

# TUWaterWays

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

[November 13, 2020](#)

## **Gimme Shelter**

This week our shop published “[Shelter from the Storm](#),” an issue paper on the New Orleans Hurricane and Storm Damage Risk Reduction System (HSDRRS), and what it legally entails protection-wise for the New Orleans area. We did a legal analysis of the Flood Control Act of 1965 and the three post-Katrina supplemental public laws that implemented the HSDRRS, specifically to determine whether those post-Katrina laws replaced or altered the original authorization. The Flood Control Act of 1965 authorized a Federal and Non-Federal Sponsor to construct and maintain the Lake Pontchartrain and Vicinity (LPV) project, a levee system to protect the area from hurricane and storm-related flood risks, against the Standard Project Hurricane, which was [estimated](#) to be a 200-300 year event in 1965. After the devastation caused by Hurricane Katrina and the engineering failures of the LPV project, Congress passed three supplemental and appropriative laws to create a more robust levee system and to ensure that the New Orleans area qualified for the National Flood Insurance Program, which only requires protection against a 100-year event. Thus, our core question – was Congress [reelin’ in the years](#)? Did those post-Katrina laws alter or supersede the original 1965 authorization, changing it from a 200-300-year level of protection to a 100-year level? That did not seem [logical](#) to us, so we decided to do a deep-dive into the laws to figure out what Congress wrote and intended. Although the paper addresses only this small issue related to the HSDRRS - we do not analyze funding or [whose authority](#) covers all of the operation and maintenance responsibilities, as our primary focus is how much [authority](#) – we think this narrow issue is an integral question as storm and flood events increase in frequency and intensity and the New Orleans area will need greater protection for the future. Give it a read [here](#) if you’re interested in our legal analysis of the authorization behind the HSDRRS.

## **Biden Our Time?**

After an anxiety-inducing election week, Joe Biden has won the election—and to much of many environmentalists’ [relief](#). Of the two candidates, Biden was the only one to address climate change issues. While his [plan](#) arguably leaves much to be desired in terms of decisive actions to slow climate change, it does include items that assist in reaching that goal, such as rejoining the Paris Agreement, reversing energy rollbacks, addressing climate injustice, and developing new regulations for emissions. However, talk is cheap and many scientists have [strongly urged](#) immediate and aggressive action if we are to avoid the threats posed by climate change. Mr. Biden won’t officially be President Biden until January 20—court challenges

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:**

[NACWA National Clean Water Law and Enforcement Virtual Event](#); November 17-19

[Drinking Water Webinar: Creating Resilient Water Utilities](#); November 17

[Property Values and Water Quality: Supporting Decisions with the Hedonic Model](#); November 18

[Drinking Water Models and Tools](#); November 18

[CPEX Virtual Growth Summit: Green Infrastructure in the Delta](#); November 18

[CPRA: Landscaping a Better Coast: Terraces as a Restoration Tool](#); November 18

[Governor’s Advisory Commission Meeting](#); Baton Rouge, LA and virtual

[Rocky Mountain Mineral Law Foundation: Water Law Institute](#); November 19

[Louisiana Sea Grant: Bays and Bayous Symposium](#); December 1-3

[CPRA: Swamp Hydro Restoration](#); December 2

### **Water jobs:**

[Water Rights and Instream Flow Specialist](#); Montana Dept. of Fish Wildlife and Parks; Helena, MT

[Programme Associate](#); Global Water Partnership; Stockholm, Sweden

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

[Staff Attorney](#); Delaware Riverkeeper Network; Bristol, PA

[Senior Specialist \(Water Stewardship\)](#); Gap, Inc.; San Francisco, CA

[Hydraulics and Hydrology Lead](#); Dewberry; Raleigh, N.C.

[Great Lakes Equity and Justice Partnerships Senior Coordinator](#); National Wildlife Federation; Chicago, IL

[Surface Water Storage Fellowship](#); EPA; Cincinnati, OH

[Associate Director](#); California River Conservation; Sacramento/Berkeley, CA

[Conservation Leadership Corps](#); Louisiana Wildlife Federation

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notwithstanding and Electoral College willing, but that doesn't mean he has to [wait](#) around until then in order to [get some work done](#). As an old restaurant manager used to say, "if you've got time to lean, you've got time to clean!" Except in this case, it's more of cleaning the environment and less of cleaning tables.

### **The Captain Has His Crew**

Back in [August](#), Governor John Bel Edwards signed two executive orders meant to address climate change; one of those orders established the Climate Initiatives Task Force, which has the responsibility to study climate change effects and make recommendations to the Governor's Office on how to reduce greenhouse gas emissions and build coastal resilience. Last Friday, we got to learn [who is on the task force](#). Some are familiar faces; others are new to us. Regardless, we look forward to seeing what they can accomplish. Their goal is to get Louisiana prepared to respond to the effect of climate change, and they started on [making it so](#) by having their [first meeting](#)!

### **These Are the Voyages...**

Confession: some of us around here are Trekkies, and as Trekkies we have always been bitter at the fact that there is a [LEGO Death Star](#) and [Millennium Falcon](#), but not a LEGO [Enterprise-D](#). But licensing intellectual property can be complicated, so for now, we'll settle for a [microscopic USS Voyager](#).

[Physicists have succeeded in 3D printing synthetic microswimmers of different shapes](#), which previous to this development, only came in spheres. Microswimmers are tiny organisms and objects that, you guessed it, [swim](#) through liquids. Creating microswimmers of different shapes can help scientists study their movement and to gain greater control of them. This is significant because it's [theorized](#) that these swimmers can help with cleaning up oil spills and chemical pollution by absorbing the pollutants or be turned into non-toxic byproducts. Now, let's hope that they also come up with a way to keep track of a few million fleets of tiny plastic ships. Easy peasy. It's not like we've ever had a [problem](#) with millions of tiny plastic pellets released into the ocean...

### **Lots Going on in St. James Parish**

Construction of the \$9.4 billion Formosa Plastic complex will be put on pause as the Army Corps of Engineers announced that it will suspend the permit. Litigation surrounding the facility began in January, when the Center for Biological Diversity, HealthyGulf, the Louisiana Bucket Brigade, and RISE St. James filed a [lawsuit](#) challenging the permit on the basis that the Corps failed to perform their own EIS. Construction of the facility has been embroiled in [controversy](#), as its location in Cancer Alley puts the residents of St. James Parish in further danger of health risks. On November 4, the Corps filed a [Motion to Stay](#) summary judgment proceedings until they review the permit. Formosa Plastics' Louisiana affiliate, FG LA LLC, has plans to build more facilities in the area—an agenda likely encouraged by the [\\$1.5 billion dollar tax break](#) they received from the State.

As Formosa hits a roadblock in its construction, Shell announced last week that it will be [closing its Convent facility](#) after failing to find a buyer. The refinery closure is the largest in U.S. history and indicative of the trend toward more renewable fuel sources as the oil and gas industry is [under pressure](#) to be more environmentally responsible. The company's plan is to integrate its refineries into chemical complexes and focus more on biofuels, hydrogen, and synthetic fuels to move towards lower carbon products.

### **Calling Louisiana Undergrads!**

The Louisiana Wildlife Federation is currently accepting applications for its Conservation Leadership Corps. The program will help train students to address and advocate for conservation issues. The focus this year is Trash Pollution in the Waterways. It is open to students who are 18 or older and who will be enrolled as an undergraduate in Spring 2021. Anyone interested needs to [apply](#) by December 10, 2020.