

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy
March 18, 2022

Confusion All Around About the New Flood Program

In about two weeks, the new Risk Rating 2.0 for the National Flood Insurance Program will enter Phase II, in which all renewing policies will be subject to the new rating methodology. NFIP policies make up most of the flood insurance in the U.S., which means this new system affects a huuuuge number of people. The Program is somewhat of a [regular](#) topic in this newsletter, and knowledge of increased premiums has been out since [last year](#). The actual numbers are still a mystery, so some homeowners have asked their insurers to take a stab at estimating them. Still, having a forewarning doesn't make them hurt any less—especially when the increases are as much as [1300 percent](#). FEMA claims that the new system will lead to more equitable rates and information about the new methodology, including comparisons between the new and old system, can be found on their [website](#). Even so, it can be confusing to many, especially the [calculations](#) leading up to the final risk assessment. As a result, Senators Bill Cassidy and Kirsten Gillibrand [introduced a bill](#) targeted at increasing FEMA's transparency when it comes to pricing, which under the bill, requires the agency to release a toolkit that can help policy holders estimate insurance costs.

Let's hope there will also be some effort to translate all of this policy and legal [mumbo jumbo](#) into several different languages. These policy changes are hard enough to understand without the added obstacle of language barriers, but the [secret formulas](#) involved in their calculations make it nigh impossible to comprehend by the average layperson, let alone a non-English speaking policyholder—many of whom live in areas that may experience rate hikes. For example, Risk Rating 2.0 [considers the impact of levees](#) in the insurance rate calculations. That makes sense, and it's great for many, but for say, [a small Vietnamese community living in Plaquemines Parish](#), outside of the hurricane protection system, it means higher premiums—and without any understanding of the mechanisms behind it. It's a good thing Louisiana's Coastal Protection and Restoration Authority has a ton of hurricane protection and coastal restoration projects [planned for the fiscal year 2023](#).

Some Risky Business

Besides kicking people out of house and home, natural disasters seem to have the special ability to kick out insurers, too. Two especially active hurricane seasons in 2020 and 2021 led to some [insurance companies becoming insolvent](#) and one company choosing the [leave the Louisiana market](#) of its own accord. Yes, yes, woe is them! How could they ever have expected such a magnitude of losses in such a short time span? Except, [they did](#). And worldwide, insurers

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.

Coming Up:

[SLU Summit for Water](#), March 22 – 23

[69th Mineral Law Institute](#), March 31 – April 1

[ABA SEER 51st Spring Conference](#), April 6 – 8

[California Water Law Symposium](#), April 9

[University of Denver Water Law Review Symposium](#), April 14-15

[Coastal Law in Louisiana \(CLE\)](#), April 21- 22

Water jobs:

[Water Justice Specialist](#), Bayou City Waterkeeper, Houston, TX

[Sustainability/ESG Director](#), PwC; multiple locations

[Research Associate](#), University of New Orleans; New Orleans, LA

[Research Associate 1](#), University of Louisiana Lafayette; Lafayette, LA

[Organizing Representative](#), Sierra Club; New Orleans, LA

[Advocacy Director](#), Coalition to Restore Coastal Louisiana; New Orleans, LA

[Policy Advisor, Mississippi River Basin Floodplain](#), The Nature Conservancy; LA, MS, AR, TN, or KY

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

[Associate Attorney, Oceans Program](#), Earthjustice; Seattle, WA

[Sportsmen Outreach coordinator](#); National Wildlife Federation; New Orleans, LA

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responded in a various ways; some [tightened policy language and decreased coverage](#), others [increased premiums](#), and many did both. But while all the attention and scrutiny fall on insurance as the villain, its [sidekick](#), mortgage lenders, are left alone to operate without a care as to climate risks. Higher premiums can act as a deterrent for the would-be homebuyer, but mortgages are a little different. While insurers, to a certain extent, consider climate risk, mortgage lenders tend not to. In fact, the [mortgage industry is unprepared for the consequences of climate change](#). So, while a mortgage lender may require you to purchase property and flood insurance for that house on the coast, they won't necessarily deny you the loan based on the property's high risk of damage from climate-induced weather. This is because, not only are the homes insured (to an extent), the loans are securitized by private agencies that [sell those loans to investors](#) and protect those investors against defaults from the homebuyer. Setting aside that the two largest agencies are government-sponsored, this all amounts to a [mortgage industry hasn't really had much of an incentive to mitigate climate risk](#). But as insurance premiums rise, they place more of a strain on finances and, coupled with the costs of owning a home that risks being severely damaged every few years, mortgage payments become harder to make. The fact is that the industries are interconnected, and it's just plain dumb to not consider climate risks.

Lake-Level Rise in Kenya

Here in Louisiana, we're well acquainted with the threat of sea-level rise; meanwhile in Kenya, the ocean isn't the only rising body of water to worry about. Over the past decade, 400,000 residents of western [Kenya have been displaced by serious flooding](#) from the region's string of desert lakes. Shorelines have expanded miles beyond where they historically lied and have [swallowed everything in their paths](#)—homes, schools, entire cities, and even other lakes. This has drastically [impacted the land](#) and wildlife across the region—[hippos and crocodiles hanging out in submerged schoolhouses](#) isn't as heartwarming as it sounds—and the threat of further ecological devastation looms as freshwater and saltwater lakes creep closer together. In some areas, access to freshwater has already been cut off as pumping stations have disappeared beneath rising surface waters. A report published by the Kenyan government in October 2021 attributed the rising waters to increased rainfall due to climate change, land degradation from human use, and tectonic activity by the plates that formed the lakes in the first place. Hopefully this report, as well as one from the UNEP published in July, signal the coming of desperately needed humanitarian assistance that has been virtually non-existent for a decade.

Revenge is a Dish Best Served Dry

The Anson-Madison Water District in Maine is learning the hard way that [you should always change the passwords before sending out the pink slip](#). Back in November 2021, the District fired its then-superintendent Michael Carson, who was, at the time, facing [accusations](#) of illegal sales of scrap metal from utility equipment. To his credit, the charges were later dropped, but by then, his reputation was already in the toilet. But now the shoe is on the other foot, as the District board of trustees have found themselves [locked out](#) of several of the organization's software accounts and email. Naturally, the board isn't very happy with this, as it makes it harder for them to perform essential tasks such as managing their finances and operations. The assumption is that Carson, [in the heat of being fired](#), changed all the passwords. The board filed a [lawsuit](#) against Carson, seeking injunctive relief and requesting the court to order that Carson assist the board in regaining access to the accounts and pay for attorneys' fees and damages.

Come and Have a Shell of a Time!

Our friends at the Coalition to Restore Coastal Louisiana are having their annual [Shell-A-Bration](#) on March 25, and you're all invited! The event, held at Crescent Park in New Orleans, promotes and benefits the organization's Oyster Shell Recycling Program, which has diverted more than 10 million pounds of shell that was headed for landfills and has instead put them to use to build oyster reefs that help minimize coastal erosion and create habitat for new oysters. The cost of admission (\$45) will include food and local brews, and there will also be a

raffle, a silent auction and a kid's area. The world (park) is your oyster, so get there (p)early to enjoy all the festivities!

Coastal Law CLE? Sign us up!

Interested in Louisiana coastal issues and the laws and policies that surround them? Looking for some CLE credit this spring? Need something to fill your social calendar the week before Jazz Fest? Well, we've got just the conference for you—featuring our very own fearless leader, Mark Davis, discussing nutrient management, Mississippi River resources, as well as surface and groundwater rights. The Seminar Group will be putting on the “Coastal Law in Louisiana” conference April 21-22 in New Orleans, with expert panels on topics including flood management and levee issues, oysters and aquaculture, offshore wind energy, environmental justice and coastal planning, and more. So check out the current agenda [here](#) and register if you're interested. We hope to see you there!