



TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy
Authors: Christopher Dalbom, Mark Davis, Haley Gentry, Ximena De Obaldia, & Katie Moreland
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There's Nothing Like a Day at the Beach

When you take the family to the beach, which feels more important for you to know—whether the water is clean or whether everybody that discharges pollutants into that water is complying with the discharge limits on their permits? If you are Supreme Court Justice Amy Coney Barrett, you care about the water; if you are Justice Samuel Alito, you are fine with trusting the permit limits. If you're the Environmental Protection Agency, you have to find a way to link discharge limits to actual water quality. That's because [a new U.S. Supreme Court decision in San Francisco v. EPA](#) penned by Justice Alito has ruled that under the Clean Water Act, EPA can only address point source pollution by imposing specific discharge limitations in permits (NPDES permits) under [Section 402 of the CWA](#). EPA had tied the City's permits to maintaining the designated water quality of the receiving water body, essentially telling polluters (keep in mind that NPDES permits are really permission to pollute), "Here's the water quality standard; you figure out the best way of meeting it". San Francisco had been cited for illegally releasing stormwater and wastewater into the Pacific Ocean. The City's permit, issued in 2019, said (among a bunch of other things):

- The City's sewage treatment plant was prohibited from making any discharge that "contribute[s] to a violation of any applicable water quality standard" for receiving waters; and
- The City cannot perform any treatment or make any discharge that "create[s] pollution, contamination, or nuisance as defined by California Water Code section 13050."

As you probably guessed, [The City](#) by the Bay went right ahead and discharged sewage in ways that EPA said violated both of those prohibitions (termed "receiving water limitations" by EPA and "end result" permits by Justice Alito). Justice Alito concluded that the CWA gives all the tools it needs to set actual discharge limits and that "end result permits" were not allowed under the CWA. So there. What seemed so clear to Justice Alito and his four compadres was anything but clear to Justice Coney Barrett and the other three dissenters. [You can read all about it here](#). If the majority and the dissenters only disagreed on the path to the same outcome, this might all be inside baseball, but with the [cuts](#) and "[reorganizations](#)" underway at EPA, one has to [wonder](#) if they really have the tools and personnel to craft finely tuned discharge limits. As Justice Alito concludes, "If the EPA does what the Clean Water Act demands, water quality will not suffer." That's a mighty big if.

Water Here! Get Your Cool, Clear Water Here!

Two things seem to be everywhere these days: Elon Musk and the demand for water. Even the Coastal Bend section of Texas (home of [Robstown](#), the crossroads of South Texas), where Tesla is building a lithium refining plant. What town would not welcome the world's richest man, after all? Well, [maybe Robstown if the lithium plant turns out to need more and more water and the area is experiencing a drought](#). Originally expected to need about 800,000 gallons of water a day, the plant is now using up to 3 million gallons a day, a figure that could grow to [8 million gallons per day if the plant](#)

[expands](#). Why worry, you ask? Surely, when businesses and economic development folks scout out new locations, assessing the availability of water is one of the first things they would pin down, right? Apparently not, as the Tesla plant and other recent developments in Texas attest. Perhaps that old saying about water in the West is true. The one that says, though normally [water runs downhill, in the West, it runs toward money and power](#). But even then, there's only so much water out there, and if Texas is going to continue to grow—and it plans to—it will have to become much more disciplined about how water is used. [Texas knows that](#), but the challenge is akin to putting diners at a sumptuous banquet on a diet. [It ain't easy](#) (which is Texan for it's not easy.) If it's this tough for Texas to balance water and growth, it's enough to make one have second thoughts about [moving to Mars](#).

Coming Up:

[Tulane Environmental Law Summit](#)
March 28-29, 2025

[Tulane Law School & APADEMAR's Panama
Maritime & Water Law Summit](#)
April 1, 2025
Panama City, Panama

[Water in Americas' Human Landscapes:
Tulane Law & Policy Symposium](#)
June 16-18, 2025

Water jobs:

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

[Staff Attorney](#); Earth Island Institute; Berkeley, CA

[Program Manager, Adaptation and Resilience](#); Climate Works Foundation; US (Remote)

[Senior Policy Analyst, Water Infrastructure](#); Environmental Policy Innovation Center; Remote

[Water Policy Advisor](#); The Nature Conservancy; Boulder, CO



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.

6325 Freret Street, 1st Floor
New Orleans, LA 70118
504-865-5915
tulane-water.org

