



MEMORANDUM

TO: SAN LUIS & DELTA-MENDOTA WATER AUTHORITY DIRECTORS
FROM: DAN KEPPEL, EXECUTIVE DIRECTOR
SUBJECT: UPDATE REPORT
DATE: JUNE 5, 2023

This memo is intended to keep you apprised as to what is happening regarding policy issues the Family Farm Alliance (Alliance) is engaged in. In the past month, much of our efforts have focused on advancing farm bill ideas with Western Senators and committee staff, Colorado River outreach, and engaging in litigation and administrative matters. These issues and other matters important to our members are further discussed in this memo.

BIDEN ADMINISTRATION

1. Appointments

The Senate Ag Committee last month approved Xochitl Torres Small, President Joe Biden's pick for Deputy Secretary at the U.S. Department of Agriculture (USDA), for a confirmation vote by the full Senate. She is the current Undersecretary for Rural Development at USDA and has bipartisan support for the #2 position at the Department. The Senate floor vote will likely occur in the coming weeks.

2. Department of Interior, Bureau of Reclamation (Reclamation)

a. Reclamation Update on BIL and IRA Funding Ops and Implementation

Reclamation has set up an information update session on funding opportunities and implementation of the Bipartisan Infrastructure Law (BIL) and the Inflation Reduction Act (IRA). The listening session is expected to run for one hour, and is scheduled for next Thursday, June 8, 2 p.m. (Eastern). Join by phone: 1-202-640-1187 passcode, 579 938 122 #, or via [Teams link](#). A moderated question-and-answer format will be enabled. If you have a question, you may submit it

to USBR.BIL@usbr.gov or USBR.IR.Act@usbr.gov. Meeting links can also be found at www.usbr.gov/bil or www.usbr.gov/inflation-reduction-act/. These sessions will be recorded and available at the same site.

3. Department of Interior, Fish and Wildlife Service (FWS): Revised Mitigation Policies

Mark Limbaugh reports that FWS has announced the release of [revised mitigation policies](#) that will guide what farmers, miners, energy developers and others may have to provide if permitted to harm Endangered Species Act (ESA) - protected species and habitat. The approach taken blends approaches from both the Obama and Trump administrations but drops the Obama-era “net conservation gain” from their mitigation planning goals in the policies. The revised Mitigation Policy and the Endangered Species Act Compensatory Mitigation Policy will be published in the Federal Register on May 15.

The Mitigation Policy establishes basic mitigation principles and provides a framework for what FWS calls an effort to achieve “no net loss of resources and their values, services, and functions resulting from proposed actions.” The ESA-related policy is more of an operators’ manual, providing guidance to FWS personnel as they seek to mitigate losses to endangered and threatened species through compensatory mitigation mechanisms such as conservation banking and in-lieu fee programs. These mitigation policies are driven by a 2013 Supreme Court decision in a case called *Koontz v. St. Johns River Water Management District*. The court held that agencies requiring off-site mitigation as a condition of granting a permit must show "a 'nexus' and 'rough proportionality' between the government's demand and the effects of the proposed land use.

4. Army Corps: New Dam Safety Financing Program

On May 16, 2023, the Office of the Assistant Secretary of the Army for Civil Works and the U.S. Army Corps of Engineers (Corps) approved a final rule to implement a new credit assistance program for dam safety projects. The new program, named the Corps Water Infrastructure Financing Program (CWIFP), will offer credit assistance in the form of direct loans and loan guarantees for non-federal dam safety projects to maintain, upgrade and repair dams identified in the National Inventory of Dams. The program is designed to accelerate non-federal investments in water resources infrastructure by providing long-term, low-cost loans with flexible repayment options to creditworthy borrowers. According to the Corps, the program will provide approximately \$7.5 billion in total project financing and support up to \$15 billion of infrastructure investment nationwide.

The program is like the Environmental Protection Agency (EPA) WIFIA loan program, in that a non-federally owned and operated dam safety project can be financed up to 49% of the total cost with up to a 35-year repayment period at Treasury interest rates, resulting in a savings of 20% over traditional financing. The final rule will be posted in the Federal Register and will go into effect 30 days after it is posted. Upon going into effect, the Corps will post a notice of funding availability, which will formally open the program and provide interested borrowers with

instructions on the application process. More information about the CWIFP can be found here: <https://www.usace.army.mil/CWIFP>.

5. EPA

a. CWA Protections for Tribal Water Quality

EPA has announced [that it will propose](#) federal baseline water quality standards for bodies of water on Native American reservations that do not already have Clean Water Act (CWA) standards. That move would establish first-time protections for over 250 tribes, in a critical action not only for Indigenous communities but also for aquatic ecosystems. All 50 states and 47 tribes currently have established water quality standards in line with the CWA's goal that all bodies of water be fishable and swimmable, but most U.S. tribes have not had that level of protection. If the proposal is finalized, proposed standards would be in place until a tribe adopts its own standards under the CWA.

b. CWA Section 404 Permitting Transfer to Select States

Mark Limbaugh reports that EPA is moving forward with plans to clarify how states can take control of federally administered wetlands permitting under Section 404(g) of the CWA, but opponents worry the plan will empower deregulation advocates. EPA plans to advance a Trump-era rule revising CWA requirements around that dredge-and-fill permitting program, with the agency intending [to issue a proposal](#) by September. EPA has not said whether it would be making changes from the initial effort under Trump. Environmental advocates are wary of the move, while deregulation groups support the effort.

EPA is currently having discussions with three states (Alaska, Nebraska and Minnesota) about the possibility of shifting primacy over the permitting program under existing rules. Three other states currently administer the 404 program – Michigan, New Jersey and Florida. CWA Section 404(g) allows for states to take over the process if they can prove to EPA that they have the capability to do so; they remain subject to the agency's oversight regardless. But for most of the country, the Corps retains 404 permitting authorities, but EPA can veto any permits.

6. U.S. Department of Agriculture (USDA): \$500 M for “Improved” RCPP Program

The Biden Administration on May 19 announced the availability of \$500 million in funding to advance partner-driven solutions to conservation on agricultural land through USDA Regional Conservation Partnership Program (RCPP). This program leverages a voluntary approach to conservation that expands the reach of conservation efforts and climate-smart agriculture through public-private partnerships. Increased funding for fiscal year 2023 is made possible by the IRA, and this year's funding opportunity “reflects a concerted effort to streamline and simplify the program”. USDA says the program improvements will enable USDA to efficiently implement the \$4.95 billion in IRA funding for the program.

Based on partner listening sessions and employee and partner surveys, NRCS identified seven key focus areas for improvement, each with a dedicated team working to address identified issues and provide recommendations, including 1) Simplifying and Reducing the Number of Agreements; 2) Reducing Lengthy RCPP Easement Transactions; 3) Consistent Guidance and Training for Employees and Partners; 4) Simplifying the Technical Assistance Structure; and 5) Simplifying the Partner Reimbursement Process. These are consistent with the concerns that the Alliance and our partners in the Western Agriculture and Conservation Alliance (WACC) have raised with NRCS over the past two years. NRCS will accept applications now through Aug. 18, 2023 via the [RCPP portal](#). For more information about RCPP and a list of frequently asked questions, [visit the NRCS website](#).

DEVELOPMENTS IN CONGRESS

The Senate on Thursday passed legislation to suspend the US debt ceiling and impose restraints on government spending through the 2024 election, ending a drama that threatened a global financial crisis. The bill was quickly signed into law just days ahead of a looming US default by President Joe Biden, who forged the deal with House Speaker Kevin McCarthy . The bill passed both chambers of Congress, carried by moderates in both parties, many of whom aired their misgivings about parts of the deal but were convinced that their concerns weren't worth risking the havoc a default would unleash. Democrats are frustrated with the spending levels in the bill and that President Biden even negotiated over the debt limit. They are not happy with parts of the bill including work requirements for food stamp and cash assistance programs. Freedom Caucus Republicans are upset that the two-year budget deal cuts far less spending than the \$4.8 trillion in cuts the House Speaker put on the table at the start of talks. Mark Limbaugh and his team at The Ferguson Group (TFG) are preparing a full report on the FRA and I'll pass that on as soon as I get it.

7. Fiscal Responsibility Act of 2023

The [Fiscal Responsibility Act of 2023](#) ("FRA", H.R. 3746), would suspend the debt ceiling through January 1, 2025, effectively increasing the amount of money that the federal government can borrow to fund federal programs. It would raise the Nation's debt ceiling through January 1, 2025, cap appropriations levels for both FY 2024 and FY 2025 appropriations bills and incentivize the passage of these spending bills through provisions to enact a continuing resolution at reduced spending levels if they are not enacted by the end of the fiscal year. The bill would also claw back some unobligated funds from the last COVID-related relief act. The work requirements for food aid would be expanded from age 49 up to 54 (*see related discussion, Item 11*).

This bill includes some important provisions related to permitting reform. Much of U.S. Rep. Garret Graves' (R-La.) *Building U.S. Infrastructure through Limited Delays and Efficient Reviews* (BUILDER) Act is included. You all are familiar with the uncertainty associated with the federal NEPA review process. The average time to complete an Environmental Impact Statement (EIS) and issue a decision for a project is 4.5 years, and 25 percent of EISs take more than six years. For

some projects, unfortunately, this process may take a decade or more. The Family Farm Alliance strongly supported the Trump administration's regulations for NEPA, which included many of our recommendations. Unfortunately, the Biden Administration Council on Environmental Quality quickly overturned those rules.

The permitting provisions in the FRA closely mirror the Trump regulations and should increase efficiency and certainty in the NEPA process. The Alliance has previously supported the bill's provisions to set 150-page limits for environmental impact statements (300 pages if the project is of extraordinary complexity) and 75-page limits for environmental assessments. It would also set time limits of one year for environmental assessments and two years for environmental impact statements and provide a right of action to project applicants if the agency does not adhere to these deadlines. Permitting project sponsors would also be able to assist federal agencies in conducting environmental reviews to help speed up the process and agencies would be able to adopt categorical exclusions utilized by other agencies through a streamlined process. Finally, the bill would clarify the definition of a "major federal action" under NEPA, including a list of actions that do not qualify as a "major federal action." Hopefully, this will enable agencies to approve projects with less red tape and provide more tools for you to move projects forward and hold agencies accountable.

8. Western Water Accelerated Revenue Repayment Act

The Western Water Accelerated Revenue Repayment Act, introduced by Lauren Boebert (R-COLORADO) would permanently authorize a Reclamation provision that allows some agriculture and municipal water users to prepay what they owe to the federal government. Prior to 2016, if some water users wanted to repay what they owe early and/or in a lump sum, an individual federal law would have had to be enacted. This usually took years despite the fact the federal government would have been receiving early revenue. To help remedy this situation, Section 4011 of the WIIN (Water Infrastructure Improvements for the Nation) Act (P.L. 114-322) authorized these agriculture and municipal water users to prepay outstanding construction costs through a single lump sum payment or over a period of three years. This program was successful, with more than 75 entities deciding to prepay what they owe the federal government, with many of those water users no longer having to live under federal paperwork and acreage limitation edicts.

Since this prepayment authority expired in 2020, this new bill permanently reauthorizes Section 4011 to allow the federal government to receive early revenue from water users who have the ability to prepay what they owe and want to be lifted from onerous federal rules and restrictions. The Alliance and several of its members worked hard with Congress to include these provisions in the WIIN Act. I notified Rep. Boebert's office last month that the Alliance could be added to the list of bill supporters, and our support was noted in the press release issued by her office.

9. Senator Feinstein Legislation

In the past month, we've reviewed legislative language and summaries for three bills that Senator Dianne Feinstein (D-CALIFORNIA) will soon introduce. We were asked by the office of Senator Feinstein to develop a letter in support for these bills, which include:

- *The STREAM Act* to authorize water infrastructure funding and provide programmatic authorization for non-Federal Reclamation water projects (very similar to the bill Senator Feinstein introduced last Congress, which we supported);
- *The Restore Aging Infrastructure Now (RAIN) Act* to authorize grant funding for 15% of the cost of aging infrastructure projects out of the \$3.2 billion appropriated for these purposes in the BIL, if the projects are modified to add public benefits including drinking water for disadvantaged communities (Senator Feinstein introduced a very similar version of this legislation last Congress as the extraordinary operation and maintenance provisions in section 107 of the STREAM Act); and
- *The Canal Conveyance Capacity Restoration Act* to fund 1/3 of the cost of restoring the original conveyance capacity of the Friant-Kern Canal, Delta Mendota Canal, and California Aqueduct, plus additional authorized funding for the Restoration Goal of the San Joaquin River settlement (this is identical to legislation Senator Feinstein introduced last Congress).

We developed a letter last week to Senator Feinstein expressing Alliance support for these bills. Thanks to everyone who took the time to review and respond to my earlier request.

10. "Community and Hydropower Improvement Act" (S. 1521)

Sens. Steve Daines (R-MT) and Maria Cantwell (D-WA) have introduced the "*Community and Hydropower Improvement Act*," [S. 1521](#), which would seek to revamp how the Federal Energy Regulatory Commission (FERC) licenses and relicenses a host of hydroelectric technologies across existing generation, non-powered dams and pumped storage projects. The bill has been endorsed by the National Hydropower Association together with American Rivers and World Wildlife Fund and several tribal and conservation groups, a rarity for energy permitting reform legislation these days. According to NHA, nearly half of the existing non-federal fleet of hydro resources is set to face relicensing in the next decade. Current permitting times average about eight years for the approval of all the needed licenses across the federal government, a timeline that could grow significantly when the existing fleet seeks to secure the needed relicensing approvals to continue operations.

11. 2023 Farm Bill

The farm bill is an omnibus, multiyear law that is typically renewed about every five years. With enactment of the omnibus spending bill in December 2022, lawmakers laid the groundwork for battles to come in the next farm bill. The current farm bill expires at the end of September.

Engaging in the development of the next 2023 Farm Bill is one of our top priorities this year for the Alliance. Once again, the Alliance will work closely on this with its partners in the Western Agriculture and Conservation Alliance -the “WACC” – on the conservation title. The WACC recently finalized its Farm Bill platform, which, among other things, puts priority on improving implementation of the Watershed and Flood Prevention Operations (“PL-566”) and the Regional Conservation Partnership Program, encouraging active management for grazing, and seeking to provide better and faster conservation program technical assistance and compliance.

The Alliance has also been working with Western Growers and several Western state Farm Bureaus to push more ag-centric priorities, starting with Western Senators and Ag Committee Members. The Congressional Western Caucus last month released its 2023 Farm Bill Priorities, which are fairly closely aligned with those of the Family Farm Alliance. The priorities consist of four high-level pillars: Supporting Production Agriculture, Improving Voluntary Conservation Programs, Enhancing Forest Health and Active Management, and Strengthening Rural Communities through Development.

a. Alliance Farm Bill Priorities

Engaging in the development of a 2023 Farm Bill that has a strong Western flavor is one of our top priorities. The Alliance in April publicly rolled out its “Six Point Plan” intended to guide the organization’s advocacy efforts in Washington, D.C. Passing a 2023 Farm Bill that addresses Western agricultural challenges was a top priority. Flexibility in farm bill conservation title programs is a critical underpinning to successful implementation in the West. For example, climate mitigation should not just focus on carbon reduction and assume that planting more carbon-sequestering trees or no-till farming activities will solve the problem. We want to see 2023 Farm Bill conservation title programs that are administered efficiently and effectively, and support projects like irrigation modernization that provide multiple, stacked benefits, rather than simply focusing on climate fixes. This position is consistent with House Agriculture Committee Chairman G.T. Thompson’s (R-PA) statement made at another House hearing last month, where he urged lawmakers to remove the IRA directive that the funds for USDA conservation programs should be focused on climate change mitigation. The IRA contains massive funding for climate-smart agriculture through existing Farm Bill conservation programs.

b. Farm Bill Forums Cancelled Due to Debt Limit Vote

The Congressional Western Caucus has worked with its members, the Senate and House agriculture committees, and Western agriculture stakeholders to conduct listening sessions and other farm bill forums across the West. The Congressional Western Caucus and GOP members of the House Agriculture Committee had planned a combination of farm bill "listening sessions", field tours and forums in Oregon and Northern California for the first week of June. The Congressional Western Caucus plans were scrapped when House Speaker Kevin McCarthy and the White House reached an agreement on the debt limit over the holiday weekend (*see related discussion, Item 7*), and House Members were required to travel back to Washington for floor

votes on the agreement. A June 2 House Agriculture Committee "listening session" in Albany (OREGON) still took place. There is a chance that some of the originally planned Western Congressional Caucus events may be rescheduled for late July or during the August recess, according to one Congressional staff member.

c. Debt Ceiling Agreement Implications for the Farm Bill

The debt ceiling agreement reached between the White House and House Republicans over the Memorial Day weekend contains provisions that would expand work requirements for the Supplemental Nutrition Assistance Program, or "SNAP" (*see related discussion, Item 7*). This was seen as a victory for Republicans, who were pressured by some to drop the SNAP plans from the debt limit bill and leave it for upcoming negotiations on the farm bill. Just days before the announcement of the debt limit agreement, House GOP appropriators proposed to slash fiscal 2024 funding for USDA by one-third, in part by eliminating expanding SNAP work requirements and some climate-related funding, as well as restricting Agriculture Secretary Tom Vilsack's use of the Commodity Credit Corp. spending authority. The cuts proposed by the House Agriculture Appropriations Subcommittee in a bill would trim USDA funding by more than \$9 billion below 2023 levels. The *FY2024 Agriculture, Rural Development, Food and Drug Administration and Related Agencies Bill* provides funding of \$17.2 billion which cuts funding levels back to what it was in 2006.

Opponents of the bill say that it would hurt rural American communities if passed. Republican leaders are looking to bolster skeptical party members about exactly what their SNAP proposal would do. Democrats, meanwhile, are taking action to ensure they aren't caught flat footed when the fight over food assistance reopens in this year's farm bill negotiations, as reported in *Politico*. A new task force on agriculture and nutrition was appointed by Democratic leader Hakeem Jeffries. On the eve of the House vote for the debt limit package, leaders of the House and Senate Agriculture committees said the debt limit agreement should remove SNAP work requirements as a potential sticking point in the upcoming farm bill debate, but also said the deal takes away some potential funding, as reported in *Agri-Pulse*.

d. PL-566 update

Finding ways to make the NRCS PL-566 watershed program implementation nimbler and one that prioritizes projects that generate multiple benefits (like irrigation modernization projects in the West) is one of our priorities for the 2023 farm bill. We've been working with the office of Senator Bennet (D-COLORADO) on draft legislation that will place higher priority on multi-benefit projects and also set mandatory funding levels for PL-566. There is bipartisan interest in the "multi-benefit" part of this, but fiscally conservative Republicans are leery about the mandatory spending provisions of the draft bill. In an effort to secure a Republican co-sponsor, we've decided to remove the mandatory funding provisions. With Senate Democrat allies in key committee positions right now, we believe there will be other ways to skin that cat. More to follow in the coming weeks.

e. Water Source Protection Program (WSPP)

Last month, the Alliance – along with a fairly select group of diverse, high-power organizations – signed a letter in support of the reauthorization and improvement of the WSPP in the next Farm Bill. Congress authorized the WSPP in the 2018 Farm Bill to provide the U.S. Forest Service with authority to partner with municipal, agricultural, and community-based organizations and other end users to develop and implement water source protection plans. The intent was to encourage public-private partnerships to invest in the restoration and protection of forested source water infrastructure – the mosaic of forests, wet meadows, and streams – that serves as the primary source of drinking and irrigation water supplies across much of the country. Restoration of forested source watersheds can reduce flood and wildfire intensity, increase natural water supply and storage as a hedge against drought, enhance fish and wildlife habitats, and improve water quality.

Senator Bennett (D-COLORADO) has a draft bill, Senator Crapo (R-IDAHO) is the likely co-sponsor, and they plan to introduce it in the next couple of weeks. In the House, Rep. Costa (D-CALIFORNIA) is the co-lead, with Rep. Chavez-Deremer (R-OREGON) the likely cosponsor; they will use the Bennett bill. It sounds like there is solid bipartisan support, though we need more folks from east of the Rockies, who our NGO friends are working on.

JUDICIARY

12. Clean Water Act “Waters of the U.S.” (WOTUS)

The Supreme Court of the United States (SCOTUS) issued a landmark ruling last month in *Sackett v. EPA* which significantly narrowed much of the federal government's protections for wetlands, tributaries and streams as “waters of the U.S.” (WOTUS) under the CWA. Litigious environmental organizations expressed immediate dismay following the *Sackett* ruling. The decision was greeted with elation by agricultural water users and their political supporters across the West. It's a game changer and a monumental victory for irrigated agriculture. No longer will farmers be required to hire an army of consultants just to figure out whether a wet spot on their property is regulated under the CWA.

We've been tracking the WOTUS “ping pong” game for the past 15-plus years, as CWA implementation changes with every new occupant in the White House. The Alliance was also part of an “agriculture” amicus brief in support of the Sacketts that was submitted to the Supreme Court last year. The Congressional Western Caucus issued a “What They Are Saying” press piece that summarizes what various industry reps are saying about the recent Supreme Court decision on “Water of the U.S.” (WOTUS). They asked me for a quote, which I cadged from our General Counsel, Norm Semanko. The WTAS piece can be viewed [HERE](#).

a. The Ruling in a Nutshell

At issue is the reliance on the “significant nexus” test from the muddled SCOTUS *Rapanos* decision in the Biden WOTUS rule. The *Sackett* decision has eliminated the “significant nexus” test for a “relatively permanent” test. The Court ruled that in order to assert jurisdiction over an adjacent wetland under the CWA, a party must establish “first, that the adjacent [body of water constitutes] . . . ‘water[s] of the United States’ (i.e., a relatively permanent body of water connected to traditional interstate navigable waters); and second, that the wetland has a continuous surface connection with that water, making it difficult to determine where the ‘water’ ends and the ‘wetland’ begins.” Justice Samuel Alito wrote the 5-4 majority decision, while Justice Brett Kavanaugh split from the rest of the Republican-appointed judges on the court to argue that the majority’s definition of wetlands covered by the law was too narrow (*Route Fifty*, 5/25/23). The court’s three liberal justices—Sonia Sotomayor, Elena Kagan and Ketanji Brown Jackson—joined Justice Kavanaugh’s concurrence, who said the court’s new rule would change the way federal agencies have interpreted the law for nearly half a century.

b. Congressional Action and Reaction

Now that the Supreme Court has issued its decision, GOP members of Congress are calling on the Biden Administration to withdraw its proposed WOTUS rule. Republicans in both chambers have had the Biden Administration’s WOTUS rule in their sights throughout the new 117th Congress. In February, Transportation and Infrastructure Committee Chairman Sam Graves (R-MO) and Water Resources and Environment Subcommittee Chairman David Rouzer (R-NC) introduced a joint resolution of disapproval under the Congressional Review Act on the Biden Administration’s WOTUS rule. The House of Representatives weeks later approved the Graves-Rouzer resolution. On March 29, the Senate also passed the resolution of disapproval in bipartisan fashion, which President Biden one week later vetoed.

13. FWS Sued over Approvals of Pesticides Used in ESA Critical Habitats

Environmentalists have sued the FWS in U.S. District Court in Arizona over the agency’s unresponsiveness to a four-year-old petition that seeks to limit the use of pesticides in designated critical habitats. The Center for Biological Diversity [filed the lawsuit](#) as a follow-up to an unanswered petition submitted in January 2019, citing the dangers to federally protected threatened and endangered species under the ESA. The lawsuit seeks a court order compelling the FWS to respond to the 2019 petition no later than 90 days after the order is issued. The underlying 2019 petition requested that the agency initiate rulemaking to prohibit the use of pesticides in critical habitats unless EPA and FWS have completed consultation requirements for a specific chemical. Interestingly, the lawsuit relies on assertions of violations under the Administrative Procedures Act and not the ESA.

ALLIANCE INITIATIVES

14. Colorado River Initiative

The Lower Basin States (Arizona, California, and Nevada) and the Biden Administration have announced a potential short-term deal on the Colorado River. The Lower Basin states coalesced around a plan to voluntarily conserve a major portion of their river water in exchange for more than \$1 billion in federal funds. In the days leading up to the announcement, the hope was that the Department of Interior (DOI) would extend the May 30 comment deadline on the alternatives the federal government had laid out in its Supplemental Environmental Impact Statement (SEIS). The Lower Basin states have resisted submitting formal comments, for fear that these comments could be used by the states to stake out legal positions on matters of water rights priority and federal authority that might push them further from a deal, as reported by the *Washington Post*. That hope was fulfilled in late May, when Arizona Governor Katie Hobbs, California Governor Gavin Newsom, and Nevada Governor Joe Lombardo announced that the Colorado River Lower Basin States had developed a plan to conserve 3 million acre-feet over the next three years to protect the Colorado River system.

The Lower Basin Plan has been submitted to Reclamation with all Seven Colorado River Basin States supporting its evaluation as an action alternative within the Draft SEIS. It proposes to conserve 3 million acre-feet of Colorado River water through 2026, with at least 1.5 million acre-feet of that total being conserved by the end of calendar year 2024. This proposed near-term action alternative is expected to outperform the alternatives proposed in the existing Draft SEIS. In addition to IID, The Metropolitan Water District of Southern California, the Palo Verde Irrigation District, the Coachella Valley Water District, the Fort Yuma Quechan tribe, and the Bard Water District are anticipated to assist in meeting California's conservation volumes and utilize IRA funding. Arizona and Nevada water users have committed to conserve the balance of the 3 million acre-feet of voluntary conservation, in addition to their existing shortage reduction volumes and contributions under the 2007 Interim Guidelines and 2019 Drought Contingency Plan. DOI last month announced more than \$157 million will be paid to Phoenix, Tucson and six other Arizona communities if they save up to 393,000 acre-feet through 2025. The Gila River Indian Community will also receive up to \$150 million to conserve up to 375,000 acre-feet of reservoir water.

The weather has improved markedly over the past winter, with plentiful snow covering much of the Rockies and water reservoirs on the rivers storage system starting to rise. And over \$12 billion for the federal government from the BIL and the IRA - with \$4 billion in IRA funding prioritized for the Colorado River - meant that it was worth their while for those who voluntarily gave up their rights on a temporary basis. So, improved hydrology and abundant federal funding helped grease this agreement.

a. Next Steps

In light of the Lower Basin states' conservation proposal, DOI announced that it is temporarily withdrawing the draft SEIS so that it can fully analyze the effects of the proposal under NEPA. Reclamation will then publish an updated draft SEIS for public comment with the consensus-based proposal as an action alternative. Accordingly, the original May 30, 2023, deadline for the submission of comments on the draft SEIS is no longer in effect. DOI plans to finalize the SEIS process later this year.

Later this month, DOI will formally advance the process for the development of new operating guidelines replacing the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and the Coordinated Operations for Lake Powell and Lake Mead at the end of 2026. In the coming weeks, Reclamation will publish the Notice of Intent for the Environmental Impact Statement related to the post-2026 guidelines.

b. Upper Basin Developments

Attention will now likely shift to the Upper Basin, where Reclamation last month began implementation of the 2023 Drought Response Operations Plan, which focuses on allowing upstream reservoirs to recover additional water previously sent downstream to Lake Powell. Lake Powell is not expected to need a boost from upstream reservoirs this Drought Response Operations Agreement (DROA) year (May 1, 2023 – April 30, 2024), thanks to high snowpack this winter and projected high runoff this spring. Lake Powell's projected inflow through the end of this water year (Sept. 30, 2023) is just over 14 million acre-feet of water—that's more than the last three years combined. The DROA is part of the 2019 Colorado River Drought Contingency Plan for the Upper Colorado River Basin and aims to protect Lake Powell from dropping below critical elevations.

Another Upper Basin program—the System Conservation Pilot Program – would pay farmers and ranchers willing to forgo their use of water. That program this year has so far struggled, with few people applying. Between the states of Colorado, New Mexico, Utah and Wyoming, 88 applications came in offering to save some water. The Upper Colorado River Commission approved more than 80% of them. However, if each of the program's approved applications works out as expected, the Upper Basin can expect to save about 39,000 acre-feet – less than 2% of the smallest amount of water federal officials had hoped to save - at a cost of about \$16 million (*Denver Post*).

c. Alliance Actions

I spent nearly a week last month in Arizona, where I spoke to the Yuma Fresh Vegetable Association industry briefing, and at the CLE Colorado River Law conference in Scottsdale. I also met with many of our members from the Colorado River basin on my travels. Alliance President Pat O'Toole will be speaking at the 43rd Annual Conference on Natural Resources at the Getches-Wilkinson Center for Natural Resources, Energy and the Environment on June 9. Pat will

participate in a panel titled, “How Can Agriculture Thrive with Less Water?”, and his fellow panelists are Meghan Scott (who works for Advisory Committee member Wade Noble’s law firm in Arizona), Mark Squillace (University of Colorado Law School) and Jim Holway (Babbitt Center for Land and Water Policy). The panel discussion will take place following opening remarks by former Interior Secretary Bruce Babbitt, who has vocally been critical of agricultural water use in recent months. For more information on this conference, visit the [event website](#).

My presentation to the Colorado River Water Law Conference in Scottsdale generated outreach from four journalists in the past two weeks. I’ve been asked to write a 5,000-word piece for *The Water Report*. I did an interview with a D.C. trade publication and I’m doing another one with an ag journalist from Colorado this week.

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