Agency Reorganization and New Leadership

Administrative changes will impact Western resource policies

The Trump Administration is quietly but assertively making changes to key departments that implement policies impacting the activities of Western agricultural producers. The Departments of Agriculture and the Interior, as well as the Environmental Protection Agency (EPA), are taking actions to advance the long-term vision of the Administration, which appears to be one that encourages close collaboration with producers that help drive local and national economies. Getting Senate-confirmed appointees in leadership roles crucial to that endeavor has been a greater challenge.

New Direction at EPA

EPA will soon release a new strategic plan intended to enhance the role of state regulators relative to implementing federal environmental laws that can present significant challenges to Western producers. EPA officials are meeting with their state counterparts to discuss what can be done now to further those cooperative efforts. EPA's current plan, developed under the Obama administration, under-scores the importance of tackling climate change and other ideals that do not mesh with President Trump’s priorities.

EPA this month also announced the formation of a “Smart Sectors” team, which will fit into a newly reconfigured policy office in Washington. This team will reside within the EPA Office of Policy and will “re-examine how EPA engages with industry,” according to a Federal Register notice posted this month. The reorganization is set to occur October 1, the start of the next fiscal year.

Restructuring at USDA

Secretary of Agriculture Sonny Perdue earlier this month announced the realignment of a number of offices within the U.S. Department of Agriculture (USDA) in order to improve customer service and maximize efficiency. The actions involve innovation, consolidation, and the rearrangement of certain offices into more logical organizational reporting structures. The changes build on the reorganization Secretary Perdue announced in May.

“On my first day as secretary, I told our employees..."

Continued on Page 2
that I wanted USDA to be the most effective, most efficient, and best managed department in the federal government. These changes will move us further toward that goal,” Perdue said. “This realignment represents further progress on the improvements to USDA we made earlier this year, and will help us better meet the needs of farmers, ranchers, foresters, and producers, while providing increased accountability to American taxpayers.”

The realignment announced in May reconstituted and renamed a mission area headed by the Under Secretary for Farm Production and Conservation (FPAC). Under the newly-organized FPAC mission area, the Farm Service Agency (FSA), the Risk Management Agency (RMA), and the Natural Resources Conservation Service (NRCS) were realigned to report to the renamed Under Secretary. The improvements announced earlier this month make changes to some programs intended to fit them into more logical places to help better coordinate service to USDA customers.

The details of the consolidation have yet to be worked out. In broad terms, there is a decision to move administrative functions, (i.e. budget, personnel) from FSA, NRCS, RMA to the new common mission area. Of importance to Western producers who work with NRCS to implement conservation programs on their farms, the expectation is that this will include signing conservation contracts. This role is currently handled as an administrative function within NRCS and analogously in the other two agencies.

“Apart from the administrative functions, it does not appear that the agencies themselves will be consolidated,” said Jeff Eisenberg, coordinator for the Western Agriculture and Conservation Coalition (WACC), which the Family Farm Alliance belongs to.

There have been suggestions by USDA staff that there may be an effort at the field level to combine the function of FSA and NRCS. However, nothing has been decided yet.

“This is up in the air,” said Mr. Eisenberg. “It’s worth watching.”

What does this mean for those – like the Family Farm Alliance - who are concerned about the more efficient operation of NRCS?

There has been plenty of speculation and concern expressed across the West about what will happen when the three agencies merge their functions.

“With respect to producer contracts, it seems like this idea for consolidation could slow things down,” said Mr. Eisenberg. “With respect to other administrative functions, it remains to be seen if there is a negative impact.”

Only those contracts that are signed at the national level may be subject to consolidation. Programs like the Environmental Quality Incentive Program (EQIP) are administered at the state level. The Wetlands Reserve Program (WRP) on the other hand, is administered in Washington. Right now, it is unclear how all the programs will be divided up according to signing authority.

The WACC Steering Committee is currently looking at vehicles to raise concerns on this matter, although it may be premature, since the USDA details have not yet been worked out. The initial concern raised by farmers and ranchers in the haze of this uncertainty is that adding a layer of review that is outside the current purview of each agency will only slow things down further, and degrade customer service.

“’The Secretary’s goal is to deliver better service to farmers,” said Mr. Eisenberg. “This is the standard by which we should measure specific proposals that will have some weight with our elected officials.”

Interior Redecoration

Interior Secretary Ryan Zinke has big plans to reorganize the Department of Interior, which he outlined in a recent address to the National Petroleum Council. As reported in last month’s “Monthly Briefing”, Secretary Zinke is considering relocating Bureau of Land Management, the Bureau of Reclamation, and other Interior Department agencies to key cities where oversight would be broken into regions anchored by 13 watersheds.

"Push your generals where the fight is," the Secretary – a formal Navy Seal officer - reportedly told the audience.

The National Park Service, Fish and Wildlife Service, and other Interior departments would report to regional hubs rather than the federal office in Washington, D.C.

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State of Colorado sued by...“Colorado River Ecosystem”

An environmental activist group called Deep Green Resistance is asking a federal district court in Colorado to recognize and declare that the Colorado River is capable of possessing rights similar to a “person”. Although replete with poetic language celebrating the natural beauty of the river, the bottom line ask in the plaintiff’s complaint is that the Court declare the Colorado River with certain rights to exist, flourish, regenerate and naturally evolve.

Complaints for declaratory relief typically include a section that describes the affected parties. Party “A” in this case is, in fact, “The Colorado River”.

“Human language lacks the complexity to adequately describe the Colorado River Ecosystem,” the complaint states. “Any attempt to define it or account for the sheer amount of life made possible by it will necessarily be arbitrary.”

With that said, the complaint dedicates over three pages of gushing prose towards that very end.

“If we begin with water, we see - high in the sky - water dancing as vapor on wind currents,” the complaint reads. “When the dance brings enough water together, clouds form...”

The discussion under Party “B” reveals that Deep Green Resistance (DGR) and its members serve as “next friends,” for, and guardians of, the Colorado River Ecosystem. DGR claims it is a “worldwide, membership-based, grassroots organization rooted in the truth that all life is sustained by soil, air, water, and countless natural communities of living creatures”.

The DGR complaint states that courts and legislatures around the globe have begun to create a new kind of environmental law, one which recognizes that ecosystems themselves possess certain rights, and which allows communities to sue on their behalf for damages caused to the ecosystem. By recognizing standing on behalf of the ecosystem itself, DGR believes injuries caused to the ecosystem are directly recoverable, rather than being dependent solely on harms caused to the users of those ecosystems.

“Much in the same way that African-Americans and women became “visible” to courts in the 1800's, courts and legislatures now are making ecosystems visible to the institutions of government,” the complaint says.

Despite more pages of similar flowery language, the bottom-line “ask” in the complaint is for the court to recognize (COLORADO).

Mr. Whitehead and others are just beginning to read the complaint in detail, but the summary in the news articles generated from the press release are already raising concerns.

“This is the height of insanity...but a very dangerous trend,” said Tom Davis, general manager of the Yuma County Water Users Association (ARIZONA).

Wesley J. Smith in the National Review wrote about this case earlier this month and warned, “the movement to grant ‘nature’ human type rights continues with insufficient pushback”.

Mr. Smith noted that, in the last few years, three rivers and two glaciers have been declared to be “persons” entitled to rights. Two countries—Bolivia and Ecuador—have instituted the rights of nature as have more than 30 U.S. cities. Law schools are also getting into the act, Mr. Smith reports. The first annual “Rights of Nature Symposium” will be held at Tulane University Law School in October.

The “river rights” movement launched on behalf of the Colorado River is nonsensical to many others.

“It’s kind of like Walt Disney making animals human by giving them voices,” said Chris Udall, executive director of the Agribusiness and Water Council of Arizona.

It’s easy to laugh, but Mr. Udall and others are really taking this case very seriously.

“I say, people need to pay more attention to this movement and push back hard,” Mr. Smith wrote in his National Review blog. “Otherwise, one fine day, you may find yourself sued by your back-40 – represented by a radical environmentalist...”
Alliance Finalizes Platform Amidst Growing Farm Bill Attention

The Family Farm Alliance earlier this month finalized its farm bill policy priorities and recommendations paper, which was shared with Senate and House agriculture committees and other key policy makers. Although, the term “finalized” comes with many conditions, amidst a rapidly expanding pool of parties interested in the farm bill.

“Based on the evolving of agency reorganization at USDA, the current wildfire situation, and other dynamic developments, this paper should be considered to be a ‘living document’, subject to change in the coming months,” said Alliance Executive Director Dan Keppen.

Family Farm Alliance Priorities for 2018 Farm Bill

The Alliance farm bill document builds upon principles embedded in farm bill platforms developed by the Western Agriculture and Conservation Coalition and the Irrigation Association Farm Bill Task Force, two groups that the Alliance works closely with.

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

“We want to ensure that EQIP remains available for use across all land ownerships and we would like to see the new Farm Bill remove contracting barriers and streamline implementation of RCPP,” said Mr. Keppen.

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

“Many Western irrigation districts are over 100 years old,” said Marc Thalacker, an Alliance director from Central Oregon. “Adequate funding for a modernized PL-566 Watershed program will help catalyze sustainable farming for the next 100 years.”

The final Alliance priorities will also include recommendations for Farm Bill provisions that support beginning farmers and ranchers and a comprehensive solution to problems of funding wildfires (see related story, Page 9).

Fate of the Farm Bill

The current farm bill (Agricultural Act of 2014) expires on Sept. 30, 2018. As reported in the August 2017 “Monthly Briefing”, House Agriculture Committee Chairman Mike Conaway, his staff, and other committee members have conducted three field hearings on the farm bill, including one that was held in Modesto (CALIFORNIA) last month. The Senate Agriculture Committee has held two field hearings and full committee hearings covering a majority of the titles from the 2014 farm bill.

The farm bill discussions on Capitol Hill are going to be strained due to budget pressure from the White House and Republican leadership in Congress.

“Factors outside of the House and Senate Agriculture Committees’ control—the budget and the 2018 midterm election—could complicate timely completion of the 2018 farm bill,” said Stephen Frerichs, with AgVantage LLC. However, many are optimistic because the House and Senate Agriculture committee leaders have started hearings early and are working on the legislation already.

“What is clear is that we are seeing many new sectors and players are now interested in the farm bill, driving farm policy on a broad range of issues, including immigration, wildfires, school lunches, conservation, industrial hemp pilot projects, cover crops, and young farmers,” said Mr. Keppen.

Using the Farm Bill…to advance agendas

The usual critics of agriculture have already mobilized in support of their agendas, and they’ve enlisted their time-tested allies in Congress. The Environmental Working Group (EWG)

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Columbia Basin Development League 2017 Conference
The Columbia Basin Project: Continuing the Legacy

Time: 9:00 a.m.
Date: Thursday, November 2, 2017
Place: Big Bend Community College, Moses Lake (WASHINGTON)

Agenda:
Waiting for Water, CBDL’s New, Short Documentary
Columbia Basin Project Irrigation Districts and Reclamation Update
Potholes Supplemental Feed Route Update
Odessa Ground Water Replacement Program Construction & Funding Update
Odessa Program Bridges Funding Options
Office of Columbia River: 10 Years of Water
Columbia River Treaty Update
Federal and State Government Affairs Update

The Columbia Basin Development League’s Conference speaker line up has been topped off with lunch keynote speaker, David Palumbo, Deputy Commissioner of Operations, U.S. Bureau of Reclamation, Washington D.C. Deputy Commissioner Palumbo has been part of managing the water in the west since 2005. His vast experience includes managing projects and programs in Colorado and Mexico as well as Hoover Dam operations.

Reserve your seat today to receive the best rate, and have a voice at the table at the Conference and 53rd Annual Meeting. This year’s conference schedule is new with check-in starting at 9am. REGISTER at www.cbdl.org.

2018 Farm Bill drawing attention (Cont’d from Page 5)

released its farm bill priorities report earlier this month, which argues that the farm bill’s voluntary conservation programs are not solving the many environmental problems EWG claims are created by intensive farming.

"It's not fair to ask taxpayers to pay for everything farmers should do to be good neighbors to those across the road, downstream or downwind," EWG says. "Moreover, if farmers voluntarily implement a conservation practice, they can also voluntarily stop using that practice. As a result, conservation practices come and go, and we end up spinning our wheels while spending billions."

Rep. Earl Blumenauer (D-OREGON) – whose district encapsulates the densely populated Portland metropolitan area - has introduced a bill to require farmers who receive premium crop insurance subsidies to establish basic conservation practices and to allow for greater government review of conservation plans. Mr. Blumenauer said EWG's report shows the need for his bill.

"The majority of our farmers are stewards of the land and deserve government support, but some aren’t meeting their obligations to the American taxpayer," he said. "This bill ensures that federal subsidies go to farmers who are improving water quality, reducing carbon emissions, and limiting soil erosion for future generations."

Mr. Blumenauer in the past has sponsored legislation aimed at restricting farming practices conducted in the rural Klamath Basin, located several hundred miles south of his mostly urbanized district. His apparent collaboration with EWG on farm bill matters in nothing new, either.

A June 2013 New York Times article by Ron Nixon - “Farm Subsidies Leading to More Water Use” - referenced similar, earlier efforts by EWG and Mr. Blumenauer, and suggested that farmers who irrigate their fields are “at odds with conserving water”.

That article was immediately challenged in a letter to the editor signed by a coalition of agricultural and conservation interests that included the Arizona Cattle Growers’ Association, California Farm Bureau Federation, Environmental Defense Fund, Family Farm Alliance, Irrigation Association, The Nature Conservancy, Public Lands Council, Trout Unlimited and the Wyoming Stockgrowers Association.

“In fact, farmers support more efficient use of the nation’s water resources both as friends of the environment but also because wise water use is central to our continued ability to feed the nation and the world,” the letter to the editor stated.

Mr. Blumenauer’s latest effort to take on Western irrigators – this time through a farm bill marker bill - would also set aside funding for enforcement and to provide technical assistance for farmers implementing conservation practices.
Trump Administration Crafting Regulatory Reform Proposals

Federal agencies have been busy advancing President Trump’s promise to alleviate “unnecessary burdens placed on the American people.” Agencies whose actions impact Western water users – including the Bureau of Reclamation (Reclamation), Environmental Protection Agency (EPA), Fish and Wildlife Service (FWS) and others – are seeking public input on how they can best live up to President Trump’s promise.

The Family Farm Alliance has crafted formal comment letters for several federal agencies, including recommendations transmitted to EPA, NOAA Fisheries, Reclamation, FWS and the U.S. Geological Survey (USGS).

“This is a tremendous opportunity to provide our perspective on the efficiency and effectiveness of current regulatory processes that impact Western irrigated agriculture,” said Alliance Executive Director Dan Keppen. “It’s been a long time since we’ve had so many agencies so receptive to hearing our thoughts on how current regulatory processes can be further streamlined or expedited.”

CEQ Moves to Streamline Environmental Reviews

The White House Council on Environmental Quality (CEQ) earlier this month published in the Federal Register an Executive Order (E.O.) entitled, “Initial List of Actions To Enhance and Modernize the Federal Environmental Review and Authorization Process”. Pursuant to an earlier executive order signed by President Trump, the latest E.O. provides that “[w]ithin 30 days of the date of this order, the CEQ shall develop an initial list of actions it will take to enhance and modernize the Federal environmental review and authorization process. CEQ identified the following initial list of actions that it intends to undertake to enhance and modernize the Federal environmental review and authorization process:

- Develop, with the Office of Management and Budget, and in consultation with the Federal Permitting Improvement Steering Council (Permitting Council), a framework for implementing "One Federal Decision”;
- Coordinate with the Permitting Council, Department of Transportation, and the U.S. Army Corps of Engineers, with regard to projects that may qualify as high-priority infrastructure projects pursuant to E.O. 13766 of January 24, 2017;
- Review existing CEQ regulations implementing the procedural provisions of the National Environmental Policy Act (NEPA) to identify changes needed to update and clarify those regulations;
- Issue additional guidance as may be necessary, including through a NEPA practitioners’ handbook, to simplify and accelerate the NEPA process; and
- Form and lead an interagency working group to review agency regulations and policies to identify impediments to the efficient and effective processing of environmental reviews and permitting decisions.

Ditto, Interior…. 

Citing a need to reduce "paperwork," the Interior Department has also imposed controversial new restrictions on the length of federal environmental studies. Interior Deputy Secretary David Bernhardt has directed that the Department's environmental impact statements "shall not be more than 150 pages or 300 pages for unusually complex projects." Agency officials will need high-level approval to exceed the new page limit. The memo also imposes a "target" of completing the studies required under NEPA within one year, and allows further Departmental oversight to help streamline environmental review processes.

"The purpose of NEPA’s requirement is not the generation of paperwork, but the adoption of sound decisions based on an informed understanding of environmental consequences," Mr. Bernhardt wrote.

The Interior policy appears consistent with the executive order issued August 15 by President Trump, which the White House said was designed to establish "discipline and accountability in the environmental review and permitting process for infrastructure projects." The executive order requires federal agencies to "apply NEPA in a manner that reduces unnecessary burdens and delays as much as possible," among other duties.

The new limits, if strictly enforced, could significantly curtail documents that are currently very voluminous and take years to complete.

Some environmental groups have generally panned the new policy.

"The Trump administration quietly and arbitrarily limited critical reviews that protect the environment and public health," Michael Saul, a senior attorney at the Center for Biological Diversity (CBD), intoned in a statement. "This dangerous move will do real harm to people and wildlife.”

CBD – one of the most litigious environmental groups in the country – somehow managed to obtain a copy of Mr. Bernhardt’s four-page memo, which Interior had not previously made public.

Alliance Recommendations for the Interior Department

The Alliance earlier this month transmitted formal comment letters to three Interior Department agencies on ideas for regulatory reform and agency priorities. The Alliance comments are viewable on Regulations.gov. Here are the tracking numbers associated with each letter:

USGS - Comment Tracking Number: 1k1-8yr4-satv

Fish and Wildlife Service – Comment Tracking Number: 1k1-8yr4-td80

Bureau of Reclamation – Comment Tracking Number: 1k1-8yr4-ikfz

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Agency Regulatory Reform Efforts (Continued from Page 7)

In general, the Alliance provided input on evaluating and improving the Interior Department’s regulations and regulatory processes.

“Our letters were each intended to provide our perspective on the efficiency and effectiveness of current regulatory processes, and specifically, if current regulatory processes can be further streamlined or expedited in a manner consistent with applicable law,” said Mr. Keppen.

Federal water policy often reflects a “one size fits all” approach. Farmers, ranchers and some conservation groups know that the best water solutions are unique and come from the local, watershed and state levels.

“They know we need policies that encourage agricultural producers, NGOs, and state and federal agencies to work together in a strategic, coordinated fashion,” said Alliance president Patrick O’Toole. “The Family Farm Alliance developed these recommendations for the agencies to help form the basis for solutions to meet the challenges our farmers and ranchers face. It is our hope that they will embrace our core philosophy: the best solutions are driven locally by real people with a grasp of “on-the-ground” reality and who are heavily invested in the success of such solutions.”

For further information about the Regulations.gov commenting process, please visit https://www.regulations.gov/faqs.

EPA Clean Water Rule

Other federal agencies - EPA and the Army Corps of Engineers - last summer announced they would be extending the comment period by 30 days for the proposed first step of the review of the definition of ‘Waters of the U.S.’ (WOTUS). This decision was intended to provide additional time for stakeholders to weigh in on the Trump Administration’s proposal to eliminate the Obama-era Clean Water Rule. When finalized, the proposed rule would replace the 2015 Clean Water Rule promulgated by the Obama Administration with the regulations that were in effect immediately preceding the 2015 rule. The extended comment period closed September 27.

The Family Farm Alliance has been deeply engaged in the two-step WOTUS “rescind and replace” process underway with the EPA and Corps of Engineers. Step 1 of the WOTUS process is intended to address the Trump’s Administration to justify eliminating the Obama-era Clean Water Rule. The Family Farm Alliance letter on this matter was transmitted this month to EPA and the Corps via Regulations.gov (Comment Tracking Number: 1k1-8yv4-2h8o).

The Alliance letter supports the reasoning in the proposed rule that a stable regulatory foundation for the status quo would facilitate the agencies’ considered re-evaluation, as appropriate, of the definition of “waters of the United States” that best effectuates the language, structure, and purposes of the Clean Water Act.

“We concur that the proposed interim rule would establish a clear regulatory framework,” said Mr. Keppen.

“During this interim period, the scope of CWA jurisdiction should be administered exactly the way it is now and as it was for many years prior to the promulgation of the 2015 final rule.”

The agencies are also conducting teleconferences and a face-to-face meeting in D.C. (which the Alliance will participate in) in October to take in ideas on “Step 2” – developing a new WOTUS rule. The Alliance board of directors earlier this year appointed a “WOTUS Subcommittee” which prepared detailed recommendations that will be shared with EPA and the Corps in the second step of the Administration’s effort. The deadline for public comments associated that phase of the process ends on November 28.

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At the Francisco Grande Resort in Casa Grande, Arizona
2017 Western Wildfires Focus Attention on Water, Forest Policies

The 2017 fire season, one of the worst experienced in recent memory, has raised public awareness of the importance of actively managing for the health of Western forests, rather than increasingly responding to and managing emergency wildfires. These same wildfires could also have long-term effects on the region's water supply and quality, according to a new study from the U.S. Geological Survey (USGS).

Wildfire Impacts to Western Watersheds

Approximately 80 percent of the U.S.’s freshwater resource originates on forested land, and more than 3,400 public drinking-water systems are located in watersheds containing national forest lands, according to a 2006 USDA study. Thus, potential impacts from current and forecast wildfire occurrence on the quantity and quality of runoff used for source water and to support fisheries and aquatic habitats are considerable.

At least 65 percent of the West's water supply originates in watersheds surrounded by fire-prone vegetation, according to Joel Sankey, an agency scientist and lead author of the 2017 USGS study. The researchers found that by 2050, the amount of sediment in one-third of Western watersheds could at least double.

Modern forest practices have helped to protect streams and riparian zones, but more needs to be learned about the implications of such practices as fire breaks and fuel-load reduction achieved through prescribed burns, thinning or partial cuts. This understanding can lead to the development of “best management” practices to, for example, help balance timber harvesting with sustainable water flow and quality.

Today’s wildfires are larger, more catastrophic

Some interests point to the widespread fires, the hottest summer in California history, and the spate of recent hurricanes as evidence that climate change is driving all of these extreme events. Others believe that decades of fire suppression and environmental litigation that has reduced timber harvest on federal lands are to blame for the increased number of fires.

Regardless of the cause, on average 7-8 million acres of forests and grasslands burn annually, about double the figure from three decades ago. Today’s wildfires are often larger, more catastrophic and deadlier. Plus, Westerners have built millions of homes within or adjacent to forests and grasslands, increasing the risk of accidental, human-caused fires also putting property and people at greater risk.

“We are breaking records in terms of dollars spent, acres of National Forest land burned, and the increased duration of fires,” said Forest Service Chief Tony Tooke. “Our firefighters are brave men and women, who risk their own lives to protect life and property. We must give them every opportunity to do their jobs effectively through better management of the forests in the first place.”

Increased public and political awareness

The recent chain of hurricane-driven disasters – as well as the encroachment of vast plumes of wildfire smoke into major Western urban areas like Portland (OREGON) and San Francisco (CALIFORNIA) – have increased public awareness of the government's approach to disaster-relief – including wildfires. The public awareness and outcry – amplified by concerns of urban Westerners unused to annual smoky summer-time conditions – is driving politicians to action.

“Enough is enough,” said Rep. Greg Walden (R-OREGON). “When Cycle Oregon and performances at the Shakespeare Festival in Ashland get canceled because of fires and the toxic smoke, it’s long past time for Congress to address how federal forests are managed and how fires are fought (or not), including policies that affect firefighting in wilderness areas.”

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Pictures of the Klamath Basin (OREGON) before (bottom) and after (middle) smoke from wildfires in the Cascades put air quality ratings into the “unhealthy” range. Smoke from the Blanket Creek Fire near Crater Lake (top) contributed to prolonged smoky conditions in the Basin. Top photo courtesy of Herald and News.
2017 Western Wildfires (Continued from Page 9)

Tackling federal fire suppression budget challenges

U.S. Secretary of Agriculture Sonny Perdue earlier this month announced that wildland fire suppression costs for the fiscal year have exceeded $2 billion, making 2017 the most expensive year on record. Wildfires have ravaged states in the west, Pacific Northwest, and Northern Rockies regions of the United States this summer. As the Forest Service passed the $2 billion milestone, Perdue renewed his call for Congress to fix the way the agency’s fire suppression efforts are funded.

“Forest Service spending on fire suppression in recent years has gone from 15 percent of the budget to 55 percent – or maybe even more – which means we have to keep borrowing from funds that are intended for forest management,” Perdue said. “We end up having to hoard all of the money that is intended for fire prevention, because we’re afraid we’re going to need it to actually fight fires. It means we can’t do the prescribed burning, harvesting, or insect control to prevent leaving a fuel load in the forest for future fires to feed on. That’s wrong, and that’s no way to manage the Forest Service.”

Currently, the fire suppression portion of the Forest Service budget is funded at a rolling ten-year average of appropriations, while the overall Forest Service budget has remained relatively flat. Because the fire seasons are longer and conditions are worse, the ten-year rolling fire suppression budget average keeps rising, chewing up a greater percentage of the total Forest Service budget each year. The agency has had to borrow from prevention programs to cover fire suppression costs.

“We’ve got great people at the Forest Service and great procedures and processes in place,” Perdue said. “We can have all of that – the best people, the best procedures, and the best processes – but if we don’t have a dependable funding source in place, then we’ll never get ahead of the curve on fighting fires.”

Attention on Capitol Hill

Secretary Perdue said he would prefer that Congress treat major fires the same as other disasters and be covered by emergency funds so that prevention programs are not raided. Rep. Walden points out that the House Resources Committee has once again approved legislation – the Resilient Federal Forests Act – that solves the fire borrowing problem.

“More importantly, (the bill) gives foresters and firefight- ers new tools to help protect our forests, watersheds and airsheds from the kinds of disasters we endured this summer,” said Mr. Walden. “It’s also time for the U.S. Senate to stop blocking our bipartisan legislation that has passed overwhelmingly in the House year-after-year which would help prevent catastrophic forest fires by allowing proper management.”

Another bill, the Wildfire Disaster Funding Act - sponsored by Rep. Mike Simpson (R-IDAH0) and Rep. Kurt Schrader (D-OREGON) - would end the disruptive practice of fire borrowing.

“As a result, we will be able to provide adequate funding for both wildfire suppression and land management practices that help to reduce the impacts of catastrophic wildfires in the future,” said Mr. Simpson. “Passing this legislation will have a significant and long-term impact on both our public lands and on our budget.”

This bill has received national attention and strong bipartisan support, with 150 cosponsors in the 114th Congress from both sides of the aisle and a coalition of over 240 organizations lending it support.

Earlier this month, a bipartisan bill was reintroduced on the Senate floor - The Wildfire Disaster Funding Act of 2017”. This bill will provide disaster funding for extremely large fires and help to reduce the need to borrow from the prevention and conservation funds. The nine bipartisan sponsors of the bill include Senators Ron Wyden (D-OREGON), Mike Crapo (R-IDAH0), Maria Cantwell (D-WASHINGTON), Orin Hatch (R-UTAH), Dianne Feinstein (D-CALIFORNIA), Jim Risch (R-IDAH0), Jeff Merkley (D-OREGON), Cory Gardner (R-COLORADO), and Michael Bennet (D-COLORADO).

Farm Bill a mechanism to address wildfires?

The American Forest Foundation (AFF) earlier this month released a report that explains how farm bill conservation programs can help privately owned farms establish practices that help prevent wildfires. AFF believes the next farm bill should maintain funding for forestry and conservation programs and include provisions to improve technical assistance for private foresters.

The Family Farm Alliance Farm Bill platform also calls for provisions to streamline projects to thin forests and reduce the fire threat across Western National Forests. The Alliance platform essentially mirrors what Secretary Perdue has been advancing, and calls for the farm bill to address the continued erosion of agency budgets that results from the increasing ten-year average of fire-fighting costs.

“We need to stabilize the level of funding for suppression within the agencies, and allow agencies to access disaster funding for extraordinarily costly fires, including those that may be included in the ten-year average cost of fire-fighting,” said Alliance executive director Dan Keppen. “We need to find a way to significantly reduce the need to transfer funds from non-suppression accounts and programs.”

The Western Agriculture and Conservation Coalition – which the Alliance belongs to – also recommends that the Farm Bill be used as a vehicle to move towards managing for healthy forests by first solving the problems of fire funding.

Coalition member The Nature Conservancy (TNC) also has a clear position on this.

“We need to freeze the average, to prevent suppression costs from taking an ever-larger share of the Forest Service budget,” said Mark Kramer, TNC’s director of federal external affairs. “We also need to end the practice of borrowing from other Forest Service and Interior Department accounts, which prevents pro-active forest health activities from being funded and implemented in a timely manner.”

TNC – as do hundreds of other organizations - supports the Simpson bill in the House and the bipartisan Senate bill.
Secretary Zinke reportedly said he would consult with Congress on this proposal as a courtesy, but does not need congressional approval to move forward with reorganization. "It’s going to be huge," he said.

Using a more conventional approach, the Secretary’s second-in-command, David Bernhardt, is looking for ideas within the Department. Shortly after Mr. Bernhardt took office on August 1, he established the department’s electronic “ideas box”, which has attracted “a good number of responses so far” from Interior employees, an Interior spokeswoman reported earlier this month.

Trump Nominees Await Action

Senate leaders this month unsuccessfully mounted a last-ditch effort to repeal the Affordable Care Act (aka Obamacare), a push that would have fulfilled years of GOP campaign pledges. Unfortunately, it also diverted attention from approving pending Trump Administration nominees, FY 2018 appropriations bills and tax reform that is supposed to be the centerpiece of the fall congressional agenda.

A growing concern expressed by many in Western resource circles is the slow pace the Senate has taken in confirming key leadership appointments nominated by the President.

The Senate Environment and Public Works (EPW) Committee late this month held a confirmation hearing on four nominees for senior positions at EPA, along with a member of the Nuclear Regulatory Commission in line for another term. Meanwhile, two EPW Committee Democrats - Sheldon Whitehouse (Rhode Island) and Jeff Merkley (OREGON) - threatened to hold up Ms. Susan Bodine's nomination to be EPA enforcement chief until she provides details about her advisory role to the EPA Administrator and whether she played a role in the agency's decision to enforce its methane rule on a "case by case" basis. The senators said Bodine's assumption of a role at EPA without being confirmed first may run afoul of federal law.

The full Senate by voice vote confirmed Mr. Douglas Domenech to be Interior’s Assistant Secretary for Insular Affairs, making him only the third Senate-confirmed appointee in the Trump Interior Department. Interior Secretary Zinke and Deputy Secretary Bernhardt round out this trio, responsible for overseeing some 70,000 full- and part-time employees. A number of energy and environment nominees are awaiting confirmation, including five nominees that cleared the Energy and Natural Resources Committee earlier in the month.

These nominees add to the growing list of nominees already voted through to the Senate floor, such as Ms. Brenda Burman for Commissioner of the Bureau of Reclamation, Joseph Balash to be Interior’s Assistant Secretary for Land and Minerals Management, and Ryan Nelson to be the Interior Department Solicitor.

Welcome news to the Alliance this month was learning that Jason Larabee, chief-of-staff for Rep. Denham (R-CALIFORNIA) for the past six-plus years, is leaving to become the new Interior Department Principal Deputy Secretary for Fish and Wildlife.

“Jason’s family farms rice in California’s Sacramento Valley, and he knows our issues,” said Alliance Executive Director Dan Keppen. “This is good news for family farmers and ranchers in the rest of the West.”
California WaterFix Future Uncertain
Key Ag District Balks at Costs, Lack of Assurances

After a thorough analysis by independent consultants and District staff, multiple special board meetings, and grower workshops, the Westlands Water District Board of Directors voted by a margin of 7 to 1 earlier this month to not participate in the California WaterFix (CWF).

As reported in the August 2017 “Monthly Briefing”, the WaterFix plan is intended to provide more operational flexibility to route Northern California water from the Sacramento/San Joaquin Rivers under the Bay-Delta in two large, twin tunnels, delivering it to the north end of existing delivery systems to meet agricultural water demands in the San Joaquin Valley and municipal and industrial needs in Southern California.

Westlands—a long-standing member of the Family Farm Alliance - is the largest agricultural water district in the United States, made up of more than 1,000 square miles of prime farmland in western Fresno and Kings Counties. Under federal contracts, Westlands provides water to 700 family-owned farms that average 875 acres in size.

“The District appreciates the efforts of Governor Jerry Brown and his administration to balance the interests of many,” Westlands said in a press statement. “Indeed, over the last twelve months the State administration worked diligently to define a viable project, but from Westlands’ perspective, the project is not financially viable.”

Westlands’ principal source of water is the Central Valley Project (CVP), a project operated by the United States Bureau of Reclamation (Reclamation). The CVP is integrated both operationally and financially. However, under the “participation approach” announced by Reclamation for CWF, only CVP contractors that chose to participate in CWF would pay the costs of constructing and operating new facilities, with no assurance that those contractors would receive the water supply benefits resulting from CWF.

Westlands supported the development of CWF and has invested considerable financial resources, time, and expertise into its planning, but consistently stated that it would not obligate the farmers it serves to billions of dollars in debt without reasonable assurances that the project would produce reliable, affordable water supplies.

“The District recognizes that solving Delta conveyance issues is critical to ensuring reliable water supplies to support the economy of the State, but it cannot support a project that would make water supplies for its farmers unaffordable,” the press statement noted.

The WaterFix has state and federal components. For the federal part of the project, the primary beneficiaries of the twin tunnels would be the irrigation districts on the west side of the San Joaquin Valley — including Westlands — and wildlife refuges that get about 20 percent of the water. The Bureau of Reclamation, which runs the federal project, believes the “beneficiaries” should pay for the federal share of the tunnel projects cost, and exempted the wildlife refuges.

That would have meant a cost increase for Westlands of almost $500 per acre-foot of water, with the total cost in excess of $600 an acre-foot.

On the state side, that leaves the Metropolitan Water District of Southern California (MWD) — which supplies imported water from the State Water Project for 19 million SoCal residents — to decide whether it should fund its $4 billion share of the project.

“All of us have to work together to make this work, and all of us need to pay our share,” said Jeff Kightlinger, general manager of MWD.

The MWD has been a strong advocate for the twin tunnel plan. But Mr. Kightlinger made it clear that MWD believes its portion of the cost should equal the percentage of water it is to receive.

“This is not going to be a subsidy,” he said.

The MWD board on October 10 is expected to vote on proceeding with the project.

Earlier this month, the City of Glendale and the City of Pasadena issued resolutions of support for CWF. They are just two of many MWD member agencies and others who support the project in the Southern California. The board of Zone 7 Water Agency, which serves about 220,000 customers in Alameda County, far to the north of Los Angeles, also voted to join the WaterFix project.

Meanwhile, others in the CVP community are watching, and waiting.

Jason Phillips – CEO of the Friant Water Authority, serving agricultural water users across the valley from Westlands – believes the recent vote by the Westlands Board of Directors does not change the simple reality that many family farms will bear the brunt of shortages driven by the limitations of our water system.

“Change must occur as the status quo is placing in jeopardy the viability of over 1 million acres of productive farmland, while endangered fish species that rely on the Delta continue to decline,” said Mr. Phillips, a member of the Family Farm Alliance Advisory Committee. “California WaterFix provides an opportunity to reverse these trends and to inject a long-overdue element of stability into our water system”.

Mr. Phillips and the Friant team has been closely evaluating California WaterFix and he believes there continues to be opportunities for participation as many of the districts he represents are willing to invest resources for increased water supply reliability.

“I also believe, however, that those who do not benefit from California WaterFix should not have to pay for benefits received by others,” he said. “Friant and our member districts will be working closely with interested entities and Reclamation over the coming weeks to ensure that those who wish to participate have the full opportunity to do so in a manner that is fair to all water users in the state.”
Water Transfer Ruling Appealed to Supreme Court

A New York-led coalition of states (comprised of New York, Connecticut, Delaware, Illinois, Maine, Michigan, Washington and the Canadian province of Manitoba) have asked the U.S. Supreme Court to overturn a decision that reinstated U.S. Environmental Protection Agency's contentious "water transfers" rule. Environmental grounds – including Riverkeeper, Theodore Gordon Flyfishers and the Waterkeeper Alliance - also filed a petition with the court.

The George W. Bush-era rule formalized EPA's position that water transferred from one body of water to another via a pipe, tunnel or pumping station doesn't require a Clean Water Act (CWA) discharge permit as long as there wasn't an industrial, municipal or commercial use along the way.

"Exempting water transfers from the Clean Water Act's permitting program is fundamentally at odds with the act's plain language, overarching structures and basic purposes," the states said.

In a split opinion, the 2nd U.S. Circuit Court of Appeals in January overturned a district court decision that tossed out the rule.

EPA issued its Water Transfers Rule in 2008 that excluded interbasin water transfers from CWA permitting requirements. Such systems are common in drinking water infrastructure throughout the country. Environmentalists, however, have criticized the policy for years, arguing that it allows pollutants from a body of dirty water to be moved into another with cleaner water. Environmentalists and states sued, and in 2014 a federal judge in New York threw out the rule. But in January, the 2nd Circuit found that, while the rule doesn't appear to achieve the protection of water quality, EPA's justification was sound and deserved deference from the court. Senior Judge Robert Sack, a Democratic appointee, found that the court was bound by the Chevron legal doctrine, under which courts defer to reasonable agency interpretations when Congress has been silent or ambiguous on an issue.

"Although the rule may or may not be the best or most faithful interpretation of the Act in light of its paramount goal of restoring and protecting the quality of U.S. waters, it is supported by several valid arguments — interpretative, theoretical, and practical," Sack wrote for a three-judge panel.

The 2nd Circuit later declined to rehear the case en banc in front of the full court.

Currently, there is no indication as to whether or not the Supreme Court will take up the case. In order for the Court to do so, four of the justices must vote in favor. Water users throughout the West are watching the case with interest.

“Any potential new level of regulation, permitting and certain litigation could hamstring the economies of states like Arizona, California and Colorado, where millions of acre-feet of water are transferred every year,” said Alliance executive Director Dan Keppen.

Introducing our newly designed website….

Check out www.familyfarmalliance.org to see how the Family Farm Alliance advocates to protect and enhance water supplies for farmers and ranchers in the 17 Western states. Our new website includes links to breaking water policy news, comprehensive policy reports and case studies, insightful commentary, agency correspondence, and recent written testimony from some of our 60 appearances before Congressional committees since 2005.

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 would like further info, please contact Dan Keppen at dankeppen@charter.net, or visit our website: www.familyfarmalliance.org.

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