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The West's Ag Weekly

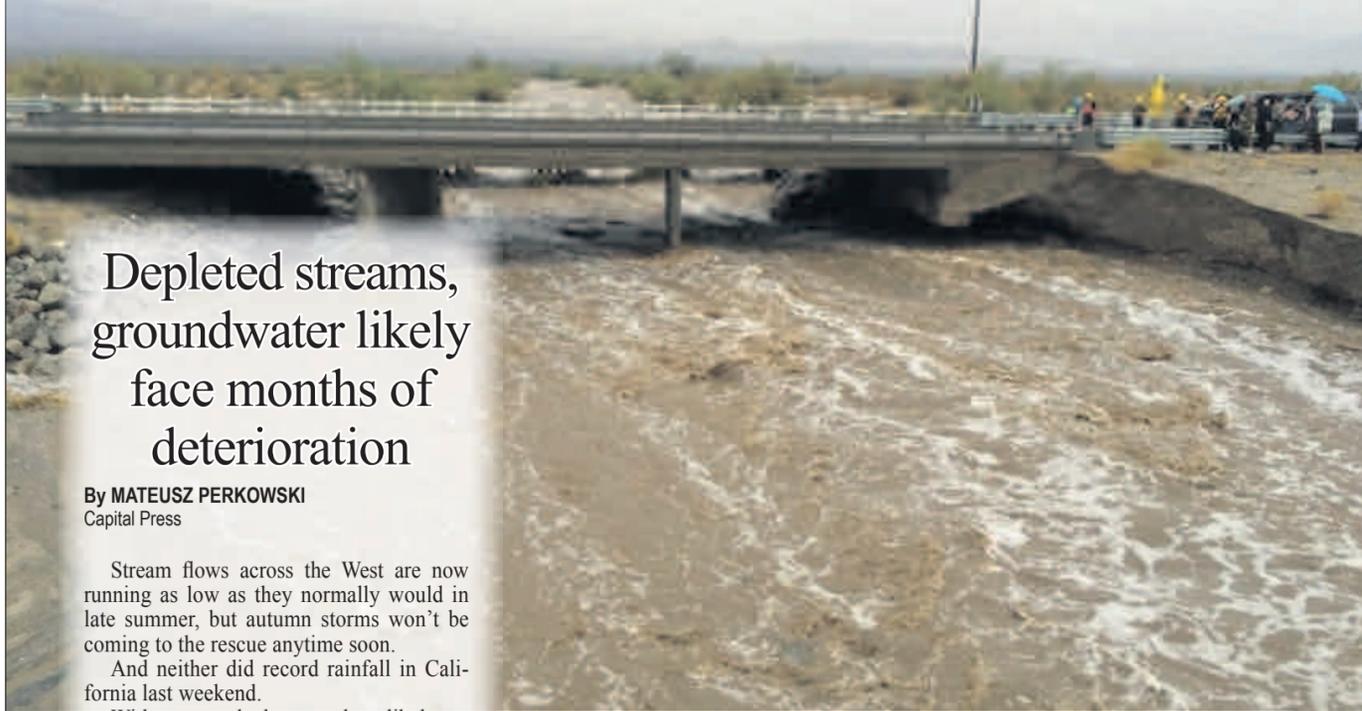
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NO RELIEF IN SIGHT FOR PARCHED WEST



Depleted streams, groundwater likely face months of deterioration

By MATEUSZ PERKOWSKI
Capital Press

Stream flows across the West are now running as low as they normally would in late summer, but autumn storms won't be coming to the rescue anytime soon.

And neither did record rainfall in California last weekend.

With seasonal dry weather likely to continue over the next couple of months, experts say the area is facing extremely parched conditions barring an unlikely stretch of low temperatures and high precipitation.

"We're expecting it to get worse. You're going to see deterioration in the region," said Dave Simeral, research meteorologist at the Western Regional Climate Center.

Given higher-than-normal temperatures over the past two months, streams and rivers are likely to heat up to the point of causing fish kills in some areas, he said.

Waterways should currently be receiving an infusion of cold water from melting snowpacks, but that snowfall was severely lacking last winter, Simeral said.

"You're not getting that cool water being put into the system," he said. "You saw a lot more rain than snow."

Snowpacks melted up to 12 weeks earlier than normal in Oregon and rainfall was insufficient to support stream flows, said Scott Oviatt, the state's snow survey supervisor for the USDA's Natural Resources Conservation Service.

"It's unprecedented, what we've been able to observe," Oviatt said. If the current trend continues, it's likely that some streams will completely dry out over the summer, he said.

For agriculture, that has meant senior water rights holders have "called" water up to a month and a half earlier than average, effectively cutting off irrigation for junior water rights holders, according to the Oregon Water Resources Department.

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Wash. farmers told to change pay practices

Supreme Court leaves door open for retroactive claims

By DON JENKINS
Capital Press

Washington growers should immediately start paying piece-rate workers separately for rest breaks, a lawyer who represents several farm groups says.

Yakima attorney Sarah Wixson advised a speedy acceptance of the state Supreme Court's 9-0 ruling July 16 that struck down the agricultural industry's practice of paying pickers by the pound, without extra pay for 10-minute breaks.

The justices left open the possibility that workers can retroactively seek pay. The ruling makes farms, especially large ones, vulnerable to further lawsuits, Wixson said.

The statute of limitations on wage claims is three years. The sooner a farm starts paying separately for rest breaks, the sooner time will run out on filing claims, she said.

"Everybody has to hold their breaths for the next three years," Wixson said.

The ruling stemmed from a 2013 federal class-action lawsuit filed against Skagit County berry company Sakuma Bros. Farms. The workers alleged wage violations, which were settled out of court last year. Workers asked the state Supreme Court whether going forward Sakuma had to pay piece-rate pickers separately for rest breaks.

Company spokesman Roger van Oosten said Friday that Sakuma revised its wage structure for the 2015 harvest to pay separately for rest breaks. Workers are paid at least \$10 an hour, with bonuses for the amount of berries picked. Pickers can earn up to \$40 an hour, he said.

"We've been doing it the whole picking season," he said.

Wixson said the ruling invites lawsuits because workers' attorneys won't have to prove anything.

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In this photo provided by the CAL FIRE/Riverside County Fire Department, heavy stormwaters rush under an the elevated portion westbound Interstate 10 as emergency crews respond to the collapse of the eastbound section, Sunday, July 19, 2015, in Desert Center, Calif. Record rainfall in much of Southern California last weekend had little impact on drought conditions in the Golden State, experts say.

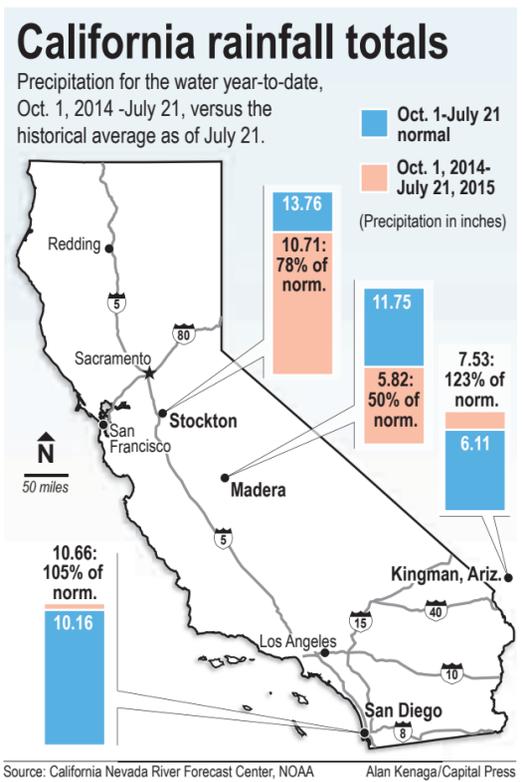
Chief Geoff Pemberton/CAL FIRE/Riverside County Fire

INSIDE

MORE frequent, severe DROUGHTS probable in the WEST

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Ag questions new Clean Water Act rule

Critics say EPA, Corps of Engineers rely on trust that doesn't exist

By CAROL RYAN DUMAS
Capital Press

A new rule defining the waters of the U.S. protected under the Clean Water Act has generated a flood of criticism and a growing number of legal challenges from farmers, ranchers and irrigators.

They claim that the Environmental Protection Agency and U.S. Army Corps of Engineers, which wrote the rule, are participating a "land grab" and that enforcement of the rule is open to interpretation by government officials.

EPA officials say the new rule includes exemptions for agricultural activities and that

nothing will change for farmers and ranchers.

However, the language of the rule reads differently, said Brian Olmstead, manager of the Twin Falls Canal Co. Like many irrigators, he sees the rule as reason for concern.

"It looks to us like EPA wants to regulate every farmer, every ditch and every irrigated pasture," he said.

The agency says "just trust us," ag exemptions will be maintained, he said.

The Clean Water Act makes it illegal to discharge any pollutant from a single source into navigable water without a permit. Permits are costly and fines

are hefty. Until recently, agriculture has operated for nearly 40 years under a definition of navigable waters and exemptions for normal practices.

The new rule expands that regulatory jurisdiction to any water with even a remote connection to those navigable waters, Olmstead said. The rule, he said, doesn't clearly define protected waters and leaves determinations up to the agency.

EPA officials disagree. They say the new rule is intended to clarify which waters are protected in response to Supreme Court decisions and the public's demand for great-



Carol Ryan Dumas/Capital Press
Norm Semanko, left, executive director of Idaho Water Users Association, talks with Lynn Harmon, manager of Big Wood Canal Company/American Falls Reservoir District 2, during IWUA's summer law conference in Sun Valley in June.

er clarity, consistency and predictability in jurisdictional determinations.

the Clean Water Act is "navigable waters," defined in the

The jurisdictional scope of

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