



P.O. Box 216 Klamath Falls, Oregon 97601

*Protecting Water for Western Irrigated Agriculture*

September 21, 2020

The Honorable Garret Graves  
2402 Rayburn House Office Building  
Washington, DC 20515

Dear Congressman Graves:

On behalf of the Family Farm Alliance (Alliance), I write in support of the *Building U.S. Infrastructure through Limited Delays & Efficient Reviews (BUILDER) Act of 2020*, which would amend the National Environmental Policy Act of 1969 (NEPA) to clarify ambiguous provisions, align the Act with relevant case law, reflect modern technologies, optimize interagency coordination, and facilitate a more efficient, effective, and timely environmental review process. We very much appreciate your efforts to reform this important law.

The Alliance is a grassroots organization of family farmers, ranchers, irrigation districts and allied industries in 16 Western states. The Alliance is focused on one mission: To ensure the availability of reliable, affordable irrigation water supplies to Western farmers and ranchers.

The Alliance believes that without the development of new sources of water, increasing urban and environmental demands in a changing climate will rapidly acquire and deplete existing agricultural supplies and seriously threaten the future of Western irrigated agriculture. The often slow and cumbersome federal regulatory process is a major obstacle to realization of projects and actions that could enhance Western water supplies. NEPA implementation, in particular, can have a direct bearing on the success or failure of critical water supply enhancement projects. Further, our members include many Western water managers, who often are afforded the use of NEPA mechanisms like Categorical Exclusions and Findings of No Significant Impact in conjunction with annual operations, maintenance and replacement activities on ditches or major rehabilitation and repair projects on existing dams.

Several sections of the proposed legislation align with and reinforce changes made in the White House Council of Environmental Quality (CEQ) NEPA rule - finalized in July 2020 - which our organization strongly supports.

The bill clarifies currently ambiguous sections of NEPA, including removing the term "Cumulative Impact" and clarifying the meaning of the term "Effects". It further clarifies that

NEPA is expressly limited to actions that are "subject to Federal control and responsibility," excluding nondiscretionary decisions made pursuant to an agency's statutory authority. The definition establishes a threshold consideration that is independent of the significance of the impacts that may follow from the action. The definition also includes examples of actions that should not be considered "major Federal actions."

The bill improves interagency coordination and streamlining by requiring the lead agency to: 1) develop a joint schedule and procedures to elevate delays or disputes; 2) prepare a single Environmental Impact Statement (EIS) and joint federal Record of Decision (ROD) to the extent practicable; and 3) establish a two-year goal for completion of environmental reviews.

The proposed legislation includes important provisions facilitating adoption of categorical exclusions where the action is substantially the same as an action previously categorically excluded by another agency. Section 106 of the bill includes provisions requiring agencies to make use of reliable existing data sources and clarifies that NEPA does not require undertaking new scientific and technical research to inform analyses. Section 108 of the bill includes important provisions requiring those entities or individuals who have litigiously abused or weaponized the NEPA process to stop or slow projects in the past to have participated meaningfully in the NEPA process before filing suit. Section 8 also sets a reasonable timeline to file those lawsuits.

We believe these provisions will help modernize the federal environmental review process, which will improve the public process for Western water resource development and management.

Thank you for your leadership on this matter, which is particularly important to the family farmers and ranchers of our membership. If you have any questions about this letter, I encourage you or your staff to contact me at (541)- 892-6244.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Keppen', with a stylized flourish at the end.

Dan Keppen  
Executive Director