

TUWaterWays

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

[April 30, 2021](#)

[Mo' Money, Less PFAS?](#)

Two weeks in a row on forever chemicals? What a treat! To celebrate [Water Week 2021](#), it looks like the announcement we briefed you all on last week from EPA Administrator Regen on getting serious about PFAS is already coming to fruition. This week, the EPA released a [memo](#) stating that it would be convening a PFAS council to get to work on creating a national drinking water standard criteria for the chemicals. In the memo, Administrator Regen recalls the devastation PFAS caused in his home state of North Carolina, and vows that solving the PFAS problem on a federal level will be one of the EPA's top priorities. The council will be led by Radhika Fox and Deb Szaro and will consist of top EPA officials to complete PFAS-related goals, most notably the development of a multi-year strategy to deliver public health protections on PFAS, entitled "PFAS 2021-2025 – Safeguarding America's Water, Land, and Air."

The Biden Administration as a whole has also made it clear that PFAS will be a top priority, as the recently-released [American Jobs Plan](#) calls for investment of billions of dollars for PFAS monitoring and treatment in drinking water sources. And, if that wasn't enough, on Thursday the EPA also [announced](#) it would have \$6.5 billion in funding to invest in water infrastructure projects, with a big focus on safe drinking water. Happy Water Week, indeed!

[Settling Down](#)

This month, the U.S. Department of Justice announced that nine chemical plants and oil refineries in the Lake Charles area have [reached a settlement](#) with the EPA over reimbursement for response costs incurred as a result of discharges and spills of toxins and contamination of the Calcasieu River estuary. Contamination of the Calcasieu River has been a long-running problem, as some of the offending plants have been operating since 1920. Environmental groups in the area met with the EPA as early as 1980 to address high levels of dioxin in nearby residents' bloodstream. A corresponding [complaint](#) to the settlement, filed earlier this month, outlines the history of the problem and how hazardous and toxic chemicals were discharged from the plants into the estuary and from accidents that trap them in groundwater before limits were set. The EPA began officially investigating these incidents in 1999 and has posted health advisories on almost 350 miles of the River. The recent settlement does not necessarily call for a [victory dance](#), however, as it does not reflect actual cleanup costs – it only covers the EPA's response costs. And, in fact, the settlement amount is less than half of the EPA's actual response cost – it covers \$5.5 of about \$13 million. The settlement also does not include money for the Louisiana

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:

[Atchafalaya River Basin Restoration and Enhancement Task Force Meeting](#); May 4

[EPA Small Drinking Systems Webinar Series: Harmful Algal Blooms and Algal Toxins](#); May 25

[State of the Coast 2021](#); June 2-4

[Comments due for Mid-Barataria Sediment Diversion Draft Environmental Impact Statement](#); June 3

Water jobs:

[Legal Fellowship – Tribal and Federal Natural Resources Mitigation Law and Policy](#); Environmental Policy and Innovation Center; Washington, D.C.

[Federal Policy Manager – Plastic Pollution Campaign](#); Oceana; Washington, D.C.

[Director, Sustainable Land Science](#); Conservation International; Arlington, VA

[Lands and Rivers Senior Policy Analyst](#); Western Resource Advocates; New Mexico

[Vice President of Regional Conservation](#); American Rivers; Washington, DC

[Designer/Planner](#); Center for Planning Excellence; Baton Rouge, LA

[Law Clerk](#); San Francisco Baykeeper; San Francisco, CA

[Buffalo Creek Watershed Coordinator](#); Audubon Society of Western Pennsylvania; Sarver, PA

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Department of Environmental Quality, which worked with the EPA to oversee cleanup. Seems strange. The [consent decree](#) that details the settlement is available for [public comment](#) through May 16th.

A Glimmer of Hope for the Navajo Nation

Due to the arid climate in the western United States, the Colorado River has been at the center of many controversies and court cases. In one of the recent cases surrounding water rights of the Colorado River, the Navajo Nation secured a [success](#) thanks to the U.S. Ninth Circuit Court of Appeals. Many areas of the Navajo Nation lack clean running water, a problem that was exacerbated throughout the pandemic, in which the Nation saw a disproportionately high death rate compared to many other areas of the United States. The Navajo Nation, utilizing a breach of trust legal argument, was not seeking a judicial determination on their rights to the river water, which would fall under the Supreme Court's jurisdiction. Instead, the Navajo Nation is asking for an order to compel the Department of the Interior to develop a water plan based on the Nation's water needs, and to manage the river in a way that does not impede the Nation's water needs. The lower court found against the Nation and dismissed the claim, but through this appeal, the Ninth Circuit determined that the Navajo Nation can proceed with their breach of trust lawsuit on the basis of water rights derived from treaties with the United States. This decision comes at a crucial time, as the seven states and 30 tribes that make up the Colorado River Basin will be [beginning negotiations](#) this year on new water allocation guidelines in the Basin. The Ninth Circuit's decision will hopefully lead to a water management plan from the Department of the Interior that takes the Navajo Nation's water needs into greater consideration as these negotiations begin.