

TUWaterWays

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

[January 23, 2020](#)

We're Hiring!

The Tulane Institute on Water Resources Law & Policy is in the market for our next postgraduate research fellow to start in August 2020! That's right- it could be more than [all a dream](#) - if you're a recent (2019) or upcoming law school graduate this spring 2020 (JD or LL.M.), you could be a part of the team who writes this remarkable newsletter (among other things). If you're interested in the position, check out [this job posting](#) and send your resume on in! (Ability to quickly and confidently speak aloud the name of our institute not required.)

[Enjoy the Silence \(of the Supreme Court\)](#)

After years of injustice, the people of Flint, Michigan, may finally be getting their day in court (this, of course, comes after three years of lawsuits to get here, but you get the sentiment). Since 2016, Flint residents have argued that their right to bodily autonomy was violated by the state and the city's role in the lead poisoning crisis that has plagued the city's water for years. On the other side, Flint city officials and Michigan state officials have argued that there is no such right regarding government policy, and that their jobs grant them qualified immunity, thus shielding them from liability. However, last January the [U.S. Sixth Circuit Court of Appeals, in a 2-1 opinion, held](#) that the city and state officials should not be granted qualified immunity for this situation. After this ruling, the city and state officials filed a writ of certiorari, asking the U.S. Supreme Court to hear and overturn the Sixth Circuit's decision. As of this week, [the Supreme Court has declined to hear the case](#), thus resulting in a small victory for Flint residents. This does not necessarily mean that the residents will win their cases, but with the Sixth Circuit's opinion as binding, they will be able to sue the city and state officials without the hindrance of qualified immunity to stop the lawsuits before they begin and have a greater chance for justice. Surely, this is making other city and state officials around the country even more nervous about the lead in their pipes, and [New Jersey's plan](#) to address the lead issue a bit more practical and insightful.

[Too Many Doobie Brothers?](#)

As many of you have likely heard, possibly from [your Judd Apatow-loving](#) cousins, or your [Cheech and Chong-loving](#) aunts and uncles, in recent years recreational marijuana has become more widely legalized across the United States. Because this has created a new legal sect of the agricultural industry, it obviously greatly [impacts](#) the environment. Whatever your thoughts on legalized weed, this can be a [bummer](#) for multiple reasons, water consumption being a major

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:

[Navigating Legal Waters: Water Resources Law Symposium](#); January 24; Baton Rouge, LA

Manchac Swamp Reforestation Plantings; January [24 & 25](#); Akers, LA

[Inventing Acadia: Painting and Place in Louisiana Exhibit](#); Now – January 26; New Orleans, LA

[Gulf of Mexico Fishery Management Council Meeting](#) January 27-30; New Orleans, LA

[Louisiana Hypoxia Working Group Meeting](#) January 29; Baton Rouge, LA

[Arkansas Soil & Water Education Conference & Expo](#); January 29; Jonesboro, AR

[Artist Salon with Nick Slie: "Invisible Rivers"](#); January 30; New Orleans, LA

Water jobs:

[Senior Research Fellow](#); Tulane Institute on Water Resources Law & Policy; New Orleans, LA

[Legal Fellow](#); Yale & NRDC; various locations

[Environmental and Energy Law Program Legal Fellow](#); Harvard Law School; Cambridge, MA

[Executive Director](#); [Alabama Water Institute](#); Tuscaloosa, AL

[President](#); Restore America's Estuaries; Arlington, VA

[Assistant Attorney General \(Natural Resources Division\)](#) or [Assistant Attorney General \(Ecology Division\)](#); Washington AG's Office; Tumwater & Olympia, WA (respectively)

[Stormwater Quality Specialist](#); Ada County Highway District; Boise, ID

Various Positions at Earthjustice:

[Associate Attorney](#) or [Staff Attorney](#); Seattle, WA

[Staff Attorney](#); Anchorage, AK

[Staff Attorney](#); New York, NY

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one. This is particularly a problem in more vulnerable western states, and specifically California, where over 60% of all marijuana consumed in the U.S. is grown, and where it is primarily grown on outdoor farms.

For the Hoopa Valley Tribe, located in the Emerald Triangle region of northern California, [this could be disastrous](#). Currently, there are about 226 permits pending for marijuana farms on the tribe's land, all of which are evaluated individually, not cumulatively. During the dry summer months, water is diverted from local tributaries to keep marijuana grow operations running. This causes sediment erosion and reduced flows, which in turn causes significant losses of trout and salmon. The Hoopa Valley Tribe relies on these fish from the area's streams for sustenance, which is why the tribe holds issue with the recent significant increase in marijuana farms in the Emerald Triangle region and on their land. So, did the county [totally blow it](#) by already permitting so many marijuana farmers on the land, and by not considering future cumulative impacts of these grow operations? Well, after bringing these issues to the attention of Humboldt County's Building and Planning Department, the tribe has partnered with Supply Creek growers and the director of the department in order to monitor water quality and work to correct degraded water due to all of the grow sits upstream. Will this solve the problem? [We don't know](#), but it certainly is a positive step forward so that the fish can [keep living](#) and the tribe can continue their way of life without the interference of hundreds of marijuana growers using all of their lands' water. But that's [just our opinion](#).

[Get Excited!](#)

Florida is doing something we can be happy about! The state of Florida will be [purchasing 20,000 acres of the Everglades](#) that are currently scheduled for oil drilling. The Republican Governor, Ron DeSantis, stated that this would be the largest land acquisition in over a decade and it would permanently save these wetlands from oil drilling. Pretty pro-environment of a Republican governor, huh? Historically, due to Florida's precarious coastal position, even Florida Republicans have been fairly anti-oil drilling (at least in their own state's vicinity). Governor DeSantis is not as willing as some other coastal state leaders to [bite the hand that feeds him](#) (in this case, meaning drown the voters who elected him). If only this would have set a good example for Louisiana's state leaders, who [approved of](#) the Army Corps' fast-tracking of the Formosa plastics plant that will destroy vital wetlands, leaving Louisiana more vulnerable to flooding and hurricane impacts. In Florida, Governor DeSantis says that his administration will treat protection of the Everglades as a top priority; we can only hope that, in his second term, Governor Edwards will do the same for Louisiana's wetlands before [we have nothing](#).

[We Just Can't Get Enough PFAS Stories](#)

We're back with more PFAS news; a new [report](#) shows that if you live in a major U.S. city, your drinking water is most likely contaminated. Some of the highest levels were found here in New Orleans, Philadelphia, and Miami; but, even if you aren't in one of those top cities, you may still be exposed to PFAS in your drinking water. A senior scientist with the research group that published the report [states](#), "It's nearly impossible to avoid contaminated drinking water from those chemicals." Perhaps this report will change Trump's mind about vetoing the Congressional bill to set an enforceable PFAS limit. (See the last story in [last week's Waterways](#) for a refresher on that). But it probably won't, considering the administration has previously tried to stop from being published a 2018 report from the U.S. Dept. of Health and Human Services stating that there should be a limit up to ten times [\(nine times?\)](#) lower than the threshold the EPA currently recommends. But, on the plus side, scientists have discovered that with new technologies we can [use plasma to remove PFAS](#) from groundwater, which is cheaper, albeit slower, than the previously-used method of adding carbon to contaminated water.