

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy
December 3, 2021

Ash Heaps on Ash Heaps

These are not the best of times for the coal industry and coal fired power plants, and the news is not getting any better for them—though things are looking up for the water quality in a number of streams and water bodies. The reason for that is a new wastewater rule promulgated by US EPA. The new rule will require coal ash and toxic heavy metals in water used by those power plants be removed before the water is returned to rivers and streams. That is no simple proposition and as a result, [26 coal fired plants in 14 states will close or convert to natural gas rather than staying the course](#). To see why this is a big deal, one need only reflect on [how badly things can go wrong when they go wrong—e.g., at the Tennessee Valley Authority’s Kingston plant in 2008](#). The new rule modifies a 2015 rule that industry challenged during the Trump administration, arguing that the compliance costs would force coal plant closures. The new rule, while less stringent than the previous rule, still leads to plant closures, which offers a window into the extent to which impaired waters have been subsidizing our power generation.

A Tale of Two States

These are also not the best of times for Mississippi’s dreams of forcing its neighbor Tennessee to pay for groundwater pulled north across the state line because Memphians don’t want to drink Mississippi River water. After years of delays and frustration, Mississippi finally got its date with destiny in the Supreme Court of the United States and [walked away with nada, zilch, zero, bubkes](#). It sought to be declared sovereign owner of all of the groundwater beneath its soils and alleged that Tennessee’s pumps caused a border-straddling [cone of depression](#) (not to be confused with an [even more profound cone of depression](#)) that prevented Mississippi from fully developing its water resources. You have to give Mississippi credit; it boldly put it all on the line by [not asking for alternative remedies](#), including the much safer argument for equitable apportionment. So, when the court unanimously acknowledged—for the first time—that equitable apportionment can apply to groundwater (a very important point), Mississippi wanted none of that. Which is exactly what it got. And [so it goes](#).

Please Sir, May We Have More?

You say you want more water? Well, the answer to that is, [Noooooo!](#) It turns out that these are not the best of times in the Golden (well, Golden Brown?) State either, at least where water is concerned. Water management has always been complicated in California, and it often boils down to making the wet stuff appear

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:

[The Farm Bill and Coastal Conservation](#); Dec. 9

[Virtual 2021 Hypoxia Task Force Meeting](#); Dec. 14

Water jobs:

Louisiana Bucket Brigade; [Campaign Director](#), New Orleans, LA; [Economic Development Manager](#), River Parishes, LA;

[Adaptation Program Director](#); Georgetown Climate Center; Washington, D.C

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

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

[Communications Specialist](#); Environmental Defense Fund; Multiple

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

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

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somewhere that nature did not put it for the benefit of people with no proximate geographical connection to it. Indeed, that pretty much explains the California [State Water Project](#), a [700 plus mile system of reservoirs, aqueducts, canals, and pumps](#) that provides water to cities, towns, and farms. At least it is supposed to, but soon that will not be the case. Years of drought have taken such a toll that the State Water Resources Department has announced that it is [suspending water deliveries for next year](#), a move that will force its customers to double down on conservation efforts and to find others sources of water (which usually means overdrawing from aquifers).