



Addressing water needs and strategies for a sustainable future.

WESTERN STATES WATER

Chair - Julie Cunningham; Executive Director - J.D. Strong; Editor - Elysse Ostlund Campbell

MEETINGS

WSWC Summer (210th) Meetings

On July 13-16, the WSWC held its Summer (210th) Meetings virtually, covering topics from state water roundtables and post-Sackett permitting to data centers, infrastructure, and Council business. Members elected Earl Lewis (Kansas) as Chair, Candice Hasenyager (Utah) as Vice Chair, and Ria Berns (Washington) as Secretary-Treasurer for FY27. Outgoing Chair Julie Cunningham was recognized for guiding the Council through a period of transition, with the retirement of longtime executive director Tony Willardson, the hiring of a new executive director, and the launch of a new strategic plan. The Council adopted [Position #2026-03 – Support for SRFs, WIFIA, and State & Tribal Assistance Grants](#), an updated approach to a previously sunseting policy.

State-Federal MOUs Roundtable

The discussion established Memoranda of Understanding (MOUs) as a valuable tool for state-federal coordination, offering flexibility that formal legislation or settlements lack—even as long negotiation and renewal timelines remain a challenge. Wyoming's 15-year water quality MOU with the U.S. Forest Service (USFS) and Bureau of Land Management (BLM) served as one example, demonstrating benefits like regulatory alignment, NEPA coordination, and improved data sharing. Utah's yearlong process to finalize a Great Salt Lake coordination MOU illustrated the upfront investment these agreements require. Members agreed that effort pays off over time, as renewals speed up once agencies build familiarity and trust with a framework.

Other states described similar arrangements spanning Clean Water Act (CWA) certifications, Bureau of Reclamation (Reclamation) water release agreements, and emerging efforts to work with the Federal Permitting Improvement Steering Council to coordinate infrastructure permitting under Title 41 of the Fixing America's Surface Transportation Act ("FAST-41") (42 U.S.C. § 4370m et seq.). Ultimately, members favored MOUs' non-binding, adaptable structure over litigation or legislation, noting that it keeps negotiations collaborative rather than liability-driven and allows parties to test and adjust procedures over time.

State Perspectives Roundtable

The state roundtable invited members to share pressing challenges, insights, successes, and topics of interest to the full Council. Drought, federal funding disruptions, and data center growth were central concerns for most states, while states also pointed to real progress, including resolved legal disputes, new infrastructure funding, and administrative innovations.

Shared Challenges

Drought dominated reports from most states. South Dakota reported irrigation shutoffs, Idaho saw its warmest winter on record threaten a 40-year-old streamflow settlement, and Utah is battling the nation's largest active wildfire (roughly 374,000 acres).

Federal funding disruption was another common thread. Kansas and Oregon flagged delayed FEMA reimbursements and narrower eligibility for dam safety and floodplain programs, and states are bracing for the lapse of IJA funding absent new Congressional appropriations.

Data centers were raised by nearly every state, reflecting a broader struggle to keep permitting capacity, public understanding, and water regulations in step with the pace of new development. States reported permitting strained by surging applications, heavy public concern, and a lack of hard data on projected water and power usage.

Successes

States reported a wide range of positive developments, including landmark legal settlements and novel administrative mechanisms. Idaho finalized the Coeur d'Alene Tribe water rights settlement, resolving decades of litigation across the Coeur d'Alene and Spokane River basins and paving the way for companion federal legislation. Oklahoma secured a \$44M settlement in its 25-year CWA lawsuit against poultry companies. States also advanced new administrative tools, such as Utah's Dedicated Water Application form to expedite moving water to the Great Salt Lake without requiring proof of beneficial use.

Several states celebrated new funding for community infrastructure and safety upgrades. Oklahoma secured \$1M for water rights enforcement, and Kansas highlighted the continued success of its own small-community grant program. On the public safety front, Texas began distributing \$50M in legislative funding for county flood-warning sirens, and North Dakota launched "Operation Safe Flow"¹ to fund engineering designs at six low-head dam sites to eliminate dangerous drowning hazards. Utah Water Quality also upgraded its e-permitting system.

States also launched proactive public-facing programs to drive engagement and long-term planning. L'Oreal Stepney highlighted Texas's new "This Is Texas Water"² public awareness campaign to educate citizens on the hidden role of water in daily life. Washington launched its "Washington's Water Future"³ initiative, placing the agency in a listening posture to gather input from agriculture, tribes, utilities, and environmental groups on drought resilience strategies and water code modernizations.

Post-Sackett Water Quality Permitting Roundtable

States compared how they've responded to the *Sackett* decision's narrowing of federal jurisdiction. On NPDES permitting, many states reported they aren't altering their permitting scope, since their state-level definitions of "waters of the state" remain broader than the federal WOTUS definition. States are countering a growing misconception that a negative federal jurisdictional determination means no state permit is needed through public education and outreach. The Environmental Protection Agency (EPA) confirmed that a new supplemental WOTUS rulemaking is currently under interagency review, with another public comment period expected.

Members also reviewed how states are filling post-*Sackett* 404 permitting gaps. Wyoming issued a general permit under existing statutory authority, while Colorado passed 2024 legislation establishing a new state permitting program, with irrigation ditch exclusions as the most contested issue. Washington is encountering the same issue as it drafts a similar rule. Several states also noted interest in full Section 404 program assumption, with Utah conducting a feasibility study.

Water Data Roundtable

Participants discussed the challenge of modernizing aging state water data systems, establishing that it depends on strong data governance, active agency involvement, and better Quality Assurance/Quality Control (QA/QC) and metadata practices.

States also shared concern over the future of federal data infrastructure, particularly U.S. Geological Survey (USGS) streamgages and the Natural Resources Conservation Service (NRCS) Snow Telemetry (SNOTEL) network, as staffing shortages and budget pressures threaten their upkeep. Paula Cutillo (BLM) recommended states communicate to federal agencies which streamgages are critical to their operations, as the concerns expressed during the WSWC Spring Meetings were

heard and BLM has made changes to their approach on streamgages.

Data Center Roundtable

States compared approaches to regulating water reuse for data center cooling, with discussion centering on whether the industry's unique risks—such as airborne *Legionella* exposure from treated effluent—warrant specialized rules or can be managed under existing standards. Nevada is developing new regulations to address this inhalation risk, while other states, including Oklahoma and Colorado, rely on established indirect reuse and reclaimed municipal water standards. Utah passed a transparency-focused law requiring large facilities to report water usage on a facility-by-facility basis, and Idaho enacted an emergency measure barring new data centers from consumptive cooling water use unless supplied by an established municipal or water/sewer district.

Members weighed treated oil and gas produced water as an alternative cooling source, but noted that geographic mismatches and the novel chemical risks of evaporating produced water make it impractical without further research. States established Managed Aquifer Recharge (MAR) as a critical tool that demands careful engineering and regulation to avoid contaminating existing groundwater supplies.

Water Infrastructure Roundtable

Members discussed how states can successfully leverage alternative revenue streams and proactive technical assistance to help rural municipalities overcome the heavy administrative burdens of federal funding. As federal funding sources decrease, states are using repurposed one-time funds, streamlined loan programs, and direct technical assistance to help smaller communities manage federal funding's administrative complexity. Oklahoma allocated \$35M in unspent American Rescue Plan Act (ARPA) interest earnings to create a new state-only revolving loan program, and paired the loans with a contracted “CFO to Go” service—modeled after Texas—to provide

technical assistance helping rural towns complete mandatory audits.

States highlighted long-term planning tools to address severe funding gaps caused by the end of IIJA funds and reductions in SRF capital due to congressional earmarks. Wyoming is undertaking a statewide asset management planning project, mapping community infrastructure needs to present to the state legislature. Utah outlined its Unified Water Infrastructure Plan, which cataloged thousands of local projects and created a legal framework for states to redirect excess funds where needed most.

ADMINISTRATION/WATER QUALITY **Good Samaritan Permit**

On July 16, the EPA published a notice proposing to issue a Good Samaritan remediation permit to Trout Unlimited Inc., to clean up the abandoned Bodie Mine site in Okanogan County, Washington (91 FR 43630). The proposed activities will address environmental hazards by excavating up to 790 tons of contaminated soil and sediment from the streambank and bed of Toroda Creek. The remediation will stabilize the area using native revegetation and other techniques to prevent future erosion, effectively reducing the annual release of 104 tons of tailings deposits into the creek and minimizing the spread of harmful pollutants like arsenic, cadmium, and lead.

The EPA has preliminarily determined that the application meets all requirements under section 4 of the Good Samaritan Remediation of Abandoned Hardrock Mines Act (P.L. 118-115). The Act created a pilot program that authorizes EPA to issue up to 15 remediation permits for eligible projects to qualified “Good Samaritans” to voluntarily clean up “abandoned hardrock mine sites.” These permits enable Good Samaritans and Cooperating Persons to carry out remediation activities while being protected from certain liability risks under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the CWA, provided the work complies with the terms of the permit. Specifically, Good Samaritan projects, as compared to baseline conditions,

must make measurable progress towards achieving applicable water quality standards, improved soil quality, improved sediment quality, other improved environmental or safety conditions, or reductions in the threats to soil, sediment, or water quality or other environmental or safety conditions. Additional EPA Good Samaritan information can be found at <https://www.epa.gov/cleanups/good-samaritan-remediation-abandoned-hardrock-mines-program>.

EPA confirmed that the Bodie Mine site project is low-risk, that all involved parties qualify as Good Samaritans or Cooperating Persons, and that no responsible owner or operator could be identified for the site. The notice invites public comment on the permit application, with a deadline of August 17, 2026. Interested parties can submit feedback at [regulations.gov](https://www.regulations.gov), Docket ID No. EPA-HQ-OLEM-2026-3103.

ADMINISTRATION/WATER RESOURCES **Regulation for Financial Assistance**

On July 13, the public comment period closed for the Office of Management and Budget (OMB) proposed rule, Regulation for Financial Assistance (91 FR 32198). The rulemaking standardizes administrative requirements, cost principles, and audit requirements across 2 CFR Part 200 for all federal grantmaking agencies.

The proposed rule fundamentally reshapes federal financial assistance by expanding political oversight and agency termination powers. Designated senior appointees must conduct mandatory pre-award reviews (§ 200.205) to ensure grant proposals demonstrably advance presidential policy priorities. Additionally, federal agencies gain expanded authority (§ 200.340) to issue 90-day stop-work orders or permanently terminate active grants if a project no longer aligns with agency priorities or the national interest.

Alongside structural changes, the rule establishes strict content and cost restrictions. It prohibits using federal funds for diversity, equity, and inclusion initiatives, gender identity concepts, or public issue messaging, while restricting international

research collaborations with designated adversary nations. To tighten day-to-day administration, the rule eliminates fixed-amount lump-sum awards (§ 200.333) in favor of granular actual-cost tracking, mandates the use of Grants.gov, and restricts specific cost items—most notably prohibiting grant funds from being used to pay organizational membership dues (§ 200.454) and restricting allowable expenses for conference participation (§ 200.432) without prior federal agency approval.

Key Comments by State Water Associations and Western States

A coalition of state water and waste associations including the Environmental Council of the States (ECOS), Association of State Drinking Water Administrators (ASDWA), and the Ground Water Protection Council (GWPC) submitted detailed comments highlighting that the rule reduces operational certainty and increases administrative friction for state agencies.⁴

The coalition flagged the restriction on using federal grant funds for organizational membership dues and conference travel as a primary concern. They explained that state drinking water and environmental managers rely on associations like ASDWA and ECOS to coordinate regulatory implementation with EPA, host national technical workshops, and facilitate peer-to-peer training on complex standards. Restricting these cost items hampers state administrative capacity and intergovernmental coordination. Furthermore, these associations warned that mandatory pre-payment Do Not Pay checks, E-Verify tracking, and the elimination of fixed-amount subawards impose heavy unfunded compliance mandates on understaffed state agencies without providing supplemental administrative funding.

The Water Sector Coalition and the Association of Metropolitan Water Agencies (AMWA) submitted comment⁵ emphasizing the rule's threat to multi-year infrastructure financing, noting that the nation's water and wastewater sector requires more than \$3.4T in capital investments over the next 20 years. They argued that granting political appointees

broad authority to suspend or terminate active grants mid-project destroys the dependability of federal matching grants and State Revolving Funds (SRFs). This unpredictability sends negative credit signals to municipal bond markets, ultimately raising borrowing costs for local water utilities and tax-paying communities.

A 22-state coalition of Attorneys General (including California, Colorado, Arizona, Nevada, New Mexico, Oregon, and Washington) filed comment⁶, characterizing the proposal as an unconstitutional executive overreach that risks political weaponization of non-partisan grantmaking. The AGs argued that appointee pre-reviews and arbitrary termination powers violate the Administrative Procedure Act (APA), the Impoundment Control Act, and the Antideficiency Act by unlawfully overriding congressional program mandates. Furthermore, the coalition argued that broad policy bans and restrictions on disparate-impact analyses impair states' abilities to enforce civil rights laws and deliver targeted environmental justice assistance, while new sub-recipient monitoring rules impermissibly commandeer state resources to enforce vague federal reputational standards.

CONGRESS/WATER RESOURCES

Senate EPW/WRDA 2026

On July 15, the Senate Environment and Public Works Committee (EPW) unanimously advanced WRDA 2026 (S. 4949), sending the bipartisan legislation to the full Senate. The bill reauthorizes the Clean Water and Drinking Water State Revolving Funds (SRF) and WIFIA for four years, while also expanding SRF eligibility to include PFAS remediation. Both the Senate EPW Committee and the House Transportation & Infrastructure Committee (H.R. 9497) have unanimously approved their respective versions of the legislation. The House version does not explicitly include the SRF reauthorization provisions, making the Senate package a focal point for ongoing negotiations.

The Senate package authorizes more than \$35B over the next four years. This includes \$16.5B for the Drinking Water SRF

and \$14B for the Clean Water SRF. It explicitly allows states to use SRF loans to tackle PFAS and other emerging contaminants, and directs grants toward strengthening cybersecurity in rural and mid-to-large drinking water systems. (WSW # 2701)

WEBINARS

FIRO Updates

On July 22, the WSWC hosted a webinar providing an update on the progress of Forecast Informed Reservoir Operations (FIRO) Screening Program. Presenters included Cary Talbot, National Lead Engineer for the FIRO Program, U.S. Army Corps of Engineers' Engineer Research and Development Center (ERDC); and Elissa Yeates, Research Hydraulic Engineer and the lead developer of the FIRO Screening Process who has overseen its application to USACE Districts across the country.

The FIRO program is working to modernize reservoir management from rigid "rule curves"—where operators must release water to meet specific dates regardless of conditions—to a flexible "zone" operation. This allows operators to leverage reliable weather forecasts to retain more water for supply and conservation when appropriate, while still maintaining flood risk management safety. There is strong, bipartisan, and ongoing support from Congress (including language in WRDA 2024) and the Department of the Army—across several Administrations—to implement FIRO wherever practicable.

Yeates detailed the three-stage national screening process currently used to prioritize which of the 593 USACE flood control reservoirs should pursue FIRO. Stage A (high-level screening) is complete, while Stage B (site suitability assessment) and Stage C (stakeholder dialogue) are underway. She shared several slides indicating which sites were determined to be potential candidates for Stage B.

Sites with one or more of the following barriers were generally eliminated from further consideration: (1) the reservoir lacks the physical infrastructure to regulate outflows; (2) the site lacks a water control

plan; or (3) insufficient precipitation and inflow forecast skill for the site. Sites with other barriers were deprioritized for further consideration, such as the lack of alignment among necessary stakeholders, active litigation, complications arising from specific site laws or engineering constraints, or disagreement between the water manager's perception of forecast skill and the formal forecast skill analysis.

Collaboration among several federal agencies has supported recent advancements. In response to FIRO needs, NOAA is now ingesting advanced forecast capabilities—developed by partners like the Center for Western Weather and Water Extremes (CW3E)—directly into their official forecast products. NOAA's 13 River Forecast Centers have restructured under the Office of Water Prediction at the National Water Center in Alabama, which is expected to facilitate better information sharing and the adoption of innovative forecast capabilities nationwide. The Corps and Reclamation hold quarterly meetings to share notes and lessons learned regarding their respective FIRO efforts. Reclamation is preparing a report to Congress in the next month regarding the economic value of FIRO across their portfolio of 77 dams regulated by the Corps.

The webinar included a discussion on the synergy between FIRO and other water management initiatives. Nancy Vogel, California Department of Water Resources, highlighted recent DWR studies suggesting that coupling FIRO with managed aquifer recharge (MAR) provides significant multi-benefit opportunities. Talbot and Yeates confirmed that such analyses are invaluable, as they provide foundational work that can help justify operational “deviations” to realize FIRO benefits even before official manual updates. Yeates noted that MAR and other interventions like floodplain channel reconnection can “change the calculus” for FIRO. By creating more downstream capacity, these strategies give water managers a larger buffer to react to forecasts, potentially gaining extra lead time even without a perfect forecast.

Mat Weaver, Idaho Department of Water Resources, asked how Corps districts plan to engage state water resource management entities and stakeholders to move to the next steps. He observed that proactive outreach from these districts has diminished since the pandemic. Talbot and Yeates noted that the ERDC researchers follow the lead of the Corps district offices regarding stakeholder outreach. So far, every “viability assessment” conducted has included input from state water resource entities. They encouraged states and stakeholders to be proactive in reaching out to their local Corps districts. While acknowledging that district water management teams are currently constrained by staffing capacity, they emphasized that districts are well-aware of the FIRO program and have access to ERDC site-specific reports. They encouraged participants to support or conduct analysis where possible to help move critical FIRO projects forward.

The recorded webinar and slides are available at: <https://westernstateswater.org/events/u-s-army-corps-of-engineers-firo-national-screening-updates-with-cary-talbot/>

PEOPLE

Doug Woodcock, retired after more than 36 years of service working in water with the State of Oregon. Doug was appointed to the WSWC in October 2022, and has served on the Executive Committee. We congratulate Doug on his retirement, express our sincere appreciation for his dedicated service, and wish him the best.

REFERENCES

- ¹“SWC Launches Operation Safe Flow to Improve Low-Head Dams.” 2025. News Dakota. December 18, 2025. <https://www.newsdakota.com/2025/12/18/swc-launches-operation-safe-flow-to-improve-low-head-dams/>.
- ²“THIS IS Texas Water.” 2026. Texas Water Foundation. July 23, 2026. <https://thisistexaswater.org/>.
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- ⁴“ECOS, ASTSWMO, and GWPC Comments on Proposed Regulation for Federal Financial Assistance Changes. - The Environmental Council of the States (ECOS).” 2026. July 14, 2026. <https://www.ecos.org/documents/ecos-astswmo-and-gwpc-comments-on-proposed-regulation-for-federal-financial-assistance-changes/>.
- ⁵“AMWA Joins Water Sector Coalition Urging Consistency in Federal Assistance Regulations.” 2026. AMWA_Water. July 20, 2026. <https://www.amwa.net/article/amwa-joins-water-sector-coalition-urging-consistency-federal-assistance-regulations>.
- ⁶“Attorney General Bonta Opposes Trump Administration’s Sweeping Proposal to Allow for Widespread Political Weaponization of Federal Grant Funding.” 2026. State of California - Department of Justice - Office of the Attorney General. July 13, 2026. <https://oag.ca.gov/news/press-releases/attorney-general-bonta-opposes-trump-administration%E2%80%99s-sweeping-proposal-allow>.

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