



TUWaterWays

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

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Not Out of the Woods, er, Wedge Just Yet

Do you remember

The 15th night of September?

Salt was changin' the minds of predictors

While chasing freshwater away

Our phones were ringin'

In the key that our friends were stressin'

As we said you might, remember

The change wouldn't be right away, oh, yeah

When all the eyes were on the saltwater wedge working its way up the Mississippi River and forecasters thought it could reach the municipal utility intakes for almost all of Metro New Orleans by the end of October, it felt like an all-hands-on-deck type of emergency. But the most recent forecast doesn't show the wedge progressing any farther than it already has, at least through the end of December.

So, now what? Well, the emergency declaration freed up an awful lot of federal dollars to address the problem, but how much of those get to be used depends on how much of an emergency it is. And how much of an emergency is it? Well, that probably depends on where you are and what your job is. If you're in lower Plaquemines Parish, the emergency hasn't gone anywhere and isn't going anywhere for months. To the point that the chemicals being used to treat the saltier water are sticking around in the treated drinking water at alarming levels. If your job is to watch the bottom line of the utility you lead, then maybe it's not such an emergency if you don't think you're going to get any (or just enough) support from FEMA. If your job is to think about the wellbeing and (perceived) future viability of an entire parish or region, then this emergency hasn't gone away, especially when you're being told it's likely to happen again.

Would permanent solutions be costly? Sure, but whether or not it's worth it depends on how you measure the benefits. And, so, Jefferson and Orleans Parishes are continuing with temporary fixes and are still considering more permanent fixes (to other challenges, as well). As they well should! Any and every one who can make the case for why permanent water supply solutions (both in terms of infrastructure and regionalization) are necessary and wise uses for federal dollars should be pushing as much as they (we) can!

Hundreds of Millions of Dollars Going to Fulfill Obligation the Supreme Court Just Said the Federal Government Doesn't Have

Well, kinda. In the Arizona v. Navajo Nation case this summer, the Supreme Court (over Justice Gorsuch's vehement dissent) ruled that the federal government doesn't have the duty to actually do something to make sure

Indian reservations get the water they have the rights to, even when they are supposedly representing those nations' rights via trust arrangements in negotiations with states, while those [states fought tooth and nail against the tribes' water access](#). And yet, the [Department of the Interior just announced](#) that \$327 million will be spent on water supply projects for tribes. How? Why? Well, this money is to address congressionally enacted Indian Water Rights settlements – perhaps because the tribes were unable and unenabled to access their full water rights and, thus, entered into settlement agreements that were then ratified by Congress.

Some of [these settlements go as far back as the 1970s and '80s](#). So, Congress passed the settlements but didn't allocate the money to fulfill their part of the settlements for decades. But now the Bipartisan Infrastructure Law will provide \$207 million, and the Reclamation Water Settlements Fund will provide \$120 million. It's unclear as to whether or not those \$120 million were already available and just not spent, but that fund will get an additional \$120 million per year through 2029. It's not the exact same legal issue at the heart of the recent SCOTUS opinion, but it's close enough to surely send a chilly breeze up Justice Thomas's robe so strong that his [benefactors feel it](#).

Feast Your Eyes on the Equivalent of 100,000 Words (or so)

Sometimes you can only write so many words. Then it might be time to sit back and take in some important and moving pictures. Well, not moving as in “this is 1910 and the pictures themselves are moving”, but moving as in they make the viewer feel moved emotionally and spiritually.

Bird pictures are always nice, possibly more so if they're [from Australia](#). [Mangroves](#) around the world make for a spectacular setting, as well. Many aspects of [ecology](#) and [biodiversity's](#) struggles, and [beauty](#) have been gathered and curated better than your best Instagram feed. Pictures of nature can prove unlikely sources for [forwarding scientific progress](#). And sometimes those pictures can show the perseverance of the [human spirit](#) and [connection to nature](#) better than a snarky lawyer at a law school ever could.

Coming Up:

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

Water jobs:

[Associate, Programs](#); Restore America's Estuaries; Remote (US)

[Senior Policy Manager, Water](#); National Audubon Society; Sacramento, CA

[Law Fellow \(2024 – 2026\)](#); Environmental Law Institute; Washington, DC

[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 Policy and Science Communications Graduate Student Research Fellowship](#); University of Wisconsin-Milwaukee; Milwaukee, WI



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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