategy. Associate Attorney General Vanita Gupta said the department’s environmental justice strategy would involve prioritizing enforcement of environmental laws and civil rights statutes. She also said it will direct the DOJ to prioritize cases that reduce environmental harm for overburdened communities.

#### **b. Opposition to the Administration’s Racial Equity Platform**

As recently reported in *Greenwire*, the Biden administration is attempting to walk a fine line on this matter: They want to ensure that policies aid minority groups, but they also want to avoid legal pitfalls that could come by explicitly citing race as a factor for distributing federal cash. A U.S.

federal judge last June already blocked a part of the Biden administration's federal stimulus relief package that forgave agricultural debts to farmers of color. The Biden Justice Department declined to appeal the judge's order in that case. Former Trump administration aide Stephen Miller's America First legal group led the fight on that case and continues to barrage the Biden administration with legal challenges against its approach to racial equity.

## **6. White House CEQ: Final Phase I NEPA Rule Issued**

The Biden White House Council on Environmental Quality (CEQ) has issued its final Phase 1 National Environmental Policy Act (NEPA) rule, restoring a series of rigorous review mandates that the Trump Administration eliminated in its rewrite of the rule, while pushing back on expected criticisms that the measure will create confusion and delay critical projects. The final rule is little changed from the draft rule CEQ proposed last year, when officials sought to restore NEPA requirements that agencies again assess “direct,” “indirect” and “cumulative” effects, requirements the Trump Administration had stripped from previous regulations. The rule also requires agencies to “work with communities to develop and analyze alternative approaches that could minimize environmental and public health costs,” and re-instates a provision that CEQ’s rules are a floor, rather than a ceiling, for federal agencies’ review.

The regulations that were finalized by CEQ were open for public comment in the Phase 1 notice of proposed rulemaking, published on October 7, 2021. The Alliance in November 2021 submitted a 13-page letter to CEQ that detailed opposition and provided alternative approaches to all three of these points. The Alliance position has been that NEPA should not be used as a vehicle to advance climate regulations that are outside the law’s scope and original intent. Federal agencies implementing the requirements of NEPA should not engage – or be forced to engage – in costly and unnecessary assessments specific to a potential influence on or because of climate change. And, we do not need a flood of litigation that attempts to change NEPA into a global warming prevention statute.

Last month’s rulemaking is the first step in a two-phase approach that CEQ is taking to reform and modernize the regulations that guide NEPA implementation. Over the coming months, CEQ will be proposing a Phase 2 NEPA rulemaking that will provide further improvements to the efficiency and effectiveness of environmental review processes and reflect the Administration’s commitment to achieving environmental justice and confronting climate change.

## **7. Bipartisan Infrastructure Law (BIL) Implementation**

### **a. OMB: ‘Buy America’ Memo**

The White House Office of Management and Budget (OMB) has issued guidance for EPA and other agencies on how to interpret the new “Buy America” requirements in the BIL, although EPA and other agency guidance is expected soon to provide additional clarity to infrastructure project proponents concerned about inadequate domestic supplies of certain construction materials and

other items. The new 17-page guidance released by OMB is intended to assure that “none of the funds made available for a Federal financial assistance program for infrastructure, including each deficient program, may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States,” said Shalanda Young, OMB Director.

Water utilities have expressed concerns to EPA about the “Buy America, Build America” provisions, noting that while they have experience complying with longstanding American iron and steel requirements to obtain EPA infrastructure funding. The drinking water industry is also struggling to understand the broader provisions in the BIL governing construction materials and manufactured items, which require a new learning curve. We’ve been working with some associates in the drinking water industry who have been heavily engaged with OMB on implementing this provision. We believe that the key effort is going to involve working with the federal agencies – including the Bureau of Reclamation - to ensure that they use their authority to issue waivers on a general applicability basis to avoid project delays or cost increases.

b. White House Releases BIL Guidance

The White House Office of Management and Budget (OMB) has released new guidance to help agencies implement last year's BIL. OMB's [guidance](#) directs agencies to hire new staff, appoint senior accountability officials and create equity teams. Agencies have been on a hiring spree related to the \$1.2 trillion law. The memo says the White House's goal is to create “a governance structure that will break down barriers and eliminate silos” by mandating coordination between agencies and the President's infrastructure task force. The memo also directs agency coordinators to consider equity concerns. That includes supporting access for rural communities to federal funding and working with tribal governments. President Joe Biden's Justice40 plan calls for spending 40 percent of climate-related dollars on environmental justice communities. Detractors of the guidance say they take away from state control over infrastructure spending.

c. USDA Invests \$420 Million in Watershed Infrastructure Projects

USDA last month announced it will invest \$420 million in 132 infrastructure projects in 31 states, including rehabilitating dams, flood prevention, and watershed restoration projects. The recent investments are funded by the BIL and build on a \$166 million investment announced earlier this year. The infrastructure announcement includes funding through two programs: the Watershed and Flood Prevention Operations (WFPO) Program provides technical and financial assistance for new watershed infrastructure, and the Watershed Rehabilitation Program (REHAB) upgrades existing USDA Natural Resources Conservation Service (NRCS) dams. In total, NRCS received \$918 million of BIL funding to allocate through its watershed programs. In addition to WFPO and REHAB, this includes funds for Emergency Watershed Program (EWP) to help communities recover from natural disasters. NRCS will continue to review additional requests and compile a third round of BIL watershed funding as funds are available. A full list of projects is available on [NRCS' Bipartisan Infrastructure Law webpage](#).

d. Bureau of Reclamation BIL Implementation

Reclamation a few weeks ago conducted a call on the BIL and also provided some information on the FY 2023 budget request. Bob Wolff walked through the President's budget request which provides \$1.270 billion to the Water and Related Resources account. The FY 2023 request is less than the enacted FY 2022 (\$1.7 billion) because the first Continuing Resolution for 2022 included a \$210 million emergency supplemental appropriation for fire and drought response, and because the Indian water rights settlements account has been moved to a Bureau of Indian Affairs account.

Approximately 2/3 of Reclamation's BIL funds rely on an application process (\$5.4 billion). In addition to the WaterSMART Water & Efficiency Grants announcement detailed below, there are other funding opportunities on the horizon:

- Environmental water resources projects (including CWMP Phase II) (2022)
- Large Scale Water Recycling (2022-2023)
- Water Marketing Strategy Grants (2022)
- Small Scale Water Storage (2022)
- Aquatic Ecosystems (FY 2023)

Reclamation and Interior are working through Build America and Buy America OMB Guidance that was released on April 18. As discussed previously, full guidance must be issued by DOI/BOR no later than May 14, 2022.

**8. Other Developments at the Bureau of Reclamation**

a. WaterSMART Water and Energy Efficiency Grants Programs

Reclamation has released the solicitation for the FY 2023 WaterSMART Water and Energy Efficiency Grants Program. This program support projects that result in quantifiable and sustained water savings, implement renewable energy components, and support broader sustainability benefits. Projects will conserve and use water more efficiently, increase the production of renewable energy, mitigate conflict risk in areas at a high risk of future water conflict, and accomplish other benefits that contribute to sustainability in the Western United States.

Eligible applicants are states, tribes, irrigation districts, water districts, any state, regional, or local authority whose members include one or more organizations with water or power delivery authority, and other organizations with water or power delivery authority located in the Western United States, as well as nonprofit conservation organizations working in partnership with the entities listed above. In FY 2023, an unspecified amount of funding is available to support projects of up to \$5 million. The new maximum award of \$5 million is a change from previous solicitations which capped awards at \$2 million. Applicants must be capable of cost sharing 50 percent or more of the total project costs. Project periods may be two or three years, depending on the funding type.

Applications are due July 28, 2022.

b. Reclamation Manual Update

Reclamation has announced that its Reclamation Manual website has been updated. Available for review until June 2, 2022 is the draft Real Property Disposal policy (CMP 11-03). To access the draft materials, visit <https://www.usbr.gov/recman/index.html>.

c. Suggested Categorical Exclusion Actions for the Bureau of Reclamation

The coming months will be crucial to ensure that implementation of the IIIA is set up for success, delivering efficient and timely construction of water infrastructure, watershed health, and water conservation projects. The Alliance and Trout Unlimited – working through the Western Agriculture and Conservation Alliance (WACC) – recently helped lead the development of a letter requesting Reclamation to develop an informal, collaborative working group to look at all ways to achieve environmental compliance under NEPA. This could be accomplished through the development and creative, flexible, and predictable use of new and existing Categorical Exclusions (CEs) on appropriate water and conservation projects. Our letter also recommended some immediate actions Reclamation could take to adopt CEs that are already included in the Department of the Interior’s NEPA Manual of [Existing Categorical Exclusions and utilized by other bureaus and offices](#).

**9. Environmental Protection Agency (EPA): A New Plan to Address Water Pollution**

EPA has released a new strategy that promotes a voluntary approach to remove nutrients polluting the nation’s waterways. Radhika Fox, EPA Assistant Administrator for Water released a nine-page memo that laid out steps the agency plans to take to combat nutrient loading to rivers and streams. The memo lays out a set of tools, increased engagement with the USDA and financial tools such as grants that EPA is considering helping states rein in nutrient pollution, including a new rule that allows states to add nutrient trading to water permits. Importantly, the memorandum strives to “deepen collaborative partnerships with agriculture” by collaborating with USDA leadership and expand engagements with agricultural stakeholders and highlight their successes. EPA in the guidance document makes clear it plans to lean more on the Clean Water Act to serve as an “incentive and backstop” for collaboration with states, utilizing Total Maximum Daily Loads in reducing nutrients entering water quality stressed water bodies. Some environmental groups have dismissed the plan as not doing enough to combat pollution.

**DEVELOPMENTS IN CONGRESS**

**10. GOP Forum: How Western Drought Affects Every American**

House Committee on Natural Resources Republicans on May 11 will host a forum examining how drought in the American West causes increased grocery prices for American families at a time

when inflation is already skyrocketing. Committee Ranking Member Bruce Westerman has invited Republican Members to participate in an oversight forum examining how the ongoing western drought contributes to skyrocketing grocery and electricity prices nationwide. Members will hear from witnesses from across the country who are experiencing these impacts firsthand and further examine the need to implement short and long-term drought solutions for American consumers.

The hearing will start at 2:00 p.m. (Eastern) new Wednesday. It is a hybrid forum that will take place at the Capitol Visitor Center in D.C., where Members can join in person. Witnesses – to be selected by each Member – will participate virtually via Zoom. Since NWRA’s D.C. fly-in is scheduled for that same week, it is likely that several witnesses will have NWRA and/or Alliance ties. Committee staff last week advised me that I will be invited to provide the Family Farm Alliance perspective at the request of Ranking Member Westerman. This hearing will provide an ideal opportunity to capture some of the recent outreach work we’ve been doing on this matter, starting with the launch of the *Wall Street Journal* ad.

### **11. Alliance and Others Gear Up for 2023 Farm Bill**

While the actual “brass tacks” work on drafting the next Farm Bill may not occur until 2023, farm and conservation groups are beginning to advance their own policies to take to Congress. Engaging in the development of the 2023 Farm Bill was identified as a Top 5 priority by the Family Farm Alliance Board of Directors at its 2022 planning meeting held on February 23 in Reno (NEVADA). Since our meeting in Reno last February, we have begun initial discussions on the Farm Bill, both internally and through our association with the Western Agriculture and Conservation Coalition. Every five years, Congress passes a Farm Bill, which encompasses a wide range of issues, including conservation, rural development, forestry, and nutrition. Since the 2018 Farm Bill will expire in 2023, Congress has begun to hold hearings and receive input about the next iteration of the bill. While additional Congressional field hearings could potentially be scheduled this year, actual brass tacks work on crafting the bill won’t start until 2023.”

The Alliance – through its engagement with the WACC – has worked closely on the last several farm bills, and the 2018 Farm Bill conservation title contains many provisions the WACC and the Alliance advocated for. The conservation title of the last farm bill was a good thing, and parts are due to the direct work of the Alliance and its agricultural and conservation allies. It reflects the growing trend in the West, where individual producers – working with irrigation districts, non-governmental organizations and state and federal partners - are performing large-scale projects that benefit the environment, improve on-farm water management, and provide a new cash stream that helps rural communities.

The WACC last month teed up a letter to the Senate Subcommittee on Agriculture Appropriations, asking for provide full funding in the FY23 agriculture appropriations bill for the Environmental Quality Incentives Program, Regional Conservation Partnership Program, Agricultural Conservation Easement Program, and the Watershed and Flood Prevention Operations Program. In seeking the fullest possible funding, we particularly asked appropriators to resist using the

accounts for these programs as banks to fund member non-agriculture committee interests. In the face of worsening drought, flood, and weather events that continue to impact critical working landscapes and communities, we believe these funds could be deployed more strategically through a combination of incentive structures and streamlined procurement processes that would drive funding to high impact projects much more quickly. These arguments will likely be advanced by the WACC as the 2023 Farm Bureau negotiations begin.

## **12. Coalition Letter Requesting Funding for S2S Forecast Pilot Study**

The “Weather Research and Forecasting Innovation Act of 2017,” reauthorized in 2019 together with the National Integrated Drought Information System program, resulted in a NOAA report that specifically recommends a pilot project for winter S2S precipitation forecasts for water management in the Western U.S. Skillful subseasonal to seasonal (S2S) forecasts have the ability to provide state and local water managers with reliable extended precipitation outlooks. The pilot project would be modeled after NOAA’s hurricane forecasting improvement project which has successfully improved hurricane track forecasting. The letter - signed off by the Alliance and several other Western and national water organizations - was sent last week to a Senate appropriations subcommittee, requesting support for the \$15 million pilot program.

## **13. Senate EPW Committee Marks Up WRDA**

The Senate Environment and Public Works (EPW) Committee last week marked up and adopted their *Water Resource Development Act (WRDA) of 2022*, " ([S. 4137](#)) legislation that includes climate, flood-control and ecosystem restoration provisions, which could help the Army Corps of Engineers (Corps) ability to deal with climate change, including sea-level rise, more intense flooding, and drought. WRDA legislation generally moves through Congress every two years and authorizes Corps flood control, navigation and ecosystem restoration projects. Committee Chair Tom Carper (D-DE) and Ranking Member Shelley Moore Capito (R-WV) have said their legislation builds on the recently passed \$1.2 trillion bipartisan infrastructure package and would authorize Corps projects in all 50 states. Here is a [17-page section-by-section summary](#) of the bill and a [2-page bill summary](#).

Here are the sections we’ll be keeping an eye on as this legislation moves:

- SEC. 117. CORPS WESTERN WATER COOPERATIVE COMMITTEE.
- SEC. 118. UPDATES TO CERTAIN WATER CONTROL MANUALS.
- SEC. 134. WATER SUPPLY CONSERVATION.
- SEC. 141. COLUMBIA RIVER BASIN FLOOD RISK MANAGEMENT.
- SEC. 205. NEPA REPORTING.
- SEC. 214. WESTERN INFRASTRUCTURE STUDY.
- SEC. 341. ACEQUIAS IRRIGATION SYSTEMS.

We’ll continue to monitor this legislation as it moves through Congress.

## ALLIANCE INITIATIVES

### 14. Sackett v. EPA....and other WOTUS News

Legal briefs on the merits were submitted on April 11 in *Sackett v. EPA*, the closely watched Supreme Court case that could determine the definition of “Waters of the United States” (WOTUS) under the Clean Water Act (CWA). In the case, the high court is set to determine whether the U.S. Court of Appeals for the 9th Circuit “set forth the proper test for determining whether wetlands are ‘waters of the United States’” under the CWA. That court referenced Justice Kennedy’s “significant nexus” test of jurisdictional waters, as opposed to the late-Justice Scalia’s “relatively permanent continuous flow” test. The Alliance board of directors at its February meeting in Reno authorized General Counsel Norm Semanko to work with other national agricultural interests to file an amicus brief in the Supreme Court review of the *Sackett* case this fall. The Alliance is joining in an “agriculture” brief, led by the American Farm Bureau (AFB).

Our brief – completed last month - generally explains how the uncertainly and broad scope of jurisdiction asserted by the agencies over the years have made it difficult for farmers to operate, that the agencies have failed to create a workable definition, and the need for SCOTUS to clearly define WOTUS. This brief will help push the Court in the right direction and hopefully get them to put appropriate guardrails on the agencies moving forward. Others in the “ag” coalition include the American Sheep Industry Association, National Pork Producers Council, U.S. Poultry & Egg Association, The Fertilizer Institute, National Corn Growers Association, National Cotton Council, The National Council of Farmers Cooperatives, American Soybean Association, United Egg Producers, American Sugar Alliance, USA Rice and National Association of Wheat Growers.

#### a. GOP Members of Congress and 25 State AGs File Briefs

Last month, 155 House Republicans and 46 Senators also filed an amicus brief in support of the petitioners in the pending U.S. Supreme Court case. On April 18, eleven Western state Attorneys General joined fourteen others in signing an amicus brief led by West Virginia Attorney General Patrick Morrisey (R). The attorneys general warned that the 9th Circuit decision would undermine congressional intent and urged the Supreme Court to reverse.

#### b. EPA Rulemaking Efforts

EPA is currently developing a “more durable” definition of WOTUS in an attempt to reflect the reality of diverse regional differences in waterbodies. But now that the Supreme Court agreed to hear the appeal in *Sackett v. United States*, Republican lawmakers and other supporters of the Trump-era WOTUS definition have urged EPA and the Corps to pause development of any new WOTUS definition until after the high court rules. EPA and the Corps announced in February that they plan to hold a series of virtual regional roundtables over the spring and summer to discuss regional differences in waterbodies. EPA Assistant Administrator Radhika Fox said at the time that the agencies, through the regional roundtables, “will work toward a shared understanding of

the challenges and opportunities to enhance WOTUS implementation to support public health, environmental protection, agricultural activity, and economic growth.” And Assistant Secretary of the Army for Civil Works Michael Connor said the Corps and EPA are “committed to gaining a better understanding of the various regional perspectives through these roundtables to develop an implementation approach that accounts for these diverse voices and regional variations.”

We will be represented on WOTUS Western Region roundtable, scheduled for June 16. Our thanks go out to California Farm Bureau for including us in their formal regional roundtable request. EPA and the Corps most recently proposed an interim WOTUS definition and took comment on it through February 7, 2022. The Alliance developed a formal comment letter on this matter. That proposed rule interprets WOTUS to mean the waters defined by a collection of Corps and EPA regulations referred to as the “1986 regulations,” with amendments to reflect the agencies’ interpretation of the statutory limits on the scope of WOTUS as informed by past Supreme Court decisions, including *Rapanos v. United States*. The agencies have said they plan a second “more durable” WOTUS rulemaking “that they anticipate proposing in the future” and “which would build upon the foundation of this proposed rule.”

*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.*