

TUWaterWays

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

[February 5, 2021](#)

[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 2021! If you're a recent (2020) or upcoming law school graduate this spring (JD or LLM), you could be a part of the team who writes this remarkable newsletter (among other things). By the time the position starts, we'll hopefully be back in Chateau d'Eau and up to our armpits in office coffee, Tulane Tuesday giveaways, morning bagels, puzzled reactions to mid-20th-Century-pop-culture references, and long, rousing discussions of water law and policy! If you're interested in the position (and who wouldn't be?), check out this job posting and send your resume on in by February 19th!

[Wetlands, Schmetlands](#)

Once there was a place so cool it could claim ties to [James Dean](#), [Kurt Vonnegut](#), [Steve McQueen](#), [Wes Montgomery](#), [Cole Porter](#), [David Lee Roth](#), [Axl Rose](#), [Michael Jackson](#), [Halston](#) and [Bill Blass](#). A place so progressive that it had its own laws protecting wetlands, not just trusting to the federal government to look out for them. California? New York? Xanadu? Nope, Indiana. (Two of the team here at TIWRLP also hail from the Hoosier state but that would have been a dead giveaway to mention them). Sadly, most of those icons of cool have departed the mortal realm (stay safe [Axl](#) and [Diamond Dave](#)) and now wetlands protection may follow suit. [At least if a bill that just sailed through the Indiana Senate](#) on February 2 ([World Wetlands Day eve](#)) becomes law.

That bill (SB 389) would repeal Indiana's longstanding wetland protection law, leaving more than half of Hoosier wetlands without legal protection following the retrenchment of Federal protection following the redefinition of "waters of the United States" by the Trump administration. Ironically, as the WOTUS rule was being promulgated, the Trump administration touted it has an opportunity for states to step up and fill the protection gap (the WOTUS rewrite was couched as corrective reading of federal statutory jurisdictional language, not as policy declaration of wetland not being worthy of protection). The rationale for the bill is to ease the burdens on farmers and economic development by "eliminating red tape." Just how eliminating protections for wetlands that have been subject to regulation (but not off limits to development) for decades equates to just getting rid of red tape is not clear. What is clear is that at least one sector of the Indiana economy will be impacted—negatively—and that is mitigation and mitigation banking industry. Somehow the jobs and revenues created by protecting the environment never seem to

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.

Coming up:

[CRCL and Louisiana Sea Grant: Shell-A-Bration](#); February 5

[Food Life Cycle: Effectiveness of Food Scrap Recycling Mandates & Landfill Bans](#); February 10

[Cost-Benefit Analysis and the Environment](#); February 17

[CPRA Virtual Draft FY 2022 Annual Plan](#) – Southwest LA; February 22

[CPRA Virtual Draft FY 2022 Annual Plan](#) – Southcentral LA; February 23

[ELI: PFAS and Public Health: Covid-19, Vaccines, and Environmental Justice](#); February 23

[EPA Small Systems Webinar: Lead and Copper](#); February 23

[CPRA Virtual Draft FY 2022 Annual Plan](#) – Southeast LA; February 24

[Tulane Environmental Law & Policy Summit](#); February 26-27

Water jobs:

[Manager, Conserving Marine Life in the U.S.](#); Pew Charitable Trusts; Washington, D.C.

[Associate Attorney](#); Earthjustice; Seattle, WA

[Assistant Director](#); Virginia Coastal Policy Center, William & Mary Law School; Williamsburg, VA

[Watershed Restoration Specialist](#); McKenzie Watershed Alliance; Springfield, OR

[Legal Counsel](#); Arizona Department of Water Resources; Phoenix, AZ

[Senior Staff Attorney](#); San Francisco Baykeeper; San Francisco, CA

[Water Policy Fellow](#); Berkeley Law Center for Law, Energy & the Environment; Berkeley, CA

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count. Oh, and don't forget to celebrate National Wetlands Day today, February 5!

Fresh Thinking About the Arctic Ocean

Ever find yourself thinking about the Arctic? Really, thinking about it? [Not just things like “where does Santa shop and where do the elves get all the stuff to build toys with? And what is it about Arctic intellectual property law that lets Santa Ltd. knock off all of those trademarked and patented products that kids ask for?”](#) No, we are talking about the Arctic, which is more of a watery process than a place. A place that has hoarded fresh water in the form of ice for ages subject to a few [well documented melt offs](#). Well, what if we told you that it is even more amazing than you knew. What if we told you that long ago, all that ice floated on top of a big—really big—pool of fresh water. Since we are lawyers, if we told you that you would probably say “Sez who?” Well, so says [new research from the Alfred Wegener Institute published in the Journal Nature](#), that's who. If we had more space, we would explain how all of this could happen and how it could help explain past rapid instances of climate change but since we don't, we will let the [paper](#) do it for us.

Ever Get That Sinking Feeling?

Out of sight, out of mind. That sentiment too often describes how we treat the things beneath our feet and how they can impact our lives. Here in [New Orleans](#), we are skilled practitioners of that as we obsess over flooding but do nothing to keep our city from sinking—[a trait we share with lots of other places](#). As unwise as it is to underestimate things like natural soil subsidence, it is positively crazy to compound the problem by inducing subsidence. How's that, you ask? Easy. By removing the fluids that suspend the ground we walk, work, and live on. And that is just what we do when we pump ground water and oil and gas from down under—and we don't mean [Australia](#). Not only does induced subsidence exacerbate flooding risks, it can also create sink holes and wreck drinking water aquifers, and mess up some pretty amazing parts of our natural world. [Case in point, Parks Ranch Cave in New Mexico](#). As the US has ramped up oil and natural gas development in the pursuit of energy dominance and to shift away from coal, sensitive areas like Parks Ranch have been put into play. As a result, the hemisphere's second largest gypsum cave and surrounding ecosystems and aquifers are at growing risk unless the pace and scale of development are not better coordinated with the nature and needs of the area. That will take concerted effort if the experience in New Orleans (Houston, Jakarta, Norfolk, Beijing ...) are any indication.

And Now, An Announcement from Our Friends at the Tulane Environmental & Energy Law Society

“We are so excited that the Tulane's 26th Annual Environmental Law & Policy Summit is just about a month out! This year, the Summit's panels focus on themes of environmental justice as it relates to the legal and policy realm. After the turbulent events of 2020, it is crucial these themes be addressed. We hope you will join us this February 26th and 27th to engage in discussions on topics ranging from environmental refugees, food and agricultural justice, and current legal changes in environmental regulations. All are welcome, and cost to all attendees is free! CLE credit will be available for many of the panels.”

A detailed schedule of the Summit and registration for attendance will open in early February. If you have any questions, do not hesitate to reach out to Haley Gentry, Director of this year's summit, at hgentry@tulane.edu.”

Three words: Count us in! We always find the Summit to be a treasure trove of information and excitement and wouldn't dream of missing it. Things are a little different this time. The event will be virtual, but it's not the destination that matters—[it's the friends we make along the way](#). And with that, we hope to see your faces onscreen!