



MEMORANDUM

TO: SAN LUIS & DELTA-MENDOTA WATER AUTHORITY DIRECTORS
FROM: DAN KEPPEL, EXECUTIVE DIRECTOR
SUBJECT: UPDATE REPORT
DATE: NOVEMBER 6, 2023

This memo is intended to keep you apprised as to what is happening regarding policy issues the Family Farm Alliance (Alliance) is engaged in. In the past month, much of our efforts have focused on advancing farm bill ideas with Western Senators and committee staff, following up on action items generated by our late September fly-in to DC, public outreach, and organizational administrative matters. These issues and other matters important to our members are further discussed in this memo.

BIDEN ADMINISTRATION

POLITICO Weekly Agriculture this morning reported that a new poll from *The New York Times* and Siena College showed President Biden losing to former President Donald Trump in key swing states— [including those that the administration is blitzing](#) to tout the president’s rural achievements. The poll did not include Minnesota, where the president kicked off the rural tour last week. But it did include Wisconsin, Michigan and Arizona — battlegrounds that key officials are visiting. President Biden was trailing Trump in Michigan and Arizona, while holding a slight lead in Wisconsin. The administration is quick to tout the tens of billions of dollars it has spent on rural communities. The NYT/Siena poll casts doubt on whether that strategy is working.

1. Daniel-Davis Named as Replacement for Boudreau as Deputy Secretary

Laura Daniel-Davis, currently principal deputy assistant secretary for lands and mineral management at the Department of Interior (DOI), has been named as former Deputy Secretary Tommy Beaudreau’s replacement. Daniel-Davis did her first stint at the Interior Department during the Clinton administration in 1993 as an aide to then-Secretary Bruce Babbitt. She served

as chief of staff to then-Interior secretaries Ken Salazar and Sally Jewell during the Obama administration before working in senior roles at National Wildlife Federation. Daniel-Davis has been a key player in President Biden's Interior Department since the start of his administration. Biden [announced her appointment](#) as principal deputy assistant secretary for land and minerals management on Jan. 20, 2021, the day he was sworn in. She had her nomination to join the administration as Interior's assistant secretary for lands and minerals management stalled earlier this year after Senator Joe Manchin (D-WV) pulled his support. Her allies broadly expressed their support last week, even as some [lawmakers criticized the Biden administration](#) for appointing her to one top job after she failed to win confirmation for another.

2. DOI, Bureau of Reclamation (Reclamation)

a. Stakeholder Workshop

A small group of Alliance members last month participated in Reclamation's Tribal and Stakeholder workshop at Reclamation's Technical Services Center near Denver. I attended the first day of the workshop, and Alliance member Craig Simpson (WASHINGTON) provided me with a quick summary of how the second day went, where the attendance was way down, due in part to one of the Reclamation presenters testing positive for COVID on Day 1. Here's a list of the topics that Reclamation covered: 1) Aging Infrastructure Account; 2) Implementation of the Inflation Reduction Act (IRA); 3) Water Resource Planning Activities; 4) Climate Change Adaptation Strategy; 5) WaterSMART; and 6) Tribal Initiatives. Reclamation's presentations are now available at <https://www.usbr.gov/stakeholders/>, so I won't go into a ton of details about every workshop session.

b. Reclamation Leadership Conference

We continue to work with a subset of Reclamation leadership, led by the Commissioner's office, to find ways to make the WaterSMART program more efficient and responsive to water user concerns. Also, I've been invited to participate in a panel discussion on November 15 at the Reclamation Leadership Conference in Austin (TEXAS). I'll participate in this virtual forum on a panel chaired by Governor Stephen Lewis (Gila River Indian Community) along with Kyle Arthur (Central Oklahoma Master Conservancy District), John Entsminger (Southern Nevada Water Authority), Leslie James (Colorado River Energy Distributors Association), Gene Shawcroft (Colorado River Authority of Utah), and April Snell (Oregon Water Resources Congress). There will be 200 upper-level Reclamation managers there, and the panel is intended to provide perspectives on what is working at Reclamation and what is not.

c. NOFO Announcement for Small-Scale Water Efficiency Projects

Reclamation has released a WaterSMART Notice of Funding Opportunity (NOFO) Announcement for the Small-Scale Water Efficiency Projects to complete on-the-ground small-

scale water efficiency upgrades supported by previous planning efforts. Projects eligible for funding include installation of flow measurement or automation in a specific part of a water delivery system, lining or piping a section of a canal to address seepage, municipal meters, landscape efficiencies, or other similar projects. Eligible applicants include, as Category A applicants: States, Tribes, irrigation districts, water districts, and other organizations with water or power delivery authority. Category B applicants are eligible so long as they partner with a Category A applicant. Applicants may request up to \$100,000 for projects to be completed within two years. A 50% non-federal cost share is required. This funding includes four application periods. Application will be due each January and July through July 2025. The funding opportunity is available on [grants.gov](https://www.grants.gov) by searching for opportunity number R24AS00059. **The first application period closes on Tuesday, January 16, 2024.** Learn more about the Small-Scale Water Efficiency Projects program at <https://www.usbr.gov/watersmart/swep/index.html>

2. DOI, Fish and Wildlife Service (FWS)

a. \$36 million for Fish Passage Projects

FWS last month announced the availability of up to \$36 million for fish passage projects across the nation that address outdated, unsafe or obsolete dams, culverts, levees and other barriers fragmenting our nation's rivers and streams. Projects will be part of a five-year, \$200 million BIL investment to restore aquatic ecosystems. An inter-agency task force is supporting an efficient and collaborative approach to investing a total of \$2 billion in fish passage projects under the BIL across the Departments of the Interior, Transportation, Agriculture, and Commerce. These projects and funding opportunities are available at the recently updated [Fish Passage Portal](#). Interested parties should submit a Letter of Interest to the [appropriate National Fish Passage Program regional coordinator](#), via email, by Nov.17, 2023. More information, including a list of National Fish Passage regional coordinators, may be found at [Grants.Gov](#) or by visiting the [National Fish Passage Program's informational website](#).

b. Pond Turtle Proposed ESA Listing

FWS has proposed to list the northwestern pond turtle, a species from Washington, Oregon, Nevada, and northern and central California, and the southwestern pond turtle, a species from central and southern California and Baja California, Mexico, as threatened species under the Endangered Species Act (ESA). The western pond turtle is now recognized by FWS as two separate species (northwestern pond turtle and southwestern pond turtle). If FWS finalizes this rule as proposed, it would add the northwestern pond turtle and southwestern pond turtle to the List of Endangered and Threatened Wildlife and extend ESA protections to the two species. FWS also concludes that the designation of critical habitat for the northwestern pond turtle and southwestern pond turtle is not determinable at this time. FWS will accept comments received or postmarked on or before December 4, 2023.

I've discussed this matter with some of our members and also Western state farm bureau offices. Apparently, there are many voluntary and regulatory mechanisms at both the federal and state levels already happening. Importantly, irrigation ditches are included in their aquatic habitat in addition to naturally occurring water bodies. Habitat loss due to a lack of connectivity or fragmentation is a theme with urbanization and agriculture named as the impetus for land use changes. In these areas, the [Federal Register Notice](#) states that "upland land conversion and draining of the extensive wetlands or channeling of streams have resulted in the decline and extirpation of many populations and left the remaining western pond turtle populations within these areas disjunct, scattered, and isolated from each other with little upland habitat available for nesting." It also states that these areas include additional impacts associated with human activity (recreation, roads, contaminants). The FR Notice does acknowledge the reduced resiliency of dry forests and the threats wildfire can bring to the species.

The 4(d) rule includes forest or wildland management activities, habitat restoration activities, nonnative bullfrog removal, and routine management and maintenance of livestock ponds. There are some good inclusions here, but it would be good for us to think of suggestions to expand the 4(d) provisions, if needed. We'll likely work on coordinating a comment letter with our members and allies in agriculture, such as the California Farm Bureau Federation.

DEVELOPMENTS IN CONGRESS

After 22 days without a Speaker of the House, Rep. Mike Johnson (R-LA) won the election last month by a vote of 220-209. Rep. Johnson began his Speakership by saying his "first priority" is avoiding a government shutdown. In doing so, the House Leadership canceled the Chamber's originally scheduled two-week recess. Speaker Kevin McCarthy (R-Calif.) was ousted as Speaker of the House one month ago. His Speakership lasted only nine months and ended after fellow Republican Rep. Matt Gaetz (R-Fla.) filed a motion to vacate the Speaker. Rep. Gaetz's move led to the removal of McCarthy as the vote passed 216-210 when eight Republicans joined all Democrats to remove the Speaker. Following the removal of Speaker McCarthy, Rep. Patrick McHenry was selected as Speaker pro tempore until a new Speaker was elected – over three weeks later. House Republicans – after multiple rounds of voting for a plethora of potential leadership candidates, finally elected Rep. Johnson to serve as the 56th Speaker of the House.

3. New Speaker of the House

Speaker Johnson said he wants to restore people's faith in the House. The new Speaker is a relative unknown to many in the Western U.S., but he is a member of the Congressional Western Caucus, whose chairman Rep. Dan Newhouse (R-WASHINGTON) issued a public statement congratulating the new Speaker on the election. According to a recent article in *GREENWIRE*, House Speaker Mike Johnson is wary of "unelected bureaucrats," federal regulations and government bans on gas stoves. He has long pushed to limit agencies' regulatory powers and boost domestic energy production. Speaker Johnson has been broadly critical of government rules since he joined the House. He praised then-President Donald Trump's effort to overhaul how the federal

government reviews infrastructure projects under the National Environmental Policy Act (NEPA). Speaker Johnson introduced legislation in 2020 that would limit the Interior Department's authority to designate species' critical habitats.

4. Implications of Drawn-out Speaker Election

With no Speaker of the House for over three weeks, the House of Representatives could not pass any legislation. The November 17 deadline established in the 45-day Continuing Resolution (CR) Congress passed is now less than two weeks away, making time limited for Congress to resolve differences and pass long-term government spending. The Farm Bill, Federal Aviation Administration, and National Flood Insurance Program reauthorizations are all legislative items that Congress must act on. Following an attack last month on Israel, members from both sides also spoke of an urgency to assist Israel. The House has passed six funding bills so far, leaving six appropriations bills for FY 2024 to pass before November 17. Rep. Andy Harris (R-MD), the chair of the subcommittee that crafted the House GOP's annual agriculture funding bill, is casting doubt on the legislation's chances of passage this month amid divisions on abortion and spending. If Congress cannot pass all 12 bills by the 17th, the Speaker is on record saying he will aim to pass a CR funding the government through January 15, 2024.

5. House Passes Interior, Environment Appropriations Bill

Last week, the House passed H.R. 4821: The Department of the Interior, Environment, and Related Agencies Appropriations Act for Fiscal Year 2024. The bill provides \$56.9B in discretionary spending, including \$32.5B in defense spending, an increase of \$1.1B; and \$24.4B in non-defense spending, a decrease of \$857M which is \$2.6B below the President's Budget Request. The bill also rescinds \$5.6B from the IRA). Western Caucus priorities are featured throughout this bill, including provisions to block the Bureau of Land Management's "Landscape and Conservation Health" proposed rule, expand American resource production, protect American landowners' rights by repealing the Administration's onerous WOTUS rule, and blocking regulations under the Endangered Species Act (ESA). The Office of Management and Budget (OMB) issued a statement that the President would veto H.R. 4394 if he were presented with it.

6. Fate of the 2023 Farm Bill

House Speaker Johnson is laying out an ambitious floor schedule that calls for the chamber to vote on a new farm bill in December. In a dear colleague letter sent late last month, Speaker Johnson said he would aim to pass the House's farm bill version in December, though that timeline appeared to rely on lawmakers quickly passing remaining appropriations bills, including the currently-stalled agriculture funding bill (*POLITICO Pro*, 10/25/23). There's a lot happening on the Farm Bill right now, and its fate is tied up in a lot of bigger picture politics.

Senator Stabenow (D-MI), the Chair of the Senate Ag Committee recently made a floor speech, and for the first time, suggested that Congress look at a one-year extension of the current farm bill,

to September 30, 2024. All four ag corners are now in agreement that an extension of the 2018 bill will be needed this fall, but none of them are giving up on a farm bill this Congress. Senator Stabenow, Senator John Boozman (R-Ark.), and Reps. GT Thompson (R-PA) and David Scott (D-Ga.) have all now called for an extension. The farm bill expired on September 30, but some provisions were extended in the current CR. A one-year farm bill extension would provide the Congress with some breathing room toward a five-year farm bill reauthorization in early 2024 and give growers and agriculture programs certainty.

a. Family Farm Alliance Engagement on Farm Bill

We have been working with members of the Western Agriculture and Conservation Coalition to advance Farm Bill legislative concepts with Congress that are intended to better streamline the implementation of the NRCS Regional Conservation Partnership Program and the PL-566 program (*see below*).

b. Climate Smart Agricultural Practices

The Alliance has also been working with the executive branch, advocating for flexibility as the NRCS seeks to implement over \$20 billion of “climate smart” agricultural practices granted by last year’s passage of the IRA by Congress. The Alliance, along with 19 other water user groups, Western state farm bureaus, and other ag and conservation organizations, sent a letter to USDA late last year asking that a variety of irrigation modernization and forest fuel control measures be added to the list of “climate smart” practices that are eligible for the \$20 billion. We learned some good news last month. NRCS has now added “irrigation pipelines”, “irrigation systems”, “sprinkler systems” and “pumping plants”, “brush management”, “prescribed burning”, “fuel breaks” to the climate smart list.

7. Important PL-566 Amendment Passes Key Senate Vote

As you know, we’ve been working on a variety of fronts to advance legislation that would allow more USDA dollars to be spent in the West on PL-566 (Small Watershed Program) projects that provide multi-benefits, such as irrigation modernization projects. A small group of us have been working with Senator Jeff Merkley’s office on an appropriations amendment towards that end. Senator Merkley (D-OREGON) and Senator Mike Crapo (R-IDAHO) last month announced their bipartisan amendment to significantly boost investments for multi-benefit projects under the Watershed and Flood Prevention Operations (WFPO) program, including watershed improvements and irrigation modernization projects, passed the full Senate. Clearing this key hurdle means the amendment will be included in the FY24 Senate Agriculture, Rural Development, Food and Drug Administration, and Related Agencies funding bill, which is poised to pass the full Senate soon. The WFPO program, also known as the PL-566 program, has become a vital tool to mitigate the effects of severe drought conditions harming farmers, ranchers, and wildlife, especially in Western states. Originally, \$10 million was set-aside in the FY24 Senate Agriculture funding bill for multi-benefit projects under the PL-566 program,

but Sens. Merkley and Crapo's amendment doubled the funding to \$20 million for these efforts.

The bipartisan amendment is cosponsored by fellow Western state Senators Ron Wyden (D-OREGON), Jon Tester (D-MONTANA), Steve Daines (R-MONTANA), and Michael Bennet (D-COLORADO). This amendment is supported by the Family Farm Alliance, Farmers Conservation Alliance, Trout Unlimited, and the Western Agriculture and Conservation Coalition, something that was noted in Senator Merkley's press release, which also included quotes from several Alliance members and yours truly.

8. ESA Bills Considered at House Legislative Hearing

The House Committee on Natural Resources, Subcommittee on Water, Wildlife and Fisheries (WWF) last month held a legislative hearing on several bills that prosed reforms to the ESA. The following bills were included in the hearing:

- H.R. 520, introduced by U.S. Rep. Tom McClintock (R-CA), would amend the ESA by requiring the Secretaries of the Interior and Commerce to not distinguish between naturally propagated (born in the wild) and artificially propagated (born through artificial means) species.
- H.R. 5103, the Fishery Improvement to Streamline Untimely Regulatory Hurdles Post Emergency Situation Act, introduced by U.S. Rep. Byron Donalds (R-FL), would create timelines for the Office of Management and Budget to review fishery disaster requests.
- H.R. 5504, introduced by U.S. Rep. Dan Newhouse (R-WA), would require the withdrawal of three Biden administration rulemakings that remove vital regulatory certainty for stakeholders, which were proposed on June 22, 2023, dealing with the implementation of the ESA.
- H.R. 5874, the Transboundary Aquifer Assessment Program Act, introduced by U.S. Rep. Juan Ciscomani (R-AZ), would reauthorize appropriations for the United States-Mexico Transboundary Aquifer Assessment Act, which helps assess pressing water resource challenges along the U.S.-Mexico border.
- H.R. __, introduced by U.S. Rep. Garret Graves (R-LA), gives the National Oceanic and Atmospheric Administration (NOAA) additional time to conduct studies and utilize the best available science on Rice's whales and to engage with the regulated community when updating documents for the Gulf of Mexico oil and gas program.
- H.R. 2990, the National Oceanic and Atmospheric Administration Sexual Harassment and Assault Prevention Improvements Act of 2023, introduced by U.S. Rep. Suzanne Bonamici (D-OR), expands coverage of NOAA's Sexual Harassment Prevention and Response Policy to include observers and voting members and staff of regional fishery management councils.
- H.R. 5509, the Electronic Permitting Modernization Act, introduced by U.S. Rep. Katie Porter (D-CA), would require the Secretary of the Interior to create and use an electronic system to accept and process applications for permits, forms and other paperwork.

H.R. 5504 requires the withdrawal of three proposed ESA rules issued by the Biden administration. The Alliance and other organizations representing individuals and businesses impacted by federal agency implementation of the ESA submitted formal comments expressing concerns to the Services on the proposed rule. All three proposed rules essentially roll back rules from the previous administration that our organization strongly supported. We maintain the position of support that we placed behind the substance and process used to finalize the 2020 ESA rules that have been rescinded and rewritten. On May 11, 2023, the Senate passed a Congressional Review Act resolution introduced by Senator Lummis that would overturn the Biden administration’s ESA rule related to critical habitat. The CRA is awaiting consideration in the House.

9. Rep. Simpson Introduces Urban Canal Bill

Rep. Mike Simpson (R-IDAHO) last month introduced the Urban Canal Modernization Act (H.R. 6017). This legislation – supported by the Alliance - allows Reclamation to authorize a 35% non-reimbursable cost share to help repair and rehabilitate “urban canals of concern,” canals through urban areas that would cause significant property damage or possible loss of life if the canal were to fail. Many western canals, including the New York Canal in Boise, are considered urban canals of concern and need repairs. The Urban Canal Modernization Act has support from Rep. Russ Fulcher (R-IDAHO) and Rep. Dan Newhouse (R-WASHINGTON) in the House. Extensive urban growth around irrigation canals has created new challenges for water managers throughout the west. Whereas these canals historically crossed through farm fields and other open areas, they are now surrounded by housing developments, parks, schools, shopping centers, and other development. The increase in development has resulted in many such canals being designated as urban canals of concern. Importantly, the challenges, and associated significant increase in costs for maintenance, were not anticipated when the canals were constructed. The Alliance is on record for supporting the House bill and the Senate companion - S.2160 from Sen. Jim Risch (R-IDAHO).

10. Post-Sackett Engagement on Capitol Hill

On September 8, the Corps of Engineers and the U.S. Environmental Protection Agency (EPA) published a new Revised Definition of “Waters of the U.S. (WOTUS) to conform with the Supreme Court ruling in *Sackett*. Republicans believe the modified Biden WOTUS rule is still too broad and vow to challenge it again under the Congressional Review Act (CRA) as they did earlier this Congress. In April, President Biden vetoed that bipartisan CRA resolution striking down the WOTUS rule. Congress failed to override that veto. The *Sackett* decision took away the “significant nexus” test for jurisdictional waters as WOTUS created in Justice Anthony Kennedy’s plurality opinion in *Rappanos*, replacing it with the “relatively permanent” surface water connection test from Justice Antonin Scalia’s opinion in the same case. This change takes most ephemeral, intermittent, and isolated water bodies and wetlands out of CWA jurisdiction. Both Democrats and Republicans on Capitol Hill have strong feelings on the decision.

a. House Dems Push Legislation to Restore Post-*Sackett* CWA Protections

More than 100 House Democrats have unveiled the "Clean Water Act of 2023" to restore what Clean Water Act (CWA) protections they believe were lost in the Supreme Court's decision in *Sackett v. EPA*. The controversial court ruling has Senate Democrats fuming over what they perceive as backsliding on clean water protections, while Republicans celebrate the ruling as a reining in federal overregulation of the nation's water and land resources. Under the new legislation, Congress would clarify the scope of "protected water resources" under the original CWA with the intent of mitigating *Sackett's* impact. The effort is led by Transportation and Infrastructure (T&I) ranking member Rick Larsen (D-WASHINGTON), T&I Subcommittee on Water Resources and Environment ranking member Grace Napolitano (D-CALIFORNIA) and Reps. Don Beyer (D-VA) and Melanie Stansbury (D-NEW MEXICO). Litigious environmental groups were also, for the most part, supportive of the legislation, although some believe it doesn't go far enough. The bill is unlikely to get any traction in the current Congress. Republicans, who control the House, celebrated the Supreme Court ruling and said the Biden Administration's hastily revised WOTUS rule doesn't follow it closely enough.

b. Senate EPW Committee Reviews *Sackett* Impacts

In the Senate, the Environment and Public Works (EPW) Committee held a hearing on October 18 on *Sackett's* impact on CWA enforcement. Senate Republicans are expecting further Supreme Court litigation over the definition of WOTUS as a result of what they charge is the Biden administration's failure to adequately align its rulemakings with the court's direction in *Sackett v. EPA*. On October 10, the U.S. District Court for North Dakota lifted the stay of litigation in *West Virginia et al. v. EPA*. The case was filed by a coalition of 24 states, originally requesting that the court vacate the Revised Definition of WOTUS Rule issued in January 2023. The court issued a preliminary injunction on April 12, staying the implementation of the January 2023 WOTUS Rule in the plaintiff states. The Alliance was part of an "agriculture" *amicus* brief in support of the *Sacketts* that was submitted to the Supreme Court last year. The district court ordered a deadline of November 13 for the States to amend their complaint to challenge the September 2023 WOTUS Rule. The deadline for federal agencies and intervenor defendants to file answers is December 13.

11. Padilla, Sinema Fill Important Committee Slots Left with Loss of Senator Feinstein

Following the late California Sen. Dianne Feinstein's death last month, Senate Democrats announced that Sen. Alex Padilla (D-CALIFORNIA) will join the Energy and Natural Resources (ENR) Committee, Sen. Kyrsten Sinema (I-ARIZONA) will join Senate Appropriations and Sen. Laphonza Butler (D-CALIFORNIA) will join Senate Judiciary. Sen. Butler is also getting tapped for Banking, Housing and Urban Affairs, Homeland Security and Governmental Affairs and Rules and Administration. Sen. Feinstein (D-CA) was Chair of the Energy and Water (E&W) Development Appropriations Subcommittee funding the Department of Energy, the Army Corps of Engineers, and Reclamation, among other things. Sen. Patty Murray (D-WA), who is currently Chair of the Senate Appropriations Committee, announced that she will take over the gavel of

E&W for the remainder of this Congress.

Senators Murray and Sinema have been very responsive to the needs of their agricultural constituents on water issues. It's encouraging to have Western representation like this on the Senate Appropriations Committee. We also look forward to working closely with Senator Padilla in his new role on the ENR Committee, which is one of the most important committees we work with, since it has jurisdiction over Reclamation, Western water matters, and forestry, the issues that are most important to our organization. We're grateful for the constructive relationship we have with Senator Padilla and his staff and look forward to more opportunities to work with him in this important committee assignment.

IN THE COURTS

12. *Yurok Tribe v. Klamath Water Users Association*

The Alliance last month signed on to a “friend of the court” (*amicus*) brief in support of Klamath Basin farmers’ legal arguments to have their water rights recognized in the continuing tension over Reclamation’s release of water for ESA compliance for its operations of the Klamath Project, which straddles the California-Oregon state line. The Alliance board of directors in August authorized joining an amicus brief in *Yurok Tribe, et al. v. Klamath Water User Association, et al.*, in support of the Klamath Water Users Association (KWUA). The case is currently on appeal to the 9th Circuit Court of Appeals.

KWUA in October filed opening briefs in their respective appeals to the Ninth Circuit Court of Appeals of the February 8, 2023 ruling of the U.S. District Court (Judge Orrick) in the *Yurok* litigation. Broadly, KWUA’s principal arguments on appeal are twofold. KWUA argues that Reclamation lacks discretion to curtail Project deliveries in order to benefit ESA-listed species. The organization also posits that the ESA does not preempt the application of state water law to Reclamation. The *amicus* brief signed on to by the Alliance backs this assertion, and notes that, while neither courts nor federal agencies can create more water, they can ensure the predictable and equitable allocation of existing water resources by applying the law consistently. This includes rigorously interpreting Reclamation’s federal statutory authorities to enforce the agency’s congressional mandate to follow state water law and interpreting Reclamation’s contracts to hold the federal government to its contractual commitments. The Alliance joined the brief prepared by the Oregon Water Resources Congress that also includes National Water Resources Association, Agribusiness and Water Council of Arizona, Idaho Water Users Association, Oregon Farm Bureau Federation, and Washington State Water Resources Association. The *amicus* brief is well done and has a strong consistent message that reads well. Two other amicus briefs in support of KWUA were submitted by California farm and water interests, and California and Oregon counties impacted by Klamath Project operations.

ALLIANCE INITIATIVES

13. Colorado River Initiative

DOI last month announced next steps in the formal process to develop future operating guidelines and strategies to protect the stability and sustainability of the Colorado River system. Reclamation published the Proposed Federal Action and a Scoping Summary Report related to Colorado River Basin operations post-2026. The Scoping Report, which was supported by a 60-day public scoping period, will inform the post-2026 operating guidelines. The guidelines under development would be implemented in 2027, replacing the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead, which are set to expire at the end of 2026. Reclamation last month also released a revised draft Supplemental Environmental Impact Statement (SEIS), intended to inform Reclamation's ongoing efforts to set interim guidelines through the end of 2026.

The Alliance has members in each of the 7 Colorado River Basin states, where individual perspectives clearly demonstrate the amazing diversity in views on Colorado River policy matters. Within the Basin, all of the various water users' perspectives are shaped by where they are in the system. It depends on whether they are in the Upper or Lower Basin, within or outside of the natural hydrologic basin boundaries, in which state, and the priority of their use within their state. Despite the diversity of Colorado River policy opinions within our membership, the Alliance board of directors in 2015 and again in 2022 adopted principles and recommendations intended to guide state and federal decision-makers as they negotiate a long-term operating agreement on the Colorado River. The 2022 policy paper – which has also been adopted by several water agencies served by the Colorado River – has as its top principle the need to “recognize that Western irrigated agriculture is a strategic and irreplaceable national resource”.

a. IVH2O Event

Alliance Director Steve Benson (CALIFORNIA) was recently named as the incoming chairman by IVH2O, an organization that represents the interests of Imperial Valley landowners on Colorado River issues. The first event he hosted as IVH2O Chairman on October 26 focused on the post-2026 guidelines. The Colorado River update took place on October 26 at Pioneers' Museum in Imperial. Speakers included JB Hamby, Chairman of the Colorado River Board of California and IID Board Vice President, Tina Shields, IID Water Manager, and a member of the Alliance Advisory Committee, and Mark Limbaugh. Mark previously served as IID's federal lobbyist and provided a regional and Washington D.C. perspective on Colorado River politics. He was with the George W Bush Administration when the 2006 Interim Operating Guidelines were negotiated and explained how that agreement was reached, and what we might expect this time around.

b. Rotary Club Colorado River Project

In the past year, Alliance Directors Pat O’Toole and Steve Benson were interviewed for a documentary film on the Colorado River developed by the University of Colorado and Rotary. Of course, I’m biased, but I personally believe that the comments made by Pat and Steve were the most impactful statements about the Basin and its needs in the future. The Alliance last month committed to support a unique project co-sponsored by Rotary, the University of Colorado, Boulder and the Colorado Water Center at Colorado State University. The goal is to provide information on what the Colorado River Compact is and how, as community leaders, Rotary members can become involved in both the current emergency allocation process and future negotiations for the 2026 revised operating guidelines on the Colorado River. The video came out great and project leaders soon want to distribute it to the Rotary Clubs in the 7-Basin states for viewing. Family Farm Alliance will be listed as one of the project’s sponsors.

NEWS FROM AROUND THE WEST

All reports suggest that the West will be seeing weather events driven by El Nino in the coming months. On October 12, NOAA’s Climate Prediction Center (CPC) reported that El Niño is expected to continue in the Northern Hemisphere through next spring, with an 80% chance during March-May 2024. Recent CPC observations indicate at least a “strong” event November - January. The CPC noted that strong events only increase chances that some impacts will occur, but do not guarantee strong impacts locally. The NRCS Water and Climate Update on October 12 reported disproportionate amounts of annual precipitation throughout most of the Western U.S. for the past water year 2023. The SNOTEL sites in the Pacific Northwest received some of the lowest annual precipitation amounts on record, while other locations in the intermountain west and southwestern U.S. received near-record high amounts of precipitation for the year.

El Nino is predicted to bring wetter than normal conditions across the southern one-third of the U.S., including a wetter forecast for southern and eastern Colorado into much of Kansas, but increased chances of warmer than normal temperatures across the northern U.S. An El Nino likely will make the Pacific Northwest warmer than normal this winter and cause drought to persist east of the Cascade Range, the National Oceanic and Atmospheric Administration predicted. An El Nino shifts the Pacific jet stream, meaning the northern U.S. will get less cold air than usual from upper Canada and the North Pole. The anticipated strong El Nino is the predominant factor driving the U.S. winter outlook this year. The greatest odds for warmer-than-average conditions are in Alaska, the Pacific Northwest and northern New England.

14. Lower Snake River Dams (IDAHO/WASHINGTON/OREGON)

The Biden administration revealed last week it is near a settlement in the long-running legal battle over the future of 14 controversial dams in the Pacific Northwest and expects to reach agreement in the case by mid-December. In a [joint motion](#) filed in the U.S. District Court for the District of Oregon, the Justice Department (DOJ) asked for six weeks to seek final approval on “a package

of actions and commitments" but did not offer further details on the expected settlement. The lawsuit centers on the 2020 federal plan for hydropower operations on the Snake and Columbia rivers, and the impacts of those facilities on restoring the region's endangered salmon and steelhead. DOJ and the plaintiffs in the case — which include the Nez Perce, Yakama, Warm Springs and Umatilla tribal nations, as well as the National Wildlife Federation and other conservation groups represented by Earthjustice — have sought [repeated delays](#) in the lawsuit since 2021 to allow settlement negotiations to proceed. As previously reported, the Biden administration [detailed a potential settlement](#) that would “develop a durable long-term strategy to restore salmon and other native fish populations to healthy and abundant levels, honor Federal commitments to Tribal Nations, deliver affordable and reliable clean power, and meet the many resilience needs of stakeholders across the region.”

Plaintiffs claim that removing the dams is the only way to save endangered salmon runs. They brush aside arguments about the value of the electricity generated by the dams and the economic benefits of the shipping the dams facilitate. Idaho's Port of Lewiston, 465 miles from the Pacific Ocean, is the West Coast's most inland port. Agricultural stakeholders say they have no idea what's in the package, including whether it calls for breaching the dams. The Alliance earlier this year sent a letter to Agriculture Secretary Vilsack, urging his engagement on this matter, with an eye towards defending the interests of farmers and ranchers. We'll likely have a panel of experts address this topic at our annual conference next February.

ADMINISTRATIVE & MISCELLANEOUS

- I've had a few recent road trips, with more on the horizon. I delivered the keynote address two weeks ago at the Water Sustainability Summit, hosted by Mauricio Guardado, GM of the United Water Conservation District in Oxnard (CALIFORNIA).
- I'm heading up to Moses Lake (WASHINGTON) next week, where I'm delivering the keynote address at the Columbia Basin Development League annual conference. Later this month, I'm speaking at the annual conferences hosted by Oregon Water Resources Congress in Hood River and the Washington State Water Resources Association in Spokane.

This is a quick summary of just a few of the issues the Alliance has been engaged in. Please do not hesitate to contact me at 541-892-6244 or dan@familyfarmalliance.org if you would like further information about what the Alliance is doing to protect water for Western irrigated agriculture.