

# TUWaterWays

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

[September 11, 2020](#)

## [Come As You Are](#) and Read Our Newly-Published Paper With the EU!

As you readers may remember, last year we started a program called [The Deep End](#), in which we publish works that deal with pressing water issues, written outside of our shop by leaders in their respective water-related fields. This week, we published a piece on dredging and its role in coastline resiliency, "[Building Resiliency in America's Coastline](#)," by Caitlin Cain, an urban planner and international trade and policy enthusiast, specializing in disaster response and resilience. Check it out if nature-based resiliency solutions are something you're interested in learning more about.

## It Isn't Utah's [Duty to Completely Drain You](#), Colorado River

The Colorado River runs from (you guessed it) Colorado all the way down to Mexico and is a major water source for arid western states. Six of those states are [not pleased](#) with a new federal plan for an [underground pipeline](#) that would transport billions of gallons of water from the Lake Powell in Arizona, one of the primary reserves for the Colorado River water supply, to Utah. This week, state water officials from Arizona, California, Colorado, Nevada, New Mexico, and Wyoming wrote a [joint letter](#) asking the Department of the Interior not to approve the project's Environmental Impact Statement ("EIS"), which received over 10,000 public comments. Technically, Utah does have the right to the Colorado River water supply under interstate compacts. However, other states in the region worry because the river already faces yearly droughts that threaten its water supply, which is essential to 40 million people out West. Those states do not think that the NEPA process is the best way to resolve and determine water use for the dependent states. To that end, the joint letter points out that lengthy, multi-state litigation will be inevitable if the federal government approves and releases a final EIS for the project. These states believe that the best way to determine the Colorado River's water designation is not through this pipeline's NEPA process, but through another collaborative seven-state process, as has been used in the past. Utah has always been a part of those discussions and compacts, and it will be essential now as well.

## Using Water to Determine When to [Stay Away](#)

Since the pandemic started, scientists and innovators have been working hard to monitor COVID-19 in areas throughout the United States. And thanks to good ole' water, another prominent method to do so has emerged. Wastewater testing for the virus allows for early detection and greater monitoring of especially difficult-to-track asymptomatic cases. This type of monitoring can also show early signs of worsening outbreaks in communities. We've known for a while now

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:

[CPRA Board Meeting](#); Aberville, LA; September 15

[Hot Topics in Clean Water Law Webinar](#); September 16

[Virginia Coastal Policy Center Financing Resiliency Webinar](#); September 16

[Rocky Mountain Mineral Law Foundation: New NEPA Regulations: Long Overdue Update or Radical Sea Change](#); September 18

[AWWA Webinar: Smart Water 2020: Building a Resilient Water Future](#); September 20

[National Coastal and Estuarine Virtual Summit](#); September 29-October 1

[CPEX Virtual Growth Summit: Past, Present, and Future: Urban Adaptations for Uncertain Times](#); September 29

[Mississippi River/Gulf of Mexico Hypoxia Task Force Virtual Public Meeting](#); October 1

[WEFTEC](#); October 3-7

[ASBPA National Coastal Conference](#); October 13-16

[Deadline to Submit Projects for the Atchafalaya Basin Program](#); October 15

### Water jobs:

[Public Information Specialist](#); Mojave Water Agency; Apple Valley, CA

[Attorney](#); California State Water Resource Control Board; Sacramento, CA

[Information Specialist](#); St. Petersburg Coastal and Marine Science Center, United States Geological Survey; St. Petersburg, FL

[Counsel \(Environmental and International Law Practice Group \(LEGEN\)\)](#); The World Bank; Washington, DC.

[Legislative Associate/ Senior Legislative Associate](#); The Southern Environmental Law Center; DC.

[Staff Attorney, Fossil Fuels Program](#); Earthjustice; New Orleans, LA or Texas.

[Policy Manager \(Environment, Energy, and Climate Change\)](#); Massachusetts Institute of Technology; Cambridge, MA

[Policy Specialist \(Resilient Coasts & Floodplains\)](#); NWF; D.C.

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that [wastewater testing](#) is a potential way to track the virus, and with that information, the CDC recently began focusing on a nation-wide wastewater testing strategy. It will be partnering with state, local, tribal, and territorial health departments to collect wastewater samples and compile them into a national database, called the [National Wastewater Surveillance System](#). Close to home for those of us in New Orleans, our own [Tulane University researchers](#) have been using this method to track COVID-19 in Louisiana. Elsewhere, this type of monitoring has already prevented outbreaks in particularly crowded areas, like dorms on [college campuses](#). In Tucson, the [University of Arizona](#) utilized wastewater testing in dorms and found early signs of the virus, leading to testing and isolation of the two positive students, preventing a potential outbreak in the building and on campus. The [wonders](#) of what we can do with water!

### **Sorry to Be a [Downer](#)**

It may not come as a surprise, but abandoned mines are dangerous for a multitude of reasons. One of those reasons is that they are [a serious threat to water quality](#) in surrounding water bodies. In fact, just last month the [EPA settled with Utah](#) over a 2015 release from the Gold King Mine. However, without a comprehensive database of mining sites that could release toxins and metals into water, the EPA still has their work cut out for them. According to a recent Government Accountability Office Report, the EPA estimates that there are around half a million abandoned mine sites on federally protected land, and the Bureau of Land Management estimates that it will take 500 years to inventory all of the abandoned hard rock mines, just on its land. Because of the magnitude of the problem, some states have begun inventorying abandoned mine sites and potential contamination from those sites within their own borders. Even if every state does so, that amount of time, effort, and money will allow for a lot of leaks to slip through the cracks, so to speak, in the meantime. If only there were some sort of [Avenger or Queen](#) who could lead the charge.

### **Chesapeake Bay Lawsuits Say the EPA [Blew It](#)**

Back in May, Delaware, Maryland, Virginia and D.C., as well as the Chesapeake Bay Foundation, threatened to sue the EPA over its allegedly arbitrary and capricious approval of New York and Pennsylvania's inadequate state water plans. Well, the time has come and they filed [official lawsuits](#) this week. The two complaints essentially allege the same points – that New York and Pennsylvania's water plans are in violation of the 2014 Chesapeake Bay Watershed Agreement, and that the EPA arbitrarily and capriciously approved them. The plans in question are required by the six states in the Chesapeake Bay Watershed based on a 2010 agreement to restore water quality in the Watershed by 2025, and they specifically outline how each state will reach the agreement-mandated total maximum daily load ("TMDL") targets. Both New York and Pennsylvania's plans, which the EPA approved, do not meet the targets – New York's would only meet 66% of its nitrogen reduction requirement, and Pennsylvania's would only meet 75%. EPA Administrator Wheeler already responded to these potential lawsuits, offering no [apologies](#) and saying that the lawsuits have no merit. Enforcement of such an agreement is tricky to navigate, so the outcome of these suits could have major implications for federal enforcement of TMDLs created by state agreements. And as inhabitants of a state in the southern Mississippi River Basin, those of us in Louisiana are very interested to see where this goes.