
THE WEEKLY NEWSLETTER OF THE WESTERN STATES WATER COUNCIL

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CONGRESSIONAL UPDATE/AGRICULTURE

4-H Tax Package/Farm Bill

The Senate Finance Committee approved a tax package providing money for Farm Bill programs on October 4, by a 17-4 vote. The \$15B 4-H package, the Heartland, Habitat, Harvest and Horticulture Act of 2007 includes \$3B for Farm Bill conservation programs, and another \$5.1 for a disaster trust fund to help ranchers and farmers hurt by crop and livestock losses. It will convert a number of conservation payment programs into fully-offset tax credit programs, and offer additional incentives for rural economic development and energy-related tax relief to aid agricultural producers. Creating the disaster assistance trust fund and converting payment programs to tax credits is intended to free up previously obligated funds for the Agriculture Committee to use elsewhere in farm bill spending.

“This disaster assistance, tax relief, and timely energy incentives will provide a much needed boost to American agriculture and greater security to our hardworking agricultural producers,” said Finance Committee Chairman Max Baucus (D-MT). “Whether it’s getting a few more dollars in their pockets, rewarding their conservation of American lands, or making sure that one disaster won’t force them to sell the family farm, this package is good for producers in my home state of Montana and across the country.” Agriculture Committee Chairman Tom Harkin (D-IA) declared, “We are still facing an extremely tight budget on this farm bill and we welcome the help from these added funds.” Still, according to Senator Kent Conrad (D-ND), a member of both committees, a 2-3% across-the-board cut to Farm Bill programs is being considered, “to make the numbers work.” The Agriculture Committee is expected to vote on the Farm Bill in a couple of weeks.

The 4-H bill’s Permanent Agricultural Disaster Assistance Trust Fund would cover the “shallow losses,” not covered by crop insurance, which farmers and ranchers would be required to purchase in order to be eligible for disaster relief. The trust would be funded through the allocation of tariffs.

Currently, Conservation Reserve Program (CRP) participants receive cash payments. Under the bill, they would be allowed the option to choose a tax credit equal to 100% of the value of the cash payment (and excluded from both income and self employment taxes). The estimated cost is \$3.77B over ten years. Similarly, participants in the Wetlands Reserve Program and Working Grasslands Protection Program would be allowed the same option (\$75M over ten years). Also, farmers would be allowed to deduct up to 100% of the cost of donating Rural Heritage Conservation Easements created in last year’s Pension Protection Act.

Of note, the 4-H bill further creates two new tax credits for voluntary measures taken to aid the recovery of listed threatened or endangered species. Moreover, it establishes a deduction for costs associated with the implementation of recovery plans, under the Endangered Species Act (ESA), and excludes from taxable income payments received under various ESA cost-shared conservation programs. The estimated cost is \$1.83B over ten years.

Another \$257M over ten years is dedicated for the establishment of a tax-exempt timber conservation bond program allowing non-profit organizations to issue up to \$1.5B in such bonds to be used for the acquisition of forest lands subject to perpetual restrictions to achieve specified conservation goals.

There is a provision to clarify that the exchange of mutual ditch, reservoir or irrigation company stock is effectively an exchange in real property (and therefore tax free pursuant to Section 1031 of the Internal Revenue Code). The tax loss is \$2M over ten years. There are a number of tax credits for the production of cellulosic ethanol/alcohol, biodiesel and other alternative fuels.

Reactions to the Committee’s action has been mixed. Arlen Lancaster, Chief of USDA’s Natural Resources Conservation Service (NRCS) says it is “tough to predict” how the tax incentives would work with existing program requirements for cash payments for conservation, but, “If they want to do tax credits on top of that, that’s fine.”

The Coalition for Sustainable Agriculture had urged members prior to mark up to contact the Committee and support making \$10B available, saying, “The funding...as a result of the tax provisions is not nearly enough to make a significant contribution to the conservation, rural development, renewable energy, research, or specialty crop titles of the farm bill.”

CONGRESSIONAL UPDATE

FY2008 Appropriations

The Congress has yet to send to the President any of the eleven FY2008 appropriations bills, but passed a Continuing Resolution on September 27, to fund federal government programs through November 16. The Senate is in recess until October 15, when it will return to take up a number of pending appropriations bills for Agriculture, Commerce/Justice/Science (CJS), Energy and Water, Interior and Environment, and three others. The President has threatened to veto any spending bill that exceeds his budget request, recently renewing his opposition to the CJS bill that is next on the Senate calendar, due to its "irresponsible and excessive spending." CJS appropriations include spending for the National Oceanic and Atmospheric Administration and National Aeronautics and Space Administration (NASA).

Western Senators

Reportedly, Senator Pete Domenici (R-NM) is the latest to announce he will retire next year, at the end of this sixth 6-year term. He joins retiring Senators Wayne Allard (R-CO), Larry Craig (R-ID) and Chuck Hagel (R-NE). All have announced they will not seek reelection.

WATER RESOURCES

Arizona/Colorado River

In an October 3 letter to Secretary of Interior Dirk Kempthorne, Herb Guenther, Director of the Arizona Department of Water Resources, formally invoked the consultation provisions within the Basin States Agreement (of April 23, 2007), raising concerns over a dispute that has arisen between the Lower Division States and the Upper Division States with respect to the specific provision of the Proposed Interim Guidelines for Colorado River Operations (or the Shortage Sharing Agreement) that address the coordinated operation of Lakes Powell and Mead.... The nature and extent of that dispute is articulated in the letter that I have sent this date to the other Basin States.... A failure to resolve this dispute will seriously jeopardize any cooperative approach to management of the Colorado River."

The letter continues, "Additionally, we are concerned that the Bureau of Reclamation's draft of the guidelines necessary to implement the Intentionally Created Surplus program will so substantially deviate from the Proposed Basin States Guidelines that we will find them unacceptable.... Moreover, it appears that time constraints imposed by Reclamation [for publication of a Final Environmental Impact Statement], apparently at the direction of the Secretary's office, act as an impediment to the thorough and meaningful dialogue that will be necessary if consultation is to be successful. Accordingly, we ask that you consider extending the existing internal timelines.... [W]e will continue to work with the other states and Reclamation in an attempt to resolve the issues we have raised. In this regard, Mr. Secretary, we believe that your assistance would greatly increase the possibility of success."

Arizona's concerns center on Reclamation's rewriting of the Basin States Proposal regarding the Intentionally Created Surplus (ICS) provisions, a draft forbearance agreement, and the calculation of annual releases from Lake Powell. The later, Arizona contends must be made in accordance with Colorado River Compact priorities and an algorithm that cannot consider storage to protect hydropower generation, nor recreation, "...because it has a direct and appreciable effect on Arizona's Colorado River supply.... Arizona's beneficial consumptive uses...cannot be shorted in order to protect power." Arizona also believes Upper Basin projected depletion schedules are overstated.

Water Resources Development Act

While the President has yet to receive the WRDA conference report, which cleared the Congress on September 24, a copy of his veto message has already been leaked. In it, he calls H.R. 1495 an "unsound bill...which will cost more than \$23 billion, [and]...fails to focus funding on those projects, which on merit, are critical to our Nation's water infrastructure system." It adds, "It fails to exercise the fiscal discipline that is required to constrain Federal spending.... I have committed to the American people to hold down Federal spending while ensuring that American's tax dollars are spent wisely. Because H.R. 1495 violates these principles, I am forced to veto the bill."

The leaked draft continues, "I want to make clear that I support a responsible water resources program that adequately funds priorities critical to our Nation's water infrastructure system. Accordingly, my budget each year has proposed reasonable and responsible funding, including \$4.9 billion for 2008, to support important Corps of Engineers missions...facilitating commercial navigation, reducing the risk of damage from floods and storms, and restoring aquatic eco-systems.... Congress sent me a bill that authorizes the appropriation of funds far in excess of what the American taxpayer can afford.... Moreover, Congress exposed taxpayers to potentially significant additional costs by requiring Federal taxpayers to pay for project costs traditionally borne by the project's local beneficiaries."

The anticipated message also says, "The bill's excessive authorization of \$23 billion for over 900 projects and programs...unnecessarily adds to the Corps' current enormous backlog of ongoing construction projects, which already requires more than \$38 billion in future appropriations to complete.... I am eager to work with congress so I can sign a responsible and affordable bill.... For all the reasons outlined above, I am vetoing H.R. 1495." The President's actual veto message is expect once H.R. 1495 reaches his desk.

The WESTERN STATES WATER COUNCIL is an organization of representatives appointed by the Governors of Alaska, Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.