Disaster Package Remains in Limbo, Sniping Continues; Tax Break Legislation Introduced

A supplemental spending bill authorizing billions in desperately needed federal disaster aid for states ravaged over the last 18 months by hurricanes, tornadoes, wildfires and historic flooding remains in limbo during the two-week congressional Easter recess as lawmakers continue to take shots at each other over Puerto Rico’s share of the assistance package.

Senate Minority Leader Chuck Schumer (D, NY) and Sen. Rick Scott (R, FL) engaged in a duel of tweets this week, with Scott saying Schumer is “lying” about Democrats not blocking the assistance package. Schumer told the Florida lawmaker to “stop the bull” and put pressure on the president to get out of the way of more federal aid to Puerto Rico.

Meanwhile, Sen. Joni Ernst (R, IA) told Agri-Pulse this week following an Iowa hearing on EPA’s Missouri River management, that she hopes Sen. Kirsten Gillibrand (D, NY), a declared presidential hopeful who attended the hearing, will tell her Democrat colleagues of the dire need for the disaster package. “There’s a lot riding on this disaster package and we need to see it move as quickly as possible. We do think there is a way forward with a number of Democrats. If we can find that sweet spot, we should be able to move a package,” Ernst said.

The only bright spot in an otherwise murky outlook for the bill was this week’s introduction by several midwestern lawmakers to grant a series of federal tax breaks to victims of the natural disasters in states from Florida, Georgia and Alabama to Nebraska, the Dakotas, Iowa, Missouri and California.

Senate Finance Committee Chair Charles Grassley (R, IA) was among the lead Senators who introduced a bill that would allow tax deductions for disaster-related losses, while allowing some victims to make early withdrawals from retirement accounts with no penalty. Several other minor tax concessions are also included in the bill.

While the current Senate disaster bill carries $600 million in additional nutrition assistance funding for Puerto Rico, Democrats want to see more money released for industrial block grants and infrastructure investment. President Trump says Puerto Rico has received more assistance than Texas and Florida and he opposes more federal largesse, citing the “incompetent” leadership of the island territory.
McConnell Comes Off the Sidelines, Lays Out Senate Agenda

Senate Majority Leader Mitch McConnell (R, KY) this week effectively abandoned his reactionary stance to Democrat initiatives, particularly those originating in the House, laying out an agenda for Senate floor action this week. The action recognizes also that his priority on getting stalled White House nominees confirmed will lag until House-passed legislation is acted upon.

The House has approved election/campaign legislation, as well as background checks for firearm purchases, the Violence Against Women Act, a disaster aid package, a net neutrality bill and other minor items. Some, including the Violence Against Women Act, are candidates for Senate action, while others have no chance, including net neutrality and the Democrat election/financing legislation.

First on McConnell's list is getting the FY2020 appropriations process back on track, including spending caps, which the Kentucky lawmaker said "is the single biggest thing we need to do. Second, confirming judicial nominees is a McConnell priority, and 53 pending district court judge nominees will be confirmed, he said.

He also wants to jump-start conversations over the possibility of an expansive infrastructure investment package, though while he wants any cost of federal spending offset, both parties are at loss as to how that might be politically possible. He plans to meet with House Speaker Nancy Pelosi (D, CA) to talk about a bipartisan approach.

Bipartisan legislation to deal with the immigrant onslaught at the southern border is also a possible candidate for action, along with a slew of other bills, including the National Flood Insurance Program, reauthorizing the Terrorism Risk Insurance Act and the National Defense Authorization Act, are also on deck for action.

In limbo at this point is the fate of a Senate budget resolution, bills to curb President Trump’s authority to impose trade tariffs for national security reasons and a technical corrections bill to fix glitches in the federal tax reform legislation enacted last year.

Just as the Senate was packing up to head out for its two-week Easter recess, Minority leader Sen. Charles Schumer (D, NY) slammed McConnell, saying, “Leader McConnell has turned the Senate into a legislative graveyard for priorities the American people care about. The greatest challenges we face – health care, income inequality, voting rights, gun safety, the environment, paycheck fairness – McConnell and the Republicans refuse to take any action.”

WOTUS Replacement Rule Comment Period Ends, Disagreement Abounds

When it comes to the Trump administration’s proposed rule to replace the controversial “waters of the U.S. (WOTUS)” rulemaking from the Obama days, the 139,000-plus public comments filed show
you either love the new rule or you hate it. The comment period on the EPA/U.S. Army Corps of Engineers proposal ended this week.

The rulemaking is all about how much authority under the Clean Water Act (CWA) do EPA and the Corps legally have when it comes to regulating the nation’s waterways, including so-called “ephemeral streams” and wetlands. It is also about how much responsibility for regulating waterways falls to the states in the absence of federal authority.

The proposed rule is the lynchpin of the White House’s effort to repeal and replace the controversial Obama era rulemaking, which, thanks to varying federal court opinions, is the rule of law in some state while it has no impact in others.

Environmental groups contend the Trump version of WOTUS leaves nearly 70% of U.S. waterways and wetlands unregulated and therefore, unprotected. Agriculture and business groups says the new rulemaking is a solid legal effort to let the states take the lead on water regulation and land-use planning.

The American Farm Bureau Federation (AFBF), for which WOTUS was its number one regulatory priority during the Obama years, said on behalf of more than 80 ag groups that it sees the Trump proposal “respecting the careful federal-state balance” that is supposed to be the backbone of the CWA,” and it will bring an end to “the decades-long regulatory creep” of the federal government under the CWA. However, AFBF also made recommendations for several improvements in the pending rule.

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**Senate Field Hearing on Missouri River Management Slams Army Corps**

The federal government this week took major criticism – most of it aimed at the U.S. Army Corps of Engineers – during a Glenwood, Iowa, field hearing over its failure to adequately address and mitigate floodwaters adjoining the Missouri River.

The hearing was chaired by Sen. Joni Ernst (R, IA), a member of the Senate Environment & Public Works Committee, and was attended by a handful of lawmakers – Sen. Charles Grassley (R, IA), Sen. Jerry Moran (R, KS) and presidential hopeful Sen. Kirsten Gillibrand (D, NY) – and several area witnesses, including small town mayors and farmers.

Criticism centered on a Corps requirement that local communities pay millions for federal certification of levees and dikes, with one Iowa town being forced to tear down a levee that cost $8.5 million to build. Grassley said the Corps “must do better…they are too slow, too bureaucratic and they don’t have enough money. We need to fix that.” He also wanted to know if endangered species protections trumped flood control when the Missouri flooded.

For itself, the Corps witness said his agency has a $98-billion backlog in water infrastructure projects, of which one-third are flood mitigation projects.
CA Irrigation District Sues of Colorado River Sharing Plan

Supporters hoped President Trump’s recent signing of a bill setting up a seven-state water sharing plan for Colorado River was the magic bullet on drought mitigation. One California irrigation district says not so fast and has sued the Metropolitan Water District of South California for signing off on the deal.

The Imperial Irrigation District, estimated to be the single largest user of Colorado River water, filed the court case after it failed to block the legislation while it tried to get Farm Bill funding to deal with the shrinking Salton Sea, arguing it’s connected because the river’s supply problems due to drought have cut runoff to the lake. The irrigation district says the water district didn’t lock down a plan to access needed water before the deal was approved in Congress.

The new law authorizes the Department of Interior (DOI) to implement Colorado River drought plans, directing the Bureau of Reclamation to implement a Drought Contingency Plan for the river supplying about 40 million people and millions of acres of cropland. Arizona, California, Colorado, New Mexico, Nevada, Utah and Wyoming, which all draw water from the Colorado River and suffer from water shortages, signed off on the new DCP because it updates 2007 guidelines for water operations on the river.

The focus of the new law is to protect Lake Powell reservoir on the Utah-Arizona border and Lake Mead reservoir on the Nevada-Arizona border. The DCP outlines cutbacks states will make if water levels in the lakes drop below certain levels.

EU to Talk Trade, Just Not Ag Trade, So Maybe No Talks; Ag Imports Targeted over Aircraft Subsidies

It’s déjà vu all over again, as the European Union (EU) formally announced this week it’s willing to talk a new trade deal with the U.S., but only if U.S. steel/aluminum tariffs are lifted. The EU further stipulated it will only negotiate in two areas – reciprocal “non-auto” industrial goods tariff cuts and ways to make simpler how companies meet respective national standards – but not on agriculture.

No word on when or if the talks may begin. EU Trade Commissioner Cecilia Malmstrom this week said her government would like to see a deal done by year’s end, adding, “We are ready as soon as they (the U.S.) are. (However,) agriculture will certainly not be part of these negotiations. This is a red line for Europe.”

Sen. Charles Grassley (R, IA), chair of the Senate Finance Committee which must be bless all new trade deals, said, “I don’t think you can go ahead unless there’s an agreement on what you’re going to debate. So, the talks won’t proceed.”

Meanwhile, a separate war of tariff threats between the U.S. and the EU threatens to penalize U.S. agriculture yet again. The two governments are sparring over allegations of unfair government subsidies to their respective aircraft manufacturing industries – essentially, Boeing versus Airbus – and the EU has lined up $12 billion in new tariffs on U.S. imports, focusing on processed food and
agriculture products. The U.S. has targeted $11 billion on various EU exports for allegedly committing the same subsidy sin with Airbus. The EU won a World Trade Organization (WTO) complaint over the Boeing subsidy payments but says the U.S. hasn’t moved fast enough to end all subsidy payments to Boeing deemed by the WTO to violate international trade rules.

However, on the prospects for a U.S.-EU bilateral trade deal and EU limits, President Trump quickly responded that if ag is not on the agenda, he’s ready to slap new tariffs on EU auto exports, most of which come from Germany.

“They barely take our agricultural products, and yet they can sell Mercedes Benz and they can sell anything they want in our country including their farm products and it’s not fair,” Trump said at a Minnesota farmer meeting earlier this week. “I talk to them and say, that has to change...I said ‘Frankly, look if it doesn’t change, we’re going to tariff all of your cars and everything else that comes in.’ You can’t treat our farmers that way, you can’t treat our people that way.”

A handful of U.S. lawmakers say any draft treaty has little or no chance of congressional ratification without an agriculture component. Grassley told reporters this week, “Elimination of industrial tariffs and non-tariff barriers only get us part of the way there, especially when we face major barriers to agricultural trade in the EU. Agriculture is a significant piece of the global economy and it simply doesn’t make sense to leave it out. Bipartisan members of the Senate and the House...have voiced their objections to a deal without agriculture, making it unlikely that any such deal would pass Congress.”

EU ambassadors last week reached “an agreement in principle” to set negotiating directives and allow the European Commission (EC) to begin trade talks with the U.S. The EU wants a quick, limited treaty, mainly to ratchet down trade tensions between the two entities and avoid Trump’s tariff threat before the current EC administration leaves office at the end of October. To include agriculture among the negotiating items means months, not weeks, of trade talks, the EU says.

“We may be ready to launch negotiations, but it’s difficult to see how we can find common ground,” said the chair of the European Parliament’s trade committee.

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**Trade Notes**

**Japan, U.S. Begin Rapid-fire Treaty Talks** – Japan and the U.S. formally met this week beginning a series of rapid-fire trade meetings aimed at hammering out quickly two trade deals – the first, an ag-only pact, the second, all other issues. U.S. Special Trade Representative (USTR) Robert Lighthizer met April 15-16, with Japanese Economy Minister Toshimitsu Motegi, and two diplomats plan to meet again next week. Japanese Prime Minister Shinzo Abe is set to be in Washington, DC, April 26 for a state meeting with President Trump, and Trump may be in Japan twice in the next couple of months, first in May for a possible state visit and again in June for a G20 meeting. Agriculture Secretary Sonny Perdue confirmed this week the goal is to achieve two agreements: A narrow, agriculture-only treaty, and then a broader free trade deal, including talks on digital and automobiles, later. U.S. agriculture is very nervous watching one of the most lucrative export markets in the world increasingly trade only with TransPacific Partnership (TPP) cosigners due to reduced tariff and non-tariff barriers and increased market access agreements, or with the European Union (EU) with which Japan has a newly inked bilateral trade deal. Lighthizer
emphasized in a statement that since the two new Japanese bilaterals came on stream in the last couple of months, the U.S.-Japan trade deficit has jumped nearly 25% to $67.6 billion in goods alone. The U.S. Ambassador to Japan William Haggarty told a Tokyo newspaper this week, “By implementing these agreements before addressing our bilateral trade relationship, Japan is effectively redistributing market share away from its strongest ally, the United States.” The Japanese have made it clear to the U.S. the easiest way to enjoy the same concessions as other trading partners is for the U.S. to rejoin TPP, and have also signaled clearly no deal with the U.S. will include auto export quotas – Trump has also threatened Japanese auto exports with tariffs – and the U.S. must make concessions as well, including dropping its steel/aluminum tariffs and granting Japanese ag specialty products, like Kobe beef, broader access to U.S. markets.

USMCA Drawing More House Democrat Fire – While the lower chamber of the Mexican congress approved a major labor reform bill this week, effectively rewriting how the government treats labor unions – a major concern of House Democrats – Ways & Means Committee members, who must review and approve all trade deals, said they have several residual concerns with the environmental chapter of the U.S.-Mexico-Canada Agreement (USMCA). Panel Democrats contend the Trump administration addressed only some of the “key demands” they conveyed last year. All 25 committee Democrats signed a letter to U.S. Special Trade Representative (USTR) Robert Lighthizer telling the ambassador USMCA must go further on Mexican environmental protections. “The lack of consistent environmental standards in North America promotes the exportation of pollution between nations,” the lawmakers wrote, citing how U.S. companies send used lead batteries to Mexico to avoid U.S. disposal regulations. As far as the environmental chapter goes, they wrote, “it does not include any apparent provisions directed at mitigating the effects of climate change.” The letter is the third sent to Lighthizer by House Democrats, the first dealing with labor concerns, the second with overall enforcement measures.

ITC Says Economic Boost from USMCA to be “Slight” – The long-awaited mandatory analysis of the economic benefits of the U.S.-Mexico-Canada Agreement (USMCA) completed by the independent federal International Trade Commission (ITC) reveals there’s likely to be a minor boost to the U.S. economy from the new tripartite trade deal, but says, “USMCA would likely have a positive impact on U.S. trade, both with USMCA partners and with the rest of the world.” By ITC reckoning, the USMCA would increase the gross domestic product (GDP) by 0.35% or over $68 billion, create 175,700 jobs, but would have negligible impact – good or bad – on U.S. consumers. U.S. ag exports would increase about 1.1%, with dairy increasing $227 million or 43.8% annually; poultry exports would jump $183.5 million or 49.3%, with a small increase in U.S. wheat exports. Analysts say the “slight” increase in economic benefit of the new treaty needs to be combined with the maintenance of status quo non-tariff trade barrier reductions and the no-tariff trade among the three nations that’s been the hallmark of NAFTA for nearly 23 years. Farm groups were quick to point out the treaty also preserves “certainty and stability” in North American markets.

China-U.S. Talks Continue, say Media – Right now, it’s reported Treasury Secretary Steve Mnuchin and U.S. Special Trade Representative (USTR) Robert Lighthizer will be in Beijing the week of April 29 to continue the on-going negotiations to reach tariff détente with the Chinese. This latest round comes on the heels of several days of Washington, DC, talks with Chinese Vice Premier Liu He, right-hand man to President Xi Jinping and China’s chief trade diplomat, who’s reportedly returning to Washington the week of May 6. The Wall Street Journal reported this week that not only will Mnuchin and Lighthizer be in China in about two weeks, but that President Trump and Xi will likely announce and sign a treaty sometime in late May or early June. The White House would not confirm the report. Meanwhile Reuters reports this week that once a deal is done, it’s likely going to include a lifting by China of its ban on U.S. poultry imports, in place since 2015 due to
Avian Influenza (AI) concerns, and will most probably increase U.S. pork purchases due significant herd losses – nearly 200 million pigs have died or been culled, a 30% reduction in national herd – as that nation battles African Swine Fever (ASF). The U.S. also wants China to drop its ban on ractopamine, a growth promoter in swine prohibited since 2002, but that’s unlikely, according to reports.

**U.S. Scores Another WTO Victory Over China on Grain Tariff-Rate Quotas** – A World Trade Organization (WTO) dispute resolutions panel this week handed the U.S. its second victory over China, finding that China administers its tariff-rate quotas (TRQs) for wheat, corn and rice “inconsistently with its WTO commitments.” The first win for the U.S. was when the WTO found China’s government grain supports to be “excessive.” USDA reported the WTO found China’s administration of its TRQs – a complaint first brought during the Obama administration – is “not transparent, predictable or fair, and it ultimately inhibits TRQs from filling, denying U.S. farmers access to China’s market for grain.” China chronically left its annual TRQs unfilled, translating to about $3.5 billion in lost sales by exporters for corn, wheat and rice in 2015. U.S. Special Trade Representative (USTR) Robert Lighthizer said, “This second important victory for the U.S. further demonstrates that President Trump will take all steps necessary to enforce trade rules and to ensure free and fair trade for U.S. farmers.”

**STB to Hold Demurrage, Accessorial Charges Hearing**

A public hearing on the state of railroad demurrage and accessorial charges will be held by the Department of Transportation’s (DOT) Surface Transportation Board (STB) on May 22, in Washington, DC. The goal of the hearing, STB said, is to get information from railroads, shippers, receivers, third-party logistics provides and “other interested parties” about experiences with the charges, including reciprocity, commercial fairness, operational changes, capacity issues and the “effects of network fluidity.”

The board said it’s been closely monitoring the actions of Class I rail carriers and the changes the rails have made to demurrage/accessorial charges in their tariffs, and the STB has asked each Class I to provide information on quarterly revenues from the charges for 2018 and 2019.

Class I carriers will be directed to appear at the hearing and certain information will be required of them and must be filed by May 1, the STB said. That information will include a list of all material changes to demurrage/accessorial tariffs since January 1, 2016; total dollar amounts of charges billed and charges collected for all demurrage and accessorial charges for the past three calendar years; a detail explanation of the current process each carrier uses by which shippers, receivers and others can protest the charges, and a detailed explanation of any system or practice under which credits or debits have been issued in connection with the charges since January 1, 2016.

All hearing participants must file written submissions by May 8. The hearing will begin at 9:30 a.m. and will be held in the main hearing room of the U.S. International Trade Commission (ITC), 500 E Street SW, Washington, DC, near the STB headquarters.
Ag Students Would get Tax Exemption under House Bill

The first $5,000 a student earns from a project completed through 4-H or Future Farmers of America (FFA) would be federally tax exempt under new legislation introduced in the House. Called the Student Agriculture Protection Act, the bill is the work of Rep. Mike McCaul (R, TX), and is designed to be an incentive for new, young farmers to go into business.

The exemption would go to 4-H and FFA members under 21 years old and is designed to mitigate the tax bite from livestock premium sales while at the same time, encouraging participation in agriculture. Some student project animals can garner as much as $75,000 when a champion is sold, and a student, like any other wage earner, is liable for the taxes on that income.

FFA and 4-H projects can include livestock rearing, showing animals at local and state expositions, growing crops, ag mechanics and other production agriculture-related projects.