

# TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law and Policy  
April 8, 2013

## ***TU Water Institute Releases RESTORE Act White Paper***

The paper, "[Promise, Purpose, and Challenge: Putting the RESTORE Act into Context for the Communities and Ecosystems of the Gulf of Mexico](#)", is aimed at improving the public's understanding about the Act and how it will work.

The RESTORE Act was enacted by Congress in 2012 and redirects a portion of the Clean Water Act administrative and civil penalties flowing from the Deep Water Horizon disaster to the Gulf Coast for ecologic restoration, economic sustainability, and the encouragement of Gulf oriented science.

According to Institute Director Mark Davis, "The RESTORE Act is an unprecedented redirection of Clean Water Act penalties and like most unprecedented things comes with limitations, questions, and new responsibilities. The Act can help make many good things happen but there are many needs it won't touch. It will take concerted effort and meaningful public engagement to deliver on the promise of this Act. While no one wants future spills, history teaches that we will have them. Whether future Clean Water Act dollars will go to improving the areas impacted by those spills will turn largely on whether the RESTORE Act is an experiment the country thinks was a success.

## ***Senate's WRDA Bill Heading to Senate Floor – Possibly as Soon as This Week***

The Senate Environment and Public Works Committee unanimously passed its WRDA [bill](#) back on March 20. The bill most notably was drafted as "earmark free," but it has some other wrinkles, as well. Drawing much attention are its changes to environmental reviews under NEPA. What the committee describes it as "streamlining," others see as undermining environmental reviews and [public participation](#). Among those weighing in are the [National Wildlife Federation](#) and a group of environmental law professors, are voicing concern over the bill. The law professors have submitted a [letter](#) to Congress asking for the environmental review sections to be removed from the bill.

## ***Studies show Gulf Ecosystem Still Feeling the Effects of the BP Spill***

A National Wildlife Federation [report](#) released last week noted post-spill [problems](#) for dolphins, sea turtles, and bluefin tuna. The study also stresses the importance of coastal wetland [restoration](#) via sediment diversion and reduction of Dead Zone-causing nutrients, holding the spill's responsible parties accountable, and oil and gas leasing reform.

A study out of the University of South Florida has similarly found ecologic troubles in the wake of the Deepwater Horizon disaster. However, this study has followed problems of microscopic [foraminifera](#) up the food chain.

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 stewardship of water.

## **Coming up:**

[April 15-16, 2013](#)

[Big River Moves Leadership Forum  
America's Wetland Foundation  
Chicago, IL](#)

[May 10, 2013](#)

[Coalition to Restore Coastal Louisiana's  
Coastal Stewardship Award Banquet  
Baton Rouge, LA](#)

[June 6-7, 2013](#)

[American Bar Association's  
31<sup>st</sup> Annual Water Law Conference  
Las Vegas, NV](#)

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## ***Climate Change & Sea Level Rise – Global Issues Causing Local Headaches***

National, regional, and local planners are starting to have to account for vastly changing circumstances as they consider water projects going forward. As Plaquemines Parish, Louisiana learned last year, there is little to stop saltwater from entering drinking water supplies for coastal communities. A new USGS report addresses that issue for [coastal South Carolina and Georgia](#). [Scotland's](#) largest water utility is addressing its infrastructure and finding it lacking not only because of old age, but because it dealing with climate extremes it has not faced before. In Florida, some are saying that the plan to restore historic water-flows to the [Everglades](#) is inadequate because it does not account for climate change. However, in this instance, it is hard not to be wary of delay tactics and a slippery-slope argument about the anthropocene.

## ***USGS Water Census Update Focused on Troubled Watersheds***

In 2009 Congress charged USGS with the duty of completing a national water survey. The agency released a [congressional report](#) updating its progress next week. The [study](#) ideally will result in real-time information on the country's freshwater supplies. The study and methods could be finalized by 2015 and could allow accurate water budgets to be made for every state. This report focused on the Colorado, Delaware, and Apalachicola-Chattahoochee-Flint River basins – all three are heavily taxed interstate basins in need of just this sort of data.

Meanwhile, USGS scientists have also released a [study](#) showing the amount of water lost through evapotranspiration across the country. It could be a valuable tool for water planners to use and a lot of great maps for the rest of us to enjoy.

## ***Cyprus Gets Valuable New Pipeline Full of Primo Turkish Freshwater***

Turkish water has a new buyer – Northern Cyprus. The [pipeline](#) will cross the Mediterranean Sea and deliver nearly 20 billion gallons a year to the northern sector of Cyprus – where groundwater has been depleted and is becoming saline. Although the deal's leaders say this influx of new water will not lead to greater water use and agriculture, watchers are skeptical and also concerned about the environmental fallout in Turkey. Meanwhile, on the other side of the island, Cyprus continues to depend on desalinization and water recycling. A pipeline from Greece was out of the question?

## ***Utah Governor Concentrates on State's Water Future and Vetoes Las Vegas Pipeline (Insert Gangster Joke Here)***

Four years after drafting an agreement to supply groundwater from the Snake Valley aquifer to Las Vegas via a 285 mile pipeline, Utah Gov. Gary Herbert has [rejected](#) the deal, leaving Las Vegas [scrambling](#) to find more water. Although the environmental community had sharply criticized the deal over concerns about it drying Snake Valley, it seems as though it was concerns from local ranchers that drove Herbert to scrap the plan. Furthermore, it seems as though Gov. Herbert is making [water security](#) a priority. He has announced a goal of cutting water usage by 25% by 2025 – always good place to start, especially for a dry state dependent on highly variable snowmelt for water supply.

## ***Problems with Prior Appropriation Coming to a Head in New Mexico while Colorado Tries to Get Away from "Use it or Lose it"***

Farmers and Ranchers in New Mexico's Pecos River Basin are threatening to go nuclear on water rights in the basin. They may make a [priority call](#) – forcing the state to redistribute water in line with basic prior appropriation law: first in time, first in right. The ranchers and farmers have the first rights – rights superior to those of industry or municipalities. If the Carlsbad Irrigation District does make a priority call, expect a major shakeup along the Pecos.

Downriver states are watching Colorado where the state Senate unanimously passed a bill to adapt traditional prior appropriation rule of "use it or lose it" to allow for [water conservation](#). Prior appropriation, at its heart an exploitative legal regime, does not allow for water conservation by rights holders – those who don't use their rights, lose their rights. However, the bill would allow water users in vulnerable river basins west of the continental divide to conserve water, to use less than they have rights to, but not lose those rights. Although the bill as passed by the Senate is not as strong as initially drawn up, it is a potential first step to incorporating much needed conservation measures into prior appropriation water law.