

Environmentalists get a win – for an issue farmers already fixed

On Friday, the U.S. Court of Appeals for the Ninth Circuit reversed a lower court’s ruling on a lawsuit by environmental groups involving a long-running water cleanup project in the San Joaquin Valley.

The decision finds that the district court had misread an exemption for the Clean Water Act. According to the opinion, the discharges in the project are not entirely from irrigated agriculture, which means the authorities failed to meet the standards for permitting.

The regional water board is in the process of renewing the permits for this project under its state regulatory laws. The decision could impose federal regulations onto the process but will likely not add regulatory burden to individual growers, according to Adam Laputz, assistant executive officer for the Central Valley Water Board.



Mud Slough near Gustine, California

“Our permitting processes, whether it's through state law or whether it's through federal regulation, would seek to protect water quality and meet water quality objectives,” said Laputz. “I would expect to see very similar practices and requirements (following the court’s decision).”

The lead plaintiff in the lawsuit, Pacific Coast Federation of Fishermen’s Associations, praised the appeals court decision as a step in the direction for more heavily regulating discharges into the Sacramento–San Joaquin River Delta.

“This ruling will help protect the salmon and salmon fishing jobs that require a healthy delta free of toxic discharges from the San Joaquin drainage,” said Federation Executive Director Noah Oppenheim in a written statement.

The U.S. Bureau of Reclamation had launched the Grassland Bypass Project in 1996 with the goal of eliminating selenium, salts and other naturally occurring contaminants in the soil from being deposited into a 97,000-acre wetlands area buffering the San Joaquin Valley. The irrigation water is imported into the region through the Central Valley Project.

The bypass redirects the flows around the wetlands, through an area called the Mud Slough and eventually into the San Joaquin River. Through the regional water board's permitting process, the project has now removed more than 90% of the selenium load coming from irrigation flows and is nearly complete, according to Laputz.

The Grassland permits expire at the end of 2019 and the board plans to update the permits to allow only stormwater runoff to be discharged through the bypass.

In 2010, the coalition of environmental and sportfishing groups were skeptical of the project and pushed the bureau to go further in regulating the runoff. They argued that fallowing 9,200 acres of farmland on the valley's west side was the only way to keep the selenium and salts in the soil.

The coalition then sued the bureau and a local water agency the following year. They claimed the agencies violated the Clean Water Act by inappropriately applying the special permitting exemption for discharges from irrigated agriculture. The lead counsel for the plaintiffs described it as "years of evasion of the Clean Water Act's strict requirement for discharge permits."

In September, a district court ruled against the plaintiffs, dismissing the lawsuit.

The Ninth Circuit Court, however, had a different interpretation of the meaning of "discharges from irrigated agriculture." **Arguing the runoff was not exclusively agricultural and included discharges from a solar project, it reversed the lower court's decision and ordered the court to reconsider the case in light of the new opinion.**

It is unclear yet how the decision will impact the permitting process going forward for the regional water board. At its upcoming meeting in December, the board is likely to move forward with updated permits for the project that exclude agricultural runoff entirely, according to Laputz.

"(The growers and drainage districts of the Grassland Bypass Project) have done a phenomenal job out there of dramatically reducing selenium and salinity discharge by a huge amount, getting a key water quality issue under control," he said.



Five questions with San Joaquin Valley's Devon Mathis

Republican Assemblymember Devon Mathis is often the dissenting voice in the eight committees where he holds seats. He is a staunch advocate for rural and agricultural interests, while working behind the scenes to co-author bills with moderate democrats. He was one of a few Republicans voting in favor of extending the state's cap-and-trade program in 2017.

Before taking office in 2014, Mathis served 10 years in the Army National Guard. During his second tour in Iraq, he was injured by a roadside bomb.

Facing sexual assault allegations last year, Mathis survived calls for his resignation. In December, he was selected as Assembly minority whip.



Mathis recently spoke with *Agri-Pulse* about standing up against the Trump resistance bill by San Diego Senator Toni Atkins, about the reasons why the bill to fix the Friant-Kern Canal failed, and about his frustrations over the state's "environmentalist agenda."

1. What's your strategy in passing legislation under a democratic giga-majority?

What makes Republican bills better than Democratic bills in California is that the Republican bill has to be all put together up front. You have to build a coalition up front, you have to work across the aisle up front, and you've got to have all your ducks in a row by the time you hit your first committee. You don't get any slack. It makes my colleagues and my caucus better legislators, because we have to have things put together.

There is no work-in-progress bill. If it's a work in progress when it hits committee, it's dead on arrival.

We have to have the coalitions. We have to have all the associations. We almost have to have all the opposition removed up front. It's a lot more work on the front side, but it makes it easier on the back side.

2. You were a co-author on SB 559 to fix the Friant-Kern Canal. What are your thoughts on it being held?

As much as I hate to say "freshman hazing," there's some of that happening to (Senator) Hurtado, even though she is a Democrat. I've spoken with the senator on it and encouraged her and agreed to work together on valley issues.

At the same time, that's a good message back home. You always hear during campaigns that if there's a Democrat in the seat, they'd be able to get it done. That's not always the case.

It's not a Democrat-Republican fight. It's a battle between rural and city. It doesn't matter if you're a Democrat or a Republican. The folks in the cities don't view water and agriculture the

same way we do. They can order their food on an app from their phone and have it delivered to their homes. A lot of us are still out in the field growing it and get it farm fresh.

3. During a hearing on SB 1, you said California is “not shy about passing laws” and if we needed to do something, then we could act with urgency to pass something later.

You can always run an urgency bill. Granted it would need two-thirds votes. But currently we live in the day and age of the mega-Democratic majority, where they have over two-thirds.

The frustration a lot of us have is that the environmentalist agenda in California is to preempt anything that our president can do. They’re getting way ahead of the game, they’re doing these things more so as a statement, and they’re locking up agreements that have already been hashed out in court. They’re changing things up and getting rid of flexibility, especially in SB 1.

There was rumor about amendments that were going to soften it up and give some flexibility. We still haven't seen that actually happen. But it's typical for these things in Sacramento to hear a whole lot of talk and nothing actually happens within the language.

4. What's your perspective on the legislature to date?

This year's been pretty rough.

It's the first time the state’s seen this mega-majority thing happen. You’ve got a new governor, who’s still putting his administration team together. People are not knowing who exactly to talk to with the administration on what. Even those people are not sure if they're allowed to make the decision or not. It's a whole lot of chiefs and nobody can actually make the decision.



I get it. The guy’s brand new. It takes time to put teams together. But you have to push agendas through that aren't necessarily the agenda for the rest to the state.

The Democratic party talks about how they care about minorities and all the voices and everything else. But they seem not to care about the voice of agriculture and the voice of the actual farmworkers.

These guys are doing this on the day-in and day-out—the small family farmers and what they're living through. It's really sad and devastating to see it happen. It's almost like we're watching a socialist takeover in slow motion.

5. When Governor Newsom traveled to El Salvador earlier this year, you said he should “come see the central San Joaquin Valley,” because this area is seeing “third-world conditions.”

We do. We absolutely have third-world conditions.

We have farmworkers who are struggling with healthcare. They're struggling in their neighborhoods. They can't afford their homes. The communities they live in don't have sidewalks, they don't have street lights, they don't have gutters, they flood out every winter. They have horrible access to health care. Yet the governor wants to give illegals healthcare. We have folks here who have gone through the process and are on their H-2A visas and are doing things the right way. But they don't have the ability for access.

You see a lot of this stuff where they care more about the headlines more than they do about the actual policy and taking care of folks here in California, especially people in the Central Valley. And not just the Central Valley. You can look into Imperial Valley, Coachella Valley, up in the north state in Humboldt County and those areas. Any rural area in this state is being overlooked by the majority party.

Us in the valley get in such a San Joaquin Valley mindset that we forget there's other ag industries or timber industries that are dealing with the same problems. Even the Inland Empire just south of us is dealing with lot of the same issues.

I work with the members from those other areas, because we're able to build those broader coalitions to move policy. Just because I didn't offer the bill or I'm not the headline author on the bill doesn't mean that we're sitting back on our hands. It's a smarter play to have that Democratic legislator from another region be the headliner, while we all work together behind the scenes to get it through.

Top item on Democrats' climate agenda faces ag pushback

The Democratic presidential candidates are rallying around a carbon tax as a central method of curbing climate change, but putting the idea into law will mean overcoming concerns of farm groups about the tax's intended goal — raising the cost of fossil fuels.

The candidates are fuzzy about the details of the tax they want, including the companies and sectors on which it would be directly levied.

There are a multitude of proposals already out there for how to structure such a tax, and what to do with the revenue.

Some proposals call for refunding the money to consumers in some fashion or for directing the money toward purposes such as incentives for carbon-conserving practices on farms.

In any case, economists across the ideological spectrum have long argued that a carbon tax would be the most efficient way for the United States to reduce greenhouse gas emissions.



Sen. Elizabeth Warren

Massachusetts Sen. Elizabeth Warren explicitly endorsed the carbon tax for the first time during a seven-hour town hall that CNN aired Sept. 4 with 10 of the candidates.

“We need to say that those who are throwing the carbon into the air that the rest of us have to breathe, that the rest of us have to deal with, are the ones who are responsible for paying for that. I'm there,” Warren said.

Frontrunner and former Vice President Joe Biden also endorsed the idea of a carbon tax, and Vermont Sen. Bernie Sanders said, “If you are in the fossil fuel industry, you're going to be paying more in taxes, that's for sure.”

But if the tax works the way it's designed, it won't just hit refiners and coal companies, as some of the candidates seem to suggest, it will also fall on consumers and businesses. The idea is to push utilities to switch from coal and natural gas to renewable power and to entice motorists and company fleets to buy more fuel-efficient and electric vehicles.

The problem for agriculture is that the tax could increase the cost of a range of inputs, including electric power, natural gas-based fertilizers, and the diesel fuel and propane needed to run machinery, trucks, irrigation pumps and other equipment. Farmers will spend nearly \$35 billion on fuel and fertilizer this year, about 10% of their total production expenses, according to USDA's Economic Research Service.

Marc Hafstead, an economist who directs a carbon pricing initiative at Resources for the Future, says there are ways to soften the impact on farmers.

“First, diesel for ag use could be excluded from a carbon tax or phased in over time. There are a few proposals out there that specifically exclude ag fuel use in the same way ag fuel use is excluded from fuel taxes,” he said.

Some of the tax revenue also could be returned to farms and rural communities to offset the impact of increased energy costs, he said.

According to a report by the Congressional Research Service, a tax of \$25 a ton of carbon emissions would generate about \$100 billion in revenue the first year, and raise the price of gasoline about 8%, or 23 cents a gallon based on average fuel prices between 2013 - 2017.

A \$50 per ton tax would raise more revenue but have a significant impact on fossil use, lowering coal consumption by at least 40% and boosting wind energy usage by as much as 300%.

But Debbie Reed, executive director of the Coalition on Agricultural Greenhouse Gases, which represents food companies, conservation groups, universities and some farm groups, warns that agriculture “would feel the pain” of a carbon tax and could face blowback if the sector seeks to be exempted.

“While subsidies or refunds from the tax revenue could offset that impact, it is worrisome to think that ag would have to then pursue ample refunds or subsidies to ensure the sector remained whole, financially. That battle could become a constant battle,” she said.

She noted the sector came under fire for seeking special provisions to offset the impact of the cap-and-trade bill that passed the House in 2009 only to die in the Senate.

“Some of the headlines were about ag being 'the pig at the trough, seeking beneficial treatment', while completely ignoring the fact that every other sector of the economy had already negotiated silver linings behind closed doors — everyone except ag,” she said. “That possibility is very real. Ag in the cross-hairs is not a welcomed outcomes of any carbon approach; a carbon tax presents a very real danger for that.”

The nation’s largest farm group, the American Farm Bureau Federation, successfully fought the 2009 legislation and also has opposed the carbon tax because of the potential impact on production costs.

John Newton, the group’s chief economist, said the group is open to the government using economic incentives to reduce greenhouse gas emissions. Conservation programs already do that by idling land and subsidizing resource-conserving equipment and practices. **“What we’re opposed to is an outright tax on carbon that would increase farmers' input costs.”**



John Newton, AFBF

It’s important that any legislative efforts to reduce carbon emissions compensate farmers for existing practices, such as cover crops, conservation tillage and precision agriculture, not just additional measures they may take, Newton said.

“We’re not starting from zero. People think we are, we’re not,” he said. **“We’ve got to find a way to find credit for things that people have been doing done for decades to sequester carbon and conserve natural resources.”**

Dan Lashof, director of the World Resources Institute's U.S. operations, says farmers have numerous opportunities to use conservation practices that could reduce the impacts of any tax. He mentioned using solar and wind, and replacing old, fossil-fueled equipment with electric vehicles. "In the long term, as farm equipment is replaced, farmers are going to see a lot of advantages to electric farm equipment," Lashof said.

Farming that sequesters carbon — through use of cover crops, for example — can allow producers to qualify for payments through a credit-trading system, he said. In addition, there is talk of generating ammonia fertilizer not from natural gas, but by extracting hydrogen from water and then reacting it with nitrogen from the atmosphere. Australia is looking closely at using that process to produce ammonia.

Several of the candidates have included in their climate plans major increases in funding for farm bill conservation programs, including the Conservation Reserve Program, Environmental Quality Incentives Program and Conservation Stewardship Program.

Sanders wants to pump nearly \$25 billion into CSP, the Agricultural Conservation Easement program, and the Regional Conservation Partnership Program, which together are slated to receive less than \$11 billion over the five years of the 2018 farm bill. Warren has called for spending \$15 billion a year on CSP, which is now funded at \$1 billion annually.

New US-China talks follow 17 months of chaos

High-level U.S.-China negotiations used to generate high hopes for an imminent deal, but optimism is fading in Washington and the heartland even as new talks are scheduled next month.

Key to success in October will be China's willingness to honor previous agreements that the country backed out of in May, but even some of the highest-level Trump administration officials are not optimistic that will happen.

"We would like to go back to where we were last May, but I don't know if that's possible ..."
National Economic Council Director Larry Kudlow said. "This is a difficult matter."

Ted McKinney, USDA's top trade official, says he only gives it "50-50" odds.

"I'm bullish, but I'm not Pollyannaish about this," he told a gathering of the National Farmers Union on Monday after warning that Chinese President Xi Jinping "is a communist zealot."

"I think it's always a positive sign when people are talking, but I don't think people should read into this that a deal is imminent because the issues that separate these two countries are wide, varied and serious," U.S. Dairy Export Council President and CEO Tom Vilsack told *Agri-Pulse*. "It's going to take a lot more than a few meetings ... to get things resolved."



USDA Trade Undersecretary Ted McKinney

White House officials are warning of a protracted battle that could last years, while Beijing is projecting the will and stamina to outlast Trump. Neither side is backing down in the trade war that's already stretched on for 17 months and grown more complicated with each tit-for-tat exchange of new tariffs and tariff rate increases.

Trump first got the balls rolling in 2017 when he asked for investigations into the national security threat from imported steel and aluminum as well as damage from China's appropriation of U.S. intellectual property. It wasn't until the first quarter of 2018 that his administration bypassed the World Trade Organization and fired the first tariff shots.

How the disputes snowballed

It was a frigid March in 2018 and snowstorms shut down government offices, but not Trump's resolve to threaten the first shot in a trade war that eventually cut deeply into U.S. ag exports to China. It was on March 21 that Gregg Doud, the newly installed chief agriculture negotiator at the U.S. Trade Representative warned that the Trump administration had every intention to wage a trade war if China didn't change its ways.

"Too many producers globally don't operate under the same economics of supply and demand ... like we do," Doud said at an *Agri-Pulse* forum. "These folks have been breaking the rules for too long and President Trump has stepped into the breach and decided something has to be done about it and he's absolutely right."

It didn't take long before trade tensions worsened near the end of March. (See timeline on next page.) Most recently, Trump announced a retaliation to China's retaliation. The U.S., he tweeted, would increase rates for existing tariffs on \$250 billion of Chinese goods as well as boost tariffs on \$300 billion worth of imports that haven't yet been levied.

Starting Oct. 1, the U.S. will increase the tariff rate on \$250 billion worth of Chinese goods by 5%. Also, the rate on new tariffs slated to go into effect for the additional \$300 billion of Chinese products on Sept. 1 or Dec. 15 will be 15% instead of the planned 10%.

That's the state of play now as lower-level U.S. and Chinese negotiators prepare this month for the ministerial level talks that are scheduled for some time in October.

Regardless of how long it takes to get a deal that stops China from appropriating U.S. intellectual property, Trump says he's committed to finishing it.

“Somebody had to do it,” Trump told reporters in late August. “I am the chosen one. Somebody had to do it. So, I'm taking on China. I'm taking on China on trade. And you know what? We're winning.”

Timeline for Major Actions in the Trade War with China

March 30, 2018: Out of concerns for national security, USTR said it would be levying a 25% tariff on Chinese steel and a 10% tariff Chinese aluminum.

April. 2, 2018: China hit back against the threat of the Section 232 tariffs, promising to retaliate with tariffs of its own — ranging between 15 and 25% — on \$3 billion worth U.S. goods such as fruits, tree nuts, pork and wine. America's almond, pistachio, orange and apple farmers braced for the impact.

April. 3, 2018: The Trump administration threatened to hit \$50 billion worth of Chinese goods with a 25% tariff. The Section 232 tariffs were supposed to discourage China from overproducing steel and aluminum. New Section 301 tariffs aimed to punish China for its policies of appropriating U.S. intellectual property — including outright theft. More than a year later, it's still one of the key sticking points in negotiations.

April 4, 2018: China announced it would retaliate on \$50 billion worth of U.S. goods. This time it included soybeans on the tariff list. China was promising to strike at the heartland with a 25% tariff on U.S. soybeans, corn, wheat and sorghum.

April 5, 2018: USTR Robert Lighthizer confirmed the White House instructed him to consider hitting China with tariffs on another \$100 billion in goods.

May 17, 2018: Lighthizer, Treasury Secretary Steven Mnuchin and Commerce Secretary Wilbur Ross sat down across a table from Chinese Vice Premier Liu He and others for the first of many high-powered, face-to-face negotiating rounds.

June 15, 2018: Trump announced the U.S. would proceed with threatened tariffs on \$50 billion worth of Chinese goods. China again promised to retaliate. Midwest farmers began calculating the impact of a 25% tariff on their grain and oilseeds.

July 6, 2018: The U.S. made good on its threat, enacting a 25% tariff on \$34 billion worth of Chinese imports. The remaining tariffs on \$16 billion of Chinese goods were enacted later. China reacted, effectively cutting off U.S. soybean exports while the country's importers turned to Brazil. USDA data would later show that the U.S. exported \$3.1 billion worth of soybeans to Chinese importers in the 2018 calendar year, about a fourth of the \$12.3 billion it sold to them in 2017.

July 9, 2018: Trump ordered his top trade official to begin the process of finding an additional \$200 billion worth of Chinese products to put import taxes on.

July 24, 2018: USDA announces it will provide \$12 billion in farm payments, food purchases and trade promotion to help those impacted by the trade war.

August 2018: China pledged to hit \$60 billion worth of U.S. goods with tariff rates between 20-25%. There's no way China could match the U.S. product by product because Chinese imports only totaled roughly \$130 billion at the time, compared to U.S. imports of \$505 billion.

Sept. 24, 2018: The U.S. hit \$200 billion worth of Chinese products with a 10% tariff that would go up to 25% after Dec. 31.

Dec. 1, 2018: Trump met with Chinese President Xi Jinping on the sidelines of a G-20 summit in Buenos Aires. Trump agreed to postpone the scheduled tariff rate increase on \$200 billion of Chinese products and Xi promised China would buy more U.S. ag commodities. Over the next three weeks the USDA confirmed that China purchased 2.52 million metric tons of U.S. soybeans

Feb. 20-24, 2019: U.S. and Chinese negotiators met again in Beijing in February and China pledged to buy another 10 million metric tons of soybeans.

May 2019: Lighthizer returned from Beijing and publicly accused China of “reneging” on agreements it had made previously. On May 6, he raised the rate of tariffs on \$200 billion worth of Chinese goods from 10% to 25% and vowed to place 25% duties on the remaining \$300 billion of imports from China.

May 13, 2019: China's Finance Ministry announced intentions to raise tariff rates on \$60 billion worth of U.S. products by June 1. The higher rates were aimed primarily at U.S. farm commodities such as citrus, berries, vegetables and nuts.

May 23, 2019: USDA Chief Sonny Perdue confirmed plans for a second and bigger trade assistance package. The USDA unveiled the new \$16 billion program, containing cash payments, product purchases and funds for foreign market development.

June, 2019: Trump and Xi met on the sidelines of a G-20 summit in Osaka, Japan, and again there was a reprieve in hostilities. Trump announced that the negotiations would start back up, the U.S. would hold off on the latest tariff threat and China would begin buying more U.S. ag commodities.

August 1, 2019: Trump complained China was not moving fast enough to import more U.S. farm products announced via Twitter that he would follow through to levy a 10% tariff on the \$300 billion worth untaxed Chinese goods. Trump later clarified that half of those Chinese products would be hit on Sept. 1 and the other half, including popular consumer goods such as computers, toys, shoes, smartphones and video game consoles, would be hit Dec. 15.

Aug. 8, 2019: China revoked a goodwill gesture of exempting some Chinese importers from tariffs on U.S. soybeans and then soon after declared it would increase tariff rates on \$75 billion worth of U.S. commodities, including soybeans, oats, barley, peanuts, potatoes, apples, oranges, lemons, limes, avocados, lettuce, broccoli, tomatoes, almonds, walnuts and many other crops grown across the country.

Roundup defenders, detractors have their say on EPA proposal

Pro- and anti-glyphosate companies and organizations lined up to praise — or bash — the active ingredient in the most widely applied herbicide in the world, in comments submitted to the Environmental Protection Agency last week.

The subject was a Proposed Interim Decision (PID) issued by EPA in May, a critical step in the multiyear process to re-register the herbicide.

In general, defenders of the product, used in Roundup, Ranger Pro and other formulations, stressed the chemical's value to growers and findings by regulatory bodies around the world that **“continue to support the safety of glyphosate-based products when used as directed and that glyphosate is not carcinogenic,”** as Ty Vaughn, global regulatory lead for Bayer, said in comments submitted to EPA.

Detractors, however, pointed to analyses, conducted since EPA issued its last carcinogenicity study in December 2017, identifying cancer risks associated with exposure to glyphosate and glyphosate-based herbicide products.

In its PID, EPA reaffirmed an earlier conclusion that glyphosate is not likely to cause cancer but proposed a few changes to its label language. Applicators would not be allowed to spray during temperature inversions. For aerial applications, spraying could not take place when wind speeds exceed 15 mph at the application site. For both ground and aerial applications, applicators would have to use “fine” or coarser droplets as indicated in nozzle manufacturers’ catalogs.

The agency’s deliberations come as glyphosate continues to be the subject of controversy in the U.S. and elsewhere. Three court cases have resulted in awards totaling more than \$80 million in punitive damages, after juries found enough evidence to connect Roundup exposure to their non-Hodgkin lymphoma. And Germany recently decided to ban glyphosate by the end of 2023.

The Joint Glyphosate Task Force, whose 20-plus members all have registrations for technical grade glyphosate, said in its comments it’s “essential” that U.S. farmers be able to continue to use glyphosate.

“It is a critical component in maintaining economic and environmental sustainability in agriculture,” the JGTF said. “Adoption of glyphosate-tolerant cropping systems is associated with an increased adoptability of conservation tillage, resulting in a number of benefits: reduced soil erosion, improved soil and water quality and lower carbon dioxide emissions.”

Bayer, which bought Monsanto last year, inheriting both glyphosate and its attendant lawsuits, said glyphosate is “critical to maintain environmental sustainability in agriculture” and also has helped farmers generate off-farm income because of reduced labor requirements to grow crops. In addition, it’s cost-effective, the company said, citing an economic analysis of highway median control that showed glyphosate was “275% less expensive than alternative methods that included multiple mowing events and alternative herbicides.”

On the issue of the chemical’s toxicity, Bayer said industry data in reviews by regulatory authorities show glyphosate is safe to use as directed. “In evaluations spanning four decades, the overwhelming conclusion of experts worldwide has been that glyphosate, when used per label directions, does not present an unreasonable risk of adverse effects to humans, wildlife or the environment.”

The Natural Resources Defense Council said in its comments that since EPA issued its most recent paper on glyphosate carcinogenicity in December 2017, there have been “some new and updated scientific studies published, as well as two more recent meta-analyses that include the new studies. These all identify cancer risks associated with exposure to glyphosate and [glyphosate-based herbicide] products.”

NRDC also said EPA’s label changes are inadequate to protect monarch butterflies. The environmental group said EPA’s own spray drift analysis suggests the need for buffers of up to 620 feet for aerial application and up to 157 feet for ground application.

“Despite these findings, the EPA’s drift mitigation measures only make specifications to boom height, application height and droplet size, but they do not call for ANY buffer distance,” NRDC said.

The JGTF supported the new label language. “By applying good agricultural practices and by using the appropriate spray drift mitigation approaches as proposed ..., off-target drift that may encounter monarch butterfly breeding or foraging habitat should be avoidable,” the task force said.

EPA plans to have a proposed decision ready by the second quarter of the federal fiscal year — between Jan. 1 and March 31, 2020.

Struggling rural hospitals watch Medicare expansion plans

Medicare for All proposals being advanced by leading Democratic candidates and introduced in Congress would have sweeping implications for rural residents and their rural hospitals, many of which are struggling to stay in business. Whether the plans would save rural hospitals, or stress them further, would ultimately depend on legislation and how the plans were implemented.

Medicare already covers about seven-eighths of health care costs for the elderly and disabled. So, for sustaining health care and hospitals in rural America, expanding Medicare to the entire population would be a big deal.

The proposals that have been introduced in Congress range from those promising top-to-bottom coverage to various expansions of the public option already available under Obamacare. There's also a proposal to offer reduced-cost plans that extend Medicaid to low-income people, including in the 14 states that haven't so far expanded it under Obamacare, according to an analysis by the Kaiser Family Foundation, and some would provide access to Medicare starting at age 50 (rather than 65).

Both a Medicare for All bill now co-sponsored by over 100 Democrats in the House of Representatives and a very similar Senate bill championed by presidential candidates Sens. Bernie Sanders of Vermont, Cory Booker of New Jersey, Kamala Harris of California, and Elizabeth Warren of Massachusetts would replace the Affordable Care Act, better known as Obamacare, as well as Medicare and Medicaid, which now covers low-income residents, with a universal national health insurance program run by the Department of Health and Human Services. Their bills propose covering all hospital services, prescription drugs, plus mental health, long-term, and dental care, and there would be no copays or deductibles. Private insurance companies would be left to offer supplemental coverage if they wished.

The key issue for rural hospitals is that while Medicare reimburses providers at lower rates than private insurers, more people would have health coverage if Medicare were expanded to every resident, said Karen Pollitz, a senior fellow and analyst for the Kaiser Family Foundation.

“Under the Medicare for All proposals, benefits would be much more comprehensive than under today’s Medicare program and cost sharing (by patients) would disappear,” Pollitz said, and “to the extent hospitals are treating uninsured patients and providing uncompensated care, they wouldn’t have to do that anymore.”

The Medicare for All bills don't specify just what reimbursement rates are being proposed. **And if those bills did not increase the current rates at which hospitals and doctors are reimbursed, an administrator in western North Dakota says his patients and health care facilities would take a big hit.**

Darrold Bertsch, chief executive for Sakakawea Medical Center, a rural hospital in Hazen, N.D., and a group of four local clinics in the same region of the state, says Medicare is supposed to pay the full cost of providing service. But he says some ancillary costs (phones, televisions, marketing, etc.) aren't supported, and "we're paid around 91 to 92% of our costs. So, if that is the case, we would always be on the downside unless there were a way to make up the differential."



Darrold Bertsch, Sakakawea Medical Center

"We're anxiously watching that (legislation), should it come to fruition," Bertsch says.

So far, most rural hospital operators, as represented by the National Rural Health Association, don't necessarily oppose Medicare for All.

That's the case, says Maggie Elehwany, NRHA government affairs and policy vice president, even though the shortfall Bertsch reports in Medicare reimbursements is pretty typical.

Medicare also, for example, doesn't cover emergency room physician charges, home health visits, most ambulance charges, or long-term (nursing home) care, she says, plus the 20 percent deductible enrollees pay for out-patient care (Medicare Part B) are often on top of hospital charges covered by Medicare Part A.

Despite those limitations, though, Elehwany says, "the rural population tends to be older, poorer and sicker (than urbanites) ... so (rural hospitals) are more reliant on both Medicare and Medicaid."

Elehwany says 113 rural hospitals have closed in less than 10 years, and the rate of closures has been increasing. So, she says, NRHA is much more focused on existing problems than on what lawmakers and candidates are proposing. Rural hospital concerns start with repeated cuts in Medicare reimbursements in recent years and failure of some states to opt for Medicaid expansion to cover low income people.

Congress has made "a whole series of cuts" in Medicare funding that affect rural hospitals," she said, including a budget sequestration that "was not targeted at all; 2% across the boards." Plus, she says, Congress terminated the right of rural "critical access hospitals" to write off accumulated "bad debt," which has swollen 50% since Obamacare was passed back in 2010.

Last year, estimates by iVantage Health Analytics said "46% of rural hospitals actually operate at a loss."

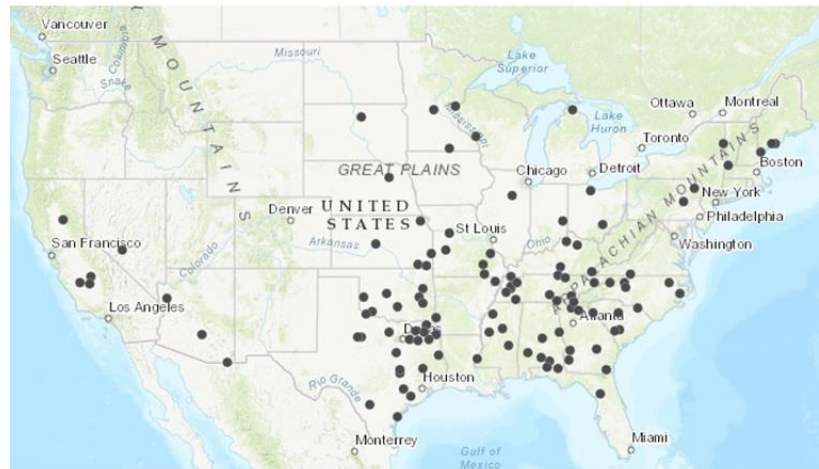
None of the Medicare for All proposals are going anywhere unless Democrats win control of the White House and the Senate. Even then, it would be an uphill battle.

Neither the Republican-controlled Senate nor President Trump would support such a vast change in health care coverage, and it's not clear most Democratic voters would either. A nationwide Monmouth University Polling Institute survey of 300 Democratic voters in August found that 81% wanted a presidential candidate who supports Medicare for all. But subsequent questions found more than half of them see the phrase “Medicare for all” as just having a broadly available and affordable public option while retaining current choices for private insurance.

Even a Medicare public option could be a problem for rural hospitals, if employers who now offer private insurance were to drop their coverage and leave their workers to Medicare, according to a study by Navigant Consulting sponsored by a coalition of hospitals and insurers called the Partnership for America’s Healthcare Future.

Rural hospital revenue loss would be limited to about 2% so long as the public option only covers people who are uninsured or have individual policies. **But if employers were to shift 25% and 50% of their covered workers to a Medicare public option, rural hospital revenues would drop 8% and 14% and an estimated 51% to 55% of rural hospitals would be at a high risk of closure, the study found.**

Rural hospital closures 2005-present



Source: North Carolina Rural Health Research Program

Meanwhile, efforts to help rural communities redesign local health care are getting increased attention among health care entities and in Congress.

Sen. Marsha Blackburn, R-Tenn., has advanced several bills, including a bipartisan proposal to create a Rural America Health Corps to repay medical school debt for those in various health care occupations who commit to a rural practice, and another to incentivize the establishment of alternative models of health care centers that would, for example, have doctors, nurses and other specialists ready to provide urgent and emergency care, provide a base for air or ground ambulance service, etc.

“We’re all in favor of right-sizing for a community,” Elehwany says, and NRHA wants rural communities to be able to “grow their own” health care facilities and services.

“Our biggest concern is the closure of emergency rooms,” Elehwany says. “What are you going to do with the heart attack that occurs at 2 in the morning ... or the accident?” she asks.

A new system replacing a local hospital might be “an emergency room with only outpatient service. So, have the emergency care for your community, and have outpatient care for what they need ... maybe a pediatric program for the local schools,” she suggests.

Bertsch adds that North Dakota has 36 small rural facilities called critical access hospitals, and he hopes for “legislation that would allow communities to kind of tweak what’s pertinent to ... their needs: maybe a community health center/clinic that has some additional services. I think, in the future, these smaller communities with declining population are going to need to look at other options, and I hope there are other options made available to them.”

Marilyn Serafini, director of the Bipartisan Policy Center’s Health Project, takes the same view: “We need to make (rural health care) viable, we need to make it financially possible for these systems to be able to transform into what’s needed. Right now there’s too much financial encouragement to keep inpatient beds.”

“Every community is different,” she says, “so we need to provide the incentives to allow the health systems and the providers in each community to go with what makes sense.”

Legislation addressing such rural health care issues may be soon introduced and possibly passed next year. Staff for Sen. Chuck Grassley, R-Iowa, who has already gained Senate Finance Committee approval of his bill to force down prices for prescription drugs, for example, says Senate “policy teams will be meeting over the next couple weeks” on rural health care issues, but could not divulge more at this point.

Meanwhile, several Democratic presidential candidates are emphasizing rural health care improvements in their campaigns, and a survey of 2,600 Americans (nearly half were rural residents), sponsored by the Bipartisan Policy Center and American Heart Association, found three in five voters think a focus on rural health is so important they would vote for a candidate in the 2020 election who prioritized rural health improvements.



Marilyn Serafini, Bipartisan Policy Center

News briefs

Germany banning glyphosate at end of 2023. Germany has decided it will ban glyphosate by the end of 2023, following in the footsteps of a decision by Austria this summer. The German Environment Ministry said it took the action to protect insects, including pollinators. “What harms insects also harms people,” Environment Minister Svenja Schulze said. “What we need is more humming and buzzing.” The German Farmers' Association criticized the decision, with the group’s president calling it “toxic for the farmers,” in part because it would weaken their competitiveness. Bayer, which uses the active ingredient in its Roundup herbicide, said that while it respects political decisions by some of the countries in the European Union “to reduce applications of glyphosate,” the German decision “to impose a unilateral ban ... would ignore the overwhelming scientific assessments of competent authorities around the world that

have determined for more than 40 years that glyphosate can be used safely.” The European Union's approval of glyphosate expires near the end of 2022.

USDA offers up \$150M for disaster recovery grants. The Department of Agriculture’s Rural Housing Service is looking to distribute \$150 million for natural disaster recovery. According to a USDA release, the grants are through the Community Facilities Program and are intended “to help rural communities continue their recovery from the devastating effects of hurricanes, fires, and other natural disasters.” The grants will be offered until funds are exhausted with smaller communities with the lowest median household income being eligible for a higher proportion of the funds. Municipalities, public bodies, nonprofit organizations, and Native American tribes are eligible to apply for 100 different types of projects. The grants follow Monday’s announcement of \$3 billion in disaster funds for the nation’s producers recovering from floods, hurricanes, and wildfires in 2018 and 2019. That announcement, stemming from the June disaster supplemental bill, covers stored grain lost to flooding and prevented planting damages in addition to types of losses covered by the 2017 Wildfire and Hurricane Indemnity Program. The program announced Monday, WHIP+, will cover 100% of a producer’s calculated payment for 2018, but only 50% of their 2019 losses. Depending on funding availability, USDA says the other 50% may be distributed in 2020.

Fresno County crop and livestock values soar. Fresno County farmers and ranchers produced crops and livestock worth a record value of almost \$7.9 billion in 2018, according to a report released Tuesday by Agricultural Commissioner Melissa Cregan. This figure represents the total gross production value of everything from alfalfa and almonds to wine and wood. The \$859,559,690 increase represents a 12.23 percent improvement from 2017’s production value. “Fresno County’s agricultural strength is based on the diversity of crops produced. Included in this year’s report are over 300 different commodities, 76 of which have a gross value in excess of one million dollars,” Cregan told her county board of supervisors. “Although individual commodities may experience difficulties from year-to-year, Fresno County continues to supply the highest quality of food and fiber nationwide and abroad to more than 95 countries around the world.” Almonds produced a total gross value of over one billion dollars (\$1,178,182,069) for the sixth year in a row. Grapes remained in the number two spot at \$1,106,858,236; with pistachios showing steady growth climbing-up to third at \$862,144,401. Filling the next seven spots were poultry and related products including eggs, garlic, milk, cattle and calves, onions, tomatoes and mandarins. Compared to 2017, garlic and onions made the top ten, while oranges dropped from the top ten for the first time since 2014 and the value of peaches also fell.

Critical western waterway for US ag exports is closed. The Bonneville Lock, located about 40 miles east of Portland, Oregon, closed late last week to all Columbia River traffic due to an issue with the downstream lock gate. Lock operators observed issues closing the gate Thursday afternoon and, after inspection, the U.S. Army Corps of Engineers, Portland District, determined that continuing operation posed the possibility of damage to other lock components. Demolition of the damaged sill at the downstream end of the lock has started and experts will then assess the gate foundation and proceed with repairs. It’s not clear when the repairs can be finalized. The damage to the structure effectively halts all barge traffic moving up and down the 485-mile Columbia River Basin and comes at a critical time for wheat producers who are at the peak of harvest and trying to export their products through terminals on the Pacific Ocean. "This

is definitely a challenging time. Our two largest barge lines on the Columbia Snake River System report over 100,000 tons of stranded product above Bonneville Dam,” says Kristin Meira, Executive Director, Pacific Northwest Waterways Association. “This doesn't represent all the impacts, of course — the supply chains on the river are meant to be in constant motion, and the stoppage of one link has ripple effects across the entire system. This incident also shows the critical need to fund a comprehensive maintenance and rehabilitation program for the eight locks on the Columbia and Snake rivers. The failure of any one lock can have a huge and potentially catastrophic impact on the economy of the Pacific Northwest and a number of sectors throughout the nation.”

Farm Hands: Water Resources Control Board members confirmed

The California State Senate voted to confirm **Laurel Firestone** and **Sean Maguire** as a member of the State Water Resources Control Board. Firestone’s term expires in January 2023 and Maguire’s term expires in January 2020. Before joining the Board, Firestone co-founded and co-directed the Community Water Center, a statewide nonprofit environmental justice organization. Maguire fills the position on the Board designated for a civil engineer. Before joining the Board, he worked for an engineering consulting firm serving a variety of municipalities and water agencies throughout the state, focused on water resource planning, drinking water, and wastewater infrastructure projects.

The California Fish and Game Commission selected **Melissa Miller-Henson** to serve as its executive director. Miller-Henson has worked for the Commission for the last seven years as the program manager, deputy executive director and, over the last year, acting executive director. Before coming to the commission, Miller-Henson directed the California Fish and Wildlife Strategic Vision Project, managed the Marine Life Protection Act Initiative and served under five secretaries of the California Natural Resources Agency.

The Oppenheimer Group promoted **James Milne**, **Karin Gardner**, **Brett Libke** and **Garland Perkins** to four newly created positions. Milne has been promoted to senior vice president, categories and marketing. Milne has held leadership roles in various Oppy categories throughout his 26-year tenure, most recently serving as vice president of marketing, categories and business development. Gardner has been promoted to executive director of marketing, taking the reins from Milne. Libke has been promoted to senior vice president of sales, North America. Perkins has been promoted to senior manager of insights and innovation. “As we continue to grow in the highly demanding and dynamic global fresh produce industry, we’re adapting to new challenges with discipline but also a great deal of excitement about the opportunities ahead of us,” said David Smith, Oppy president. “This experienced and talented foursome is prepared to lead us forward into areas that build on our strengths and open the door for strategic innovation.”



David Greco

Tom Smith director of foodservice for California Giant Berry Farm is taking on a new role as director of foodservice and organics. A new hire for the company is **Thomas Taggart**, as the senior director of operations. Taggart will work closely with **Juana Ramirez** who was hired earlier this summer as the new director of supply chain management.

Dandrea Produce has added **David Greco** to serve as the director of citrus, North America. Greco brings more than 30 years of experience in the citrus industry, and will handle and oversee all aspects of the western citrus category.

The Board of Trustees of the International Food Policy Research Institute (IFPRI) announced the appointment of **Johan “Jo” Swinnen** as the institute’s next Director General, effective January 2020. He will succeed **Shenggen Fan**, who is completing his term. The ag economist is currently serving as a professor of economics and is the director of the LICOS Center for Institutions & Economic Performance at the University of Leuven.

Darigold has hired **Richard Scheitler** as the new chief information officer and **Monica Johnson** as its new general counsel. Scheitler most recently served as the Chief Information Officer at The Wonderful Company, in Los Angeles, Calif. Johnson most recently served as the general counsel for Bonduelle Americas, in Irwindale, Calif. Prior to joining Bonduelle, Johnson held legal roles at Ventura Foods, LLC, Western Digital Technology, INC., and Deutsche Bahn/DB Logistics/Bax Global.



Richard Scheitler

American Farmland Trust (AFT) hired **Tim Fink** as its new policy director. Fink will oversee AFT’s policy direction and strategy. He comes to AFT from the Supporters of Agricultural Research (SoAR) Foundation where he served as the director of research and policy analysis, overseeing federal relations and science policy.



Former Department of the Interior press secretary **Molly Block** has rejoined the Environmental Protection Agency as senior adviser for strategic communications and policy. Block joined Interior in March, after working in EPA’s press office since December 2017.

The Association of Equipment Manufacturers hired **Wade Balkonis** as grassroots advocacy manager. He previously was federal government relations manager for Walgreens.

Paul Schickler joined the leadership team of the advisory board of ZeaKal. Before joining ZeaKal, Schickler served in various leadership roles over a 40-year tenure at DuPont Pioneer, serving as the former president of DuPont Pioneer.

Samantha Medlock joined the House Select Committee on the Climate Crisis as a senior counsel. She will focus on climate adaptation and resilience. In her career, she served as a senior adviser of the Office of Management and Budget and was the deputy associate director at the White House Council on Environmental Quality under the Obama Administration.

Settling in as the legislative assistant covering agriculture, food, transportation and the animal welfare portfolio for Rep. **Adam Smith**, D-Wash., is **Amanda Wyma-Bradley**. She just finished her Master of Public Policy Program at Georgetown ... **Justin Weiss** is Smith’s new communication director. He most recently served as a senior associate at Rational 360 and replaces **Rebecca Bryant**, who is now at the Fred Hutchinson Cancer Research Center.

Alejandra Leynez has joined the staff of Rep. Linda Sánchez, D-Calif., as a legislative assistant covering the immigration, labor, and employment portfolios.

Covering the small business and foreign trade portfolio for Rep. **Julia Brownley**, D-Calif., is **Daniel Dick**. He previously served as a fellow for Sen. **Krysten Sinema**, D-Ariz.

Robert Lynch has been named president and CEO of Papa John's International, Inc. He succeeds **Steve Ritchie**, who had led the company since January 2017. Lynch brings more than 20 years of experience in the restaurant and consumer packaged goods industries, most recently serving as president of Arby's Restaurant Group, Inc. He earlier spent four years as brand president and chief marketing officer at Arby's, where he was responsible for creating the "We Have the Meats" campaign. Before joining Arby's he was vice president of marketing at Taco Bell.

Beth Terrell has been named the new president of Public Justice. Growing up on a farm in Idaho and graduating from UC Davis School of Law, Terrell cofounded the Terrell Marshall Law Group with Toby Marshall and Jennifer Murray. One of her earliest cases she worked on was *Barnett v. Walmart Stores, Inc.*

The National Association of State Departments of Agriculture (NASDA) is recognizing four individuals at its annual meeting in Albuquerque, New Mexico this week. Receiving the Ambassador's Circle Award is awarded to Congressman **Dan Newhouse**, R-Wash., for his work in forging new partnerships for sound agriculture policy. **Jennifer Trodden**, deputy commissioner for the New York State Department of Agriculture and Markets, received the James A. Graham Award for her work in providing service to agricultural producers. The NASDA Communications Award went to **Corinne Gould**, assistant commissioner for public affairs for the Tennessee Department of Agriculture. The Douglass-Irvin Administration Award goes to an individual for outstanding contributions within a state agency resulting in improved efficiency and impact. This year's recipient is **Janifer Gurr**, chief administrative officer & director of human resources for the Colorado Department of Agriculture.



Corinne Gould

The World Food Prize Foundation selected **Hale Ann Tufan**, of Turkey, as the 2019 recipient of the Norman E. Borlaug Award for Field Research and Application, endowed by the Rockefeller Foundation. She is recognized for ensuring women farmers and scientists are fairly represented in the lab, in the field and at the table.

Best regards,

Sara Wyant

Editor

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