Agreement Reached on Bipartisan Infrastructure Package

Deal includes significant Western water provisions

The White House and a bipartisan group of senators finally reached an agreement on infrastructure stimulus legislation more than a month after tentatively agreeing to a framework. The Senate voted 67-32 on July 28 to move forward with the deal, which includes significant support for Western water infrastructure.

“This deal signals to the world that our democracy can function, deliver, and do big things,” President Biden said in a statement. “The bipartisan infrastructure deal is a blue-collar blueprint to rebuild America that will help make our historic economic recovery a historic long-term boom.”

While the Senate vote is a positive sign, the bill may not ultimately clear the chamber until the first week of August, according to POLITICO.

The deal includes $550 billion in new federal investments in a wide array of infrastructure categories, including roads, bridges, rail and Amtrak improvements, broadband, clean drinking water, transit, ports, airports, and electric vehicle chargers. The bipartisan legislation includes the Western water and forestry infrastructure provisions found in the Energy Infrastructure Act recently reported out of the Senate Energy and Natural Resources (ENR) Committee.

“The deal makes our communities safer and our infrastructure more resilient to the impacts of climate change,” according to a White House press report. “This includes funds to protect against droughts and floods, in addition to a major investment in weatherization.”

The package will be

Continued on Page 2

STORIES INSIDE........

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Western Drought Conditions Worsen—Alliance Presents at Western Drought Seminar</td>
<td>3</td>
</tr>
<tr>
<td>Administration Moves Forward to Replace Trump WOTUS Rule</td>
<td>6</td>
</tr>
<tr>
<td>Alliance Support Forest Resilience Legislation</td>
<td>7</td>
</tr>
<tr>
<td>Alliance Backs Bills to Reduce Rural Water Infrastructure Costs</td>
<td>8</td>
</tr>
<tr>
<td>House Passes Energy and Water Development Appropriations Bill</td>
<td>8</td>
</tr>
<tr>
<td>House Resources Committee Marks Up Ocean-Based Climate Bill</td>
<td>9</td>
</tr>
<tr>
<td>GOP Pushes Back on President Biden’s Nominee for BLM Director</td>
<td>10</td>
</tr>
<tr>
<td>Judge Requires CWA Permit Under Supreme Court Groundwater Ruling</td>
<td>10</td>
</tr>
<tr>
<td>Senate Committee Holds Hearing on USDA Undersecretary</td>
<td>11</td>
</tr>
<tr>
<td>Alliance Provides Recommendation to Treasury Dep't on Use of Recovery Funds</td>
<td>11</td>
</tr>
<tr>
<td>A Big “Thank You” to our New and Supporting Members!</td>
<td>12</td>
</tr>
</tbody>
</table>
Bipartisan Agreement (Cont’d from Pg. 1)

financed through a combination of redirecting unspent emergency relief funds, targeted corporate user fees, and other measures, in addition to the revenue generated from higher economic growth as a result of the investments, the White House said.

The Senate voted on July 30 to proceed to the bill.
“This is one critical step in what is likely to be a long and bumpy road to enactment,” said Mark Limbaugh, the Family Farm Alliance’s representative in Washington, D.C. “Final House-Senate action and enactment is unlikely before October, at the earliest.”

Criticism

Not everyone is pleased with the bipartisan package, with critics from both parties vocalizing their concerns within hours of the announcement that a deal had been struck.

House Transportation and Infrastructure Committee Chairman Peter DeFazio (D-OREGON) criticized the bipartisan package and questioned the negotiation process and messaging stemming from the White House.
“At this point, it looks anemic at best on climate change,” Rep. DeFazio said, according to The Hill.

Rep. DeFazio and a group of 31 Democrats publicly warned party leaders that they’re “concerned about suggestions that the House may take up any Senate product without input or modification.”

On the other side of the political spectrum, former President Donald Trump threatened “lots of primaries” ahead for any Republican lawmakers who cooperated with Democrats to get the bipartisan deal passed, according to Insider.
“It is a loser for the USA, a terrible deal, and makes the Republicans look weak, foolish and dumb,” Mr. Trump tweeted. “Don’t do it Republicans — Patriots will never forget! If this deal happens, lots of primaries will be coming your way.”

Reconciliation on the Horizon

If the Senate is able to pass the bill in the coming days, Democrats hope to quickly pivot to passing a budget for FY 2022, which would set up a fast-track process to enact much of the rest of President Biden’s economic agenda without Republican support.

Senate Budget Chairman Bernie Sanders told reporters he has the 50 votes needed to pass a budget resolution in early August, according to Bloomberg Government.
“It is my absolute conviction that you’re not going to have a bipartisan bill unless you have a reconciliation bill of $3.5 trillion,” Senator Sanders said. “The working families of this country, the children of this country, the elderly people of this country deserve to have their needs met, and we intend to do just that.”

However, Senator Kyrsten Sinema (D-ARIZONA), the lead negotiator for Democrats on the bipartisan bill, said that while she will vote to proceed on the budget resolution, the $3.5 trillion price-tag is too high for her to support and will need to be modified.

“While I will support beginning this process, I do not support a bill that costs $3.5 trillion — and in the coming months, I will work in good faith to develop this legislation with my colleagues and the administration,” Senator Sinema told the Arizona Republic.

Majority Leader Chuck Schumer (D-NY) has also pushed his Democratic caucus to come to agreement on the budget resolution package of $3.5 trillion in additional spending for social programs and health care.
“The budget committee has come to an agreement. The budget resolution with instructions will be $3.5 trillion,” Sen. Schumer said.
“Every major program that President Biden has asked us for is funded in a robust way.”

Senate Minority Leader Mitch McConnell (R-KY) said that the Senate Democrats’ $3.5 trillion budget deal is “wildly out of proportion to what the country needs now,” at a time when inflation is “raging”, according to The Hill.

“What Democrats say they want to force through this summer through reconciliation would make our current inflationary mess look like small potatoes,” he warned.

Speaker Nancy Pelosi (D-CALIFORNIA) has said the House won’t act on the Senate’s bipartisan package until it also passes the $3.5 trillion FY 2022 budget resolution.
“I won’t put it on the floor until we have the rest of the initiative,” she said.

This would unlock the budget reconciliation process that Democrats are hoping will allow them to pass the rest of Biden’s domestic infrastructure agenda by a simple majority in the Senate, bypassing the GOP in the evenly divided chamber, with the Vice President breaking the tie.

Family Farm Alliance Actions

Contractors working for the Family Farm Alliance are analyzing the 2,540 page bill.
“So far, it appears that few, if any, changes have been

Continued on Page 9
Western Drought Conditions Worsen

Alliance Participates in Federal Western Drought Seminar

Historic drought conditions continue to rapidly worsen and expand with over 80% of the West now in drought, according to the U.S. Drought Monitor. Widespread impacts are being felt, particularly by Western farmers and ranchers. The Family Farm Alliance last month was asked by the Biden Administration to provide an overview of the drought impacts facing producers in the Western U.S.

“Our presentation focused on impacts to Western agricultural producers, their communities, and the environment,” said Alliance Executive Director Dan Keppen, who represented the organization on the 2-1/2 hour webinar. “These impacts are driven by a combination of extreme hydrology and, in many cases, regulatory inflexibility.”

The Western drought webinar, hosted by the National Oceanic and Atmospheric Administration (NOAA), was organized to provide the latest information on drought conditions across the Southwest, California, Pacific Northwest, and the Missouri River Basin, as well as the serious impacts on diverse sectors of the economy. NOAA’s National Integrated Drought Information System (NIDIS) program joined with federal, state, tribal, and local partners to host the seminar, specifically intended for Western communities.

Stakeholders, decision makers, and drought experts on the webinar discussed the latest on drought conditions and response efforts. Presenters from multiple sectors and communities spoke about the drought related impacts their communities are experiencing. Joining Mr. Keppen on the “Western Perspectives” panel were Jeff Schafer (President, North Dakota Stockmen’s Association), Laura Fox (EPHT Senior Epidemiologist, State of Arizona), Nicole Vaillant (U.S. Forest Service) and Bidah Becker (Navajo Nation).

“So, the drought is very real. The drought is very, very real here in the Navajo Nation,” Ms. Becker said.

The webinar featured remarks from USDA and Interior Department officials, and an update from NOAA Administrator Richard Spinrad, who said the lingering drought costs the U.S. $63 billion annually, in addition to multibillion-dollar losses from wildfires.

Representatives from President Biden’s Interagency Drought Relief Working Group discussed the work being done across the federal government to address the drought conditions, financial and technical assistance, and other resources available to bring relief and build more drought-resilient communities.

The webinar included a summary of past and current conditions, looking at a variety of drought indicators such as snowpack, temperatures, precipitation, and soil moisture. Outlook information for drought, heat, and wildfire was also provided.

“The hydrologic and climate presentations made by the government experts clearly showed that, throughout the West, this year is shaping up to be one of the worst in recent history,” said Mr. Keppen.

Impacts to Western Farm and Ranch Communities

Western producers are increasingly selling livestock and letting fields go fallow due to severe drought in the western U.S. According to an American Farm Bureau survey, 85 percent of ranchers reported selling off portions of livestock herds due to drought impacts on water supplies and grazing lands. Some 77 percent of growers were destroying crops due to water shortages.

“We just ran out of irrigation water on the Musselshell River,” said Pat Riley, the Family Farm Alliance Advisory Committee representative from Montana, late last month. “No dry wells, yet, but a pile of cattle going to sale barns and a lot of crops made to feed after all of those 90 degree days. I think this is the last straw for some farms and ranches.”

Some farmers are tearing out certain crops to plant less water-intensive ones. Others are letting their fields lie fallow. Last month, the Talent Irrigation District (TID) in Oregon’s Rogue River Valley shut off irrigation water, well before crops are ready for harvest at local vineyards and orchards.

“This is the worst year that I remember,” TID President Mike Winters told Jefferson Public Radio. “When the system is full, we have about a three-year supply of water where we can go back-to-back droughts for three years. But we’ve been steadily going down, steadily hitting that savings account and at this point we’re bottoming out.”

With the water turned off for good, irrigated pastureland and hay fields in the same area that was ravaged by the Almeda Fire last year could start turning into fire hazards.

Continued on Page 4

Page 3
Western Drought Seminar (Cont’d from Page 3)

Mr. Keppen on the webinar explained the other impacts that crop up when once-reliable surface water supplies are no longer available.

“Most importantly, no water for a farmer means no crops, no food, and a very limited ability to take care of his/her family,” he said. “Farmers have mortgage payments, property taxes, irrigation district assessments and equipment payments. Many producers have contracts that they have worked years to achieve and retain. If producers cannot deliver on those contracts, those contracts are lost.”

Environmental impacts are also being more pronounced as the drought continues. In some agricultural areas, the wildlife – particularly the waterfowl - that rely on the canal systems, ditch banks, and irrigated fields are simply not there. Dust storms – coupled with the horrific air quality from the burning forests – pose health risks to farmers, workers and the general public.

When surface water supplies diminish or disappear, farmers turn to groundwater, if they have access to it. In some areas, canal water is a prime source of recharge for shallow domestic wells.

“That’s not happening this year - here in the Klamath Basin, and elsewhere - because the canals are bone dry,” said Mr. Keppen. “The Oregon Office of Emergency Management and local agencies are scrambling to get water storage tanks to those properties so they could have running water again.”

Thousands of wells in California’s Central Valley, the Klamath Basin, and elsewhere are at risk of drying up this summer. Many households are relying on bottled water to drink. Rural residents who don’t even farm are having to stay with family and friends to shower and wash clothes.

In the Sacramento Valley, Glenn County’s Office of Emergency Services (OES) said this year’s drought is breaking records. During the last drought, from 2014 to 2017, the maximum number of residents at one time with dry wells was 30. This year, OES says the statistics are “alarming” – as of July 21, there were 117 reports of dry wells in Glenn County, 75% of which serve family homes.

“You don’t appreciate water until you lose it,” Glenn County resident Jorge Bautista told KCRA Channel 3 in Redding. “And we’ve been without water for a good amount of time now.”

Mr. Keppen wrapped up his presentation by noting that the current drought crisis underscores some key concerns. First, it demonstrates that water infrastructure is needed to protect future water supply reliability. The drought also shows that water management in the West – particularly in those areas served by federal water projects – is becoming too inflexible, often driven by courtroom decisions.

“Now is the time for collaboration, not confrontation,” Mr. Keppen urged.

Finally, he and many other presenters noted that fierce Western wildfire disasters are becoming an annual occurrence. More fires have already burned at this point of the year than in any other year in the past decade. Wildfires also pose a threat to watershed health and the safety of source drinking water in the West.

“Perhaps the only silver lining is that this crisis will hopefully draw more public and political attention to our unique Western challenges,” he said. “This could lead to needed, reasonable policies that support farmers and investment in rural communities, including water infrastructure.”

In the short-term, he recommended a fast-track response capability from the USDA and Interior Department that enables a localized response by farmers and ranchers.

“This unprecedented West-wide drought requires a level of reaction that is immediate and sustainable,” he said.

Mr. Keppen’s recent comments at the drought forum were noted in a July 25 story published by Fox News.

Congress Calls on USDA for More Drought Relief

The drought is getting political attention in D.C. Forty-five bipartisan lawmakers last month sent a letter urging USDA to come up with new ways to provide relief for Western farmers. The letter summarized impacts to producers and crop yields, and urged disaster declarations be expanded to cover those producers who suffered the greatest heat-related losses, but were either located in counties not covered by the drought designations, or who experienced losses not covered by assistance programs.

Continued on Page 5
Western Drought Seminar (Cont’d from Page 3)

“We respectfully invite USDA to work with Congress and provide technical assistance as we craft additional authorities and appropriations to address the 2020 and 2021 seasons that include wildfire, drought, and excessive heat-related losses,” the letter concludes.

USDA is authorizing emergency procedures to help agricultural producers impacted by extreme drought conditions. USDA’s Risk Management Agency is working with crop insurance companies to streamline and accelerate the adjustment of losses and issuance of indemnity payments to crop insurance policyholders in impacted areas. These new crop insurance flexibilities are part of USDA’s broader response to help producers impacted by drought, in the West, Northern Great Plains, and other areas.

GOP Westerners Question Interior Drought Response

Over at the Department of Interior, Secretary Deb Haaland last month defended the Biden administration’s response to the drought, while acknowledging that federal and state water managers must do more.

“Every community across the West has my commitment and the commitment of the Department of the Interior that we will do everything we can to protect and manage our precious water resources, not only during times of drought, but every single day,” Haaland said at an event in Denver (COLORADO).

Secretary Haaland also highlighted the bipartisan infrastructure framework currently under consideration in Congress and President Biden’s jobs proposal as offering key measures.

Some Western Republicans in the House of Representatives believe the Administration needs to do more. In April, President Biden established an Interagency Working Group to address the drought crisis, but Republicans claim the administration has yet to provide any plans or details.

House Natural Resources Ranking Member Bruce Westerman (AR-04) recently hosted a Special Order alongside 10 Western Caucus Members to call on the Biden Administration and Democrats in Congress to address the severe drought crisis plaguing communities throughout the West.

Western Caucus Members spoke about the impacts this historic drought is placing on the constituents and communities they represent.

“When we talk about the drought situation, it also effects not just people, the food supply, and the water supply” said Rep. Doug LaMalfa (R-CALIFORNIA). “What does that mean for wildlife – when we don’t keep track of our water supply or put it where it’s most beneficial? This isn’t just about farms, food, and money. It’s also about habitat.”

Earlier in the month, Members of the GOP Western Caucus and Natural Resources Committee sent a letter to the Biden Administration urging for a clear plan to address the drought crisis and deliver relief to impacted communities.

The Outlook

There has been some good news to report in some regions of the West, as a strong monsoon is bringing heavy rain to the Southwest. This has provided short-term drought relief and should cut down wildfire risk in several Western states. The latest U.S. Drought Monitor shows improvement in parts of five Southwestern states.

Additional heavy rainfall hit parts of southern Colorado and Utah in late July and was forecast to spread farther north. While the precipitation is welcome, some experts believe it is not enough to relieve the long-term drought conditions.

“Drought over the western U.S. is expected to mostly persist,” Dan Collins, a meteorologist with the Climate Prediction Center, said during a conference call with reporters last month.

The punishing drought conditions afflicting much of the West are expected to endure for months, climate experts with NOAA recently reported. Forecasters are assessing the odds of a La Niña emerging, where currently conditions are neutral in the tropical Pacific and favored to last through the American summer and into the fall.

La Niña episodes in the winter months feature a wave-like jet stream flow across the United States and Canada, which causes colder and stormier than average conditions across the North, and warmer and less stormier conditions across the south.

There is a 60% chance, NOAA experts said, of a La Niña event this winter.
Administration Moves Forward to Replace Trump WOTUS Rule

The U.S. Environmental Protection Agency (EPA) and U.S. Department of the Army have announced plans for upcoming community engagements to inform their efforts to revise the Trump Administration’s definition of “waters of the United States” (WOTUS) to “better ensure clean and safe water for all”.

“We are committed to crafting an enduring definition of WOTUS by listening to all sides so that we can build on an inclusive foundation,” said EPA Administrator Michael Regan. “Uncertainty over the definition of WOTUS has harmed our waters and the stakeholders and communities that rely on them. I look forward to engaging all parties as we move forward to provide the certainty that’s needed to protect our precious natural water resources.”

The agencies intend to replace the Trump Administration’s Navigable Waters Protection Rule following a process that includes two rulemakings. A forthcoming foundational rule would restore the regulations defining WOTUS that were in place for decades until 2015, with updates to be consistent with relevant Supreme Court decisions. A separate, second rulemaking process would refine this regulatory foundation and establish an updated and durable definition of “waters of the United States.”

Public Outreach Planned by the Administration

To help ensure that EPA and Army hear from diverse perspectives, future engagement activities will be developed in coordination with the U.S. Department of Agriculture (USDA).

“It is vital that farmers and rural Americans have a seat at the table and a voice in this process so that the rule responds to concerns and realities on the ground,” said Secretary of Agriculture Tom Vilsack. “The engagement in the coming months is important and I encourage all stakeholders to provide their experiences and views in order to help shape future policy.”

EPA and Army have announced a series of engagement opportunities, including an opportunity for stakeholders and the public to provide written recommendations and a series of public meetings in August to hear perspectives on both rules. In addition, the agencies are initiating consultations for the foundational rule. The agencies also intend to host a series of dialogues with state and Tribal co-regulators this fall to discuss both rulemakings.

The agencies plan to convene ten regionally focused and inclusive roundtables during the upcoming fall and winter. These roundtables will allow a full range of stakeholders to engage and discuss their experience with definitions of WOTUS—including what has worked and what has not within their geographic areas.

WOTUS Controversy Continues

The 1972 Clean Water Act (CWA) prohibits the discharge of pollutants from a point source to navigable waters unless otherwise authorized under the Act. Navigable waters are defined in the Act as “the waters of the United States, including the territorial seas.” Thus, “waters of the United States” is a threshold term establishing the geographic scope of federal jurisdiction under the CWA.

The term “waters of the United States” is not defined by the Act but has been defined by EPA and the Army in regulations since the 1970s and jointly implemented in the agencies’ respective programmatic activities.

Conservationists have challenged the Trump rule in multiple courts across the country.

EPA and the Army Corps of Engineers (Corps) earlier in the year said they would withdraw the Trump WOTUS regulation because it did not adequately protect waterways and wetlands in arid states. The agencies said they were also aware of 333 projects that would have required dredge-and-fill CWA permits before the Trump rule, but no longer do.

A group of Republican senators wrote a letter to the Biden Administration demanding more details, including "the complete analysis" conducted by the agencies to identify the 333 projects that no longer required permits under the Trump-era rule. Senator Shelley Moore Capito (R-WV) led that effort, and raised the issue with Michael Connor, President Biden’s nominee for Assistant Secretary of the Army (Civil Works) at his recent confirmation hearing before the Senate Energy and Natural Resources Committee.

“Underpinning the administration’s decision were several assertions that have yet to be substantiated by evidence of practical environmental harm,” said Senator Capito. “Instead, the absence of federal jurisdiction is cited as de facto evidence of environmental harm.”

Mr. Connor said the goal “would be to have a clear rule that has enough level of input that hopefully we can get out of this litigation cycle and move on with a rule that will be in place for a number of years.”

Federal Court Denies Request to Vacate Trump Rule

A federal court last month denied a request from conservation groups to throw out the Trump-era WOTUS rule while the Biden Administration works to draft its new regulation.

The Biden Administration in June asked judges to remand the Trump WOTUS rule back to EPA while it writes a new rule, but not to throw it out in the interim. The conservation groups protested, filing a motion opposing the Biden Administration's request.

"[T]he Agencies' anticipated revision of the Rule — a process of undefined duration and uncertain outcome," they wrote, "does nothing to prevent the Rule's harmful effects on the nation's waters during what is likely to be a lengthy rule-making period".

In a short order without explanation, the U.S. District Court in South Carolina remanded the Trump WOTUS rule without vacating it. The court then dismissed the case, effectively leaving the Trump WOTUS rule in place in the interim.

Continued on Page 11
Alliance Supports Forest Resilience Legislation

As the drought worsens across the West, wildfire is threatening the entire ecosystem which includes the forests that provide the watersheds forming the basis of supplying water to rural communities and farms. With smoke from Western wildfires clouding the skies in Washington, D.C., Congress teed up a slew of forest policy bills last month.

One of those was the Resilient Federal Forests Act (H.R. 4641), re-introduced from the past Congress by House Natural Resources Committee Ranking Member Bruce Westerman (R-Ark.). This bill – supported by 85 organizations, including the Family Farm Alliance - would address the environmental and economic threats of catastrophic wildfires.

"Record-breaking wildfires in the West repeatedly highlight the need for proactive, scientific forest management," Rep. Westerman said.

"Decades of mismanagement have led to insect infestation, hazardous fuel buildup and dead and decaying trees, creating tinderboxes for the smallest stray spark to ignite a raging inferno. It’s time for Congress to stop sitting on our hands and actually allow the Forest Service to use proven, scientific methods when managing our forests so that we can prevent these fires from occurring in the first place."

The bill enjoys the support of 67 original cosponsors from both parties. The Alliance in July issued an alert, asking its members to support H.R. 4641 and share that support with Members of Congress.

"The current, disastrous drought and the horrific damage caused by the Bootleg Fire here in Klamath County underscores the importance of improving on-the-ground management actions that can lead to improved forest health, which benefits every Western watershed," said Alliance Executive Director Dan Keppen, who lives in Klamath Falls, Oregon. "Congressman Westerman’s legislation gives the Forest Service the tools they need to improve forest health and reduce the risk and severity of catastrophic wildfires on federal forest lands."

New bills from Oregon Democratic Senators Ron Wyden and Jeff Merkley would allow the president to declare smoke emergencies and provide various assistance tied to smoke-related ailments worsened by wildfires. The Oregon senators introduced the bills as the Bootleg Fire in their state grows. Wildfire smoke has wafted all the way to the East Coast, prompting air quality alerts for D.C., Baltimore and New York City, where, according to USA Today, "the sun glowed red-orange as haze clouded" the skies.

"It's the largest wildfire currently burning nationwide, and it's so big it's creating its own weather patterns with its smoke traveling all way the across the country," Senator Wyden said in a press release.

The three introduced bills - the Wildfire Smoke Emergency Declaration Act, the Smoke Planning and Research Act, and the Wildfire Smoke Relief Act - are intended to help the public, businesses, and agricultural operators combat the effects of wildfire smoke, and recover from the damage it causes.

In addition to those bills, lawmakers in both chambers introduced multiple proposals to encourage more intensive forest management, including thinning trees on national forests and streamlining environmental reviews that delay many projects.

Many of the GOP-sponsored forest management bills will likely face opposition from some environmental organizations and Democrats, but some provisions could be dropped into larger legislative packages.

“There’s quite a few new bills out there,” said Chris Kearney, with The Ferguson Group in D.C. “Any that have a money hook may end up in the reconciliation package under the guise of forest health.”

Meanwhile out West, over 60 large, active wildfires have destroyed homes and burned through close to a million acres in a dozen states, according to the National Interagency Fire Center.

Governors of Western states facing severe fires called for federal action on climate change and forest management in a virtual meeting with President Biden and Vice President Harris on July 30. Montana Governor Greg Gianforte (R) said the fires illustrate the need for more effective forest management in the affected areas, according to The Hill.

“I can take you 10 miles west of the state capitol in Helena and show you a forest where 90 percent of the trees are standing dead,” Gov. Gianforte said, noting that these conditions create a “tinder box” in those areas.

President Biden concurred, and highlighted the additional forest management and Bureau of Land Management funds in the bipartisan infrastructure package backed by the White House (see related story, Page 1).

California Governor Gavin Newsom (D), along with Washington state Governor Jay Inslee (D) also urged the president to more aggressively take steps to address climate change, according to VOA. The president said climate change is helping drive fire conditions and the factor cannot be ignored.
Alliance Backs Bills to Reduce Rural Water Infrastructure Costs

The Family Farm Alliance last month formally supported the Water and Agriculture Tax Reform (WATER) Act of 2021, reintroduced in the Senate by Michael Bennet (D-COLORADO) and Mike Crapo (R-IDAH0). A companion bill was introduced in the House by Reps. Ken Buck (R-COLORADO) and Joe Neguse (D-COLORADO).

This important legislation seeks to reform section 501(c) (12) of the Internal Revenue Code to provide mutual irrigation and ditch companies with added flexibility that will promote new economic activity such as rehabilitation or extraordinary maintenance on aging water delivery infrastructure to better meet the challenges of the future, including drought.

“Mutual irrigation, reservoir, and water companies play a critical role in the agriculture industry in Colorado and throughout the nation,” said Rep. Buck. “Farmers and ranchers should be able to maintain and develop their water infrastructure without being penalized for it.”

The bill would reform outdated tax provisions that hinder mutual ditch and irrigation companies’ ability to raise capital to invest in their infrastructure. Current law dictates that mutual ditch and irrigation companies must receive 85 percent of their income from shareholder investment to maintain its non-profit designation. The bill allows these companies to receive other sources of income for operations and maintenance and still maintain its non-profit status. The legislation requires that the extra revenue be used exclusively for operations and maintenance of the mutual ditch and irrigation company.

“The cost of maintaining and operating aging water infrastructure has skyrocketed in recent years, forcing higher price tags on Idaho’s farmers and ranchers,” said Senator Crapo.

“Existing tax law penalizes mutual ditch and irrigation companies’ investments in much-needed water infrastructure projects necessary for maintaining a thriving agriculture sector. The WATER Act would update and reduce these current burdensome restrictions.”

Currently, when mutual ditch and irrigation companies incur a large capital expense, such as extraordinary maintenance on a canal in disrepair, they are severely limited in how they can collect revenue. This legislation eases restrictions while still ensuring that the revenue is used solely for operations and maintenance expenses.

“Across the West, farmers and ranchers in this time of unprecedented drought struggle to make ends meet,” said Dan Keppen, Family Farm Alliance Executive Director. “This bill will help keep mutual irrigation and ditch companies in business and will help meet the needs of America’s Western farmers and ranchers. We urge Congress to consider and pass this important legislation.”

House Passes E&W Development Appropriations Bill

The House last month approved a seven-bill package of appropriations measures for Fiscal Year 2022, including the Energy and Water (E&W) Development Appropriations bill. The E&W bill is $1.5 billion above the FY 21 level and includes just over $1.9 billion for the Bureau of Reclamation, just under a 14 percent increase over Reclamation’s FY 2021 appropriation.

The bill includes $67 million for the WIIN Act authorized water storage account, the same level approved by the House for FY 21, but half the amount ultimately approved in the final FY 21 E&W bill.

Storage was a hot topic of discussion when the appropriations package was debated earlier before the House Appropriations Committee, where Democrats denied multiple storage-related amendments offered by Republicans, including one that would extend funds for the WIIN Act.

“I don’t understand the problem with extending these authorizations,” said Rep. Mike Simpson (R-IDAH0).

The committee similarly rebuffed amendments from other Republicans from Western states who complained their proposals weren’t included in the underlying appropriations legislation.

The measure that was ultimately passed by the House would increase Reclamation’s WaterSMART program to $75 million, $20 million more than was approved for FY 21. The bill also includes just over $63 million for the Title XVI program, including $10 million for water reuse projects eligible for funding under the Water Infrastructure Improvements for the Nation Act of 2016 (WIIN Act) authority.

“We expect the final E&W bill for FY 22 to include additional resources for Title XVI projects, above the House-passed funding level,” said Mark Limbaugh, the Family Farm Alliance’s representative in Washington, D.C.

The Senate Energy and Water Development Subcommittee is expected to mark up their version of the FY 2022 E&W bill sometime prior to the Senate’s August break.

Separately, the Department of the Interior has submitted its official request to the Hill for Title XVI projects authorized under the WIIN Act. The department seeks $205 million for water storage project construction, $30 million for water reuse projects, and $12 million for desalination project construction.

“We were pleased to see Interior’s request for water storage,” said Dan Keppen, Alliance Executive Director. “Four important projects – Sites Reservoir, Del Puerto Canyon Reservoir, and the reservoir expansions at Los Vaqueros and B.F. Fisk - will better allow our California water users to deal with future droughts.”
House Resources Committee Marks Up Ocean-Based Climate Bill

The House Committee on Natural Resources last month held a markup, reporting a total of 14 bills out of committee. Twelve of these bills were bipartisan and passed by unanimous consent. However, committee Democrats also advanced legislation opposed by the Family Farm Alliance, the Ocean-Based Climate Solutions Act (H.R. 3764).

An Alliance representative in June appeared before the same committee for a virtual, fully remote legislative hearing that focused on several of these bills. Mauricio Guardado, the general manager of United Water Conservation District represented his district and the Alliance at the hearing, where he focused his comments on concerns with H.R. 3764, sponsored by Rep. Raúl Grijalva (D-AZ).

“H.R. 3764 is well-intended legislation,” Mr. Guardado testified at the hearing, while also raising concerns. “Several areas of the new legislation have the potential for far-ranging and uncertain impacts to water management and agriculture, impeding the development of critically needed water infrastructure, especially in the drought stricken Western states.”

In advance of the July markup of H.R. 3764, the Alliance and several of its members wrote opposition letters expressing serious concerns with the bill and the impacts it could have on Western farmers, ranchers and water managers.

“If passed and signed into law as written, among other things, the bill would lay a foundation for restricting inland and upland activities deemed to affect newly designated ocean and coastal protected areas,” said Alliance Executive Director Dan Keppen.

“While we expected the bill to make it out of Committee, we wanted to ensure that Committee members more aligned with our perspective understood that user groups are paying attention to this bill. Shoring up that support will lay an important foundation as the bill moves to the full House and possibly the Senate.”

Republican committee members offered 32 amendments to remedy some of the issues in H.R. 3764 and H.R. 2780, the Insular Area Climate Change Act. Committee Democrats rejected almost all of them, according to a press release issued by Committee GOP members.

Bipartisan Infrastructure Package (Continued from Page 2)

made to the Western Water Title in the infrastructure bill reported out of the Senate ENR Committee,” said Mr. Limbaugh.

That bill included $8.3 billion for the Bureau of Reclamation, including $3.2 billion for aging infrastructure, $1.15 billion for new storage and conveyance, $100 million for small scale storage projects, $250 million for ecosystem restoration, $100 million for multi-benefit watershed projects and $400 million for WaterSMART, including $100 million for natural infrastructure projects.

Those provisions closely match the infrastructure package advanced by a Western water coalition that collectively represents thousands of Western farmers, ranchers, water providers, businesses and communities who help provide $120 billion of agricultural production on millions of acres of productive land. The coalition is led by a steering committee comprised of the Alliance, Association of California Water Agencies, California Farm Bureau, National Water Resources Association (NWRA) and Western Growers. The coalition also represents many of the local and regional public water agencies that supply water to over 75 million Western urban, suburban and rural residents.

The Alliance and this coalition are urging the Senate to pass the bipartisan legislation, which includes the Western water and forestry infrastructure provisions found in the Energy Infrastructure Act recently reported out of the ENR Committee. These provisions align with the over $13 billion needed to meet existing demand for a suite of Bureau of Reclamation programs that the coalition outlined in a June letter to the Committee.

Media attention on this matter continues to grow. New coverage in media outlets like Politico Pro Energy and Agri-Pulse reported on the Western agriculture coalition’s efforts, and Western water and ag interests have been steadily peppering the op/ed pages of Western newspapers with guest columns.

Alliance President Pat O’Toole (WYOMING) and NWRA President Christine Arbogast (COLORADO) advocated for these provisions in a July 26 guest opinion that ran in the Colorado Sun.

“With the current infrastructure negotiations on Capitol Hill, our representatives have a once-in-a-generation chance to help us adjust to climate change, protect the environment, and maintain a safe and abundant local food supply,” they wrote. “We call on Congress to act now in creating a better future for Colorado and the nation.”
GOP Pushes Back on President Biden's Nominee for BLM Director

Amidst growing resistance by Republicans in both chambers of Congress, the Senate Energy and Natural Resources (ENR) Committee deadlocked on President Biden's nominee for director of the Bureau of Land Management (BLM), Ms. Tracy Stone-Manning, after more than an hour of contentious debate over her involvement in a tree-spiking case more than three decades ago.

Senate Minority Leader Mitch McConnell (R-Ky.) joined a large group of Republicans, including Rep. Bruce Westerman (R-Ark.), who led 75 members in a letter to President Joe Biden, urging him to withdraw his nomination of Ms. Stone-Manning.

“The White House should immediately withdraw her nomination,” Mr. McConnell said in a statement to The Hill.

At last month’s ENR Committee hearing, Idaho Sen. James Risch (R) called Stone-Manning an "attempted murderer" for her association with the men she later helped to convict of planning to sabotage a planned timber sale in Idaho by driving metal nails and spikes into nearly 300 trees in 1989.

Sen. John Barrasso (R-WYOMING), the committee’s Ranking Member, branded Ms. Stone-Manning as an "eco-terrorist."

But committee Chairman Joe Manchin (D-W.Va.) said the court record shows she did not participate in the tree-spiking and he saw no evidence she knew in advance of the plan to sabotage the trees.

“What I find instead is compelling evidence that she built a solid reputation over the past three decades as a dedicated public servant and as a problem solver that brought people together,” said Chairman Manchin.

Other committee Democrats also strongly defended Ms. Stone-Manning.

The 10-10 committee vote, split evenly along party lines, is likely little more than a procedural speed bump for Ms. Stone-Manning on her path toward eventual confirmation as director of BLM, the federal government's largest landowner, one that has a strong presence in many Western rural communities.

While the tie vote will force her nomination to be referred "unfavorably" to the full Senate, Democrats are expected to eventually approve a motion to discharge her nomination from the committee, setting up a narrow vote (timing uncertain) to eventually approve her as BLM director. It's possible the full Senate vote could end up in a 50-50 tie, requiring Vice President Kamala Harris to serve as tiebreaker.

The committee also approved Mr. Robert Anderson as Department of the Interior Solicitor by a vote of 10-9. Alaska Sen. Lisa Murkowski was the lone Republican to vote in favor of Mr. Anderson, who is currently serving as the agency's principal deputy solicitor. The committee initially voted, by the same margin, to approve Mr. Anderson in May, but last month’s revote was required to correct a procedural mistake.

Elsewhere at Interior, several key appointments were recently made to the agency leadership team, including Joe Young as Special Assistant to the Assistant Secretary for Water and Sciences, Tanya Trujillo, who oversees the Bureau of Reclamation and U.S. Geological Service. Mr. Young is a descendant of the Oneida Nation of Wisconsin and most recently served as Congressional Relations Associate at the National Indian Health Board where he led their Congressional advocacy on Medicare and Medicaid.

“I am thrilled to welcome these talented leaders to the Department, who bring with them invaluable skills, backgrounds, and experiences that will help carry out Interior’s mission for the American public,” said Interior Chief of Staff Lawrence Roberts.

According to an Interior press statement, more than 50% of the Biden leadership team identifies as Black, Indigenous or people of color, and 75% as women.

Judge Requires CWA Permit Under Supreme Court Groundwater Ruling

A federal judge is requiring a Hawaii county’s treatment plant to obtain a Clean Water Act (CWA) permit to govern discharge of treated wastewater into its injection wells that then makes its way to the Pacific Ocean. This is the first-time application of the Supreme Court’s landmark test on when pollutants that travel through groundwater require a National Pollution Discharge Elimination System (NPDES) permit.

The District Court's decision is an interesting - if not surprising - read. It contains a seemingly straightforward analysis under the seven factors set forth by the U.S. Supreme Court. Four factors - including the most important, time and distance - weighed heavily in favor of a permit. Two factors - change in chemical composition and dilution - weighed against a permit. One factor was found not to favor either.

The District Court also added another factor - the volume of wastewater reaching the ocean - which weighed in favor of a permit.

Adding all of the factors up, the District Court easily found that an NPDES permit is required.

“But even if this court relies only on the evidence from the monitored seeps, the County was required to get an NPDES permit,” the Court ruled.

The decision, which comes after the suit was remanded back to the district court following the Supreme Court’s April 2020 ruling in Hawai’i Wildlife Fund, et al., v. County of Maui, is winning praise from environmentalists, who are signaling they plan to use the precedent in a series of other pending cases over such releases from pipelines, animal feeding operations and coal ash disposal facilities.

There is a takeaway message for Western irrigators.

“Absent additional guidance from EPA or Congress, it will be difficult to defeat a ‘functional equivalent’ argument under the Supreme Court's factors,” said Norm Semanko, general counsel for the Family Farm Alliance. “This makes it even more important to protect and, where possible, strengthen existing point source/permit exemptions, such as those for irrigation return flows, storm water and water transfers.”
Senate Committee Holds Hearing on USDA Undersecretary

The Senate Agriculture, Nutrition and Forestry Committee last month held a hearing on the nomination of Robert Bonnie, a former USDA undersecretary during the Obama Administration, for Undersecretary for Farm Production and Conservation. The hearing also considered the nomination of former Rep. Xochitl Torres Small (D-NM) for Undersecretary for Rural Development.

Mr. Bonnie was questioned about the administration’s approach to carbon markets as they affect farmers. “If they don’t work for producers and landowners, they’re not going to work for the climate,” said Mr. Bonnie. “Making sure we get that right is going to be a high priority.”

Among other challenges, the Biden Administration is weighing whether and how to use USDA’s Commodity Credit Corporation (CCC) as part of a carbon-trading setup, a move congressional Republicans largely oppose. Mr. Bonnie spoke at length in response Senator Roger Marshall (R-KANSAS), who questioned the link between commodities and carbon sequestration activities.

“Whatever you do in the CCC has to be about commodity production, agricultural commodities,” he said. “Thinking about how you take advantage of that and manage to create opportunities for producers that may grow those commodities using climate smart agriculture and forestry is the potential link with the CCC.”

He said he would consult both Congress and farmers while designing climate programs.

Alliance Provides Rx to Treasury on Use of Recovery Funds

The Family Farm Alliance last month developed formal comments to the U.S. Department of the Treasury regarding eligibility requirements for water infrastructure projects to receive funding made available in the American Rescue Plan Act (ARPA) for “necessary investments in water, sewer or broadband infrastructure.”

This year, farms and communities across the Western United States face significant impacts from historic drought conditions. Inadequate water storage, along with aging and failing existing western water supply infrastructure, is exacerbating the impacts of the current drought.

The Interim Final Rule aligns eligibility for ARPA water investments with existing criteria in the Drinking Water State Revolving Fund and Clean Water State Revolving Fund. The Alliance letter notes that the two State Revolving Funds have been successful and support important wastewater and drinking water projects. However, limiting eligibility for ARPA funding based on the criteria for those programs will eliminate needed federal support for other essential water supply projects.

“As Treasury moves to a Final Rule, we recommend changes to the eligibility criteria to allow funding for all water supply-related infrastructure,” said Alliance Executive Director Dan Keppen. “This includes surface and groundwater storage, conveyance, water management, habitat restoration and enhancement in support of water supply resiliency, and system improvements and upgrades.”

Court Denies Request to Vacate Trump Rule (Continued from Pg 6)

WOTUS in the West

Radhika Fox, recently confirmed by the Senate as Assistant Administrator for Water at EPA, says everyone with a stake in the issue will need to be engaged in the rulemaking effort.

“We are going to have public meetings that will be happening later this summer, where any interested stakeholder can share their views,” she told the Associated Press in an interview last month. “We’re going to be doing regional roundtables in different parts of the country so we can understand the regional variation. When we do those, we’re going to try to bring all sides together in one discussion.”

When asked about the challenge of addressing Western growth while drought conditions and water scarcity worsen, she said every tool in the toolbox will be used to meet the water needs of all communities.

“There’s incredible innovation that has been happening around diversifying local water supplies and reuse;” she said. “We need to really double down on a lot of those types of projects. The reality is we have millions of people living in the West. It is a critical economic center for America. So we really need to invest in those things that are going to promote diversification of water supplies.”

The Family Farm Alliance has made engagement on WOTUS – which now spans three presidential administrations - a top priority. During the Trump Administration era, working with a team of Western attorneys and water managers, the Alliance developed detailed comment letters to EPA and the Corps, urging them to repeal the 2015 rule, and providing guidance as to how the new rule should look.

“We thought the Trump rule repeal and replacement was actually a good thing for the West, despite what the media outlets said,” said Alliance Executive Director Dan Keppen. “It looks like we’ll be dusting off our comments on the Trump rule to once again express our foundational concerns on any new WOTUS rule.”

For more information on submitting written recommendations or to register for the public meetings, see www.epa.gov/wotus.
A Big Thank You to Our New and Supporting Members!

MAY-JUNE 2021

CHAMPION ($10,000 and Above)
San Luis & Delta-Mendota Water Authority (CALIFORNIA)

ADVOCATE ($5,000 - $9,999)
Central California Irrigation District Imperial Irrigation District (CA)
Roza Irrigation District (WA) San Luis Water District (CA)
Washington State Water Resources Association Water District #1 (ID)

DEFENDER ($1000-$4999)
A & B Irrigation District (ID) Buckeye Water Conservation & Drainage District (AZ)
Elephant Butte Irrigation District (NM) Garrison Diversion Conservancy District (ND)
Minidoka Irrigation District (ID) Nampa & Meridian Irrigation District (ID)
Nebraska State Irrigation Association (NE) Payette River Water Users Association (ID)
Solano Irrigation District (CA)

PARTNER ($500-$999)
Ferguson Farming LLC (CA) Gering-Fort Laramie Irrigation District (NE) Harvey A. Bailey (CA)
H-Four Farms (AZ) Klamath Basin Improvement District (OR)
Truckee Carson Irrigation District (NV) Tulare Lake Basin Water Storage District (CA)
West Extension Irrigation District (OR) Whitman/SWK Farms (AZ)

SUPPORTER ($250—$499)
Arnold Irrigation District (OR) Bengard Ranch, Inc. (CA) Davis & Weber Counties Canal Co. (UT)
Farmers Conservation Alliance (OR) Farmers Irrigation District (NE) BE Giovanetti & Sons (CA)
Mick & Leslie James (AZ) Jordan Ramis PC (OR)
Little Snake River Conservation District (WY) Lyall Farms (WA)
Maricopa-Stanfield Irrigation & Drainage District (AZ) MBK Engineers (CA)
Milner Irrigation District (ID) Montpelier Farming Corp (CA) North Fremont Canal Systems (ID)
North Side Canal Company (ID) Paul R Orme (AZ)
Princeton-Cordora-GLlen Irrigation District (CA) Rubicon Water (CO)
Thomason Tractor Co. (CA) Three Sisters Irrigation District (OR)

DONOR SUPPORT
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 have questions, please call our fundraising coordinator, Jane Townsend, at (916)206-7186 OR EMAIL jane@familyfarmalliance.org