



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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ADMINISTRATION

Corps/Western Water Cooperative Committee

On December 3-4, the U.S. Army Corps of Engineers (Corps) hosted the first in-person meeting of the Western Water Cooperative Committee (WWCC) in Bismark, North Dakota. The meeting kicked off with an overview of the WWCC purposes, membership, and requirements under §8158 of the 2022 Water Resources Development Act (WRDA) (P.L. 117-263). The Corps provided a briefing on their mission and authorities, and the complexity of operating multi-purpose reservoirs under sometimes conflicting laws, policies, and stakeholder expectations. Western states, on the other hand, operate within dense layers of state law, compacts, tribal rights, and international treaties.

Western states raised concerns about: persistent communications gaps; the need to work with states as sovereign partners rather than as stakeholders, particularly where water is concerned; the need for operational flexibility; several high stakes conflicts that need to be addressed; and some examples of successful Corps-State partnerships that might serve as models. Some central friction points have included sovereign land issues, surplus water supply, natural flows, and state permitting requirements. The Corps emphasized that the WWCC's role is to bring structured, principled recommendations to Congress, and not to engage in case-by-case bargaining.

During the meeting, the WWCC members agreed that bylaws are essential to operationalize the Federal Advisory Committee Act (FACA) charter, leading to creation of a Bylaws Working Group.

Alaska raised concerns about addressing the Per- and Polyfluoroalkyl Substances (PFAS) issues at the Chena River Project, requiring special caution in any new development.

California pointed to the success of recent collaborations on Forecast Informed Reservoir Operations (FIRO) and Managed Aquifer Recharge (MAR) projects, as well as climate-informed watershed modeling in the San Joaquin Basin. They are interested

in a joint Corps-California Department of Water Resources partnership session on groundwater recharge, and to look for more flexible operations to support both flood protection and water supply.

Colorado raised concerns with the Corps' operational rigidity, using coarse release increments, and their reluctance to use certain storage zones (e.g., "one foot zone" at Cherry Creek). They are experiencing difficulty in multi-party reallocation efforts under the Corps' existing protocols. Colorado agreed to provide concrete examples of operational inflexibility to help diagnose policy vs. structural vs. statutory limitations.

Idaho's significant funding commitment to address aging infrastructure is still far from sufficient to meet the existing needs. They have been frustrated with the slow hydrologic evaluations, such as at Ririe Reservoir. There is a growing need for the Corps to evaluate opportunities to augment water supplies in arid western states.

Kansas has had long-standing water storage contracts with the Corps. Their 1985 MOU allows the purchase of municipal and industrial water supply storage in Corps reservoirs at original construction prices. They have monthly reservoir accounting; heavy sedimentation has resulted in 20-50% storage loss in some areas. Kansas has seen a need for greater operational flexibility and better cost transparency. They expressed a desire for states with prior appropriation systems to be the first to conduct reservoir accounting.

Montana noted that Fort Peck Reservoir water releases for pallid sturgeon are causing major downstream economic impacts; the species is not listed under the Endangered Species Act (ESA), raising questions about the Corps' justification.

Nebraska raised the conflict at Harlan Reservoir where Corps rules conflicted with state's need to meet compact obligations to Kansas.

New Mexico noted unresolved responsibilities for channel maintenance at Abiquiu acequia. The acequia projects are bogged down in execution and funding.

North Dakota raised ongoing concerns with how the Corps has responded to the State's assertion of sovereign ownership of beds, banks, and islands in navigable water bodies. They expressed strong objections to the Corps' 2018 shift away from seeking state permits for work on sovereign lands, noting particular concerns over Snake Creek Embankment funding, Williston levee classification, and ESA-driven actions (e.g., piping plover). North Dakota agreed to submit written comments on sovereign lands permitting, and the Fort Peck, Snake Creek, and Williston issues.

Oklahoma said that the State-Corps arrangements at Grand Lake has served as a model for other lakes, and for linking operations to conservation and recreational benefits.

Oregon pointed favorably to the success in Willamette Basin storage reallocation, but expressed major concerns about the Bureau of Reclamation's (BOR) limitation to irrigation-only storage rights and frustration with the exclusion of the state from ESA consultations. They will consider elevating concerns about BOR's limited role in Willamette Basin water supply/flow changes.

Washington pointed to collaborative models, like the Howard-Hanson Dam on the Green River, which is crucial for Tacoma's water supply.

Wyoming noted that they have no Corps-owned dams in their state, but the Corps plays a role in BOR dams and in several multi-state water basins. They emphasized state sovereignty with regard to water rights and interstate compact obligations, and the need to address aging infrastructure at headwater facilities.

WSWC noted the WWCC was created to ensure that states are heard as sovereign partners, not advisory stakeholders, and the need to institutionalize regular state-Corps meetings at district/division levels so that collaboration survives leadership turnover.

The states agreed to provide written comments on specific issues and concerns to the WWCC as well as the Corps staff. Where relevant, the states will develop proposals for action related to compact operations, ESA roles, acequia projects, mitigation banking, etc. They will also prepare state-specific issue briefs and legislative proposals in advance of the next in-person meeting.

The next virtual meeting(s) will take place in early 2026 to finalize bylaws and continue substantive policy work. The WWCC intends to prepare substantial recommendations to Congress by August 2026, to feed into the WRDA 2026 cycle. The next in-person meeting is anticipated for September in Denver, Colorado, with a focus on legislative proposals from member states.

Senator Kevin Cramer (R-ND), who sponsored the legislation that created the WWCC, said: "Holding this meeting is long overdue, but I'm hopeful it will lead to a more productive relationship between western states and

the Army Corps. States and water users know their unique water issues better than any bureaucrat in Washington and I look forward to collaborative cooperative federalism from the Army Corps." Senator Cramer repeatedly pressed the Corps on moving forward with creating the WWCC, seeking to remove obstacles and excuses to ensure that these meetings would become a high priority. See WSW #2557, 2598, 2633, and <https://www.cramer.senate.gov/news/press-releases/cramer-announces-inaugural-western-water-cooperative-committee-meeting>

The Western Governors' Association said: "Western Governors applauded the first meeting of the Western Water Cooperative Committee.... Working alongside the U.S. Army Corps of Engineers, Governors were pleased to appoint representatives to this crucial committee to ensure key water projects deliver for communities across the West. Thank you to Senator Kevin Cramer and Senator Jeff Merkley for your leadership on this important legislation."

ADMINISTRATION/WATER QUALITY **EPA/Good Samaritan Pilot Projects**

On December 2, the Environmental Protection Agency's (EPA) Office of Mountains, Deserts, and Plains (ODMP) hosted a live webinar (recorded for later viewing) to provide updates on the Good Samaritan mine cleanup program enacted by the Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2024 (P.L. 118-155). On the call, EPA discussed the program's permitting process and the National Environmental Policy Act (NEPA) review and explained the program's goals and implementation timelines from 2026-2028.

EPA noted that there are over 100,000 abandoned hard rock mine lands (AMLs) in the United States, and protection from liability under the Clean Water Act (CWA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) has been identified as a significant barrier to cleanup projects. The Good Sam program aims to address this by providing long-term shields from the CWA and CERCLA, starting small with 15 remediation permits. EPA's goal is to see success in all 15 pilot projects, while demonstrating that this can be a viable long-term tool by providing meaningful examples for future potential projects across different conditions and geographic diversity.

Jamey Watt, ODMP, said: "It's okay to start small. Small improvements over time will cumulatively lead to larger benefits... As you think about your remediation projects, make sure they do not include any action that requires plugging, opening or otherwise altering the portal or adit of an abandoned hard rock mine site."

The law requires that these permits be limited to low-risk sites – with an eye toward accessibility, safety, proven processes and technologies – and that the Good Sam applicant has financial assurance to ensure completion of the project and prevent worsening

conditions. The Good Sam program does not offer funding to support these projects, but funding through other federal programs is not prohibited. The application must include general information about the site and past owners, eligibility criteria, project description, planned remediation activities, health and safety plans, cost estimates, contingency plans, and supporting information.

The application process also includes a NEPA environmental assessment (with a finding of “no significant impact”), and the lead NEPA agency will depend on the project location. Additional consultations under the ESA and the National Historical Preservation Act are also required. The program does not specify a standard for success but focuses on making measurable progress in water quality, soil quality, improved management of erosion and historic mine residue, and other environmental conditions. The more of these that can be met by a single project, the better.

EPA plans to roll out the program in three phases: (1) 1-3 sites on private and state lands starting the construction phase in 2026; (2) another 8-10 pilot projects in 2027 addressing some sites on public lands; and (3) the remaining projects in 2028, focusing on some of the more challenging low-risk projects such as fixed ownership sites and reprocessing sites.

While permits are not officially available yet, EPA and other federal agencies have engaged in discussions with potential project applicants. Other interested project proponents were strongly encouraged to engage in pre-application discussions with ODMP and any other impacted federal, state, tribal, or local agencies to answer questions. EPA is interested in having strong support from all levels of government and affected parties and communities. They are also considering some training on the application process, potentially next summer. Several states on the call expressed interest in training specifically for states. EPA’s Good Sam website includes an eligibility worksheet for both the proposed site and for the Good Sam applicant, and a conceptual application flowchart. See: <https://www.epa.gov/cleanups/good-samaritan-remediation-abandoned-hardrock-mines-program>.

David Hockey, ODMP Director, said: “I think the states are the key here to unlocking some of these successes. Your states have a lot of knowledge about AMLs within your state boundaries. They’re the ones we’re going to look to for some consultation or acknowledgment of the project you’re doing.... States have deep knowledge of water quality issues within your state, abandoned mine issues within your state. They also know local issues, and that’s going to be key here too. We want support from local communities for these projects.”

EPA/ACWA/Water Reuse and Data Centers

On December 3, EPA and the Association of Clean Water Agencies (ACWA) hosted a virtual meeting for

state regulators on water reuse for data centers. Presentations included information on state permitting, water treatment requirements, and water demands for cooling technologies.

Construction starts for new data centers have increased by 500% in the past two years, significantly increasing demand for water across the country. The dominant criteria for siting new data centers tends to be energy accessibility, network connectivity, and land affordability, while water availability is not often a consideration. The facilities contain processors that generate heat from computational effort, and that heat must be removed from the building to protect the equipment. The amount of water necessary to start and continuously run a data center is difficult to pin down; water demand can span two orders of magnitude and may depend on the size of the center (a few thousand to a million square feet), the coolant design, and the impact of seasonal outdoor temperatures. Even for individual data centers, the water demand varies over time.

Presenters shared information about different cooling technologies, and how these may intersect with state regulations on water reuse. Evaporative designs tend to be more energy efficient but more water intensive, and they are more likely to fall under state water reuse regulations addressing mists and aerosols (and pathogens such as Legionella). Non-evaporative designs don’t directly use much water, but they are far more energy intensive. Direct-to-chip or immersive cooling is a closed-loop system with a minimal water demand, and while the design is still in the early stages, there seems to be significant interest and swift early adoption of the new technology.

States decide their own requirements for water reuse, covering different water sources (municipal wastewater, industrial wastewater, stormwater) and end-use applications (cooling, irrigation, groundwater recharge). About 20 states have clear regulations permitting the use of treated wastewater for cooling. Sixteen states allow cooling with systems generating mists, aerosols, or vapors (which increase human exposure risk). Some states require higher levels of treatment (e.g., disinfection, tertiary treatment) for cooling uses that could generate worker or public exposure. Five states have explicit requirements addressing Legionella risk; some require biocides, setback distances, or special monitoring. Three states prohibit cooling applications that create mists/aerosols.

Several states permit cooling on a case-by-case basis because their regulations are not fully developed for such applications; this can require closer coordination between utilities, data centers, and regulators. States specify treatment levels (e.g., secondary, tertiary/disinfected) depending on intended use and potential for human exposure. States often require monitoring for microbial indicators (E. coli or other fecal indicators), minerals responsible for scaling, and operational parameters (turbidity, residual disinfectant).

Monitoring frequency (monthly, weekly) and action thresholds for pathogens or other water-quality metrics can differ widely. States are increasingly attentive to issues like brine management (from blowdown water), total dissolved solids (TDS), temperature of water returned to the environment, and the overall variability in data center water usage. Since the existing regulations were not written with data centers specifically in mind, there was some discussion among the regulated community about harmonizing the regulations with the on-the-ground experiences, and considering a more risk-based approach for pathogens in particular.

EPA provided an overview of their REUSExplorer tool, which provides searchable summaries of 185 state reuse regulations. The tool was developed by EPA and other partners as part of the Water Reuse Action Plan (WRAP 3.1). See <https://www.epa.gov/waterreuse/regulations-and-end-use-specifications-explorer-reuseexplorer>.

During a discussion among state regulators, concerns were raised about the: adequacy and resilience of infrastructure; gaps or ambiguities in regulatory frameworks and oversight; equitable negotiations and data transparency; and the need to manage environmental and public health risks as data centers rapidly expand in their states. They also acknowledged the positive value of these data centers to local communities.

Data centers often choose locations in small towns with affordable land and energy, where water and wastewater systems may lack the capacity to meet large, variable, or peak demands. In some cases, a single data center's cooling process water needs can exceed a town's existing infrastructure capacity. Data centers have highly variable water usage and unpredictable peak demands, making infrastructure planning and permit allocations difficult. Some areas already rely on groundwater or small water bodies, and data centers can exacerbate existing water supply challenges. Wastewater streams from data centers can disrupt treatment processes or stress receiving waters, and challenge existing wastewater permits.

State water reuse regulations are not always defined well enough to know how best to apply them to data centers and newer technologies. Permitting can also be challenging where data centers have a complex ownership or development structure. This can lead to different entities handling different phases of the permitting process, the use of non-disclosure agreements, and fragmented or redacted applications. Communication among all parties can be challenging. Data centers may be reluctant to fully disclose water quality or operational data, making it hard to assess impacts or craft appropriate permits. Small towns may lack experience negotiating with large corporations,

sometimes agreeing to seek permits on behalf of the corporation, or to infrastructure arrangements, and those agreements can carry long-term risks or liability for the community. Where multiple data centers are clustered in a region, all of these challenges can be multiplied, potentially overwhelming regional water resources, utility capacity, and environmental assimilative capacity.

ORGANIZATIONS/MEETINGS

ICWP/WSWC/Water Workforce Development

On November 19, the Interstate Council on Water Policy (ICWP) and WSWC hosted a joint webinar on Water Workforce Development: Insights, Strategies, and Solutions. Representatives from Xylem and engineering firm Olsson discussed their approaches to skilled talent acquisition, education, training, and retention. Xylem focuses on adaptability, digital literacy, continuous learning, and multi-disciplinary roles. Olsson uses advanced social media features (LinkedIn) and external hiring agencies for hard-to-fill roles. They make the most of internships, cross-training, and community involvement to attract and retain talent. They also retain resumes for "talent rediscovery" as new positions open up. The Colorado Water Center discussed their K-12 initiatives to raise awareness of water-related careers, inter-disciplinary college programs, and connecting students across different majors to water-related fields. Their programs receive funding from a combination of academic institution funding, grants, and fees.

Panelists from different states shared insights on workforce challenges in water resource management, including issues with qualified water and wastewater operator recruitment, aging workforce concerns with a greater impact in rural areas, and the need for qualified technical candidates. They discussed various approaches to hiring and recruitment, including targeting educational institutions and promoting interdisciplinary programs to attract qualified candidates.

The discussion concluded with strategies for recruiting and developing water workforce talent, emphasizing the importance of collaboration between public and private sectors to address workforce gaps and adapt to changing demands. They talked about leveraging traditional and modern recruitment channels, collaborating with academic institutions, and addressing challenges in underserved communities. States shared approaches like creating externship programs, utilizing grant funding, and partnering with rural water associations to meet workforce needs. The discussion also considered adapting recruitment strategies to attract candidates without traditional degrees.

A follow-up virtual conversation among ICWP and WSWC members is scheduled for January 29, at 12pm MST. See <https://westernstateswater.org/events/icwp-wwsc-water-workforce-development-workshop-no-2/>

The WESTERN STATES WATER COUNCIL is a government entity of representatives appointed by the Governors of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.