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**MEMORANDUM**

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**TO:** SLDMWA BOARD OF DIRECTORS  
**FROM:** DAN KEPPEL, EXECUTIVE DIRECTOR  
**SUBJECT:** EXECUTIVE DIRECTOR'S REPORT  
**DATE:** FEBRUARY 7, 2022

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This memo is intended to keep you apprised as to what is happening behind the scenes on policy issues the Family Farm Alliance is engaged in. In the past month, much of our efforts have focused on engaging in Biden Administration rulemaking efforts, monitoring federal agency implementation of the *Infrastructure Investment and Jobs Act*, preparing for our 2022 annual conference, public outreach and speaking engagements. These issues and other matters important to our members are further discussed in this memo.

**BIDEN ADMINISTRATION DEVELOPMENTS**

**1. Recent Appointments**

On January 12, the Senate Committee on Environment and Public Works (EPW) advanced for Senate consideration President Biden's nomination of Martha Williams to be Director of the United States Fish and Wildlife Service (by a vote of 16-4). Full Senate consideration is the next step. Ms. Williams returns to Department of the Interior having served as Deputy Solicitor for Parks and Wildlife between 2011 and 2013, providing counsel to the National Park Service and the Fish and Wildlife Service. She was an Assistant Law Professor at the University of Montana, where she co-directed the university's Land Use and Natural Resources Clinic. She also served as the Director of the Montana Department of Fish, Wildlife and Parks from 2017 to 2020. In December, Alliance President Patrick O'Toole, our lobbyist Mark Limbaugh, and I participated in a very constructive call with Ms. Williams, her two deputies, and three regional directors.

Senator Ben Ray Luján suffered a stroke two weeks ago, sidelining him for the foreseeable future and jeopardizing the Senate's majority lineup to confirm some nominees. Democrats received some good news last week, though, as Senator Luján's office told reporters that the New Mexico

Democrat is expected to return to Washington in four to six weeks, according to *The Hill*. No Supreme Court nominee is expected to be named until the end of February, giving Democrats breathing room as they await Senator Luján’s return.

## **2. Federal Agencies Mobilize to Overhaul Water Infrastructure**

Federal agencies are moving fast to using newly enacted funding from the *Infrastructure Investment and Jobs Act* (IIJA) to address aging water and power infrastructure challenges across the country, including the American West. White House infrastructure coordinator Mitch Landrieu has asked governors to appoint state-level point people to drive the implementation of the infrastructure law. Mr. Landrieu highlighted President Biden’s intent to reduce bureaucracy and delays to build infrastructure while at the same time creating jobs and advancing climate resiliency.

With President Joe Biden’s signature on the bipartisan IIJA (also referred to as the Bipartisan Infrastructure Law, or “BIL”) on November 15, the Family Farm Alliance and others involved with the year-long effort to secure \$8.3 billion in Western water infrastructure provisions are now working with the Biden Administration to immediately clear the path for projects that will address critical Western water supply needs. Now, the energies of our infrastructure coalition will be redirected to the agencies overseeing administration of the funds; namely – the Bureau of Reclamation (Reclamation). We want to ensure that most of these dollars are spent on-the-ground for the intended purpose, and we’re already working with them to ensure that billions of dollars are spent on new infrastructure in a way that is efficient and effective.

### **a. White House Releases BIL Guidebook**

The White House last month released a guidebook on the BIL. President Biden on January 31 welcomed governors to the White House on as part of the winter meeting of the National Governors Association, where he stressed the importance of infrastructure, telling them that they “know how to build roads and bridges” and that there are “a lot to build.” Addressing nearly \$1 trillion in federal funds, this guidebook offers insights on how to access both new and existing federal program funding included in BIL. About 60 percent of the funds will be distributed through formula, leaving 40 percent to be distributed through competitive grant programs. The guidebook contains 13 chapters grouping BIL programs into four major categories: 1) Transportation, 2) Climate, Energy, and the Environment, 3) Broadband, and 4) Other Programs. Other BIL water provisions include \$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. The 465-page report outlines what BIL funds are available, how to apply for them, and who to contact for questions. Each program’s funding amount and period of eligibility are listed with insight on the potential projects that would qualify. The Biden Administration will publish subsequent versions of this document to keep state and local governments up to date on the latest deadlines and details.

b. Reclamation Infrastructure Listening Sessions

During December and early January, the Bureau of Reclamation has held a series of listening sessions on its implementation of the Bipartisan Infrastructure Law. The three sessions covered different sections of the bill:

- **Session I:** Dam Safety, WaterSMART Grants, Water Recycling, Drought Contingency Plans, Multi-Benefit Projects to Improve Watershed Health, and Desalination;
- **Session II:** Water Storage and Conveyance, Small Storage and Groundwater, and Aquifer Storage and Source Substitution; and
- **Session III:** Authorization of Appropriations, Rural Water Projects, Critical Maintenance/Aging Infrastructure, and Use of Coronavirus Recovery Funds.

If you were unable to participate in these listening sessions but are interested in what was covered, please let me know, and I can share three memos prepared by The Ferguson Group (TFG) on each of the listening sessions.

a. 2022 Reclamation Spending Plan

Reclamation last month submitted its initial spend plan for fiscal year 2022 funding allocations authorized in the BIL to the U.S. Congress. This spend plan represents a blueprint for how Reclamation will invest in communities to address drought across the West as well as greater water infrastructure throughout the country. Reclamation will be provided \$1.66 billion annually to support a range of infrastructure improvements for fiscal years 2022 through 2026.

The FY 2022 spend plan allocations include:

- \$420 million for rural water projects that benefit various Tribal and non-Tribal underserved communities by increasing access to potable water.
- \$245 million for WaterSMART Title XVI that supports the planning, design, and construction of water recycling and reuse projects.
- \$210 million for construction of water storage, groundwater storage and conveyance project infrastructure.
- \$160 million for WaterSMART Grants to support Reclamation efforts to work cooperatively to implement infrastructure investments to increase water supply.
- \$100 million for aging infrastructure for major repairs and rehabilitation of facilities.
- \$100 million for safety of dams to implement safety modifications of critical infrastructure.
- \$50 million for the implementation of Colorado River Basin drought contingency plans.
- \$18 million for WaterSMART's Cooperative Watershed Management Program for watershed planning and restoration projects for watershed groups.
- \$15 million for Research and Development's Desalination and Water Purification Program for construction efforts to address ocean or brackish water desalination.
- \$8.5 million for Colorado River Basin ESA Recovery and Conservation Programs.

Detailed information on the programs and funding provided in the IJJA and the FY 2022 BIL Spend Plan is available at [www.usbr.gov/bil](http://www.usbr.gov/bil). There is some greater specificity [here](#).

c. Implementation Letter Sent to Administration

Last month, the Alliance submitted a letter- co-signed by ACWA, California Farm Bureau, NWRA and Western Growers - to the Secretaries of Agriculture and Interior and the Chair of White House Council on Environmental Quality. The letter outlines four general concerns we have regarding implementation of the IJJA. We also sent courtesy copies to the Commissioner of Reclamation and the Chiefs of the Forest Service and Natural Resources Conservation Service (NRCS). One of the concerns noted in our letter is how IJJA requirements regarding Build America, Buy America could impact infrastructure projects costs and time frames. On January 19, the Biden Administration [announced](#) a new “Made in America Council”. The Council will share data that can help promote domestic sourcing and best practices across agencies that are facing similar challenges and opportunities, and also surface recommendations to help build and expand critical U.S. supply chains.

**3. WaterSMART Funding Opportunities**

The Bureau of Reclamation is offering up funding opportunities-a-plenty through its popular WaterSMART program. Through WaterSMART, Reclamation works cooperatively with states, tribes, and local entities as they plan for and implement actions to increase water supply through investments to modernize existing infrastructure and avoid potential water conflicts.

a. Cooperative Watershed Management Program

The WaterSMART Cooperative Watershed Management Program Phase I funding opportunity is now available from Reclamation to develop a watershed group, complete watershed management planning activities, and design watershed management activities. Applicants may request up to \$200,000 for projects to be completed within two years. A non-federal cost-share is not required for this funding opportunity. The funding opportunity is available on [grants.gov](http://grants.gov) by searching for opportunity number R22AS00163. Applications are due on March 31, 2022, at 4 pm MDT. The Bureau of Reclamation will host a webinar on Thursday, February 17, 2022, at 1 pm MST to discuss eligible applicants and project types, program requirements, and the evaluation criteria for the Cooperative Watershed Management Program Phase I funding opportunity. You can find out more about this program and the webinar at [www.usbr.gov/watersmart/cwmp](http://www.usbr.gov/watersmart/cwmp).

b. Basin Studies and Water Management Options Pilots

Reclamation is requesting letters of interest from eligible non-federal entities for Basin Studies and Water Management Options Pilots. Letters of interest are due by February 11, 2022, to the nearest regional office. Through basin studies, Reclamation works with state and local partners to develop projections of future water supply and demand, including the impacts of climate change,

and to identify collaborative strategies to ensure sustainable future water supplies in river basins across the Western United States. Reclamation is also requesting letters of interest for Water Management Options Pilots. These pilots allow Reclamation to work with state and local partners to evaluate solutions to water management challenges by building on completed basin studies. Pilots may include both additional analysis that further develop strategies identified in a basin study and/or efforts to update or expand analysis. To learn more about WaterSMART Basin Studies and to locate contact information for your respective regional office, visit [www.usbr.gov/watersmart/index.html](http://www.usbr.gov/watersmart/index.html).

c. Title XVI and Desalination Construction Projects

Reclamation will host a webinar on Wednesday, February 9, 2022, at 10 a.m. MST to share information about Title XVI Program and Desalination Construction Project funding opportunities that are currently open for applications, and how projects can become eligible to compete for funding under future funding opportunities. The Title XVI Program provides financial assistance to local water agencies for the planning, design, and construction of water reclamation and reuse projects. The Title XVI WIIN Act Notice of Funding Opportunity invites sponsors of projects eligible under Section 4009(c) of the WIIN Act to request cost-shared funding for planning, design, and/or construction of those Projects. The Title XVI Congressionally Authorized Water Reclamation and Reuse Projects Funding Opportunity is available for planning, design, and construction of congressionally authorized Title XVI Projects. You may access this funding opportunity by searching [grants.gov](http://grants.gov) for opportunity number R22AS00116.

The Desalination Construction Projects Under the WIIN Act Funding Opportunity is available for planning, design, and construction of ocean and brackish water desalination projects eligible under Section 4009(a) of the WIIN Act. You may access this funding opportunity by clicking by searching [grants.gov](http://grants.gov) for opportunity number R22AS00117. Applications under each funding opportunity are due on March 15, 2022 at 4:00 p.m. MDT. Local water agencies that are the sponsors of water recycling or desalination projects are encouraged to participate. Learn more at <https://www.usbr.gov/watersmart>.

**4. Western Wildfire Strategy**

Vice President Kamala Harris and U.S. Agriculture Secretary Tom Vilsack last month announced \$1.36 billion in disaster relief funds for the Forest Service to support post-disaster recovery and restoration in states across the country, including nearly \$600 million for recovery efforts in California following two devastating fire years. The Forest Service will utilize these recovery dollars for hazardous material cleanup, reforestation, watershed restoration, and infrastructure repair including for trails, roads, bridges and facilities. The funding will target communities and Tribes hardest hit by wildfires to mitigate impacts, address hazards, and support plans for recovery.

From August through October, the most extreme wildfire conditions in the West caused thousands of evacuations, homes and structures lost, and tragic fatalities of 11 people in Oregon and 34 people

in California. Over 46,000 fires in the West charred more than 5.8 million acres in 2021, slightly lower than the 10-year average. Western wildfire disasters are becoming an annual occurrence and underscore the importance of improving on-the-ground management actions that can lead to improved forest health. A responsible level of continuous fuels reduction includes a combination of robust mechanical thinning and prescribed fire. These measures can be employed to significantly reduce evapotranspiration, tree stress, disease and pest infestation, preserve health forest conditions, and protect species and habitats. Failure to employ this approach will continue the downward, accelerating spiral of fuel accumulation, drought, disease and invasive insects. This will lead, inevitably, to additional high-intensity fire events in the future.

Secretary Tom Vilsack and Forest Service Chief Randy Moore last month also launched the administration's comprehensive response to the nation's growing wildfire crisis – "Confronting the Wildfire Crisis: A Strategy for Protecting Communities and Improving Resilience in America's Forests." The strategy outlines the need to significantly increase fuels and forest health treatments to address the escalating crisis of wildfire danger that threatens millions of acres and numerous communities across the United States. The Forest Service will work with other federal agencies, including the Department of the Interior, and with Tribes, states, local communities, private landowners, and other partners to focus fuels and forest health treatments more strategically and at the scale of the problem, based on the best available science. USDA announced more than \$48 million of investments by the Forest Service and the Natural Resources Conservation Service (NRCS) this year through the Joint Chiefs' Landscape Restoration Partnership for projects that will mitigate wildfire risk, protect water quality, improve wildlife habitat, restore forest ecosystems and ultimately contribute to USDA's efforts to combat climate change.

Senator Michael Bennet (D-COLORADO) last year successfully offered the *Joint Chiefs Landscape Restoration Partnership Program* bill as an amendment to the bipartisan Senate infrastructure bill. Congress recognized the value of this important USDA program by making it permanent in the bipartisan infrastructure bill signed by President Biden. The Joint Chiefs' Partnership enables NRCS and the Forest Service to collaborate with agricultural producers and forest landowners to invest in conservation and restoration at a big enough scale to make a difference. The Alliance last year formally supported this important legislation. We have long held that the best natural resource solutions are unique and come from the local, watershed and state level. The future of the rural West will be defined by the inter-relationship between local communities, farmers, ranchers, foresters and constructive conservation groups working together to balance production and conservation.

## **5. Administration Tees Up Climate, Conservation Funding Opportunities**

At a forum on climate policy and agriculture, U.S. Secretary of Agriculture Tom Vilsack said he's noted a "sea change" in farmers' thinking on the issue since his first stint heading the Agriculture Department from 2009 to 2017. Secretary Vilsack used the Bipartisan Policy Center forum, to promote the USDA's focus on climate, including a plan for conservation pilot projects around the country that could reveal the carbon benefits of various practices. NRCS recently announced

several new and expanded opportunities for climate smart agriculture and regional conservation efforts in 2022. Climate smart agriculture updates include nationwide availability of the Environmental Quality Incentives Program (EQIP) Conservation Incentive Contracts option, a new and streamlined EQIP Cover Crop Initiative, and added flexibilities for producers to easily re-enroll in the Conservation Stewardship Program (CSP). These improvements to NRCS' working lands conservation programs, combined with continued program opportunities in all states, are part of the Biden-Harris Administration's effort to support climate-smart agriculture.

a. New Partnership Announced

NRCS is announcing a new partnership with Farmers for Soil Health, an initiative of the United Soybean Board, National Corn Growers Association and National Pork Board. Farmers For Soil Health works to advance use of soil health practices – especially cover crops – on corn and soybean farms. The initiative has a goal of doubling the number of corn and soybean acres using cover crops to 30 million acres by 2030. Other partners include the National Association of Conservation Districts, Soil Health Institute, and The Sustainability Consortium.

b. Cover Crops, Conservation Incentives, CSP

To complement the new partnership, NRCS is investing \$38 million through the new targeted Cover Crop Initiative in 11 states to help agricultural producers mitigate climate change through the widespread adoption of cover crops. Western states include California, Colorado, and South Dakota. States were selected for this initial pilot based on their demonstrated demand for additional support for the cover crop practice. Sign-up dates will be determined at the state-level, and applications will be selected for funding by Feb. 11, 2022. NRCS accepts applications for conservation programs – including EQIP and CSP – year-round. However, producers and landowners should apply by state-specific, sign-up dates to be considered for each year's funding. To apply, producers should contact their [local USDA Service Center](#).

c. Regional Conservation Partnership Program

USDA last month also announced up to \$225 million in available funding for conservation partners through the Regional Conservation Partnership Program (RCPP), a partner-driven program that leverages collective resources to find solutions to address natural resource challenges on agricultural land. This year's funding announcements include opportunities for projects that address climate change, benefit historically underserved producers and support urban agriculture. There are two types of funding opportunities under RCPP: Classic and Alternative Funding Arrangements (AFA). Through AFA, partners have more flexibility in working directly with agricultural producers to support the development of new conservation structures and approaches that would not otherwise be available under the RCPP "Classic" funding. The 2018 Farm Bill provided improved contracting for partners engaged in work with producers, which is intended to be streamlined and made more effective under the RCPP. Project types that may be suited to AFA, as highlighted by the 2018 Farm Bill include projects that:

- Use innovative approaches to leverage the federal investment in conservation.
- Deploy a pay-for-performance conservation approach.
- Seek large-scale infrastructure investment that generate conservation benefits for agricultural producers and nonindustrial private forest owners.

USDA is accepting project proposals for both components of RCPP through April 13, 2022. View the funding opportunity on [grants.gov](https://www.grants.gov) for RCPP Classic and RCPP AFA. Funding is open to agriculture and silviculture associations, non-government organizations, Indian tribes, state and local governments, conservation districts and universities, among others.

## **6. MOU Between NOAA and Army Corps of Engineers**

Water users across the West have expressed concerns in recent weeks regarding a [joint memorandum](#) between the Department of Army Civil Works (Corps) and the National Oceanic and Atmospheric Administration (NOAA). As described in the document, this memorandum resolves for Corps and NOAA's National Marine Fisheries Service (NMFS) how the agencies evaluate the effects of projects involving existing structures on listed species and designated critical habitat in Endangered Species Act (ESA) Section 7 consultations. This started several years ago with a unilateral decision by NOAA in the Pacific Northwest that primarily impacted the maintenance of coastal & Puget Sound port and maritime infrastructure. It is now national in scope.

The challenge arises for the Corps' Regulatory Program and anyone who needs Corps permits where they are required to do a Section 7 Consultation with NOAA Fisheries to get a maintenance permit. Applicants will no longer be able to include the existing structure as part of the environmental baseline when doing their calculations to figure out mitigation for their maintenance action. So now, they will have to mitigate not only for the maintenance work being performed, but also for the "enduring effects" of the entire structure in the environment for however long the useful life of the structure has been extended. Advocates for ports in the Pacific Northwest estimate that this will increase maintenance costs 5-30% and almost all maintenance permits will be required to go through formal consultation, which takes more time and has additional costs associated, too. While the maintenance of Federal channels, locks and dams may be covered under the Civil Works program, entities needing permits for any maintenance work for facilities on, over, or near the water, may be impacted by this. Anyone needing permits from the Corps where an ESA Section 7 consultation is required is likely going to face this challenge.

We are working with others in the regulated community to assess the impacts this would impose economically with Section 7 consultations. Since this is now national in scope, there may be interest from Congressional delegations outside of the Northwest, especially as port projects in their areas start to feel the impacts.



## **DEVELOPMENTS IN CONGRESS**

Congress is on course to pass a third government funding stopgap for the fiscal year that began Oct. 1, as negotiations on a 12-bill omnibus package continue at a snail's pace barely two weeks before the Feb. 18 deadline appropriators set in the last continuing resolution. Even if appropriators could reach a deal on defense and nondefense topline in the next few days, they would still need time to hammer out spending levels for the individual 12 bills and all the policy details under them. That's a massive task that would be difficult to negotiate in less than two weeks, let alone draft finalized text for and pass through both chambers.

### **7. Water Resources Development Act**

Key House and Senate committees are moving ahead with plans to draft a new Water Resources Development Act (WRDA) to authorize billions of dollars for Army Corps of Engineers (Corps) flood protection, river locks and dams, environmental restoration and other civil works projects. As they work on the legislation in coming months, lawmakers' goal is to pass a bill by the end of the year. On January 12, the House Transportation and Infrastructure Subcommittee on Water Resources and Environment and the Senate Committee on Environment and Public Works both held hearings regarding the Administration's priorities and proposals for the 2022 WRDA, and the implementation of water infrastructure projects. Witnesses included Michael Connor, Assistant Secretary of the Army for Civil Works; and Lieutenant General Scott Spellman, Chief of Engineers and Commanding General of the Corps. Assistant Secretary Connor said the Corps is working with the Office of Management and Budget to finalize a proposed rule to implement the Water Infrastructure Finance and Innovation Act (WIFIA) program to support investment in maintaining, repairing, and upgrading non-federal dam safety projects.

I was invited last week to be a featured speaker at the monthly meeting of stakeholders and Senate staff hosted by the Western Caucus Foundation, where the topic of the day was WRDA. We and the offices of several Western Senators view WRDA as one potential vehicle to include a "Reclamation title", similar to what occurred with the 2016 WRDA, or "Water Infrastructure Improvements for the Nation" (WIIN) Act, which included significant new authority for Reclamation to support water storage projects. Our priorities for the remainder of this Congress will be looking for ways to keep money flowing to larger storage projects on a cost-share basis and making necessary tweaks to the recently passed BIL. The vehicle that could carry such legislation might be WRDA or some other omnibus package that moves later this year. The House Subcommittee on Water Resources and Environment has scheduled a February 8 hearing to hear stakeholder priorities on proposals for the 2022 WRDA.

## **JUDICIAL DEVELOPMENTS**

### **8. Supreme Court to Revisit WOTUS**

Potentially game-changing news for Western farmers and ranchers hit the headlines last month

when the U.S. Supreme Court announced that the justices will revisit and potentially limit the scope of Clean Water Act (CWA) precedent. The case to be taken up by the Supreme Court centers on a conflict between an Idaho couple, Chantell and Michael Sackett, and the Environmental Protection Agency (EPA). The Sacketts attempted to build a home on land the EPA claims to be federally protected wetlands under the CWA. As reported in *E&E News*, the Supreme Court in 2012 sided with the Sacketts in their battle for judicial review of an EPA order that stopped them from building a house on their land and threatened fines of more than \$30,000 a day. In a short order last month, the justices agreed to consider whether the 9th U.S. Circuit Court of Appeals erred when it affirmed that the federal government has permitting authority over the couple's property in northern Idaho.

The interpretation of what qualifies as "waters of the U.S." (WOTUS) under the CWA is the focus of this case. Justice Anthony Kennedy provided the key vote in the 4-1-4 decision in *Rapanos v. United States* in 2006, where he disagreed with his colleagues on how to determine in which cases the federal government can exercise its CWA authority. In the years since *Rapanos*, federal courts have generally favored Justice Kennedy's "significant nexus" test, which takes a broad view of federal jurisdiction, over Justice Antonin Scalia's narrower definition requiring a wetland to have a continuous surface connection to a regulated water. Former Justice Kennedy's test had served as the basis for the Obama administration's Clean Water Rule, which the Trump administration later replaced with the Navigable Waters Protection Rule (NWPR). The Trump rule relied heavily on former Justice Scalia's CWA interpretation. That rule was struck down by a federal court in Arizona last year, giving the Biden administration a chance to write a brand-new rule.

Last month's decision to grant *cert* could provide a new perspective of what the language in the CWA really means. In 2019, the Family Farm Alliance submitted extensive formal comments to the EPA and U.S. Army Corps of Engineers in support of the Trump Administration's approach to base a new WOTUS rule on former Justice Scalia's plurality decision in the 2006 case *Rapanos v. United States*. With *cert* granted in the Sackett case, the Supreme Court could take action in October that removes the need for the Biden Administration to write a brand-new rule for what constitutes WOTUS under the CWA. We will continue to cover this important new development closely, while also continuing to advocate for irrigated agriculture with the Biden Administration as they proceed with current rulemaking. We are also considering working with other interests to develop a Western water amicus brief for the Supreme Court on this matter.

## **9. Other WOTUS Developments**

Meanwhile, EPA is "committed to establishing a durable definition" of WOTUS, spokesman Timothy Carroll said. The Biden Administration last fall had proposed to unveil this month a new definition of what constitutes a WOTUS. That timeline has now been pushed back to later in the year. The Biden Administration has moved to formally rescind the Trump Administration's NWPR and to put back in place pre-2015 CWA regulations informed by past court precedent. EPA recently held virtual outreach meetings with state and local government officials on its first phase

rule proposal to return to the definition of WOTUS pre-2015, pending promulgation of a new WOTUS rule in a planned second phase. The proposed rulemaking is currently out for public comment until February 7.

a. Concerns of American Farmers and Ranchers

EPA's Farm, Ranch and Rural Communities Advisory Committee last month submitted a list of recommendations to EPA Administrator Michael Regan on the intended revision of the definition of WOTUS. The agencies significantly expanded their interpretation of the jurisdictional authority provided under the 2015 rule in a system that was neither beneficial for farmers or ranchers or the environment, the committee said. The evolution of the definition of WOTUS has been a source of confusion and concern for American agriculture for several decades. Leaders of the American Farm Bureau Federation at the organization's annual convention last month in Atlanta, Georgia urged growers to speak out against the Biden administration's proposed expansion of WOTUS.

b. Family Farm Alliance Efforts

Family Farm Alliance members believe the federal agencies should simply revert to the pre-2015 regulations and guidance that has been longstanding and is familiar to the regulated community. The proposed rule should not include additional interpretations of the Supreme Court's decisions in *SWANCC*, *Rapanos*, and other relevant CWA cases in administering the pre-2015 regulations and guidance. The current guidance memo on implementing the Clean Water 404(f) exemptions for construction and maintenance of ditches and maintenance of drains should remain in place. The Alliance worked with its members to prepare a formal comment letter to EPA that will be transmitted to the agency on February 7. The Alliance letter recommends the agencies conclude that man-made canals, drains, roadside ditches, wastewater and stormwater treatment, constructed wetlands, water reuse and recycling facilities, groundwater recharge facilities, and other similar infrastructure features not be categorized as WOTUS and regulated under the CWA.

## ALLIANCE INITIATIVES

### **10. 2022 Annual Meeting and Conference**

The 2022 Family Farm Alliance Annual Conference is set for February 24-25, 2022 at the Silver Legacy Resort in Reno (NEVADA). Registration information is available on our website: [www.familyfarmalliance.org](http://www.familyfarmalliance.org). We're planning on an in-person event, although the COVID-19 Omicron variant has folks nervous, especially on the East Coast. We'll definitely have engagement from Congress and the Biden Administration, although some of the speakers may participate via ZOOM, including Reclamation Commissioner Camille Touton, who is expecting her third child that week. Conference highlights include:

- **Reclamation Roundtable** featuring U.S. Bureau of Reclamation Commissioner Camille Touton, Regional Directors, and other top Reclamation officials.
- **A Look at D.C. From the Hill:** Mark Limbaugh moderates this panel of Democrat and Republican staff from key congressional water committees.
- **Report from Glasgow:** Hear from Alliance President Pat O'Toole and other leaders of Solutions from the Land who served as delegates at COP26.
- **The Western Water Infrastructure Coalition** "behind the scenes" of the effort that succeeded in achieving \$8.3 billion for Western water infrastructure.
- **Colorado River:** Hear how agricultural water interests from the Continental Divide to the Mexican border are helping decision-makers facing shortages due to drought and over-allocation.
- **Innovation in Western Water Management.**
- **Plus, Western regulatory and litigation updates, appearances by top Biden Administration appointees, and much, much more!**

The full agenda is also available on our website.

## **ADMINISTRATIVE AND MISCELLANEOUS**

- The latest drought monitor index once again shows no improvement with drought conditions in the State of California. Extreme drought is in effect for 1% of the State of California, while severe drought is in effect for 66% of the state, including the Sacramento Valley and the Bay Area. These numbers have held true for four consecutive weeks as rain and snow continue to elude Northern California.
- Gary Gold – an attorney for the Salt River Project (ARIZONA), and a member of the Family Farm Alliance Advisory Committee - is transitioning to the Department of Interior to be Tanya Trujillo's deputy assistant secretary. This is great for Gary and great for us, as we will have another trusted force within the Secretary's office. It also opens up a great opportunity for someone to work for SRP. [CLICK HERE](#) for more information.
- The Milken Institute's California Center, in partnership with the Westlands Water District, settled on new dates for the full day policy forum on Accelerating Water Resilience through Infrastructure Development in California. The goal of the April 21 forum is to identify the coordination, governance and capacity building necessary for the region to leverage innovative financing mechanisms that enhance economic growth and improve quality of life for the residents in the region. The forum will take place at the The Citizen Hotel in Sacramento. You can register [HERE](#).

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