

TUWaterWays

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

[November 7, 2019](#)

[Au Revoir, Paris Agreement](#); [Bonjour, Sea Level Rise](#)

President Trump has officially served notice to [withdraw the United States from the Paris Agreement](#). The Paris Agreement, for anyone who needs a refresher, is an international agreement, signed in 2015, with the goal to keep global temperatures from rising above two degrees Celsius. President Obama signed the U.S. onto the agreement when it was originally created, but President [Trump announced](#) that he would pull the U.S. from the agreement back in 2017 (in less eloquent terms, stating that he would “cancel” the agreement). This could have disastrous consequences, especially considering this report states that sea levels [will still rise](#) even if the countries signed onto the agreement hit their targets and stop emitting carbon completely. We’ll all be even sadder than [this cat](#).

However, it’s not completely hopeless, as National Geographic [points out](#), it just means that decisions made now are crucial to future sea-level rise. The United States’ exit from the agreement does appear to be a major regression, but just because the U.S. won’t be honoring the Paris Agreement [does not mean that U.S. entities won’t](#). Over 3,800 have signed [this petition](#), pledging to honor the Paris Agreement’s goals. This list includes major corporations, states, colleges and universities, tribes, and more. Perhaps the [sad fate of Cinderblock](#) is not in our future.

Your kitchen trash can needs a liner, why wouldn’t coal ash ponds?

In a continuation of the [many](#) environmental roll-backs by the Trump administration, the Environmental Protection Agency [announced](#) that it will be rolling back the pollution limits for coal plants, giving these plants until December 2028 to comply with technology regulations, and even exempting some plants. These stricter regulations were implemented under the Obama administration, which estimated that they would stop ~1.4 billion pounds of pollutants from being discharged into nearby waterbodies. Coal plants pollute water at an alarming rate, due in part to unlined coal ash ponds that allow seepage into rivers and streams. If that’s not enough, 1.1 million Americans live within three miles of a coal plant, and most of them are people of color and low-income populations, so these rollbacks, like most pollution permitting, also include an element of environmental racism. And there’s more: coal plants emit the [most carbon](#) compared to other energy sources; therefore, they are some of the largest contributors to climate change. Unsurprisingly, this move is being touted as good for business, estimated to save coal plants over \$175 million annually. The Trump administration is also claiming that with the flexibility and money saved, coal plants will be able to police themselves and emit less pollution. Needless to say, [we](#)

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 stewardship of water.

Coming up:

[Film Screening and Panel: “Oceans, The Mystery of Missing Plastic”](#)

November 7; New Orleans, LA

[Louisiana Wildlife & Fisheries Commission Meeting](#)

November 7; Baton Rouge, LA

Manchac Swamp Reforestation Planting Event

November 8 & 9; Akers, LA

[Anthropocene River Campus: The Human Delta](#)

November 10-16; New Orleans, LA

[Rising Sea Levels & Climate Change | How Tulane is helping!](#) November 13; New Orleans, LA

[ResCon Session Proposal Deadline](#); November 15

[Virginia Coastal Policy Center Resilience Conference](#) and [Virginia Aquaculture Conference](#)

November 15 and 16, 2019; Williamsburg and Newport News, VA (respectively)

[A Studio In The Woods FORESTival: A Celebration of Art and Nature](#)

November 16; Algiers, LA

[Oyster Shell Bagging](#)

November 16; Buras, LA

Water jobs:

[Postdoctoral Fellowship in Climate Change Law](#); The Sabin Center for Climate Change Law at Columbia University; New York, New York

[Project Associate](#) or [Project Manager](#)

Washington Water Trust; Seattle & Ellensburg, WA (respectively)

[Postdoctoral Fellowship](#)

National Socio-Environmental Synthesis Center (SESYNC); Annapolis, Maryland

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[are skeptical](#) of that claim or any claim that this will help the thousands of miners whose pension is [on the brink of insolvency](#).

[Get the Lead Out \(of Canada\)](#)

Yeah, yeah, we know we just made a “Get the Lead Out” joke [a few weeks ago](#), but there is a lot of lead-based water pollution *and* that one was an Aerosmith bit, whereas this is a Led Zeppelin bit, so it’s completely different! Much like the classic rock band [Led](#) on their many North American tours, the chemical lead is also invading all of North America. And unfortunately, neither [new EPA standards](#) nor [partying a little too hard](#) will stop it when it starts to become [unbearably bad](#). According to [a recent investigation](#), some Canadian cities have drinking water just as lead-polluted as Flint, Michigan, if not [more so](#). The investigation found that, of the 12,000 tests done, the amount of lead in drinking water exceeds the Canadian safety limit (5 ppb) in about one third of the tested cases and exceeds the United States safety limit (15 ppb) in almost twenty percent of the cases. Yes, what is a “safe” amount of lead to drink differs depending on what side of the 49th Parallel you’re one. Isn’t science marvelous?

The Canadian government handles lead pollution much differently than the U.S. In Canada, there is no federal oversight that requires testing and notice; it’s just governed on a province-by-province basis (not that the federal oversight here keeps us free of lead-contaminated water, as Flint is just [one of many U.S. cities](#) dealing with unsafe drinking water). Ontario is the only province that uses anti-corrosives in drinking water, which are required in the U.S., and it is the only province that performs routine testing and posting of results. Some Canadian cities, like Montreal, are working to replace aging infrastructure that contributes to this sort of pollution. However, this is a costly and time-consuming solution to an urgent problem, which is a problem [the U.S. also must deal with](#). Other than that, the Canadian government does not appear to have any plans for a federal oversight system or any other solutions, leaving us all asking the question, [“hey, hey, what can I do?”](#)

[Can’t Quit WOTUS, Baby](#)

[Gotcha!](#) You thought we were going to continue to draw out this Led Zeppelin bit, didn’t you? (Have no fear, [we surely will](#)). As of yesterday, *County of Maui v. Hawai’i Wildlife Fund*, was [in front of the Supreme Court](#) for oral arguments and the Court’s deliberation has begun. As a quick reminder, at its heart this case asks whether pollution that travels by way of groundwater into Clean Water Act-regulated waters must comply with CWA permitting standards, despite not being directly discharged into the regulated waterbody. The Ninth Circuit Court of Appeals [upheld](#) the Obama-era WOTUS definition, which would require such groundwater discharges to be regulated under the CWA. We know what you’re thinking, [“How many more times](#) can they write about this?” and, “Didn’t you have a WOTUS update that said we don’t need to worry anymore because the Maui County Council voted on a resolution that would settle the matter?” The answers are: [the limit apparently does not exist](#), and we did in fact have [an update to that effect](#), respectively. However, that settlement vote was only regarding the specific discharge in Hawaii, whereas the Supreme Court [granted a writ of certiorari](#) to hear the broader question. Additionally, for further complication, an environmental group, along with some other parties, [sued](#) the Mayor and County Council in state court to determine whether the Mayor must respect the settlement vote and drop the case.

Throughout oral arguments, the Court pushed the county’s and Earthjustice attorneys in order to find a middle ground, to best honor Congressional intent. Justice Breyer seemed unconvinced of the county’s argument, saying that their interpretation would provide [“an absolute road map”](#) for polluters to circumvent the CWA permitting requirements. Justices Alito and Kavanaugh, however, appeared more concerned about extending federal regulation beyond the intent of Congress (never mind that [the intent expressed by Congress in the Clean Water Act itself](#) doesn’t seem concerned whatsoever with the extent of federal regulation), as well as conflating this issue with a groundwater regulation issue. Both conservative and liberal justices also had practical questions regarding what each scenario would look like on the ground and what this case would mean for the line between federal and state regulation. And of course, the arguments included some fun analogies about spiking punch bowls with whiskey transported in a flask. We won’t know the Court’s actual views until a decision is reached and an opinion circulated, which will not necessarily be anytime soon – a decision is not due until July 2020. [That’s the way](#) it goes in the legal system, whether we [like it](#) or not. With that, we’ll [leave you](#) for this week (apologies and be glad we didn’t go for the [really obvious choices](#)).