



TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy
Authors: Christopher Dalbom, Mark Davis, Haley Gentry, Katie Moreland, & Matthew Allen
January 9, 2026

I Hope You Don't Mine

[Critical minerals have had their fair share](#) of attention recently, from the Trump Administration's [push to pursue deep seabed mining](#) to efforts to speed up domestic production. Critical minerals serve as the backbone of supply chains for many traditional and emerging industries—tech, renewable energy, and cars. One particularly important mineral to manufacturing cell phones, computers, and rechargeable batteries (see also electric vehicles) is [lithium](#). The U.S. boasts rich reserves of lithium, but getting minerals out of the ground is no easy (or harmless) task. Beyond access to reserves, concerns over indigenous land sovereignty, surface reclamation, and wildlife, mining also relies on large quantities of water (not to mention water pollution concerns). It's raising concerns across the globe, from [Chile](#) to [Southwest Arkansas](#).

Key industry players have been racing to ramp up domestic production of lithium. A key project is Thacker Pass in Nevada, the nation's largest lithium project. Just before the end of Trump's first term (during the last week), the Department of the Interior's Bureau of Land Management (DOI and BLM, respectively) [approved the project](#) using an expedited process that bypasses standard environmental review. Since its approval, there were [legal disputes over the water usage](#) at the site and how it impacted nearby landowners. Last spring, a lower court found that the Nevada state engineer didn't determine the full effects of pumping on nearby ranchers. However, the developers and landowners reached a settlement, seemingly clearing the last hurdle.

Fast forward to December 2025, when the mine developer's [water rights deal with a nearby ranch owner—totaling \\$3.5 million—came under scrutiny](#). That's because the ranch owner is married to Karen Budd-Falen, who was the Deputy Solicitor for wildlife at the DOI in the first Trump administration (and known in western water law circles for her challenges to federal environmental regulations). BLM has regulatory oversight over mining on federal lands and has final say over certain key approvals, including Budd-Falen's counsel on endangered species. Prior to the fast-tracked approval of Thacker Pass, Budd-Falen met with Thacker Pass executives in Washington in 2019. Part of the water rights sale hinged on the mine developers securing key permits from BLM; the developers could terminate the deal otherwise. Her husband has since said she was not involved with the ranch's dealings and that she had recused herself from the matter, but DOI has not responded to requests for copies of such recusal.

Ms. Budd-Falen returned in the second Trump Administration, this time serving as the Associate Deputy Secretary, the third highest-ranking official at DOI. The federal government has since [taken a 5% stake in Thacker Pass](#). This latest discovery begs the question of why Budd-Falen failed to disclose spousal income from the water rights sale. It's anyone's guess if this new information will change circumstances, but it sure does sound like it would make a hit HBO series.

What's In for 2026

With the start of a new year (and Carnival for the local here in New Orleans), it's time to share what's in store for the wide world of water resources:

- WOTUS. Unsurprisingly, coming in at #1 on the list is waiting for the [EPA and Army Corps to issue the final version](#) of the Waters of the United States rule, one that is poised to remove protections for a broad range of wetlands, streams, and tributaries. Check out the Institute's public comment to the WOTUS rule [here](#).
- A breakfast date this Monday at the [U.S. Supreme Court in the appeal of Chevron v. Plaquemines Parish](#). A lot is at [stake for the coastal lawsuits](#) pending in Louisiana state courts.
- WRDA 2026. That's right, the big legislative package known as the [Water Resources Development Act](#), which directs the work of the Army Corps, is in the works. Watch out for authorizations on the Mississippi River!

What's Out for 2026

Despite so much news to look forward to, 2026 also means goodbye to some things that we maybe weren't ready to let go of. Here's what not to expect in the new year:

- U.S. participation in global climate (and many other) efforts. Among the 66 treaties and organizations the President withdrew from this week included [the foundational climate change treaty that's the basis for all global action on climate change](#). The U.S. also withdrew from the scientific group Intergovernmental Panel on Climate Change, as well as the Green Climate Fund.
- Staffers at the Federal Emergency Management Agency. It appears Kristi Noem [plans to terminate thousands of FEMA employees](#) that work on flexible bases to respond to disasters and manage recovery operations. This would add to an already-reduced workforce since President Trump's inauguration and could be just the beginning of more layoffs.
- Water-related projects passed by Congress. President Trump's first use of the veto power in this term was, surprisingly, about water. One project (which passed the House and Senate unanimously last year) was for a [drinking water pipeline to serve rural Coloradans](#). The other would have [returned certain lands in the Everglades to the Miccosukee Tribe](#) in Florida (who had been in the crosshairs with the administration over Alligator Alcatraz). Yesterday's [vote to override the vetoes fell short](#) of the 2/3 threshold needed.
- [Offshore wind projects](#) on the East Coast that were already under construction (for now). In late December, President Trump halted all projects based on "national security concerns." Wind developers have sued. Stay tuned to see if these make it back on the "What's In" list.

Coming Up:

[Environmental Law & Policy Summit](#)

Tulane University Law School; New Orleans, LA; March 5–

7, 2026

[Coastal Law CLE](#)

May 7 & 8, 2026; New Orleans, LA

Water jobs:

[Senior Attorney, Louisiana Clean Affordable Power; Environmental Defense Fund](#)

[Deputy Director of Water Resources; City of San José, CA](#)



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, 1st Floor
New Orleans, LA 70118
504-865-5915
tulaneewater.org