

# TUWaterWays

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

October 3, 2018

## In Hot Water

According to a new [study](#) in the journal *Science*, warmer waters in the Atlantic Ocean are responsible for the number of major storms in the [2017 Atlantic Hurricane Season](#). A “major hurricane” is one with winds of at least 111 mph, and the 2017 season featured six such storms, including [Harvey](#), [Irma](#), and [Maria](#). Since 2000, the average number of major hurricanes per season has been three, and before the year 2000 the average was two per season. The study’s lead author explained that the combination of natural conditions and man-made climate change resulted in an area of warmer water from south of Florida to north of South America and stretching east to [Africa](#). Warm water acts as fuel for hurricanes and allows them to resist forces that might weaken them. The study’s lead author ominously warned that we will continue to see [more major hurricanes in the future](#). Given this news and the Trump administration’s prediction of a [7 degree increase in global temperatures by 2100](#), we feel like we’re trapped in a [Debbie Downer skit](#).

## SCOTUS [Jumps](#) into Frog Dispute

On Monday, the [understaffed](#) Supreme Court heard oral arguments in [Weyerhaeuser Co. v. U.S. Fish and Wildlife Service](#). The case arose after the Fish and Wildlife Service declared more than 1,500 acres of private property in Louisiana to be critical habitat for the endangered [dusky gopher frog](#). Only 100 dusky gopher frogs live in the wild, and all are believed to be located in Mississippi. In fact, while the dusky gopher frog once lived in Louisiana, it has not been spotted in the state since the late 1960s. However, the Fish and Wildlife Service declared the Louisiana designation because the property has something essential for the frogs’ reproduction: [ephemeral ponds](#), which are low-lying areas that fill with water at certain times of the year — when the frogs lay eggs — but then dry out. Thanks to their temporary nature, the ponds cannot support fish, which would eat the frogs’ eggs. The Louisiana property is essentially considered an insurance policy in case things go awry in the frogs’ current home, but the plaintiffs argued that the designation decreases the value of their land. The justices appear evenly divided on party lines; so, the case may be narrowly decided, shelved until the Court is at full capacity, or result in a tie rather than a [ribbiting](#), er riveting, resolution.

## Ocean Trash Bill Awaits Presidential Approval

The [Save Our Seas Act](#) reauthorizes NOAA’s marine debris program and supports research and development funding in the area’s bio-based alternatives to plastic and the long-term effects of

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:

[CPRA Board Meeting](#)

October 17, 2018

Cameron, LA

[Summit on the Master Plan and Beyond](#)

November 7, 2018

Baton Rouge, LA

[Restore America’s Estuaries Summit](#)

December 8-13, 2018

Long Beach, CA

## Water jobs:

[Executive Vice President/Executive Director](#)

American Water Resources Association  
Middleburg, VA

[Mississippi River Network Policy Manager](#)

Mississippi River Network  
Chicago, IL or location near MS River

[Postdoctoral Fellow](#)

River and Coastal Science & Engineering at  
Tulane University  
New Orleans, LA

[Assistant Professor, Environmental Law  
and Policy](#)

Colorado College  
Colorado Springs, CO

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marine debris on countries' economies. It is designed to empower the U.S. Trade Representative to address ocean debris and trash by—for the first time—considering the effects of land-based waste. The [bill](#) cleared Congress and is currently awaiting Trump's [John Hancock](#).

## **A Tale of Two Micros:**

### ***Microplastics***

On September 28, California became the first state to require testing for microplastics in drinking water upon Governor Jerry Brown's signing of [SB 1422](#). Recall that [microplastics](#) are tiny pieces of plastic less than five millimeters long (think of a sesame seed or smaller) that pass through water filtration systems and end up in our waters. The term microplastics includes debris that has degraded from larger pieces of plastic and [microbeads](#), which were banned from cosmetics and personal care items in the U.S. by the [Microbead-Free Waters Act of 2015](#). The California bill requires the state Water Resources Control Board to adopt a definition of microplastics before July 1, 2020 and to adopt a standard by which to test drinking water before July 1, 2021. In the meantime, Californians looking for alternatives to plasticky tap water might be inclined to [ask Kanye for some Perrier](#) or to grab some [skis](#), but research has found microplastics in some [bottled water](#) and [beer](#) too.

### ***Microbreweries***

Speaking of brewskis and impure water, the Ohio-based Maumee Bay Brewing Company is making this [green beer](#) in order to raise awareness about an ingredient that brewers cannot be without—clean water. Brewery workers first came up with the idea last summer after an algae bloom occurred in a creek alongside the brewhouse, and they have vowed to keep making the beer until the bloom ceases. A representative from New Belgium Brewing Co. explained that brewers cannot help but [mix politics and beer](#) when their number one ingredient is being threatened. After all, [beer is composed of at least 90% water](#). The aforementioned breweries are not alone in advocating for clean water—the [Brewers for Clean Water](#) campaign boasts nearly 100 members. Craft brewers have pushed for stronger environmental regulations and have opposed the Trump administration's proposal to repeal the [Clean Water Rule \(WOTUS\)](#). They have also advocated for shutting down aging oil pipelines that are vulnerable to leaks and have worked to preserve rivers and streams. We [raise a glass](#) to their [efforts](#).

## **Under the Sea: The Frontier of Mineral Exploration**

A new breed of mining companies is pushing to explore the bottom of the [ocean](#) for minerals. The sea holds vast stores of nickel, copper, and other minerals, which are used in everything from electric vehicle batteries to wind turbines to mobile phones. While proponents say seabed mining offers more flexibility at less cost than land-based mining because less infrastructure is needed, some scientists are concerned about environmental impacts. For the most part, American businesses are staying out of the rush, concluding that there are sufficient minerals on land. Also, the United States is not a member of the [United Nations Convention for the Law of the Sea \(UNCLOS\)](#), a decades old international treaty that—among other things—grants permits for mining in international waters. Oh well.