

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy
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The levee's gonna...bankrupt Louisiana

The state of Louisiana is now asking the federal government to [forgive the interest](#) it owes on the post-Katrina levees that were rebuilt in New Orleans. The only problem is that the interest totals \$1.1 billion. It cost roughly \$20 billion total to rebuild all 350 miles of levees and other flood protection around the city, and the state is set to pay the federal government a total of \$3 billion in just 30 easy annual installments. The interest payments alone would amount to 63% of the total \$3 billion, or \$1,890,000,000 for those of you who can not or will not do [math](#).

On a related note, the River Parishes are all set to get roughly [18 miles of new levees](#). As of now, there aren't any levees along that side of Lake Pontchartrain (only on the Mississippi River), leaving parishes exposed to storm surge on that side, which was a huge [problem during Hurricane Isaac](#). The project is set to total \$760 million, with the federal government paying 65% of the total cost. The rest will be shouldered by the Pontchartrain Levee District.

Groundwater, groundwater, everywhere

Last week, the Supreme Court agreed to decide “[w]hether the [Clean Water Act] requires a permit when pollutants originate from a point source but are conveyed to navigable waters by a nonpoint source, [such as groundwater](#).” The Clean Water Act basically requires permits for any pollution that travels from a point source (for example, a pipe) into so-called “navigable waters.” It’s pretty clear that the CWA prohibits disposing of pollutants directly into navigable waters, but it’s up for debate whether or not the law covers pollution from more indirect sources. This case is going to have broad legal ramifications, as groundwater regulation is particularly important now that the United States is [becoming increasingly reliant on groundwater](#).

In this case, a wastewater treatment plant in Maui was held to be on the hook for injecting excess treated wastewater into wells. Some of that wastewater eventually trickled through the ground and reached the Pacific Ocean, which the lower court found to be the basis for the county’s liability under the CWA. But, even though the 9th Circuit Court of Appeals held that the CWA *does* apply to pollution that enters the Pacific Ocean via groundwater, [other Circuits have held differently](#) on this issue in the last year alone. One of these contrary decisions [may also be reviewed by the Supreme Court](#), but they haven’t decided if they’ll take the case yet. In a shocking twist that everyone saw coming, the EPA is also [currently debating](#) making it their official policy not to regulate discharges that flow through

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.

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March 14-15, 2019

New Orleans, LA

[Tulane Environmental Law Summit](#)

March 22-23, 2019

New Orleans, LA

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groundwater under the CWA. So, pretty much nobody knows what the law actually is, making the Supreme Court's decision that much more important.

Now for some ocean poli-sea

We finally have some good news when it comes to the devastating impacts of climate change on the environment- not *all* of the world's coral reefs are dying. While many reefs are dying off because of ocean warming [caused by climate change](#), corals in the north of the Red Sea haven't yet had a single bleaching event. This is especially unique considering the fact that many of the world's reefs are dying at an alarming rate, including the [Great Barrier Reef](#).

The Red Sea corals [are so much more resilient](#) than other reefs because of natural selection; the current corals' ancestors survived extremely high ocean temperatures after the [ice age](#) roughly 18,000 years ago. Which leads us to even better news: the Red Sea corals are able to pass on their genetic resistance to their offspring, meaning that the reef will continue to be resistant to warmer temperatures for generations to come. These corals could be particularly useful to scientists who are now creating gene banks of cross-bred "super-corals" from the DNA of corals that have managed to survive bleaching in their reefs. Because cross-breeding living things [never goes wrong](#).

There is probably a Generation X joke in here somewhere (How about "PFAS still doesn't understand why 'selling out' ever stopped being a thing"?)

The Chemours Company plant in Fayetteville, NC, has apparently been leaking PFAS (and their subset, GenX) into both the water and the air for the [last few decades](#). Cool. North Carolina DEQ reached an (updated) consent order with Chemours last week requiring the company to conduct monitoring and reporting on the chemicals, and to set up and maintain filtration in some public buildings. Researchers at UNC Wilmington have found, in their [preliminary research](#), that, "sediments are acting as a repository of GenX that may be released into the overlying water column, potentially impacting sensitive estuarine ecosystems as well as drinking water utilities, even if it is no longer being released into the environment." North Carolina isn't [the only state](#) dealing with PFAS contamination, though. Contamination is particularly common close to [military bases](#), and some states have started setting [maximum levels](#) for some PFAS chemicals. The EPA also just released its first [action plan](#) on PFAS chemicals, which includes efforts to set a maximum contaminant level for two types of PFAS chemicals.