

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy
[June 25, 2020](#)

[Whoa Oh Oh-TUS Is Magic, You Know! But Some Believe It's Not So!](#)

The day has finally come for the implementation of the Trump Administration's rule limiting the extent of the Clean Water Act. The Administration officially calls it the "Navigable Waters Rule," by the way, but that's loaded language meant to frame the conversation in a way that we don't think the Clean Water Act actually reads, so we're going to keep calling it WOTUS, Even if it does make us feel a bit like the "[Imma call him Clay](#)" guys in the barbershop. "WOTUS" is more fun to make puns with anyway.

A year and a half ago, the draft rule came to the public. [More than 660 thousand comments were filed](#), and those comments yielded such little change for the final rule that this institute didn't even feel the need to change [our analysis](#) from the draft to the final versions.

The rule went into effect on June 22, 2020. It was [immediately contested](#) and even suspended in at least one state. Who is it that wouldn't [believe in the magic](#) of environmental protection rollbacks?

Well, one group are western ranchers who don't think the protections have been rolled back far enough. They have filed injunctions in [Oregon](#), [Washington](#), and [New Mexico](#); they're represented by the Pacific Legal Foundation which has lots going on these days, including a recent losing effort to get farmers' water rights placed above indigenous [water rights in the Klamath River Basin](#)).

On the other side, a dozen Democratic-led states petitioned for a nationwide injunction against the rule. That was [denied](#), but Colorado filed for an injunction within its perfectly rectangular borders separately, and that was [upheld](#). After two days, the new rule is already down to 49 states.

Among those pesky [tree hugger](#) environmentalist groups, the Natural Resources Defense Council, the Conservation Law Foundation, and friends filed to have the rule thrown out back in April. That was up in [Massachusetts](#). Also in April, the Southern Environmental Law Center filed a similar suit in [South Carolina](#) on behalf of several Riverkeeper-type groups. In [Washington](#) (in the same court as one of the rancher lawsuits!), Earthjustice is representing several groups in their attempt to get the rule deemed [arbitrary and capricious under the Administrative Procedure Act](#) and tossed out.

Finally, a group of Indian tribes filed suit in [Arizona](#) to get rid of both the final rule and the interim rollback that was in effect (in some states) up until this week. The Navajo Nation filed a separate suit in [New Mexico](#).

Considering that 660,000+ comments were filed, there are still plenty of others out there who could have standing. What we're saying is that this might be the tip of the iceberg when it comes 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 less stewardship of water.

Coming up:

[California Water Data Science Symposium](#); June 29

[The Underwater United States: Exploring life and ecosystems in the U.S. exclusive economic zone](#); June 29

[PFAS Webinar: TOP Assay: One Way to Look at Future Risk from Precursors](#); June 30

[Drinking Water Webinar: AWIA Risk and Resilience Checklist and AWIA Lessons Learned](#); June 30

[CPRA Facebook Live Webinar Wednesday: Restoration of the Terrebonne Basin Barrier Islands](#); July 1

[Council on Watershed Management Meeting](#); July 2

[Public Comment Deadline re: NOAA's proposed rulemaking to expand Flower Garden Banks National Marine Sanctuary](#); July 3

[ELI Webinar: A State Approach to a Just Transition](#); July 10

[ELI Webinar: Monthly Climate Change Briefing](#); July 13

[CPRA Board Meeting](#); July 15; Baton Rouge, LA

[ELI Webinar: Environmental Justice](#); July 21

[Drinking Water Webinar: Small Systems Compliance](#); July 28

Water jobs:

[Staff Attorney](#); Western Environmental Law Center; Taos or Santa Fe, New Mexico

[Program Coordinator](#); Save the River; Clayton, NY

[Senior Legislative Counsel/ Representative](#); Earthjustice; DC

[Policy Director](#); Environmental and Energy Study Institute; Washington, DC

[Beveridge & Diamond Diversity Law Clerk](#); [Jim Rubin International Fellow](#); or [Law Clerk](#); Environmental Law Institute; Washington, DC

[Resilience Planner](#); Dewberry; Fairfax, VA

[Erosion Control / LakeSmart Coordinator](#); 7 Lakes Alliance; Belgrade Lakes, ME

[Public Policy and Justice Organizer](#); Waterspirit; Rumson, NJ

[Senior Conservation Project Manager](#); The Freshwater Trust; Sacramento, CA

[Drinking Water Data Research](#); EPA; Cincinnati, OH

[Vice President \(Global Operations\)](#); Lifewater International; Bentonville, AR

6325 Freret Street, 1st Floor
New Orleans, LA 70118
504-865-5982

tulanewater.org

TWITTER: [@TulaneWaterLaw](#)

suits against the new rule. It's enough to make 'em say "[Woah-TUS!](#)" (Also, a tip of the hat to [E&E News](#) for organizing all of this.)

Way Too Many People Don't Have Access to Clean Water in America

This week, The Guardian launched a [series](#) looking at clean water access in the U.S. How did it go? Well, they titled it "America's Water Crisis." That should tell you plenty. They commissioned a [report](#) by an economist who investigated 12 cities and the cost for water and sewage utilities. They found that prices had increased by an average of 80% from 2010 to 2018 and in some cities more than two fifths of the residents couldn't afford these higher bills. The reasons for this are many, but overall costs of maintaining the systems are rising, ratepayers are moving out, and federal support is drying up.

Can You Name All the Oceans? Probably Not.

Well, there's the Atlantic, the Pacific, the Indian, the Arctic, the [Billy](#), Europa, Enceladus, and likely thousands of others out there. Wait, what? Enceladus is a watery moon of Saturn, Europa is a watery moon of Jupiter, and NASA scientist Lynnae Quick thinks [a thousand already-known planets in other systems could also be ocean worlds](#). A recently-released [study](#) found that a large number of planets seem to be the right size and density and emit the right kinds of light and heat to have both volcanic heat and water – even if it's trapped under a layer of ice instead of an atmosphere like Earth's oceans. Pretty cool stuff, but [geography bees](#) in the future are going to be unimaginably tough.