



TUWaterWays

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

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[Oh, Won't Somebody Please Think of the Wetlands?](#)

A fair amount of ink (digital ink? pixels?) has been spilled trying to [decipher the future of wetlands](#) after the Supreme Court [decided](#) that the federal government should be as out of the wetland protection business as they could make possible. But this Institute's mission is to spill digital ink on things just like this. [Our report from January](#) proved prescient. And [our new report follows-up after the busy 10 months since](#). From lawsuits over WOTUS rules across federal district courts to making sense of the *Sackett* ruling to the EPA and Army Corps response, there's something for everybody. If you're thinking you don't need [another WOTUS](#) report, you're [wrong](#). This goes beyond just Clean Water Act concerns. The *Sackett* decision was big enough on its own, but it impacts state law and other federal policies are impacted, like flood insurance and endangered species, too. Like [Incredibles 2, this paper is a sequel worth waiting for](#).

Of course, the newly legal exposure to being dredged and/or filled isn't the only challenge facing wetlands. For instance, the Everglades, once the culmination of a whole host of water movements across South Florida resulting in an explosion of splendid wetlands unlike anywhere else in the world, is now a rump of that natural system instead ruled by a manmade series of gates and canals trying to serve a wide variety of masters and thus failing all of them, [are drowning](#). Drowning? A wetland? Yes, remember that "land" part of the word. Sure, they [get wet](#), but they're also still land. If they're underwater for too long, the flora and fauna that rely on that balance can only hang on for so long. That's what's happening in the Everglades right now. Animals cling to tree islands, but the trees themselves can't always handle the high water for that long and the critters can only hold on for so long. If even [the rat](#) is getting swept away, what chance does the rest of the ecosystem have?

Sea level rise is, of course, a massive threat to coastal wetlands around the world. In [San Francisco Bay](#), tidally exposed mudflats are an important wetland habitat, and the Flood and Sea Level Rise Resiliency District in San Mateo County has [proposed a barrier plan](#) to preserve the mudflats and protect the shoreline south of SFO airport. The idea is to be able to close gates when waters in the Bay get too high. They admit that the gates in the barrier would be closed more and more often as sea level rises over the coming decades. What doesn't seem to be in the plan is to move back all of the [hotels and development right at the water's edge](#). If you can't move the development away from the danger, move the danger away from the development!

Down here in [Louisiana](#), there remain a couple of examples of how good things are when wetlands are allowed to work. [Wax Lake Delta](#) has now spent 50 years being an extremely productive and ever-growing wetland bucking the trend of Louisiana's coastal erosion. It's a model many hope can be repeated in Plaquemines Parish with the two-ish year old Neptune Pass on the East Bank of the Mississippi River. How much it's able to grow will largely depend on [how the Corps of Engineers treats it](#) – controlling it to be a productive, healthy young thing or smothering it with love and rocks keeping it from ever reaching its full potential.

Of course, not everything is peaches and cream in the [sportsman's paradise](#). There's enough smoke and peat coming out of [a fire in a New Orleans East swamp](#) to put both [Lagavulin](#) and [Laphroaig](#) to shame. And while it's yet

to lead to singularly flavored single malt, it has had a hand in worsening fog that has caused fatal wrecks in the area. It's all because the region is in [an exceptional drought](#), and that balance between the land and the wet has been thrown way off, leading to fire underground where there should be beautifully sodden hydric soils of high organic content!

Coming Up:

Tulane Environmental Law Summit, New Orleans,
February 23 & 24, 2024 (save the date!)

Water jobs:

[Louisiana State Policy Intern](#); Environmental Defense Fund; Remote
[Senior Policy Manager, Water](#); National Audubon Society; Sacramento,
CA

[Outreach Coordinator](#); The Coalition to Restore Coastal Louisiana; New
Orleans, LA

[Development Coordinator](#); The Coalition to Restore Coastal Louisiana;
New Orleans, LA

[Research Fellow and Policy Engagement Leader](#); Resources for the
Future; Washington, DC

[Assistant Director of Water Policy – Environmental Analyst V](#); Mass.
Executive Office of Energy and Environmental Affairs; Boston, MA

[Water Advocacy Manager](#), Grand Canyon Trust, Flagstaff AZ



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.

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