



# TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy

Authors: Christopher Dalbom, Mark Davis, Haley Gentry, and Ximena De Obaldia

March 29, 2024

## Where Does the Water From Rivers Go, Anyway?

Come on, if we really have to answer this question, then we haven't been doing our job properly. But of course, we don't need a lot of convincing to get us talking about them. Rivers have been used since the beginning of life by different species and plants for drinking water. When humans came along, then we started using rivers for even more cool stuff, like navigation, agriculture, sanitation, hydroelectricity, sports, fracking, [inspiration for books](#), and more! As is their natural course, rivers begin in the headwater and flow into another body of water, like lakes or the ocean. But where does the water go when it's not reaching its natural destination? We look to the Colorado River.

For years now the Colorado River has been overused, relying on the water of other reservoirs, like Lake Mead and Lake Powell, to relieve its distress, and eventually dropping the reservoirs' levels to three quarters. While the reason for this has been a hypothesis for many years, [a new study published the first water budget for the Colorado River](#), confirming that agriculture is responsible for [74% of direct human uses and 5% of overall water consumption](#). More specifically, 46% of all direct water consumption is used for cattle feed crops. Last year, the U.S. Bureau of Reclamation [struck a deal between the seven states that rely on the Colorado River](#); California, Nevada and Arizona are required to conserve 3 million-acre-feet of water through 2026. By 2023, the Colorado River is estimated [to have lost around 19% of its volume](#), compared to the year 2000, and is estimated to drop to 30% by 2050.

That everything in the new study isn't really new information, it comes as little surprise that many of the policy and legal reactions to what might otherwise be a bombshell may already be underway. California, as part of those Lower River States' negotiations, has [agreed to make long-term cuts](#) to their allotment of the Colorado River. Though [negotiations among the seven states are still perilous and tension-filled](#). Across Lake Havasu from California, Arizona's governor is [stumping for new solutions](#) to the state's groundwater woes. Solutions themselves TBD. But Arizona's attorney general is [considering using public nuisance claims](#) to limit foreign companies role in that "direct water consumption used for cattle feed crops."

The water crunch in the Southwest has been a high-stakes and fascinating game for over a century. It doesn't look like that's going to change any time soon. Someone call us about putting together a script for a pilot. It'll be better than Succession and only make trivial the lives and livelihoods of 40 million or so people. People'll love it.

## Thames Are Changing

Remember [last week's](#) coverage of the reforms likely to be proposed for the Sewerage & Water Board of New Orleans? Well, welcome to the sequel! (At the pace we're going this may become a [saga](#)) Yes, Louisiana's brand-new governor's task force has announced their recommendations, which include a [state-led takeover of the SWBNO of New Orleans](#). It would be a substantial modification to the system which [would take away the power of oversight](#) held by city officials. It's worth noting the following proposed changes: 1) for SWBNO to take on the Department of Public Work's duties on drainage, 2) appointing an arbitration panel who is independent to hear the billing disputes, 3) the reformation of the civil employees status for the SWBNO in order to ["give present and future leaders the ability to move people in an out."](#), 4) the creation of an awkwardly named "Recovery District" for 2 years; it would

be an 11 member board, take away the oversight duties of the SWBNO, and report to the governor and their cabinet. AND, in case the state legislature doesn't want to authorize all this, another idea is to "[rebrand](#)" SWBNO into the more modern, more hip New Orleans Sewerage, Water, and Drainage Board. Either way, the role of state and local oversight in SWNBO continues to be a high priority in Baton Rouge this spring season.

What does that mean for the future of water and sewage in New Orleans? It's still unclear. Questions and opinions abound, but it's hard to tell what the result of this report will be without sitting and waiting for more information to come to light about the logistics of these proposals and seeing what shape they take in the context [the current legislative session](#).

The wait-and-see is tough, but it could be worse. The Thames Water CEO has recently [stated that customer bills need to rise by 40% in order to avoid its collapse](#) due to debt. Thames Water is the largest water company in the UK, which makes its apparent slump quite [concerning](#). For some time, Thames Water has struggled to finance its debt, keep investors happy, and avoid more public dissatisfaction. Sorry, privatized already precarious utility, maybe it's not possible to satisfy both the money men and the customers who, you know, need water.

## New EPA Rule – Buckle Up, Facilities

Last Thursday, EPA finalized a [rule](#) under the Clean Water Act which will require some facilities and industries to create Facility Response Plans for those worst-case scenarios where hazardous substances are discharged. Among the facilities which the [new rule will apply](#) to are those that "because of their location, could reasonably be expected to cause substantial harm to the environment by discharging into or on the navigable waters, adjoining shorelines, or exclusive economic zone". EPA is estimating that this rule will apply to [approximately 5400 facilities](#), which will require their compliance, and the agency is giving them [36 months to submit](#) their FRPs once the rule is published. ([Shudder to think](#) how many of those facilities are within an hour of where this is being written.)

This rule comes about after a [settlement](#) reached in 2020 between EPA and different environmental organizations, which binds EPA to sign a notice of a proposed rule for Hazardous Substance Worst Case Discharge Planning Regulation, in 24 months from the entry of the consent decree. It's crazy to think it took until now to get a rule this important created (even more so since it was a consequence of a lawsuit), but nevertheless, a win for those incorrigible types who fight and believe in environmental and public health justice.

---

### Coming Up:

[Water Justice New Orleans District Town Halls](#);  
March 21-April 3, 2024

[Coastal Law In Louisiana CLE](#); New Orleans, LA;  
April 18-19, 2024

[The PAR Perspective: Coordinating Coastal Protection](#); Zoom; April 12, 2024

### Water jobs:

[Environmental Reporter](#); The Times-Picayune | The Advocate; New Orleans, LA

[Gulf of Mexico Campaign Manager, Offshore Wind Energy](#); National Wildlife Federation; Gulf Region

[Communications Senior Coordinator](#); Coalition to Restore Coastal Louisiana; New Orleans



The [Tulane Institute on Water Resources Law and Policy](#) is a program of the Tulane University Law School. The Institute is dedicated to fostering a greater appreciation and understanding of the vital role that water plays in our society and of the importance of the legal and policy framework that shapes the uses and legal stewardship of water.

6325 Freret Street, 1<sup>st</sup> Floor  
New Orleans, LA 70118  
504-865-5982  
[tulanewater.org](http://tulanewater.org)

