Family Farm ALLIANCE SM

P.O. Box 216 Klamath Falls, Oregon 97601

Protecting Water for Western Irrigated Agriculture

February 7, 2020

The Honorable Jared Huffman
Chairman – Water, Oceans, and Wildlife Subcommittee
Committee on Natural Resources
U.S. House of Representatives
1527 Longworth House Office Building
Washington, DC 20515

Re: Comments on the *FUTURE Drought Resiliency Act* Discussion Draft

Dear Chairman Huffman:

On behalf of the Family Farm Alliance (Alliance), thank you for the opportunity to comment on the *FUTURE Drought Resiliency Act* Discussion Draft. The Alliance appreciates your and the committee's efforts to continue the dialogue on how the federal government can assist in addressing water supply and related infrastructure needs across the West. While the Alliance recognizes the potential value of some provisions in the draft, we have concerns regarding several of its key provisions.

The Alliance is a grassroots organization of family farmers, ranchers, irrigation districts and allied industries in 16 Western states. The Alliance is focused on one mission: To ensure the availability of reliable, affordable irrigation water supplies to Western farmers and ranchers. The Alliance also has a long-standing record for consistently engaging in collaborative, coordinated and incentive-driven efforts, in partnership with water users, conservation groups and others, to address short- and long-term solutions to water supply, delivery, conservation and use in the West.

The Need for Comprehensive Western Water Legislation

The draft bill touches on some important aspects of addressing the water challenges faced by our members and others across the West. These include the potential for some key topics of interest to our members: construction of new ground and surface water storage projects, funding for key water reuse, and recycling and conservation programs. The draft bill also includes other important provisions, including promoting waterfowl habitat creation, addressing theft of water for illegal marijuana cultivation, enhancing snowpack measurement technology, improving reservoir operations, and providing training for the next generation of water managers.

Water infrastructure is literally the lifeblood of the West. When considering infrastructure legislation, two specific needs must be addressed: existing infrastructure and future infrastructure. We understand that Reclamation currently anticipates a $3 billion need over the next five years for extraordinary maintenance on existing federally owned water supply facilities, mostly due to aging water infrastructure. This cost will only increase over time.

Much of the West's water infrastructure is 75 to 100 years old. Importantly, these number do not include other government owned water infrastructure (e.g. Army Corps of Engineers/Bureau of Indian Affairs) or non-federally owned infrastructure, much of which is facing the same need for funding. Unfortunately, the costs of aging infrastructure needs have quickly outpaced the ability of even the most frugal local entities to pay for them. A federally funded, low interest, long-term loan program is needed (similar to the one established in P.L.111-11 but with a dedicated funding source) to assist the non-federal operating entities dealing with these major rehabilitation projects.

We must also plan today for America's future water needs for the next 20 to 40 years. We need to address those needs now; it will be too late to do so when the problems arise. Future water needs are drive by a number of factors, including population growth, drought, environmental issues and climate variability. In particular, many areas throughout the nation are experiencing rapid population growth. This growth creates a need for additional water supplies for some areas while others are seeing their once reliable water supplies become more stressed. This places a significant demand on the need for increased storage and supply, and modernized, expanded manes of delivery. This is becoming a significant problem throughout the nation, particularly in the West.

The current challenges we face underscore the critical importance of having sufficient infrastructure in place to optimize water supplies. The need is obvious, and this belief is shared by many in the West. One year ago, the Family Farm Alliance – working with the California Farm Bureau Federation and Western Growers Association – transmitted letters signed by over 100 national and Western agriculture and water organizations, calling upon Members of Congress to develop an infrastructure package that addresses water infrastructure needs for storage and conveyance.

Without reliable and affordable water supplies, every sector of our economy would suffer – from agriculture, to manufacturing and high-tech, to local community needs. Food cannot be grown, businesses cannot operate, and homes and schools cannot be built or operate without water. Critical water infrastructure must be maintained and modernized to ensure the delivery of water today and for future generations. As your Subcommittee considers an infrastructure package, it is of paramount importance that maintenance, rehabilitation and development of water infrastructure is a high priority. A visionary approach that addresses these challenges directly impacts the future of our greater society. It will contribute to a long-term win for the nation, and for water projects in every region of the West.

Environmental issues have also placed additional pressures on our aging water supply infrastructure. Increasing regulatory requirements to meet growing demands for fish and wildlife

habitat compete for the same water supplies that farms and cities traditionally relied upon. Our aging facilities were not initially built to meet all of these water needs, and we must build new, and improve our existing, infrastructure to help meet these growing demands for water.

Finally, climate variability clearly demands additional water infrastructure, as recognized in the draft bill. As weather patterns shift and winters become warmer, the runoff patterns that existed when current storage facilities were originally constructed have changed, and will continue to change. The potential for more rain and less snow, earlier and more sudden snowpack runoff, and longer and drier growing seasons means additional water storage will be necessary to capture water supplies necessary for continued operations.

Specific Comments

Certain provisions in the draft legislation raise concerns, while others address matters important to our members. The Alliance' initial comments include the following:

- In Section 101, **Competitive Grant Program for Water Reuse and Recycling Projects**, the Bureau of Reclamation (Reclamation) would be authorized to make competitive cost-shared Title XVI WaterSMART grants for water reuse and recycling projects that have not been authorized by Congress, similar to provisions in the Water Infrastructure Improvements for the Nation (WIIN) Act. The Alliance is generally supportive of these grants, as they help create new usable water supplies in urban areas and can help alleviate urban pressures on agricultural water supplies in some areas of the West.

- Section 102, **Storage Project Development Reports to Congress** provides for a process for the Secretary of the Interior, on behalf of Reclamation, to call for water storage project studies (both federal and non-federal) and to annually send a report to Congress outlining the projects and studies that are ripe for authorization and funding/financing for construction. We believe such a process would enhance the chances that new water storage projects are authorized, funded or financed, and built to help alleviate water shortages in the West. We are concerned, however, that the Secretary must separately report on a project's "net ecosystem benefits over and above required environmental mitigation and compliance obligations". We have similar concerns regarding "dedication of water to ecosystems above environmental mitigation and compliance obligations". We believe that simply requiring a "federal benefit in accordance with Reclamation laws" encompasses all such aspects of a project.

  Is future funding (i.e. Section 103) going to be limited to projects identified in Section 102? There are many projects that could be studied under this section, but given the tight time frame under Sec. 103 (i.e. funding availability only through 2024), the reality may be that only projects with existing feasibility studies will move forward under this draft bill. This is particularly the case with the extensive feasibility study requirements and the timelines necessary to establish feasibility under these conditions.

- We are generally supportive of the process created by section 103, **Surface and Groundwater Storage Project Authorization,** but we also have some significant concerns.

  A major concern is the condition that a storage project demonstrate "net ecosystem benefits in excess of the required environmental mitigation measures or compliance obligations under state and federal law". One would assume that the requirement for a "federal benefit" in the definition of eligible projects would include any ecosystem benefits. However, the additional requirement for a "net ecosystem benefit" actually appears to be at odds with the idea that storage projects shall have "multiple" benefits. And, requiring the U.S. Fish and Wildlife Service to define what a "net ecosystem benefit" in the draft bill may well eliminate many viable water storage projects that could provide other multiple benefits to society.

  The definition of "qualified partners" includes non-profit organizations operating in a reclamation state. This provision may allow canal companies or other private water delivery entities to take advantage of these infrastructure funding opportunities. However, it would also open these opportunities up to other non-governmental organizations with different goals and objectives. We are concerned with how this provision would affect the ability of water managers to compete for these funds. You recommend using a definition consistent with terminology employed in Reclamation's successful WaterSMART program: A) any State, Indian Tribe, irrigation district, water district; B) any State, regional or local authority, the members of which include 1 or more organizations with water or power delivery authority; and C) any other organization with water or power delivery authority.

  We support Section 103 including both new water storage projects as well as "capital repair" to existing projects – both federal and non-federal. We read this to mean "extraordinary maintenance". But we also support provisions that include construction or major rehabilitation of certain conveyance-to-storage projects as eligible projects for such funding, as well.

  We concur with the inclusion of natural water storage and forest and watershed restoration projects in Section 103 as being eligible for funding, but their definition should only refer to those projects in Reclamation states.

  One concern with Section 103 is the imposition of a requirement that the Governor of a state must request federal participation in order to initiate construction of federal storage projects. This requirement is overly restrictive, and we recommend removal of this provision. A federal project would have to be consistent with state water law, anyway. We believe that is the proper standard for state approval, rather than requiring the Governor's sign-off.

Finally, the establishment of a committee resolution procedure for non-federal projects under $250 million but over $100 million appears to overly complicate the process but would be easier than naming the project in enacted federal legislation.

- In Section 104, **Grandfathered Storage Projects under WIIN Act**, limits grandfathered projects to those recommended by the Secretary prior to February 28, 2019. There may be other projects deemed feasible for construction by the Secretary prior to the statutory deadline of January 1, 2021 that should also be grandfathered in under the WIIN Act.

  We disagree with Sec. 104 prioritizing projects that serve wildlife refuges during dry years. There could be many other benefits of new storage that also deserve funding prioritization.

  We want to ensure that grandfathered projects under the WIIN Act should not have to meet the requirements of the FUTURE Act to be eligible for funding.

  Finally, the Alliance supports the development of any and all new viable water storage projects in the West. These include project proposals in the State of California that can help increase usable water supplies used to find long term solutions for California farms, cities and the environment. We are opposed to any language in federal law that would limit or prohibit the development of such projects in any Western state.

- Section 105, **Desalination Projects**, we are generally supportive of such projects as they provide additional new water supplies to areas in need without looking to existing water supplies for irrigated agriculture as a source of new supply.

- Section 106, **Water infrastructure Fund**, provides funding for a number of important reuse, recycling, WaterSMART, and dam safety programs, which we support. However, it provides no funding for costs associated with funding of surface or ground storage or aging infrastructure rehabilitation projects, which we consider crucial in meeting existing and future Western water needs.

- Regarding Section 107, **WaterSMART**, we generally concur with increasing the federal grant to 75% for non-consumptive benefits (greater than 30% of total cost) derived from WaterSMART projects. We worry that adding non-profit conservation organizations as eligible partners in WaterSMART could provide some added competition for program grants and direct funds away from water infrastructure improvements and towards environmental restoration projects that already have other federal funding sources. We also believe Congress should encourage that WaterSMART funds be used to "complement" or "leverage" other federal funding programs, such as the Watershed Protection and Flood Prevention Act (PL-566). This program authorizes the USDA Natural Resources Conservation Service to assist local organizations and units of government plan and implement watershed projects. PL-566 watershed projects are locally led to solve natural

and human resource problems in watersheds up to 250,000 acres (less than 400 square miles).

- In Section 201, **Modifications to Income Exclusions for Conservation Subsidies**, we concur with this section and support the exclusion from income tax of water conservation and efficiency subsidies provided in urbanized and rural areas which help stretch water supplies and protect existing agricultural irrigation water supply.

- It is not clear what the purpose of Section 205, **Study Examining Sediment Flows from Removal of Sediment-Filled Dam** is. Are there specific federal dams to be targeted? Our members in the Columbia and Snake River Basin are particularly concerned that the term "siltation removal" is a precursor to approving dam removal on the lower Snake River, an action they would strongly oppose.

- Section 206, **Determination of Water Supply Allocations** has great potential and should have specific funding authorizations included in the draft. There are emerging technologies for determining available water supplies and snowpack information. This could be increased significantly to include: (1) allow/require coordination with other agencies already doing this and potentially impacted (i.e. USDA, Corps, etc.); (2) allow the information to be used in considering possible adjustments in flood control rule curves or modifications to dams in studied watersheds where existing storage capabilities are limited or could be expanded.

- Section 207, **Federal Priority Streamgages**, is supported by the Alliance. Many times, federally important streamgages are abandoned due to lack of funding for partners or are located in remote areas that require additional funding to maintain.

- Section 208, **Improved Reclamation Crop Data,** is highly problematic. It focuses on water-intensive permanent crops. What is the purpose of this section? Provisions 3 (A) and (B) are very broad and general and do not reflect on how such plantings would impact existing provisions of an agricultural water contract with Reclamation, if at all. We would oppose the section as written.

- For section 209**, Study Examining Climate Vulnerabilities at Dams**, the question on this section goes to the climate variability issue raised above and only focuses on climate impacts to the safety of Reclamation dams. This proposed study does not include considerations of how climate vulnerabilities affect future water supply needs. The question that really needs to be answered is this: do we need to develop more storage or develop other water projects in order to adequately prepare for future water needs, given climate vulnerabilities?

- We support Section 201, **Forecast Informed Water Control Manual Updates**. The conflict between managing federal dams and reservoirs for water supply vs. flood

management is a critical issue with growing importance, especially given the recent attention surrounding climate variability.

- We support section 301, **Combating Water Theft for illegal Marijuana Cultivation**. This section creates a policy directive for several federal agencies. It seeks to address illegal water diversion for marijuana cultivation in each of the high intensity drug trafficking areas within states frequently affected by water shortages. Our members are becoming increasingly aware of the negative impacts of illegal marijuana cultivation. This section takes an important step in addressing this serious problem.

- We also support Section 302, **the Waterfowl and Shorebird Habitat Creation Program**. However, it should be made clear that the program should be overseen by the Secretaries of Agriculture and the Interior. The subcommittee should consider modifying existing programs at the agencies, particularly USDA Farm Bill programs and the Partners for Fish and Wildlife Program at USFWS within the Interior Department.

- Section 305, **Multi-Benefit Projects to improve Watershed Health**, would appear to have promise. Some additional clarity is needed in Sec. (b) (1) (A) regarding what projects are given priority. We would also suggest investigating opportunities to coordinate with programs like the Partners for Fish and Wildlife Program at USFWS. This existing program, and others, could be used as the basis to develop criteria for the program proposed in Section 305. We would also recommend providing opportunities for public comment as this program is developed.

- In terms of Section 306, **Support for Refuge Water Deliveries**, the report called for in (a) should include a report of shortfalls to municipal, industrial and agricultural deliveries, as well.

- Section 307, **Drought Planning and Preparedness for Critically Important Fisheries**, raises concerns and questions. Specifically, under definitions Sec. (a) (1) (A) – What does critically important mean? What are the criteria? Who is deciding? How does this affect operations of the Columbia River or any other river in a Reclamation state? Does this section authorize agencies to mandate changes in water management in times of drought or shortages? How would a drought plan impact or coordinate with a biological opinion for an ESA-listed species?

  A simple commitment by federal agencies – with support and direction from Congress – to work in a coordinated manner with the states within the framework of existing data collection programs would be the wisest and simplest approach to address the issues raised by this provision a. It would seem that some common guidance principles to move towards improved data continuity between states could be derived by reviewing existing programs and finding templates for success that already exist, instead of attempting to fashion new solutions.

- While we have members that could likely benefit from Section 308, **Aquatic Ecosystem Restoration**, we have concerns. For example, under Sec. (b) (2) (A), the Secretary determines whether or not the proposed project is expected to result in a significant net water loss for water users. The phrase "significant net water loss for water users" appears to us as a subjective term. Also, the use of the term "likely to benefit fish species" is not a biological standard used to make such decisions.

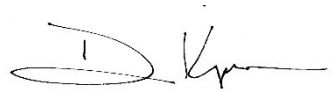
- We support Section 309, **Reauthorization of the Fisheries Restoration and Irrigation Mitigation Act** (FRIMA). Our members in California, Idaho, Oregon, Montana and Washington are strong supporters and benefactors of FRIMA, which supports voluntary fish screen and passage projects. These fish protection components are critical to many water delivery systems in the West, and they can be very expensive. The program was originally inspired to provide federal cost-share funding to improve fish passage by screening water withdrawals and building upstream fish passage devices, while maintaining a steady, reliable water supply for human uses.

- Finally, Section 402, **Water Career Training Grant Program**, also seems to have promise. We would be supportive of structured, focused grants that can assist in attracting and training the next generation of public water delivery professionals.

The Alliance appreciates the opportunity to comment on the draft. Thank you again for your efforts to address these important issues.

If you have any questions, please do not hesitate to contact me at 541-892-6244.

Sincerely,



Dan Keppen
Executive Director