

EDF and lawmakers make plans for farmland to be fallowed under SGMA

The Environmental Defense Fund (EDF) has published a [new white paper](#) to guide local agencies as they prepare for a future that may involve fallowing a large portion of the nation’s most productive lands. EDF is sponsoring a [related measure](#) in the Legislature that builds on the organization’s efforts to repurpose lands by incentivizing pilot projects.

“We’re here today because the Central Valley has reached a fork in the road,” said Ann Hayden, who leads the EDF California Water Program, in her testimony last week in support of the bill. “The valley could become a haphazard patchwork of dusty fields with invasive weeds and pests, further impairing already poor air quality and putting many farmworkers out of work.”



Fallowed farmland in Central Valley.

Research studies project as many as one million acres could be fallowed in the San Joaquin Valley over the coming decades under plans for the Sustainable Groundwater Management Act (SGMA). As Hayden described it, this would be an area the size of Yosemite National Park.

With that in mind, EDF embarked on a listening tour last year with water policy veterans at the consulting firm [New Current Water and Land](#). They hosted four workshops to gather insights from water and land managers on how they are proactively planning for land repurposing.

The feedback is shared in the white paper, which walks stakeholders through the process of developing and implementing strategic plans for repurposing the land. Alternatives could involve groundwater recharge, cattle grazing, ecological restoration projects or recreational areas. Other environmental groups like The Nature Conservancy, the Union of Concerned Scientists, and Sustainable Conservation have also developed guidance and technical tools.

A new legislative proposal arose from the workshops as well. Assembly Bill 252 would provide block grants to groundwater sustainability agencies and other local entities to dole out incentive payments to farmers who are willing to try out new actions on their lands while reducing groundwater pumping, according to Hayden.

“We're aiming to provide as much flexibility as possible for the landowner community to start exploring what options exist that work for them,” she said.

In introducing the measure last week, Assemblymember Robert Rivas of Hollister said that fallowed land presents an environmental liability in need of a remedy. Asm. Rudy Salas of Bakersfield, a co-author on AB 252, said the bill has been a couple years in the making and holds promise.

“We believe this is a good win-win,” he said. “This is a win for the environmentalists. This is a win for the farmers and for agriculture.”

Hayden described the measure as providing a new path for the valley, transforming it into a thriving and water-resilient agricultural region.

“Our hope is that if we can begin to proactively plan for these changes, we can lessen impacts and perhaps even open the door to create some opportunities for a more resilient Central Valley,” she said.

The process is just beginning, and the valley faces a number of obstacles in the years ahead.

Emmy Cattani, the vice president of Cattani Farming and Ranching, a diversified operation in Kern County, worried that SGMA will lead to thousands of landowners making individual decisions that may not add up collectively.



Ann Hayden, senior director of Western Water and Resilient Landscapes at the Environmental Defense Fund

“How do we manage that in a time where a lot of farmers are just trying to survive?” asked Cattani during a panel discussion hosted by EDF last week. “There's not a lot of extra buffer there. When you're running out of water, your land is becoming less valuable. So, people are desperate.”

Many of the new land uses would conflict with existing management practices and run up against a bureaucracy of overlapping local agencies. And large-scale permanent changes may be too much for farmers to handle right now, worried Cattani. She also noted that a lot of the valley's prime farmland has junior water rights, making it likely to be fallowed first.

Jack Rice, a natural resources consultant and former policy advocate for California Farm Bureau, agreed that farmers have already been struggling with labor issues, drought and many other challenges in recent years and will need time and flexibility to deal with this additional new uncertainty.

“The reality is economics are going to have a great influence in shaping this, and that's hard,” said Rice. **“It's one thing to talk about ideas and it's another thing to do the math for a particular project and see how it works out.”**

Rice said farmers are already getting mixed signals from policymakers and consumers. While California policies may deliver world-leading environmental standards, consumers tend to buy the imported product that is a dollar less on the shelf, he explained.

Anna Schiller, a manager in EDF’s water program, worried that federal incentive dollars for farmland conservation often fail to match the value of farmland in the valley.

“The payment expectations vary greatly from what a corn farmer in Iowa might expect for implementing a certain conservation practice,” said Schiller.

Amanda Monaco, a water policy coordinator for the Leadership Counsel for Justice and Accountability, pointed out that local communities often have different interests from farmers for that retired land. She described her engagement with community leaders in the town of La Vina in Madera County.

“The residents there are aware that over one million pounds of pesticides are applied to the land surrounding their community every year. They experience problems with their drinking water supply and drinking water quality and really have a lack of natural green spaces,” said Monaco. “They started saying it would be really great if they had buffer zones around their communities, if that could be incentivized so that they had less pesticide drift.”

Cattani emphasized that incentives grants must play a strong role in transitioning the lands. She said most growers will first try to sell the land before having to fallow it, and agencies will have to work with the new owners on investments for repurposing.

Yet Stephanie Anagnoson, who directs water and natural resources for Madera County, said that just getting past the politics to deliver incentive dollars to farmers could be a battle.

“People are excited about being paid for some ecosystem services or taking their land and retiring it. I don’t hear people excited about paying into a system that does that,” said Anagnoson. “It’s possible to create many different types of incentive structures. But it all needs to be paid for by someone.”

Legislature looks to tighten state H-2A regulations

Lawmakers are hoping to protect vulnerable H-2A temporary guestworkers from exploitative practices by returning to two earlier legislative proposals. Ag groups are pushing back by arguing the measures duplicate existing laws and add unnecessary burdens to an already highly regulated area of agriculture.

Assembly Bill 857 picks up where former Senator Bill Monning of Carmel left off before terming out of office in 2020. Monning spent two years pushing a measure to require more notifications of housing and labor rights for H-2A workers. Further amendments added provisions that would boost pay for travel time, require special employee outreach during emergencies, and strengthen lighting standards for nighttime work.

Gov. Gavin Newsom applauded Monning’s bill for attempting to create “accessible and easy to understand notifications.” But Newsom vetoed the measure because it departed from previous H-2A notice requirements and would lock in standards for the labor department. Newsom said he would instead direct the department to “develop and maintain a template contemplated in this bill” for H-2A employers.

Led by Assemblymember Ash Kalra of San Jose, AB 857 mirrors Monning’s measure. **During a committee hearing last week, Kalra pointed out that about 100 California growers and farm labor contractors hired more than 25,000 foreign farm workers through the federal H-2A visa program in 2020—a number that has been increasing annually.**

In testifying in support of the measure, Mark Schacht, the legislative director for the California Rural Legal Assistance Foundation, argued the federally approved job orders often include conditions that are illegal under California law and that no agency is charged with providing an accurate summary of these rights to guestworkers.



Asm. Freddie Rodriguez of Pomona

“AB 857 very simply is an H-2A farmworker right-to-know statute,” said Schacht.

Bryan Little, director of labor affairs for the California Farm Bureau, contended that the notification requirement simply duplicates existing laws and practices.

“These workers already receive extensive written notification in their primary language on their first day of work,” said Little.

Kalra said he is working with the Newsom administration to grant the labor commissioner more discretion for updating the template to reflect Kalra’s proposal. The lawmaker defended the provision on compensating workers for travel time against the arguments of the Farm Bureau as well as the Western Growers Association.

“These are workers under the control of the employer,” said Kalra. “There’s a reality, and there’s a delusion as to what voluntary is. The reality is that when we’re talking about these farm laborers, the employer picks them up, tells them where to be, when to be there, takes them to a worksite, and the worker doesn’t necessarily even know where it’s going to be.”

Western Growers Vice President of State Government Affairs Matthew Allen said that expanding the definition of what is considered voluntary “goes well beyond” the California Supreme Court definition in a 2000 case ruling. Other court decisions required that travel time be paid at no less than minimum wage, while AB 857 calls for compensating at the employee’s full rate of pay.

The Assembly Labor and Employment Committee approved the measure along party lines.

Like Kalra, Asm. Freddie Rodriguez of Pomona (above) in the same hearing called for more protections for H-2A workers from the deceitful practices of labor recruiters. Rodriguez’s bill argues that along with labor exploitation, the workers are subject to human trafficking.

“Trafficking is a difficult crime to prevent,” said Stephanie Richard, a policy director for the Coalition to Abolish Slavery and Trafficking, a sponsor of the bill. “But today we can protect these vulnerable workers, many of whom are essential workers who have been hardest hit by the pandemic and its continuing negative economic impacts.”

Through [AB 364](#), Rodriguez plans to update the initial 2014 legislation that provided state protections for temporary visa holders, arguing the law inadvertently left out farm labor contractors.

Bryan Little said that in 2014 he worked on the original bill with the author's office to confirm that it would not cover those contractors. Kalra stepped into the debate to say that one of the author's staff members had testified for a related bill of his in 2018, saying that the intention was actually to include farm labor contractors in the legislation.

As with AB 857, Little and Allen argued AB 364 duplicates existing laws, particularly those involving federal applications and enforcement for the visa program. Little said the state has for decades required contractors to obtain

and maintain a license, which entails extensive continuing education requirements on a continual basis along with monitoring by the labor commissioner's office.



Asm. Ash Kalra, D-San Jose

"H-2A visas were simply not intended to be covered by the [state visa holder] program because of the lack of necessity to do so," said Allen.

The committee, which is chaired by Kalra, also approved AB 364.

The big export backlog: US ag products stack up at Western ports

When Jim Zion recently flew over California's Bay Area, he saw more container ships waiting to enter the Port of Oakland than he'd ever seen before.

"It was like a parking lot," he said. "It's crazy." And those ships are directly impacting his business as a grower, processor, seller and, crucially, exporter of California tree nuts. Zion is the managing partner for Meridian Growers, and he says **the costs of delays and cancellations his company has endured during months of slowed exports likely total between \$250,000-**



Port of Oakland

\$400,000, which includes fees paid for loads that sit on docks before being shipped out.

The problem for exporters is that **U.S. consumers have shifted a lot of their discretionary spending from services, like travel, to goods. Many of those goods come from China.** The trend was underway before the COVID-19 pandemic, but lockdowns and stimulus checks have exacerbated the imbalance so much that some ag exporters have complained they either can't get their products into containers or that the filled containers are sitting at port, incurring

fees and risking spoilage, because shippers are sending empty containers back to Asia so they can be filled with imports and sent back to the US as fast as possible.

“The containers want to get back to China,” explains Mike Steenhoek, executive director of the Soy Transportation Coalition, because the ocean-crossing shipping companies make far more on the west-to-east run than the reverse. **He quotes recent spot prices of \$5,190 per container for the route from China to the U.S. West Coast while the U.S. West Coast-to-China trip drops to a per-container rate of about \$820.**

When the American Farm Bureau Federation found out about the empty returns, Veronica Nigh, an economist there, said they asked shipping authorities “whether or not that is a practice that should be going on.” Farm Bureau isn’t alone.

A letter signed by more than 100 members of Congress asks the Federal Maritime Commission to consider that very question.

“The American agricultural sector, in particular, stands to be hit hard,” the letter said, “by the delays, congestion, and the reported discriminatory practices” of ocean carriers leaving exports on the dock and prioritizing the empty returns.

The FMC has an ongoing investigation on the matter; the commission has the authority to question the ocean carriers and potentially take action should it find wrongdoing. Several members of Congress, including two from California, met with FMC members earlier this month, though there is no public timeline for when the investigation will be completed.

Zion said Meridian normally exports between 60% and 75% of its total production of almonds, pistachios, walnuts and pecans, a large increase over the past couple of decades that reflects years of cultivating customers overseas as production increased.

“California ag is very dependent on the international marketplace,” he said.

For now, most of his customers have been pretty sympathetic to the situation, he said, because they recognize that producers can’t do much about it. The backlog includes a shortage of containers, and trucks are even harder to come by, he said, because drivers don’t want to risk sitting at a port waiting to unload. That eats up time that could be spent hauling the next load.

“It’s kind of like a pile-up,” he said, of the cascading impacts of the import-export imbalance.

Top California and Washington ag exports, 2019

California	Millions of dollars	Rank	Washington	Millions of dollars
Almonds	\$4,901	1	Fish and seafood	\$1,100
Pistachios	\$2,010	2	Frozen French fries	\$883
Dairy and products	\$1,805	3	Apples	\$733
Wine	\$1,253	4	Wheat	\$587
Walnuts	\$1,250	5	Hay	\$518
Rice	\$765	6	Dairy	\$446
Table grapes	\$743	7	Cherries	\$350
Processed tomatoes	\$623	8	Hops	\$305
Oranges and products	\$541	9	Beef	\$210
Cotton	\$438	10	Pulses	\$143

Table: Amy Mayer · Source: California Department of Food and Agriculture; Washington State Department of Agriculture · Created with Datawrapper

Tree nuts aren't the most vulnerable of containerized products sitting on docks.

"We're very concerned about the West Coast shipping delays," Maria Zieba, assistant vice president for international affairs at the National Pork Producers Council, tells *Agri-Pulse*. "That's why we've been working with the administration and with members of Congress on how to fix this."

There haven't been any instances of meat spoiling in containers yet, but the prospect of that is troubling, says Joe Schuele, a spokesman for the U.S. Meat Export Federation. Chilled products command a better price than frozen, but the time frame to get the meat to customers in countries like Japan and South Korea is much smaller than for frozen product. Shippers are so far recognizing that and giving preference to the chilled product, but anxiety is still high, says Schuele.

"It's become a concern for both buyers and exporters," he said, and stressed that the delays are making importers increasingly nervous. "They start to wonder if they're going to be able to count on (shipments) arriving in a timely way."

Schuele says some frozen meat is being diverted for shipping out of Gulf Coast ports, which is a temporary workaround that is less efficient. One source, who asked not to be named because of the sensitivity of the market, said while customers have not yet canceled contracts for chilled meat or received product so late that it isn't sellable, those potential scenarios are causing angst.

The ports of Los Angeles and Long Beach have been the biggest bottlenecks, but Oakland, Seattle and Tacoma all have had backups and delays as well.

Rianne Perry, manager of the International Marketing Program at the Washington State Department of Agriculture, says ag exporters in her state are paying hefty fees to store products on docks when ships skip the ports of Seattle and Tacoma to get back to Asia as quickly as possible. Other ships are diverting from California ports to those in Washington, but often just to unload.



Hay cubes for export (Photo: Washington Dept. of Ag)

"When we are getting ships here, they're just not taking our products," she said. "They're taking the empties back."

Demand overseas is high for Washington apples, cherries, seafood, hay and other high-value products; she echoed the concern that long-standing trading relationships could be hurt if the situation continues. But more immediately, she's worried some of the processors who provide food service items such as frozen French fries and other vegetables may not make it.

"It could be the nail in the coffin for some businesses who were already kind of on the edge," she said, after retaliatory trade tariffs and then COVID shutdowns. One employer told her the pandemic didn't quite force layoffs, but now the ongoing impact from the port shutdowns has.

“This is going to be something that is going to take a while for relief to finally occur,” Steenhoek said. Ports along the East Coast and Gulf have also been very busy, he said, but there are some indications the slowdowns in southern California may be starting to ease.

Zion said he’s starting to hear that the problem could diminish in June or July.

“I hope that we do not have this issue in this fall and winter,” he said, because harvest and holiday demand are major exporting times for tree nuts.

“We’re a little at the mercy of the ocean carriers and the ports at this point.”

Farm, water groups push for funding for water projects

With President Joe Biden’s \$2.7 trillion infrastructure plan in its beginning stages, western water interests and conservation groups are pushing for massive investments in water storage, conveyance and conservation projects to fix aging infrastructure and address persistent drought.

How massive? Those pushing for the investment say they’re not sure what the total needs are, and are reluctant to put numbers out there, but Dan Keppen, executive director of the Family Farm Alliance, says it’s likely to top \$10 billion.

“I don't know exactly where it's going to be — somewhere more than single digits,” said Keppen, whose group is one of the leaders of a coalition of more than 200 groups calling for a suite of solutions to the western water crisis.

“We're not advocating for any one specific type of project,” Keppen says. “It's an all-of-the-above sort of an approach. So, it's a combination of new water supply enhancement projects, new conveyance projects, coupled with demand management.” He also mentioned the importance of funding the Bureau of Reclamation’s WaterSMART conservation grant program and other federal programs that help users conserve, as well as desalination.

Biden's plan is short on details when it comes to water infrastructure, though it does mention western drought, saying it "provides funding for the western drought crisis by investing in water efficiency and recycling programs, Tribal Water Settlements, and dam safety." He also calls on Congress "to invest in protection from extreme wildfires, coastal resilience to sea-level rise and hurricanes, support for agricultural resources management and climate-smart technologies."

Dennis Nuxoll, vice president for government affairs at Western Growers, says “several, several billion dollars” when asked about the price tag, and says the coalition is working on coming up with an overall number.

“We are gathering information from all of our stakeholders from the ground up,” he says, in an effort to get a reliable figure on the cost of addressing western water needs. While “far along that path,” the coalition doesn’t have a final number just yet, he says.

“We actually need to figure out the need,” he says. “The need is not dictated by some funding cap.”



Dennis Nuxoll, Western Growers

“We will have a better aggregate number estimate here shortly, in plenty of time to influence events,” he says. Noting that House Speaker Nancy Pelosi has said she hopes to have an infrastructure bill done by the August recess, Nuxoll says he expects the overall number to be ready in June or July when congressional committees are working on legislation.

In the meantime, the coalition, whose drivers also include the Association of California Water Agencies, California Farm Bureau and National Water Resources Association, is targeting members throughout the west to push its agenda.

A better outline of what House members, at least, want to see may come Wednesday when House Transportation and Infrastructure Chair Peter DeFazio, D-Ore., holds a hearing for lawmakers to testify on their priorities.

“As someone who has represented a Western state in Congress for over 30 years, I know firsthand the unique water-related infrastructure challenges facing communities out West,” DeFazio said in a statement. **“That’s why we can’t wait to invest in our aging water and wastewater infrastructure, in order to create good-paying jobs, and we must do so with an eye towards natural solutions and other sustainability measures that are more resilient to extreme weather and climate change.”**

“The idea is not to ignore anybody,” Nuxoll says. “We’re trying to get Republicans and Democrats in every western state,” which of course includes any members on committees with jurisdiction over water infrastructure.

“We want things that help species recovery and water for environment, but we also want things like storage, conveyance, repair of existing infrastructure that’s failing,” Nuxoll says. **“We’re not really closing the door on any of those things. Our idea is we need a major infusion of resources to react, frankly, to a changing climate which causes changing hydrological conditions.”**

In a January [letter](#), the coalition, with members from 15 states, outlines its priorities, which include not just new and repaired facilities, but a regulatory environment that can speed projects along. That may be more difficult with the Trump administration’s changes to the National Environmental Policy Act. Those tweaks were designed to hasten the approval of major projects but are now under attack in the courts.

The Biden administration has serious legal concerns about the changes but has asked a federal court to remand the Trump rule without vacating it. An argument on a challenge to the law is coming up next week.

Some of the ag and water coalition’s members are working with groups such as the Environmental Defense Fund and Trout Unlimited as part of the Western Agriculture and Conservation Coalition, which recently outlined some recommendations in a [March 31 letter](#) to congressional committees of jurisdiction including the Senate Environment and Public Works and Energy and Natural Resources committees and the House Natural Resources and Transportation and Infrastructure committees.

To address aging infrastructure, WACC recommended use of a newly-authorized revolving account at the Treasury Department “as a way to provide affordable financing to fund such projects that can help keep our water flowing to farms and ranches across the West as well as providing helping to protect the environment through more efficient and modernized infrastructure.”

Another thing they're seeking is a higher federal cost-share for "best-in-class projects to produce benefits such as burying energy transmission lines along with buried pipe," as done in Oregon by the Three Sisters Irrigation District, which piped 55 of 64 miles of canal, installed a fish screen, built "fish-friendly hydropower," and permanently returned 34 cubic feet per second to the creek "so that salmon and steelhead can swim through Sisters, Ore., for the first time since 1885," their letter said.

"Agricultural benefits from TSID's modernization story include drastically lower pumping costs, high-efficiency sprinklers, reliable water delivery, higher crop yields, and generation of 4 million kilowatt hours of green energy," the letter said.

Four Democratic senators made recommendations for western water infrastructure, in a recent letter to White House Director of the National Economic Council Brian Deese and White House Domestic Policy Advisor Susan Rice. Sens. Ron Wyden and Jeff Merkley of Oregon and Michael Bennet and John Hickenlooper of Colorado, called for:

- Full funding for aging water delivery and storage systems, noting that the Bureau of Reclamation estimates it will need \$3.8 billion over the next five years "to address immediate, short-term needs, and many BOR projects already authorized or under construction often don't receive adequate funding."
- Increased storage capacity in existing facilities: "We suggest an effort to increase water storage capacity at existing facilities to improve drought resilience."
- Dam repair. "The Association of State Dam Safety Officials estimates that rehabilitating federal and nonfederal dams would cost more than \$70 billion. State regulators have deemed certain dams unsafe, a designation that limits a reservoir's storage capacity and poses a safety risk to the nearby communities. Support for states as they bring dams up to standard would create jobs and improve public safety."
- Investment in USDA conservation programs: The senators called for a coordinated approach to implement water conservation and efficiency provisions in the 2018 farm bill and boosts to funding for the Regional Conservation Partnership Program, the Environmental Quality Incentives Program, and the Watershed Act ("P.L. 566"), would help to address the water supply challenges and sustain our agricultural economy."
- Prioritizing clean water for tribal nations. "The federal government should work in collaboration with tribes to support the planning, design, development, and operation of water infrastructure to ensure reliable clean drinking water for tribal nations."

On March 24, Wyden and Merkley reintroduced the Water for Conservation and Farming Act, which among other things would create a Bureau of Reclamation fund of \$300 million to support water recycling projects, water-use efficiency projects and dam safety projects, and expand the WaterSMART program to increase water supply reliability by funding infrastructure and conservation projects that conserve water, increase water use efficiency and improve the condition of natural water recharge infrastructure.

Proposed transfer tax, basis change could bite farm heirs

Farm groups are bracing for a possible effort in Congress to impose new taxes on inherited land and other assets as a way of addressing wealth inequality while raising revenue Democrats will need to fund new infrastructure or social spending.

President Joe Biden has proposed to fund his \$2.7 trillion infrastructure package, the American Jobs Plan, solely with corporate tax increases, but in coming days, he is expected to release a second massive proposal, the American Families Plan, with far-reaching spending plans for health care, education and child care.

The White House hasn't tipped how he wants to pay for the second package, but Biden's campaign included a number of proposals to increase taxes on high earners and on inherited wealth, including eliminating the step up in basis that has long been provided for inherited assets.



Sen. Chris Van Hollen, D-Md.

Because of the step-up, someone who sells an inherited asset only pays capital gains tax on the appreciation that occurred after the death of the parent or other person that bequeathed the property. Without the step up in basis, the sale would be taxed based on the increase in value since the asset was originally acquired.

Several Senate Democrats led by Chris Van Hollen of Maryland are going farther than just eliminating the step-up by proposing to also tax assets over \$1 million that someone inherits. The proposed "transfer tax" would be deducted from any estate tax that would also be owed.

To prevent wealthy individuals from bypassing the tax by funneling property into trusts, trust-held assets would be taxed every 21 years.

"We have a fundamental issue in this country about people inheriting great wealth," Van Hollen told *Agri-Pulse* on Tuesday. He said the exemption for the first \$1 million in assets would limit the impact on farms.

In announcing his Sensible Taxation and Equity Promotion (STEP) Act in March, he called stepped-up basis a "loophole" that provides "an unfair advantage to the wealthy heirs."

Here's one example of how the transfer tax could work for farms: A son or daughter inherits 500 acres of cropland in Illinois worth \$7,400 an acre that had been purchased in 1980 for about \$2,000 an acre, an increase in value of about \$2.7 million, \$1.7 million of which would be taxable under the STEP Act.

The transfer tax, which would be reported on the decedent's final income tax return, would total about \$457,000, assuming Congress also goes along with a Biden campaign proposal to raise the top capital gains tax rate to 39.6%, says Paul Neiffer, an agricultural tax specialist with CliftonLarsonAllen.

The federal capital gains tax would be calculated this way: About \$400,000 would be taxed at 15%, the next \$600,000 at 20%, and the remaining \$700,000 at 39.6%, Neiffer said. There also would be an Illinois tax of about \$85,000 due.

The good news for the heirs is that Van Hollen’s transfer tax could be paid off over 15 years like an installment loan, said Neiffer.

Democrats are highly unlikely to get any GOP support for ending stepped-up basis or imposing a transfer tax; the question is whether they could keep all 50 Senate Democrats in line if they try to pass the spending package via the budget reconciliation process, which wouldn’t require Republican votes.

Democrats are looking for revenue “anywhere they can,” a senior Republican on the Senate Finance Committee, Texas Sen. John Cornyn, told *Agri-Pulse*. “They don’t seem to understand that our farmers and ranchers are small businesses that this will disproportionately harm.”



Sen. Chuck Grassley, R-Iowa

Another Finance Committee member, Sen. Chuck Grassley, R-Iowa, told reporters Tuesday that stepped-up basis was one of the issues raised frequently during town meetings that he held during the recent two-week congressional break. Taxes on inherited assets “would particularly hit the high investments that people have to have for raising pigs,” he said.

But some advocates for small-scale farms and beginning producers say that ending stepped-up basis would discourage farm consolidation and make it easier for new farmers to acquire land.

Ferd Hoefner, a farm policy consultant and former policy director for the National Sustainable Agriculture Coalition, said **the Van Hollen proposal is “well crafted” because of the \$1 million exemption and the 15-year installment plan for taxes that would be owed.**

“At a time when less than two-tenths of one percent of all farm estates pay any estate tax whatsoever and when stepped up basis is locking in farmland and keeping it off the market, reform is clearly necessary, if agriculture is serious about creating new farming opportunities, slowing consolidation, and addressing inflated land prices driven in part by current tax subsidies,” Hoefner said.

Estate tax rules also could be in play this year as Democrats search for revenue sources and seek to redistribute wealth. The estate tax exemption was doubled in the 2017 tax law and indexed to inflation — it is \$11.7 million this year — but it is scheduled to be cut in half starting in 2026. Democrats may try to cut the exemption earlier.

In March, Sen. Bernie Sanders, I-Vt., and several Democratic colleagues, including Van Hollen, Kirsten Gillibrand of New York and Sheldon Whitehouse of Rhode Island, proposed the For the 99.5% Act, which would increase estate tax rates and cut the exemption on most assets to \$3.5 million. There would be an additional \$3 million exemption for farmland.

The Sanders bill would also raise the maximum exclusion for conservation easements to \$2 million. **The gift tax exemption would be cut from \$11.7 million to \$1 million under the Sanders proposal.** The bill would raise \$430 billion in revenue over 10 years, according to an analysis by the Joint Committee on Taxation.

A spokeswoman for Van Hollen said he is still gathering comments on the discussion draft for the STEP Act and will formally introduce the bill later. There is no JCT estimate on how much revenue it would raise.

The top Republican on the House Ways and Means subcommittee that handles tax policy, Nebraska Rep. Adrian Smith, said large numbers of farmers and ranchers have been raising concerns about the possibility of inheritance tax increases.

Increasing inheritance taxes "**has become a social justice issue**" for Democrats, Smith said. "I would hope that we would take the full view of what the impacts are on a family small business, whether it's agriculture, manufacturing or otherwise."

Download a summary of the STEP Act [here](#).

Download a summary of the For the 99.5% Act [here](#).

Mexican potato farmers vow to keep up fight against US imports

Mexico's Supreme Court refused last week for the second time in six weeks to make a ruling that could allow substantial new access to the Mexican market worth hundreds of millions of dollars annually for U.S. potatoes, fueling the determination of Mexican farmers to continue their fight against the trade.

Kam Quarles, CEO of the U.S.-based National Potato Council, says politics and pressure from the Mexican potato industry to stave off competition are key factors behind the multiple delays, but Mexico's National Federation of Potato Producers (CONPAPA) insists the justices are simply taking more time to educate themselves on the pest and disease threats from U.S. imports.

The U.S. exports about \$60 million worth of fresh spuds across the southern border every year despite a major Mexican trade barrier that only allows U.S. imports within 26 kilometers of the border. That could rise as high as \$200 million per year if the court rules to give U.S. potatoes full access to the Mexican market.

That's still a relatively small portion of the \$19.1 billion worth of total U.S. ag exports to Mexico in 2020, according to USDA data.

"The (Mexican) potato growers will keep fighting to protect Mexican phytosanitary measures," CONPAPA President Gerardo García Menaut told *Agri-Pulse*. "**The farmers are not against commerce ... but they are focused on protecting plant health. They are trying to protect themselves.**"

But Quarles says what the Mexican farmers are trying to protect is their ability to market their potatoes with less competition from U.S. producers. Hopes were high last week that Mexico's Supreme Court would rule in favor of U.S. imports, but when the justices gathered to consider cases on the docket last Wednesday, they again deferred ruling on the potato trade case.

Before the hearing, a flurry of news reports in Mexico erupted, quoting García and others in CONPAPA calling on Mexican President Andrés Manuel López Obrador to drop the case before the Supreme Court. A spokesperson for the group confirmed for *Agri-Pulse* that the Mexican potato group made a public appeal to López Obrador to withdraw the government's support for allowing increased access for U.S. potatoes. "We request the President to instruct the head of the Ministry of Agriculture to withdraw (the) appeal for review," CONPAPA said in a statement last Wednesday.

CONPAPA called on López Obrador “to effectively stand down and a few hours later, the case gets pulled off of the Supreme Court docket,” said Quarles.

The Mexican group confirmed that happened, but a spokesperson also stressed that CONPAPA believes that its request is “in line with Mr. Lopez Obrador's policies to protect Mexican fields from pests.” CONPAPA cites Mexican data that says U.S. potato shipments were rejected at the border in about 900 instances from 2003 through 2010 because of pests or diseases.

Still, García says CONPAPA has not interacted directly with the Mexican government on the case that could still be decided by the country’s Supreme Court.

Quarles sees it differently.

“It wasn’t just a continuing delay,” he told *Agri-Pulse*. “The political hammer came down.”

Nearly two decades ago, Mexico agreed to partially open its borders to U.S. fresh potatoes. Mexico said the U.S. spuds could enter commercially, but only within 26 kilometers of the border. It was meant to be an intermediate step while the countries confirmed that U.S. potatoes would not be carrying any pest or disease risks that threatened Mexican farms, but the full opening of the market never happened.



Kam Quarles, NPC

About 10 years ago, Mexico tentatively agreed to allow U.S. potatoes to enter past that 26-kilometer mark as part of a deal that would also allow Mexico to enter into negotiations to join the Trans-Pacific Partnership. At the same time, the U.S. was also offering to permit expanded access of Mexican avocados into the U.S. market.

Text of the deal, according to an unverified document provided by CONPAPA, states: “Mexico will establish and make functional, prior to the conclusion of the TPP, the mechanisms and rules necessary for the importation into the territory of Mexico of fresh potatoes ... from the USA ... Mexico will start immediately, the regulatory process to issue a phytosanitary measure, seeking to authorize access of fresh potatoes ... from the USA, to all the national territory beyond the current 26 kilometer border zone.”

The USDA and Office of the U.S. Trade Representative did not immediately verify the document, but one former U.S. government official and one current official, speaking on terms of anonymity, said it appears legitimate.

Mexican potato farmers were furious when they got wind of the deal that was struck in 2012, said García. Mexico’s Ministry of Agriculture, Livestock, Rural Development, Fisheries and Food, or SAGARPA, completed a risk analysis that would have cleared U.S. potatoes for imports, but Mexican potato farmers filed several lawsuits to stop the process.

A Mexican district court ruled in 2017 that SAGARPA’s risk assessment was not adequate. The Mexican government appealed the ruling, putting the case before the country's highest court. Mexico’s Supreme Court was first slated to decide on the government’s appeal on Feb. 24, and hopes were high at the National Potato Council because one of the justices had issued a draft ruling that affirmed the Mexican government’s authority to open the border to U.S. potatoes

beyond 26 kilometers. But the same judge that issued that draft ruling also took the case off the docket.

The Mexican Supreme Court met again six weeks later — on Apr. 7 — and once more did not take up the potato case.

Quarles said the National Potato Council is about ready to give up on the Mexican legal system and ask the U.S. to file a complaint through the U.S.-Mexico-Canada Agreement.

“We were always trying to be optimists, but now that we’ve gotten two pretty clear indications that something other than the law is operating down there, I think we’re right on the brink of asking USDA and the USTR to pursue the USMCA route,” he said.

There are ways the U.S. and Mexico can address the issue under USMCA. The U.S. has already asked for consultations with Canada over complaints that the Canadians are misusing quotas for dairy imports, and the U.S. could take the same approach with Mexico over its barriers to potato imports. If the consultations are not successful, a dispute panel can be formed.

But the U.S. will be in good shape if it comes to a dispute panel because the sanitary and phytosanitary provisions in USMCA support the position of the U.S. potato industry that there is no scientific reason why the Mexican barrier should be in place.

News Briefs:

USDA offers new round of aid for specialty crops, cotton and more. USDA announced the availability of more than \$330 million to help agricultural producers and others in the food supply chain recover from the financial impacts of the COVID-19 pandemic. It’s part of USDA’s Pandemic Assistance for Producers initiative, which was launched in March “to respond in a broader, fairer way to the pandemic’s impact across food and agriculture,” said Agriculture Secretary Tom Vilsack. Announced Tuesday, this new round includes funding from the recently passed in the COVID-19 relief package and includes:

- \$169.9 million for the Specialty Crop Block Grant Program (SCBGP), which supports new market opportunities. This includes \$72.9 million available as part of the annual Farm Bill funding for the program; and an additional \$97 million available as emergency funding. Grants can help organizations assist farmworkers, farmers, food businesses and other entities affected by supply chain disruption. Applications are due June 11.
- \$75 million for the Gus Schumacher Nutrition Incentive Program (formerly known as Food Insecurity Nutrition Incentive) to incentivize the purchase of fruits and vegetables for low-income consumers.
- About \$80 million in payments to domestic users of upland and extra-long staple cotton. USDA will pay \$.06 per pound based on a 3-year monthly average during 2017 through 2019, covering 10 months in 2020.
- USDA also informed dairy producers and processors about ongoing plans for the Dairy Donation Program (DDP). The program will facilitate donation of dairy products to nonprofit organizations that distribute food to persons in need and prevent and minimize food waste. For more information, visit www.ams.usda.gov/notices.

Walmart announces new pollinator commitments. Walmart U.S. announced new [pollinator commitments](#) that aim to drive pollinator-friendly practices throughout its supply chain. The pledges represent ‘the largest pollinator health effort from a U.S. grocery retailer to-

date,” according to the company. Walmart is committing to source 100% of the fresh produce and floral sold in-store from suppliers that adopt Integrated Pest Management (IPM) practices, as verified by a third-party certifier, by 2025. “We are also encouraging fresh produce suppliers to phase out use of chlorpyrifos and nitroguanidine neonicotinoids pesticides (where applicable unless mandated otherwise by law), avoid replacing them with other products with a level I bee precaution rating and assess and report annual progress, according to Martin Mundo, SVP, General Merchandise Manager, Produce and Global Produce Sourcing, Walmart U.S., in a blog post. Walmart will encourage fresh produce suppliers to protect, restore or establish pollinator habitats by 2025 on at least 3% of land they own, operate and also provide annual progress reports. The retailer said it would continue to avoid selling invasive plant species and work with local organizations to protect, restore or establish pollinator habitats in major pollinator migration corridors. In addition, Walmart partnered with developers to establish pollinator habitats arounds solar farms and granted funding to the Cornell Lab of Ornithology and the Cornell Atkinson Center for Sustainability to leverage citizen science data to monitor pollinators more cost-effectively. Starting this month, plants that attract pollinators will feature special tags to help Walmart customers grow their own pollinator gardens.

AEM reports positive first quarter for tractor sales. Tractor sales growth continued for the 11th straight month in March, closing out the quarter with nearly 55% growth in total tractor sales over 2020 figures. According to figures from the Association of Equipment Manufacturers, year-over-year sales in March increased 84.1% in 2021. The biggest gains were in small, sub-40 horsepower tractors, which nearly doubled in sales (up 96.5%). Sales of 100 horsepower units were also higher, shooting up 63.5%. Sales of larger four-wheel-drive units were up a modest 2.5% to reverse the slight sales decrease observed in February. “The strength of ag tractor and combine sales this month, driven largely by small tractors, but showing strength across all size classes, reinforces the optimistic findings of a survey we shared earlier this year,” AEM’s Curt Blades said in a statement. “That survey found increased customer demand has manufacturers optimistic sales will increase or remain stable, despite COVID-19 and workforce challenges in 2021.” Combine sales also observed quarterly and monthly growth; March sales were 6.7% higher in 2021, capping off a quarter that observed a 16.5% sales increase over 2020.

FAO: Global food prices up 10 consecutive months. Prices for global food commodities rose for the 10th month in a row in March according to a new report from the Food and Agriculture Organization of the United Nations. FAO’s Food Price Index, which tracks monthly changes in the international prices of commonly-traded food commodities, was 2.1% higher in March than in February and is at the highest level since June 2014. Vegetable oil — up 8% over February — observed the biggest increase and is at a nearly 10-year high, FAO said. The dairy price index also shot up about 3.9%, largely on the back of higher butter prices due to tight supplies in Europe and anticipated food-service recovery driving a bump in demand. The meat price index rose to the tune of 2.3% over February, driven by increased Chinese imports and higher internal sales in Europe ahead of Easter celebrations. FAO reported drops in its index for sugar — down 4% — and cereals — down 1.8% — in March; the cereal index, however, is still 26.5% higher than what was observed in March 2020.

Farm Hands West: Braga Fresh promotes Fuller

Heather Fuller has moved up to vice president of sales at Braga Fresh. She has been with the company for more than five years and previously was the senior director of sales.



Jill Scofield

Jill Scofield has been hired as the new director of communications and industry relations for the North American Blueberry Council and the U.S. Highbush Blueberry Council. Before joining NABC and USHBC, Scofield spent nearly eight years as the director of producer relations at the California Beef Council in Sacramento.

President Joe Biden has announced his intent to nominate **Doug Parker** to be the assistant secretary for occupational safety and health at the Department of Labor. The San Francisco native previously served in the Obama administration as deputy assistant secretary for policy in the Department of Labor's Mine Safety and Health Administration. Parker was also a member of the Biden-Harris transition team focused on worker health and safety issues. He currently serves as chief of California's Division of Occupational Safety and Health, a position he has held since 2019.

Biden plans to nominate Republican **Cindy McCain** as the U.S. ambassador to the U.N. World Food Programme, according to a *Politico* report. Cindy McCain is the wife of late Sen. John McCain. She would be the first GOP appointee to a Senate-confirmed position in the Biden administration and would take over the post previously held by former Ambassador **Kip Tom**.

Biden has announced his intent to nominate **Chris Magnus** to be the commissioner of U.S. Customs and Border Protection. Magnus currently serves as the police chief in Tucson, Ariz. Throughout his career in public safety, he also has served as police chief in the cities of Fargo, N.D. and Richmond, Calif.

Biden also nominated **Robert (Bob) Anderson** to be the solicitor of the Department of the Interior. Anderson, who has served as principal deputy solicitor since Jan 20, was a law professor for 20 years at the University of Washington and directed its Native American Law Center. For the past 12 years, he has been the Oneida Indian Nation Visiting Professor of Law at Harvard Law School. Anderson served as the associate solicitor for Indian affairs and counselor to the Secretary under Interior Secretary **Bruce Babbitt**. He began his career as a staff attorney for the Native American Rights Fund.

The Department of the Interior has announced additional appointments to the agency. **Heather Barmore** has been tapped to be the director of digital strategy. She most recently served as editorial director for the Presidential Inaugural Committee and before that was an editorial director for the Biden-Harris campaign. **Elizabeth Klein** will become the senior counselor to the Secretary. Klein is an attorney who specializes in clean energy, climate change and environmental issues. She has been at Interior before, most recently as associate deputy secretary as well as principal deputy assistant secretary in the Office of Policy, Management and Budget, during the Obama administration. **Giovanni Rocco** has been selected as the new deputy press secretary. He most recently served as regional press secretary with Biden for President North Carolina. **Felicia**



Doug Parker

Salazar has been hired as a speechwriter, and **Raina Thiele** will be the senior adviser for Alaska affairs and strategic priorities. Salazar most recently served as communications director for Interior Secretary **Deb Haaland** when Haaland was in the House of Representatives. Thiele served as associate director of intergovernmental affairs in the Obama-Biden White House.

Logan Hollers has joined Invariant as a director, working on the energy and environment practice group and the agriculture and transportation practice group. He previously worked on Capitol Hill as a policy adviser and counsel for Sen. **Jeff Merkley**, D-Ore., covering the environment, agriculture, transportation, infrastructure, and appropriations portfolio.



Logan Hollers

Chaly Jo Moyen has been tapped to be the chief strategy officer and president of Foodservice & International at ConAgra Brands. Moyen comes to ConAgra from The Coca-Cola Co., where she has spent the past 15 years, most recently as senior vice president of strategy, decision science and insights for Coca-Cola North America.

Jessica Skaggs now serves as the GOP deputy communications director for the House Ways and Means Committee. She previously served as Sen. **Ted Cruz**'s, R-Texas, press secretary.

Robert (Robb) Fraley has been asked to join Trace Genomics' board of directors. In his career, Fraley served nearly 40 years as chief technology officer at Monsanto and helped develop the first genetically modified seed before retiring in 2018. Fraley was awarded the World Food Prize in 2013.

Mick Messman has been selected to be the new CEO of Douglas Plant Health, a division of Douglas Products that develops nature-based biotechnology products for the row crop, fruit and vegetable, and turf and ornamental markets. Messman most recently was chief operating officer at Clarke, an environmental services company, and has also held roles with Corteva AgriScience, DuPont Pioneer, and GreenLight Biosciences.

William P. Kustas and the late **Chad E. Finn** will be inducted into the Agricultural Research Service Science Hall of Fame. Kustas, a hydrologist at the ARS Hydrology and Remote Sensing Laboratory in Beltsville, Md., is being honored for scientific accomplishments that include using satellite data with computer models for mapping evapotranspiration. Finn was a plant geneticist at the ARS Horticultural Crops Research Laboratory in Corvallis, Ore. He is being honored for his contributions to the advancement of small-fruits crop research.

**Best regards,
Sara Wyant
Editor**

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