



TUWaterWays

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

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Don't Mess with Texas

If there's any so-called race to the bottom happening in this country, it's a race to the bottom of the water table. [Fracking operations in the United States have used a grand total of 1.5 trillion gallons of water](#) since 2011. Yes, trillion with a "T". A lot of it is drawn from aquifers across New Mexico, Colorado, and especially Texas. To access oil reserves, you have to pump a lot of water below the surface. The oil or gas comes up, and so does the water. As you may have guessed, that [wastewater \("produced water"\) is heavily contaminated](#).

And get this: Texas follows the "[rule of capture](#)" in its approach to groundwater management, an approach that better could be referred to as lack of management. Under the rule of capture, a landowner owns the groundwater beneath their property and can withdraw as much as they want. What can locals do about it? Not much. In Texas, water used for fracking is basically exempt from water restriction rules. While residents in drought-stricken areas may be subject to restrictions, fracking operations are largely unaffected. It really goes to show just how unregulated aspects of the oil industry still are. Communities in the vicinity of fracking have a grim outlook for future municipal water supply.

In Laredo, a city on the Mexican border in fracking territory, it's predicted that water [supply allocated from the Rio Grande will be exhausted by 2040](#). Thanks to fracking, the United States is now the world's largest oil and gas producer. Even as we try to reign in unfettered water use from fracking and other related fossil fuel practices, [meeting the demand for minerals in the growing green tech sector](#) is also going to require tons of water. The [long and winding road](#) to decarbonization stirs up quite the thirst.

Existential Dredge

We all [can feel it](#) sometimes. Rivers can too. On Wednesday, the [Biden administration approved Louisiana's request](#) for an emergency declaration opening up additional funds and federal support to deal with Gulf saltwater intrusion. The Army Corps dredge fleets are working round the clock on the lower Mississippi River to bolster the underwater sill (it's a dam) that's slowing the saltwater wedge's movement. Also, the Army Corps plans to bring in freshwater barges to feed the intake points. However, that likely won't be enough to deal with the problem. Local [officials explored the possibility of building a freshwater pipeline further](#) upriver. It could be expensive and challenging, but hey, it's probably the most reasonable approach we've heard in modern times [when it comes to proposals to divert Mississippi River water](#). As fear and uncertainty mount in the New Orleans metro area, it's important to remember that our neighboring communities in Plaquemines Parish have been dealing with saltwater intrusion [since June \(after having dealt with it last winter, too\)](#).

With [October 1st looming](#), it's important to understand whether a government shutdown would impact the efforts to address the drinking water challenges ahead. Luckily, the ongoing efforts will not be impacted because it falls within a category of [Army Corps funds that aren't subject to discretionary spending](#). Unfortunately, other environmental programs would be. [EPA inspections of hazardous waste sites](#), as well as drinking water facilities,

would largely come to a halt. A broader conversation is to be had on the funding of federal agencies on the forefront of climate change. The White House has directed agencies to account for climate change in their budgets. For disaster agencies, that seems to be [all the budget goes to these days](#).

From Disaster Zone to Development Zone

This week marked one year since Hurricane Ian made landfall in Florida, causing [roughly \\$113 billion in damage and claiming the lives of over 150 people](#); making it the third most costly storm to make landfall in the United States. As resettlement and rebuilding prospects take full shape, the aftermath of Ian has highlighted an increasingly common phenomenon: [locals that can't afford to rebuild make way for high-end real estate and luxury developments](#).

Many factors play a role, but one resiliency measure has potentially widened that gap. The state has adopted strong building codes, a necessary policy measure to ensure resilience in the face of high winds and flooding. Under the National Flood Insurance Program, if rebuilding costs exceed 50% of the property's value, a structure must be rebuilt—and that means meeting more stringent codes now in place. That puts rebuilding out of reach for many long-time residents of coastal communities. When the insurance claim payout isn't sufficient, they often have little choice but to sell their property to someone who can pay the high price of risk tolerance.

It's hitting Fort Meyers Beach especially hard. Before the storm, it was an economically diverse stretch of the coast that welcomed tourists of more modest means. Now as high-end development companies snatch up land in Fort Meyers, thousands of Florida residents displaced by Ian are [still living in roadside motels](#). It's happening close to the Institute's home, too. Grand Isle, LA has seen a [development boom in the aftermath of Hurricane Ida](#), mostly from out-of-town investors who plan to build resorts and well-armored homes while longtime residents can't afford to rebuild. It's crucial that we have strong building codes, but we must also consider how it impacts those on the front lines of climate change. And as [insurability concerns spread to places](#) once thought shielded from climate impacts, it's time for a [wake up](#) call.

Wish You Were Just Like Us?

[People are talkin'](#)! The [rumors](#) are true! We're looking for a [senior research fellow to join the Tulane Water Law team](#) starting in August 2024. If you're interested in any combination of water, governance, law or policy, this is the job for you! Because it's intended as a postgraduate career [launcher](#) position, it is only open to recent law school grads. Or, given the linear way we perceive time, also eligible are people who are not yet law school grads but who will have become law school grads when the job begins next August. Anyways, if you earned a JD or LLM in the past year or will by spring of 2024, you're eligible. You could be a future author of these very TUWaterWays! If you're not one of those people, tough luck, but help us spread the word to those who are!

Coming Up:

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

Water jobs:

[Senior Research Fellow](#), Tulane Institute on Water Resources Law &
Policy, New Orleans, LA

[Senior Associate, Ocean Governance](#); Pew Charitable Trusts;
Washington, DC

[Water Program Policy Specialist](#); The Nature Conservancy; Phoenix, AZ

[Associate Attorney](#); San Francisco Baykeeper; Remote

[Staff Attorney](#); Western Watershed Project, Multiple Western States

[Nonprofit Administrator](#), Utah Diné Bikéyah, Utah



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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