

# TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law and Policy  
September 26, 2013

## Lawsuit Moves Forward EPA Participation in Regulating Nutrients in the Mississippi River and Gulf of Mexico Dead Zone

In a [lawsuit](#) brought by Gulf Restoration Network (represented by Tulane Environmental Law Clinic), NRDC, and other environmental groups, federal judge Jay Zainey has [ordered](#) the EPA to issue a formal finding of whether federal rules are necessary to cut the flow of nutrient pollution into the Mississippi River. The EPA has 180 days to issue the necessity ruling. The groups asked the EPA to establish total maximum daily loads (TMDLs) for nitrogen and phosphorus for the River. The EPA denied the request, but did not explain why it was not necessary. The groups then sued, charging that the EPA violated the Administrative Procedures Act – something Judge Zainey agreed with last week.

Six days later, at the Mississippi River/Gulf of Mexico Watershed Nutrient (Hypoxia) Task Force (“Hypoxia Task Force”) [meeting](#) in Minneapolis, acting EPA assistant administrator for water Nancy Stoner said that progress on reducing nutrients in the River has gone more slowly than they had hoped. Nancy Stoner called on watershed states to accelerate their efforts at cutting nutrient pollution. Six months from now it may no longer be just a voluntary effort, but then questions of funding will have to be addressed before real changes are to take place.

## WR(R)DA Bill Passes House Committee, Expected to Move to House Floor this Fall

As we reported earlier, the House Transportation and Infrastructure Committee added a letter to the bill’s name, and now it has [made it through](#) the committee without much change and its “environmental streamlining” intact. Proposed changes addressed invasive species and the water battle amongst Georgia, Alabama, and Florida (the bill now urges interstate compacts in place of Congressional involvement for water disputes).

Moving forward, we will all want to [compare](#) how the [House version](#) (should the House find time to see it to the floor and pass it this fall) will compare to the [Senate version](#) (minus the 2<sup>nd</sup> R). Differences include whether or not Louisiana’s Morganza to the Gulf hurricane levee project is deauthorized and impacts of the streamlining provisions that USFWS Director Dan Ashe told a [Senate panel](#) may just draw more rejections from agencies unable to complete reviews within the restricted time limit.

## Louisiana Coastal Parishes Eyeing RESTORE Act Money

1.86% (or, stick with us through the math here, 30% of 20% of 35% of 80%) of Clean Water Act civil penalties and fines against parties responsible for the *Deepwater Horizon* disaster will go to the twenty Louisiana Parishes in the state’s Coastal Zone. Although it is an uncertain amount of money on a very uncertain timeline, coastal parishes are already creating [wish lists](#) for the oil spill money they

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:

[September 26 5:00pm – 7:00pm](#)

[Opening Reception: The River Between Us](#)  
Longue Vue House & Gardens  
New Orleans, LA

[October 19<sup>th</sup> 12:00pm – 4:00pm](#)

[Second Annual Anba Dlo Water Symposium](#)  
New Orleans Healing Center  
New Orleans, LA

[October 20<sup>th</sup> 9:00am](#)

[Day Paddle on the Tangipahoa River](#)  
Land Trust for Louisiana  
Independence, LA

[October 24-25, 2013](#)

Lake Pontchartrain Basin Foundation  
[Basics of the Basin 2013](#)  
New Orleans, LA

[February 21-23, 2014](#)

Tulane Environmental Law Summit  
New Orleans, LA

**Tulane Institute**  
on Water Resources Law & Policy

6329 Freret Street, Suite 155G  
New Orleans, LA 70118  
504-865-5982

[http://www.law.tulane.edu/tlscenters/  
waterlaw/](http://www.law.tulane.edu/tlscenters/waterlaw/)

think will have the best chance to be spent on economic development projects. Furthermore, to get that money, according to draft Treasury regulations currently out for public comment, coastal zone parishes will have to certify to the governor's office that they have coastal land use plans consistent with the State Coastal Master Plan. Just how consistent those local plans are going to have to be and how the State is going to judge them is in the next chapter of this saga.

### **CPRA Says Mid-Barataria Diversion Construction Could Begin in 2015**

At the top of the Coastal Protection Authority's wish list (and many environmental group's wish list) is the Mid-Barataria Diversion reconnecting the Mississippi River with the stretch of coast most hard hit by erosion and the *Deepwater Horizon* disaster. Using funds [directed](#) by the BP and Transocean guilty plea agreements to the National Fish and Wildlife Foundation, the state [hopes](#) to put \$40.4 million to the engineering and design of the diversion project. The Water Institute of the Gulf has convened a panel to begin reviewing concerns about the diversion.

### **After 23 Years, CWPPRA Still Playing a Role in the Restoration Game**

Before the State Master Plan and when deepwater drilling in the Gulf was just a twinkle in some geologist's eye, the Coastal Wetland Planning, Protection and Restoration Act (CWPPRA) was the only game in town when it came to federal funding for coastal restoration in Louisiana. Although other (better-funded) sources have come along, CWPPRA still has a [role to play](#). While at its outset CWPPRA was significant simply for making coastal restoration someone's (anyone's) job, now it has taken on an incubator role allowing projects to get off the ground before being incorporated by the state's Master Plan.

### **Weak Link in Chinese Water Infrastructure Megaprojects? The Water.**

Climate change and shrinking Himalayan glaciers, overpopulation and aggressive industrialization, and complicated engineering for irrigation and hydropower are all combining to create growing [water shortages](#). Thousands of streams have disappeared, wells have dried up, and engineering projects divert flows to industrial zones. So if the South-North Water Diversion project to bring water from the Yangtze to the Yellow dries up, is there enough cloud seeding to fill it back up?

### **First Lady says "Drink Water!"**

As part of her [campaign](#) to improve the health of America's youth, First Lady Michelle Obama has launched an initiative along with the Partnership for a Healthier America to encourage Americans to drink more water and fewer sugary drinks. Now, if only everyone had access to affordable clean water things would be fine.

### **Austrian Researchers say "Not the holy water, either!"**

Researchers from Vienna University tested water at holy springs and the fonts of churches and chapels and found 84% to have fecal [contamination](#). The holy springs were all contaminated by fecal matter as well as agricultural nitrates and bacteria. While holy springs were much cleaner than urban water sources in the Middle Ages, today urban water sources are healthy and once-protected springs are no longer isolated, uncontaminated sources.

### **Indian State of Tamil Nadu Starting Over with Groundwater Law**

The Tamil Nadu Groundwater Act of 2003 was repealed last week after ten years of doing nothing. The original act proved to be [unworkable](#) and confusing with undefined terms. It seemed to overburden small domestic water users but not large scale developments in expanding cities such as Chennai, and it was never acted upon. The state government says a new law will come out soon, and local experts say the sooner the better as Tamil Nadu's water resources face pressures from industry and agriculture and the state has sparred with neighboring states over surface water in the recent past. We are always interested to see attempts at workable regulation of groundwater and will be keeping an eye on the South Indian state.