



TUWaterWays

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

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Welcome to the Club?

Anybody who lives along the eastern seaboard or the Gulf coast can tell you that August is [hurricane season](#). That knowledge is baked in, and it ties otherwise disparate communities into a kinship of wind and water. With a measure of surprise and sadness, we acknowledge the eligibility of Southern California and Baja California for admission to that club. That nomination comes courtesy of Hurricane Hilary that [made land fall as a Category 1 storm in Mexico](#) before being downgraded to a tropical storm as it entered California. Hurricanes are most remembered for their winds and surge (and [flood insurance panic](#) that follows), but Hilary is notable for its drenching rains—as much as 17 inches fell in some places, but generally much less. As storms go, it is more the existence of this storm than its characteristics that make it notable. These storms just don't generally happen where Hilary occurred, as evidenced by it being the first storm the National Hurricane Center ever issued a warning for in Southern California. Even though it was not a "major" hurricane at landfall, it sure felt like one to the folks in its path. A four-inch rain may not sound like much in New Orleans, Tampa or Houston, [but it can be record setting stuff for Southern Californian and Nevada](#) where it can contribute to woes that more hurricane prone places don't have to deal with, such as [mudslides](#). Does Hilary presage a paradigm shift that will bring the Pacific Southwest into the hurricane club (they're already in the [insurance collapse](#) club)? Time will tell, but in the meanwhile, here's to hoping its nomination fails for lack of a second.

Rust Never Sleeps...But it can Get Smarter

Considering how essential water is to just about everything, it is frustratingly ironic that we treat it (and by extension, [ourselves](#)) so poorly. But we do, and there [is no shortage of seers predicting that things will likely get worse](#). If only there was some reason for hope, some chance that, from the least likely of places, a champion would emerge. Well, wait no longer, your ship may have come in. A rust [bucket](#) of a ship, actually, since the newly touted way to clean up polluted waters—even pesky nanoparticles and hormonal pollution—is actually iron-oxide. Yup, rust. Does this mean that rusty pipes have been quietly saving us for years? Not quite. The is not [old rust](#), but ["smart rust" according to a presentation made at the American Chemical Society and reported in SciTechDaily](#). Do we simple [caveman lawyers](#) understand it? Absolutely not, but it certainly sounds interesting, so read and judge for yourselves. You'll be ready for whenever the EPA updates its [substance registry](#). At the very least, it seems that [with rust, as with so many other things, there is more to the picture than meets the eye](#).

Court Critiques Cadmium Criteria in Consultation Conundrum

[Cadmium has its uses \(pigments, batteries, crème eggs.\) but also has its problems, most notably its toxicity.](#) Given its [toxicity](#)—which is literal, not figurative—it is important that while [accentuating its positive attributes to eliminate its negatives and to not mess with Mr. In-between.](#) Johnny Mercer knew that. [Bing Crosby and the Andrews Sisters](#) knew that. And [Aretha Franklin](#) knew that, but apparently the U.S. Environmental Protection Agency did not, at least back in 2016, according to a [new federal court ruling in the case of Center for Biodiversity v EPA,](#) when it issued a nationwide freshwater quality criteria for cadmium that replaced an earlier more protective standard despite also lowering the maximum allowable concentration for three of the four cadmium criteria. Those national standards serve as benchmarks for states, tribes and local governments. The court ruling, summary judgement really, partially vacated the new criteria after finding that EPA failed to consult with wildlife agencies to ensure that the national standard adequately considers endangered and threatened species as required by the Endangered Species Act, and as a result, the 2016 standard was inadequately protective of aquatic life. This is apparently not an isolated instance. In 2022 when it proposed to issue water-quality criteria for the PFAS and PFOS “forever chemicals” EPA stated that it would adhere to the Endangered Species Act in promulgating those criteria. Is that next on the Center’s action agenda? We don’t know but [they did mention the PFAS/PFOS process in their press release about the “precedent setting” cadmium case.](#)

Coming Up:

Tulane Environmental Law Summit, New Orleans,
February 23 & 24, 2024 (save the date!)

Water jobs:

[Advocacy and Policy Coordinator](#); Riverkeeper; New York, NY

[Senior Policy Analyst, Water Infrastructure](#); Environmental Policy
Innovation Center; US-Remote

[Fisheries Legal Fellow](#); Conservation International; Various Global
Offices



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.

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