

Monthly Briefing

A Summary of the Alliance's Recent and Upcoming Activities and Important Water News

Feds Seek Input on Regulatory Reform *Alliance Developing Recommendations for Multiple Agencies*

While much of the national media focus in recent months has been on Russian conspiracy, North Korean nuclear threats and Capitol Hill battles over Obamacare, federal agencies have been busy advancing President Trump's promise to alleviate "unnecessary burdens placed on the American people." Agencies whose actions impact Western water users – including the Bureau of Reclamation, Environmental Protection Agency, Fish and Wildlife Service and others – are seeking public input on how they can best live up to President Trump's promise. The Family Farm Alliance has completed or is in the process of drafting formal comment letters for several federal agencies.

"This is a tremendous opportunity to provide our perspective on the efficiency and effectiveness of current regulatory processes that impact Western irrigated agriculture,"

said Alliance Executive Director Dan Keppen (OREGON). "It's been a long time since we've had so many agencies so receptive to hearing our thoughts on how current regulatory

processes can be further streamlined or expedited."

Exec. Order 13777

Last February, within days of his inauguration, President Trump signed Executive Order 13777 - "Enforcing the Regulatory Reform Agenda" - to alleviate unnecessary regulatory burdens placed on the American people. The Executive Order established a Regulatory Reform Officer (RRO) for each agency and a Regulatory Reform



President Trump, surrounded by American business leaders, signs Executive Order 13777 last February to "alleviate unnecessary regulatory burdens placed on the American people". Federal agencies are now soliciting public comments on how they best execute the president's order. Photo Source: MNBC

Task Force.

"The RRO oversees the implementation of regulatory reform initiatives and policies to ensure that agencies effec-

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Regulatory Reform Effort Underway (Cont'd from Pg. 1)

tively carry out regulatory reforms,” explains Mark Limbaugh, the Alliance’s representative in Washington, D.C.

Agency Follow-Up to the Executive Order

The U.S. Interior Department has established a Regulatory Reform Task Force, which is guiding implementation of regulatory reform, including publishing a Federal Register notice seeking public comment. Interior houses several agencies with jurisdiction over activities that impact Western farmers and ranchers, including the Bureau of Reclamation (Reclamation), Bureau of Land Management, Fish and Wildlife Service (FWS), and U.S. Geological Survey (USGS). The Alliance – with its water-focused mission – is currently preparing letters for Reclamation, FWS and USGS. The Alliance also earlier this year transmitted similar letters to the National Oceanic and Atmospheric Administration (NOAA) and the Environmental Protection Agency (EPA).

On July 7, 2017, NOAA Fisheries published in the Federal Register a request for comments in furtherance of streamlining regulatory processes and reducing regulatory burden. The request specifically calls out existing regulations under the Endangered Species Act (ESA) as a potential subject for comment.

Family Farm Alliance Concerns

Many Western producers face significant regulatory and policy related challenges, brought on - in part - by federal agency implementation of environmental laws like the ESA, destructive tactics employed by litigious, anti-farming activists, and a myriad of rules and policies.

“It’s refreshing to have an opportunity to start trimming chapters, rather than adding new ones to a regulatory play-book that is already much too big, top-down, and daunting,” said Alliance President Pat O’Toole, who raises sheep and cattle on the Colorado-Wyoming border.

Many Western irrigators - especially those who operate in watersheds that provide habitat for anadromous fish like salmon and steelhead trout that spend part of their lives in marine environments - are significantly impacted by decisions made by NOAA Fisheries and FWS. ESA consultation decisions made by these federal fisheries agencies regarding operations plans for federal water projects like those in the Columbia River Basin, the Central Valley Project and the Klamath Irrigation Project have significantly impacted historic operations of these projects.

“Agency biologists have the power to essentially rededicate water once used to support agricultural irrigation to the perceived needs of fish and frog species protected under the ESA,” said Mr. Keppen. “Western agricultural water managers in some cases have been excluded from participating in the scientific review and ESA consultation and decision-making processes that form the basis of biological opinions.”

The Alliance letter transmitted to NOAA Fisheries provides background on challenges facing Western irrigators and

proposes recommendations primarily intended to improve opportunities for local involvement in ESA consultation, modernize and clarify best available scientific data, and reform transparency and accountability of ESA-related peer reviews. It advocates for emphasizing Safe Harbor Agreements and the “partners” approach over the use of the “regulatory hammer”.

Similar recommendations will be included in the Alliance letter transmitted to FWS. The letter to Reclamation will identify existing policies that might inhibit development or repair of vital water infrastructure, seeks ways to facilitate transfer of title from the federal government to local water users, and improve water management flexibility. The Alliance letter to USGS recommends prioritizing programs that expand and improve upon hydrologic measurement and data collection.

California Pushes Back

While many in American business and industry welcome the chance to modernize and improve federal regulations, the state of California is pushing back on President Trump’s environmental rule making. After new staff at EPA under Administrator Scott Pruitt drafted a ruling that would deny a decade-old petition by environmentalists to ban the pesticide chlorpyrifos, California’s own EPA developed draft rules that would further tighten what are already the strictest rules in the nation on the pesticide. Chlorpyrifos is used by many Central Valley farmers to kill pests that attack grapes, almonds, oranges and other fruits. Some environmental organizations want to completely ban the pesticide. A spokesman for Dow AgroSciences called the California draft rules “overly conservative”.

Environmentalists are also working with urban Democrat legislators in Sacramento to push for passage of SB 49, the “California Environmental Defense Act”. SB 49 would require state agencies to continue enforcing current federal air, water, endangered species if the Trump administration or Congress weakens them. For example, it would require that all wildlife on the federal list of threatened and endangered species be included on the state’s list of protected species.

“The goal is to make clear California’s commitment to strict environmental oversight regardless of what the federal government chooses to do,” the *Los Angeles Times* editorial board proclaimed in an endorsement of SB 49.

While the outcome of all these machinations remains uncertain, the federal agency outreach to the public is welcomed by the Family Farm Alliance leadership. This is seen as an opportunity to provide some constructive recommendations to agency officials who appear ready to seriously consider them. All of the Alliance’s agency letters are intended in part to demonstrate the importance of Western irrigated agriculture and the implications of agency decisions that contribute to drying up land currently producing food in the West.

“Western irrigated agriculture is a strategic and irreplaceable national resource important to both our food security and our economy,” said Mr. O’Toole. “This round of letter running gives us an opportunity to explain why it must be appreciated and protected by the federal government in the 21st Century.”

Alliance Finalizing Farm Bill Policy Platform

House Agriculture Committee Chairman Mike Conaway, his staff, and other committee members have conducted three field hearings on the farm bill, including one that was held in Modesto (CALIFORNIA) earlier this month. The farm bill discussions on Capitol Hill are going to be strained due to budget pressure from the White House and Republican leadership in Congress. However, many are optimistic because the House and Senate Agriculture committee leaders have started hearings early and are working on the legislation already.

U.S. Sen. John Thune (R-SOUTH DAKOTA), a longtime member of the Senate Committee on Agriculture, Nutrition, and Forestry, has unveiled the Forest Management Improvement Act of 2017 (S. 1731), which would make several improvements to the forestry title of the farm bill by helping simplify and streamline federal forest management. Another bill being teed up for consideration in the House farm bill discussions has been introduced by Rep. Earl Blumenauer (D-OREGON). Thirty-one Democrats are backing his bill—the Saving America’s Pollinators Act of 2017 (H.R. 3040)—that would suspend the approval of neonicotinoid pesticides, common insect-killers that are said to harm honeybees, aquatic insects, birds, and other insects and animals.

The Family Farm Alliance is close to finalizing its 2018 Farm Bill platform paper.

“Our final document will build upon past policy statements, ideas developed while in Washington on this year’s farmer lobbyist trip, and key components of similar work we are involved with via the Western Agriculture and Conservation Coalition and the Irrigation Association Farm Bill Task Force,” said Alliance Executive Director Dan Keppen (OREGON). “When it’s finalized, we intend to use it in Farm Bill negotiations, messaging and public outreach.”

The Alliance’s Farm Bill priorities include continued support for the Regional Conservation Partnership Program (RCPP) and the Environmental Quality Incentives Program (EQIP) which are particularly important to achieving conservation and rural economic and social goals in the West.

“We want to ensure that EQIP remains available for use

across all land ownerships and we would like to see the new Farm Bill remove contracting barriers and streamline implementation of RCPP,” said Mr. Keppen.

The Alliance also wants to allow more flexible utilization of the Watershed Protection and Flood Prevention Act, (P.L. 83-566) for watershed enhancements.

“Many Western irrigation districts are over 100 years old,” said Marc Thalacker, an Alliance director from Central Oregon. “The aging infrastructure these districts have inherited and are required to maintain need to be modernized to protect our food and fiber security.

Adequate funding for

a modernized PL-566 Watershed program will help catalyze sustainable farming for the next 100 years.”

The final Alliance priorities will also include recommendations for Farm Bill provisions that support beginning farmers and ranchers and a comprehensive solution to problems of funding wildfires.

“In recent decades, we’ve spent far too many resources on managing wildfires,” said Bill Kennedy, an Alliance director with ranch land in California and Oregon. “It’s time we start managing for forest health again.”

A new Farm Futures survey (also referenced in

infrastructure story, beginning on Page 4) has found that a majority of farmers are worried about the farm bill. A full 76 percent of growers agreed that they are worried the next farm bill “will not provide an adequate safety net for my farm.” The farm bill was the most important imminent business issue for growers, with 39 percent listing it as their No. 1 priority.



Alliance directors Patrick O'Toole (WYOMING) and Don Schwindt (COLORADO) talk water along one of the headwater tributaries of the Colorado River. The O'Toole family and other ranchers utilized Farm Bill conservation title programs in ways that benefit their ranches and the environment. Photo courtesy of : Sharon O'Toole, Ladder Ranch.

In a recent survey, the farm bill was the most important imminent business issue for growers, with 39 percent listing it as their #1 priority.

Trump Infrastructure Rollout Eclipsed by Charlottesville

Presidential Infrastructure Advisory Council Disbanded

An eagerly awaited rollout of President Trump's plans to rebuild America's infrastructure was instead pushed to the sidelines as reporters focused questions on the president's comments made in the aftermath of the tragic events that took place days earlier in Charlottesville, VA.

The infrastructure announcement was made in Trump Tower in New York City earlier this month after President Trump signed an Executive Order "Establishing Discipline and Accountability" in the environmental review and permitting process for infrastructure projects.

"Crumbling infrastructure will be replaced with new roads, bridges, tunnels, airports, and railways gleaming across our very, very beautiful land," President Trump stated.

According to the White House, the Executive Order (EO) will make the environmental and permitting processes needed for major infrastructure projects more efficient and effective. Rather than allow for a patchwork of agency reviews, this EO implements a "One Federal Decision" policy under which the lead Federal agency will work with other relevant Federal agencies to complete the environmental reviews and permitting decisions needed for major infrastructure projects. Each agency will sign a joint Record of Decision and all required Federal permits will be issued 90 days later. The order establishes a two-year goal to process environmental documents for major infrastructure projects.

The EO includes many of the concepts from H.R. 1654, authored by California Republican Tom McClintock, and S. 677 authored by Senator John Barrasso (R-WYOMING), which streamline the environmental permitting process associated with building new water storage projects. The Family Farm Alliance earlier this year provided input on both bills and Alliance Advisory Committee Member Tom Davis (ARIZONA) testified in support of S. 677 in June, before the Senate Energy and Natural Resources Committee, Water and Power Subcommittee.

"Clearly, the existing procedures for development additional water supplies need to be revised to make project approval more timely and less burdensome," Mr. Davis testified. "By the time project applicants approach federal agencies for permits to construct multi-million dollar projects they have already invested extensive resources toward analyzing project alternatives to determine which project is best suited to their budgetary constraints. However, current procedure dictates that federal agencies formulate yet another list of project alternatives which the applicant must assess,

comparing potential impacts with the preferred alternative. Valuable resources are required to be expended to further study of these additional alternatives in the federal permitting process."

The EO includes specific provisions intended to improve performance across the government and "hold every Agency accountable".

The entire environmental review and permitting process will be reviewed to improve performance across the government and hold every agency accountable. For example, the Office of Management and Budget will establish a performance accountability system and score each agency on their implementation of the Executive Order. Poor performance will be considered in budget formulation and could result in the imposition of available penalties.

"The Executive Order makes clear that environmental protections will be maintained, and that the process should focus more on decision-making and good environmental outcomes rather than bureaucratic process," the White House said in prepared statement.

While the Trump Tower event was intended to be all about infrastructure, that issue played second fiddle to the controversy surrounding the racial violence that broke



out in Charlottesville three days earlier. Nearly all the questions raised by reporters focused on the president's controversial comments following the chaos surrounding the white supremacist march in Virginia.

Other than the specifics on rolling back regulation and streamlining the permitting process, not many details were provided by the White House, which said that "only 1/5" of infrastructure spending will come from the federal government, with "the vast majority" coming from state, local, and private sector matching funds.

"Government will get out of the way to allow state and local governments to succeed at meeting their unique challenges," the White House stated.

The Trump Administration echoed the claims made by many in business and industry – including the Family Farm Alliance – who believe the current system for completing environmental reviews is fragmented, inefficient, and unpredictable. According to the National Association of Environmental Professionals, a single agency can take 3.7 to 5 years on average to complete an environmental review. The White House pointed to another study that found the average delay of six years for major infrastructure projects costs the U.S. economy

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BOR Press Release: Water O&M Bulletins Available

Receive information on managing canals, laterals, bridges, pipeline and more

The Bureau of Reclamation has been publishing the Water Operations and Maintenance Bulletins since 1952 and they are still publishing today. All of the issues are available on Reclamation's website at <https://www.usbr.gov/assetmanagement/WaterBulletins/>.

The summer 2017 issue featured canal operating training, tips for SCADA planning, the Technical Service Center's concrete testing, and a brochure that can be printed to promote canal safety.

The next issue, coming out in September, covers innovative solutions such as a deflector for intake pipelines, using rubber dams rather than earthen ones, using CLSM for voids, and approaches for underwater inspections and construction.

If you are interested in subscribing to receive the Water Operations and Maintenance Bulletin, please send an email to drowateroandm@usbr.gov.



Senate Moves Some Nominations Before Summer Recess

Before leaving Washington for their delayed August recess, the Senate confirmed a dozen or so Trump Administration nominees for various positions, including two nominees for the Federal Energy Regulatory Commission (FERC). However, no Interior Department nominees approved earlier that day by the Energy and Natural Resources (ENR) Committee were confirmed. Interior nominees voted out of ENR Committee but ultimately not confirmed included Brenda Burman for Commissioner of the Bureau of Reclamation and

Susan Combs for Assistant Interior Secretary for Policy, Management and Budget.

Senate Majority Leader Mitch McConnell set another vote on nominations for September 5 when the Senate comes back to Washington after their summer recess. Congress will return after Labor Day to a myriad of major must-pass issues, including funding the government past September 30 and raising the debt ceiling to keep the government solvent.

Trump Infrastructure Initiative (Cont'd from Page 4)

“trillions” of dollars.

A white paper prepared by the office of Rep. Peter DeFazio (D-OREGON), the ranking member on the House Transportation and Infrastructure Committee, attempted to counter the president’s argument by citing other reports prepared by the Council on Environmental Quality and the Congressional Research Service. Those findings claim that most construction projects are exempt from in-depth environmental reviews and that evidence is lacking to support the assertion that most projects are delayed by six years.

“Trump continues to pretend that he can wave a wand and magically rebuild our crumbling roads, bridges and transit systems,” said Rep. DeFazio. “Less than 1% of federal infrastructure projects require the type of rigorous environmental review he lamented....He is ignoring the fact that it will take real federal investment and partnership with the states to rebuild our infrastructure.”

In what was seen by some as another blow to the president’s infrastructure agenda, the White House announced soon after the Trump Tower event that the president’s planned Advisory Council on Infrastructure “will not move forward”. The cancellation followed the president’s earlier announcement that he was disbanding the American Manufacturing Council and Strategic and Policy Forum after some members of those committees quit in protest after President Trump’s comments on white supremacists and the weekend’s violence

in Charlottesville.

The Family Farm Alliance worked with the National Water Resources Association, the Association of California Water Agencies and others earlier this month to raise awareness about the importance of having a representative from the agricultural and municipal water community be appointed to the Infrastructure Council.

Before the president axed the Council, Rep. Paul Gosar (R-ARIZONA), chair of the House Western Caucus, sent a letter to President Trump requesting that a representative from the agriculture and municipal water community be afforded a position on the Council.

“Water infrastructure impacts our economy at its every nexus and in the most critical ways – including at the level of industrial applications, power generation, agriculture and food,” Rep. Gosar wrote. “Fortifying those daily drivers of the economy is one of the smartest, surest ways of securing economic prosperity for our people and industries in the century ahead.”

Meanwhile, back on the farm, while the president’s approval rating may be starting to slip with some of his base, a new Farm Futures survey has found that a majority of farmers (55 percent) would give Donald Trump an “A” or “B” if they were assigning a grade to him on domestic issues. Almost all - 86 percent - of respondents said that the president’s actions to reduce regulation would be good for their farms.

Hemp, Marijuana and Bureau of Reclamation Water Policy

Uncertain implications for some as states begin to legalize marijuana

As the number of Western states legalizing the cultivation and use of marijuana grows, so does the uncertainty surrounding the use of federal facilities to deliver water cultivated lands in those states. Adding to the confusion is the cultivation of industrial hemp in areas served by federal water projects. Should hemp be treated the same way as its more potent cousin?

Reclamation Manual Policy Temporary Release Regarding Marijuana Production

The Bureau of Reclamation in May 2017 issued a temporary release of its policy on the use of Reclamation water or facilities for activities prohibited by the Controlled Substances Act (CSA) of 1970.

“Reclamation’s obligation as a Federal agency to uphold Federal law prohibits it from approving the use of Reclamation water or facilities to facilitate activities prohibited by the CSA,” the temporary release states.

“Although the CSA’s relevant prohibitions have not changed, the legalization of marijuana’s cultivation and distribution under some state laws necessitates a clear statement of Reclamation’s obligations under the CSA.”

In Section Sec 5.B, this policy says Reclamation will refer known use of Reclamation facilities or water for cultivation of marijuana to the Department of Justice, which is consistent with the underlying law (the CSA). Some irrigation district managers are concerned that Reclamation may take its own punitive action against the district for allowing the use of water for marijuana cultivation, although no one has seen any written policy or directive to that effect, yet.

Some Western water users are less concerned than others.

“It seems if Reclamation ‘knows’ a district allowed the use of water for cultivation, they have a confirmed ‘known use’ by a grower and should have reported it for the Justice Department to handle,” said one irrigation district manager in Washington state, where marijuana cultivation was recently legalized. “I have never heard Reclamation say they want the districts to try and stop the use. In fact, I’ve heard the oppo-

site. If we know marijuana is being grown, we report it to Reclamation, and they take it from there.”

Still, in other states like California who have just recently legalized marijuana cultivation and use, some water managers are feeling unsettled and uncertain. Attorneys representing some Alliance member districts are currently working on an analysis detailing the potential implications of the Reclamation policy.

Industrial Hemp Water Rights Act

The 2014 farm bill authorized universities and state depart-

ments of agriculture to launch pilot programs to grow and research industrial hemp, and 31 states are participating. Reclamation, however, prohibits the use of federally-controlled water for growing industrial hemp. These conflicting policies create confusion for farmers who grow, or wish to grow, industrial hemp using water from federal reservoirs.

U.S. Senators Michael Bennet (D-COLORADO), Steve Dianne’s (R-MONTANA), Jon Tester (D-MONTANA), Cory Gardner (R-COLORADO), Ron Wyden (D-OREGON),

and Jeff Merkley (D-OREGON) in July introduced bipartisan legislation to ensure farmers across the West can use the water they own through private water rights to grow industrial hemp in states where it is legal. The Industrial Hemp Water Rights Act (S. 1576) is intended to clarify federal policy, ensuring owners of water rights can use their water, even if it passes through federal facilities, to cultivate industrial hemp. The Industrial Hemp Farming Act had 75 bipartisan co-sponsors in the House and 16 in the Senate during the last Congress, but never advanced beyond being introduced.

The full Senate Appropriations Committee in passing its \$38.4 billion Energy and Water Development Appropriations bill for FY 2018 included an amendment based on the bill sponsored by Sens. Bennet, et al.



Industrial hemp grown in Colorado. Photo Source: CO Dep’t of Agriculture

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Cline Falls Dam Removal Begins on the Deschutes River

Deconstruction of the more than 100-year-old wood and concrete dam along with hydroelectric equipment at Cline Falls on the Deschutes River near Redmond is underway and is expected to continue through the end of this month.

Once completed, resident trout and wildlife will be able to migrate freely through the former dam site, accessing river and riparian habitat along the Upper Deschutes.

Crews have installed a cofferdam, a temporary watertight enclosure that allows the enclosed area to be pumped out. This pumping creates a dry work environment for the dam removal to proceed. Earlier this month, an excavator with an air-chisel attachment was used to demolish sections of the dam.

“As owners of the land we’ve been committed to removing this dam for years in an effort to return the Deschutes River to its natural state,” said Craig Horrell, district manager of the Central Oregon Irrigation District (COID). “To finally see the dam removal and site clean-up in action was a very proud moment for our organization.”

Following a successful settlement with PacificCorp, who previously leased the site from COID, the Cline Falls dam removal and associated equipment and structures of the former

hydroelectric power plant is the joint effort of the COID in cooperation with the Upper Deschutes Watershed Council.

Removal of the 120-foot-long, 5-foot-tall dam will improve ecological conditions of the river by allowing the river to flow naturally and restore the natural movement of sediment downstream. The project also includes site clean-up of left-behind contaminants. Project costs are expected to exceed \$2 million and are being financed by a settlement with Pacific Power.



Cline Falls dam removal, Deschutes River (OREGON). Photo credit: COID

About Central Oregon Irrigation District

Established in 1918, COID is a Municipal Corporation of the State of Oregon. The District’s mission is to provide a reliable supply of water to 3,500 patrons throughout Bend, Redmond, Powell Butte and Alfalfa through its system of more than 700 miles of canals. COID delivers water to each patron so all can work, play and thrive, while at the same time ensuring the needs of future patrons can be met through conservation and more efficient delivery methods. COID is a member of the Family Farm Alliance, where Mr. Horrell serves on the Advisory Committee.

Note - this article derives from July 31, 2017 COID press release: www.coid.org

Hemp, Marijuana & Federal Water (Cont’d from Page 6)

In the House, Reps. Goodlatte, James Comer (R-KY), Thomas Massie (R-KY) and Jared Polis (D-COLORADO) reintroduced legislation that would remove hemp from the Controlled Substances Act and legalize its cultivation in all 50 states.

In some states, including Arizona and Colorado, the state legislatures have wrestled with the hemp issue, without clear resolution. Several Colorado water districts support efforts to allow federal water facilities to deliver water, or the use of private water rights, for hemp production by agricultural producers.

“Resolution of this issue probably needs to be at the Federal level,” said one Colorado water district manager.

What’s the difference between marijuana and hemp?

A key challenge in all of this may be getting policy

makers and the public to recognize the difference between marijuana and hemp. Strains of *Cannabis* approved for industrial hemp production produce only minute amounts of the psychoactive drug THC, not enough for any physical or psychological effects. Typically, hemp contains only 0.3% THC, while *Cannabis* grown for marijuana can contain anywhere from 6 or 7 % to 20%, or even more. While more hemp is exported to the United States than to any other country, the United States government does not consistently distinguish between marijuana and the non-psychoactive *Cannabis* used for industrial and commercial purposes.

“I’ve heard from one or two of our members who flatly reject supporting marijuana production using Reclamation facilities and water,” said Alliance Executive Director Dan Keppen. “However, I have not heard anyone opposed to landowners using contract supply for industrial hemp production. We’ll continue to collect information and perspectives from our members on this issue.”

“Waters of the U.S.” Comment Period Extended

The U.S. Environmental Protection Agency (EPA) and the Army Corps of Engineers (Corps) are extending the comment period by 30 days for the proposed first step of the review of the definition of ‘Waters of the U.S.’ (WOTUS) to provide additional time for stakeholders to weigh in. The comment period, as now extended, will close on September 27, 2017.

On May 27, 2015, the Obama Administration EPA and the Corps announced the final WOTUS rule, which was intended to become effective 60 days after its publication in the Federal Register. It was stayed pursuant to a decision issued by the U.S. Court of Appeals for the Sixth Circuit on October 9, 2015.

EPA and the Corps under President Trump have published a proposed rule to initiate the first step in a comprehensive, two-step process intended to review and revise the definition of WOTUS consistent with an Executive Order signed on February 28, 2017 by the president. This first step proposes to rescind the definition of WOTUS in the Code of Federal Regulations and to re-codify the definition of WOTUS, which currently governs administration of the CWA (pursuant to the aforementioned decision by the U.S. Court of Appeals for the Sixth Circuit).

The Family Farm Alliance (Alliance) board of directors, Advisory Committee and contractors have developed formal comments to EPA and the Corps on the proposed recodification of pre-existing rules regarding what “waters of the United States” should be considered jurisdictional under the federal Clean Water Act (CWA).

“We support the proposed action to replace the stayed 2015 definition of WOTUS, and re-codify the exact same regulatory text that existed prior to the 2015 rule,” said Alliance Executive Director Dan Keppen (OREGON). “This reflects the current legal regime under which the agencies are operating pursuant to the Sixth Circuit’s order.”

The proposed rule was signed by Administrator Scott Pruitt and posted to EPA’s website on June 27th and published in the Federal Register on July 27th. With this extension, the public will have more than 90 days to review the proposal. Issues raised through the public comment process help lay the groundwork for possible legal action in the future.

“Clean water is vital to farmers and ranchers in the Western U.S. and to the well-being of rural communities nation-

wide,” said Mr. Keppen. “We believe that the final 2015 rule did little to promote the goal of providing clean water. Instead, it creates the potential for an unwarranted expansion of federal jurisdiction over newly defined ‘tributaries’ and associated ‘other waters’ as ‘waters of the U.S.’”

Along with the additional bureaucratic red-tape associated with this jurisdictional expansion, the Alliance believes the 2015 rule would unnecessarily impede Western farm and ranch families’ ability to manage the delivery and use of irrigation water to grow food and fiber for America and the world.

“The 2015 rule, according to the Obama Administration,

was intended to clarify CWA jurisdictional interpretations,” said Norm Semanko (IDAHO), an Idaho water attorney and member of the Family Farm Alliance WOTUS Committee. “Yet the language in the final rule suggests otherwise, creating broader interpretations of what is or should be considered ‘waters of the U.S.’ and creating the uncertainty associated with the agencies performing additional ‘case-by-case’ analyses and specific jurisdictional determinations.”

A key omission in the 2015 rule is the touchstone requirement of navigability, which would better demonstrate what Congress intended when it enacted the CWA.

“Any change to this congressionally-imposed requirement of navigability needs to be made by Congress, not a regulatory process,” said Mr. Semanko. “Indeed, we believe a regulatory expansion of the statutory standard would be illegal and will foster litigation, thus creating the very uncertainty such regulations are supposed to eliminate.”

National farm and ranch groups like American Farm Bureau Federation and National Cattlemen’s Beef Association are urging their members to send in letters of support for the Trump Administration’s proposed WOTUS repeal.

The environmental community and

Democrats in Congress are pushing back hard on Administrator Pruitt, urging him to reconsider plans to revamp the Obama WOTUS rule.

“This rule to rescind WOTUS and reports of plans to reduce protections under the Clean Water Act are deeply concerning,” says a recent letter signed by 102 House Democrats and led by Rep. Don Beyer (D-VA). “Rather than protecting Americans, these actions ignore science and undermine our clean drinking water, our public health, and our outdoor recreational economy.”

For more information on the proposed rule and the comment extension notice, see: www.epa.gov/wotus-rule.



Norm Semanko, an Idaho water attorney and member of the Family Farm Alliance Advisory Committee, serves on the Alliance’s WOTUS Committee. Courtesy of: Idaho Business Review

Demand for Calif. Storage Dollars Exceeds Available Funds

A dozen new water storage projects with a combined price tag of \$5.7 billion – including three supported by the Family Farm Alliance – are competing for \$2.7 billion in California state bond funding. As described in the July 2017 “Monthly Briefing”, the Alliance board of directors last month formally endorsed the Sites Off-Stream Reservoir (located on the west side of the Sacramento Valley), Temperance Flat (on the San Joaquin River) and the Pacheco Reservoir Expansion in Santa Clara County.

The money comes from Proposition 1, a \$7.5 billion water bond passed by voters in November 2014 in the midst of California’s prolonged 2011-2016 drought. Proposition 1 preauthorized spending \$2.7 billion for water storage projects. The California Water Commission (Commission) has received a dozen applications asking for more than \$5.7 billion.

Sites Reservoir

The Sites Project is a proposed above ground, off-stream water storage project located in Northern California that would add up to 500,000 acre-feet of critical supplies to California’s water system annually. Sites is an innovative and modern approach that goes beyond water supply and flood protection by adding flexibility and generating a much-needed new water source for improved water quality, seasonal fish flows, climate change and drought relief.

Congressman Doug LaMalfa (R-CALIFORNIA) and Congressman John Garamendi (D-CALIFORNIA) sent a bipartisan letter to the Commission supporting Proposition 1 funding for Sites Reservoir that was signed by 42 members of California’s 53-member delegation in the House of Representatives.

“Sites Reservoir is one of the most useful, cost-effective water infrastructure projects California could build,” said Rep. Garamendi. “The support for the Sites Project from a majority of the California Congressional delegation speaks to the statewide benefits of the project.”

In another step forward for project planning, the Sites Project Authority and U.S. Bureau of Reclamation have also posted a Draft Environmental Impact Report/Environmental Impact Statement (Draft EIR/EIS) for public review and are accepting comments through November 13, 2017. The Draft EIR/EIS evaluates and describes the environmental effects and proposed mitigation measures associated with construction and operation of the Sites Reservoir and associated facilities.

Temperance Flat

The Temperance Flat project would create a new reservoir in the upper San Joaquin River watershed to improve operational flexibility, water supply and reliability for the San Joaquin Valley’s water users. Temperance Flat Reservoir, which would have a capacity of 1.3 million acre-feet, 2.5 times that of existing Millerton Lake. The Temperance Flat effort is being led by a partnership that includes five Valley counties, the Friant Water Authority, San Joaquin River Exchange Contractors Water Authority and the San Luis & Delta-Mendota Water Authority.



During a visit to Fresno earlier this month, Speaker of the California Assembly Anthony Rendon spoke about the Temperance Flat Dam proposal, a project supported by the Family Farm Alliance. Photo source: Jeffrey Hess, KVPR.

Pacheco Reservoir Expansion

The Pacheco Reservoir Expansion Project, proposed by the Santa Clara Valley Water District, will increase the reservoir’s operational capacity from 6,000 acre-feet to 140,000 acre-feet. This increase in water supply will feed the aquifers below Pacheco Creek from the northern tip of Santa Clara County to as far south as San Benito County. Farms located within this region that rely on groundwater for irrigation will have access to more water with increased reliability.

Next Steps and Related Developments

State agency reviews for the project applications are underway and will be completed by mid-December. These reviews will then be compiled for the California Water Commission to review at its meeting in March 2018. At that meeting, the commission will determine which projects are eligible for further consideration.

While proponents of the various storage projects await the review and decision of the Commission, Governor Jerry Brown’s ambitious “California WaterFix” is already facing a barrage of lawsuits intended to block the multi-billion dollar project.

The infrastructure component of the California “WaterFix” includes three new intakes that would be strategically placed just west and south of the city of Elk Grove. These intakes would feed two 40-ft diameter pipelines, buried up to 150’ below ground, that would connect to the existing state and federal pumping plants, located near Tracy, about 30 miles away. Placing the new intakes farther upstream are intended to reduce the overall adverse environmental impacts on the Bay-Delta and provide higher quality water to water contractors’ service areas.

Sacramento County, the cities of Stockton and Antioch, and other local governments all filed suit earlier this month objecting to the State’s plans for the \$17 billion project. Environmental groups and others have also sued or have announced intentions to do so.

Denver as New Headquarters for Reclamation, BLM and FWS?



According to *E&E News*, Interior Secretary Ryan Zinke reportedly has said Denver "will probably" become the headquarters for three major agencies within the department as part of an ambitious reorganization effort slated to get underway in fiscal year 2019. The Bureau of Land Management, Fish and Wildlife Service, and the Bureau of Reclamation (Reclamation) could eventually move their headquarters operations from

Washington to Denver, according to employee notes obtained by *E&E News* detailing a July meeting between Secretary Zinke and U.S. Geological Survey senior executives in Denver. Birmingham, Ala., and Boise (IDAHO) were specifically mentioned as "two good candidates."

A similar proposal to move Reclamation to Denver in the early 1980s was adamantly opposed by some on Capitol Hill. Part of the argument from Western Members of Congress at that time was that agencies not headquartered in Washington would have less influence with the Interior Secretary than DC-based agencies only a floor or two away from the Secretary. One of the other concerns was whether senior Reclamation staff would be less accessible to committees.

While technology has certainly narrowed the distance between Washington and Denver since the 1980s, cost might still be a factor. For example, the Commissioner of Reclamation - who testifies before Congress fairly frequently - would have to fly from Denver for Capitol Hill hearings, or send a DC-based lesser personage to hearings.

"The Commissioner would need to travel back to Washington often," said a former Reclamation senior-level appointee who asked to remain anonymous. "I know we personally met with the Interior Secretary every week."

USCID Conference set for Sacramento

USCID's Tenth International Conference on Irrigation and Drainage with the theme *Finding the Balance — Improving Infrastructure, Water Management, and the Environment in a World with Limited Funding and Ample Regulations* will be held in Sacramento (CALIFORNIA) on October 24-27.

The [Conference Program, and Registration, Exhibition and Sponsorship](#) details are now on-line.

The Conference will feature oral and poster session presentations, a Workshop, a panel discussion, an exhibition, field tours and networking events. Seven technical session will address important issues facing irrigation professionals, including *Water Balances, Water Management, Environmental Issues, Funding, Irrigation District Maintenance and Groundwater Management*.

IA releases *Principles of Efficient Agricultural Irrigation*

The Irrigation Association (IA) has taken another step forward in its mission of promoting efficient irrigation with its recent release of *Principles of Efficient Agricultural Irrigation*. The document outlines nine key principles that growers should follow to most efficiently use water when irrigating:

1. Use qualified professionals to plan and help manage irrigation systems.
2. Know and protect the water supply and the environment.
3. Identify the soil type and its soil water characteristics to manage the water supply.
4. Understand crop water needs to know when and how much water should be applied
5. Select appropriate irrigation methods that will efficiently deliver water to the crop.
6. Plan and implement irrigation scheduling to use water efficiently.
7. Adopt and apply innovative technology to improve

water management.

8. Maintain accurate records to facilitate better decisions on crop inputs.
9. Anticipate water shortages and have planned strategies to respond.

Efficient agricultural irrigation represents an important development within both agriculture and the irrigation industry. As the global population continues to increase, efficient agricultural irrigation will play a crucial role in providing enough food, fiber and fuel to meet world demand.

In the United States, irrigated agriculture produces about half of the total value of crop sales despite comprising only 17 percent of U.S. cropland. However, irrigated agriculture also represents the largest share of consumptive water use in the nation. Efficient agricultural irrigation helps to balance the incredible value of irrigated agriculture with the need to be conscious of water use.

The Family Farm Alliance works closely with IA on a variety of issues, and Alliance Executive Director Dan Keppen is a member of the IA Farm Bill Task Force. Mr. Keppen also previously served 3 years on the IA board of directors.

A Big Thank You to Our New and Supporting Members!

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Make your tax-deductible gift to the Alliance today! Grassroots membership is vital to our organization. Thank you in advance for your loyal support. If you would like further info, please contact Dan Keppen at dankeppen@charter.net, or visit our website:

www.familyfarmalliance.org



Contributions can also be mailed directly to:
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