

# TUWaterWays

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

April 23, 2013

## ***Off the Charts: Saying Good-bye to English Bay and Others***

New maps and charts of Plaquemines Parish, Louisiana from the National Oceanographic and Atmospheric Administration will bear witness to ongoing effects of sea level rise, subsidence and traditional water resources management. NOAA officials recently notified local officials and others that English Bay, Bay Pomme d' Or, Bayou Augusto and 27 other locations will no longer appear on NOAA charts. The reason? They really don't exist anymore.

## ***From the Hill—WRDA Slows Down and Other Water Issues Step Up***

The Water Resources Development Act's apparent rocket ride through the Senate has slowed a bit with floor action originally slated for mid-April but now more likely in May. Concerns that the bill could weaken environmental and public accountability scrutiny and objections from turf-conscious members of the Senate Appropriations Committee have grown louder recently. On the House side, the House Transportation and Infrastructure Committee held its first [hearing](#) on April 16 in the course of drafting its version of a WRDA bill.

Elsewhere on the Hill, the Senate Energy and Natural Resources Committee will on a hearing April 25 at 10 a.m. to consider the impacts of drought on [energy and water management](#). At the same time but across the Mall, the House Committee on Natural Resources, Subcommittee on Water and Power will be holding hearings on [potential burdens](#) on water rights, recreation and job growth of various federal programs including the recently inaugurated National Blueways program.

## **Red River Day at the Supreme Court**

April 23 is the day the U.S. Supreme Court will hear oral arguments in a case that could have lasting implications for the management the Red River that is shared by Oklahoma, Texas, Arkansas and Louisiana (New Mexico too, but they are not in this scrap). The case has garnered lots of attention as being instructive of the extent of State's sovereignty over their water and the interpretation of interstate compact language. The attached [piece](#), which includes some ruminating by Institute Director Mark Davis, sums up things as the case goes to court.

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:**

**[May 10, 2013](#)**

**Coalition to Restore Coastal Louisiana's Coastal Stewardship Award Banquet  
Baton Rouge, LA**

**[May 15, 2013](#)**

**GNOF Urban Water Series  
New Orleans BioInnovation Center  
1441 Canal Street  
New Orleans, LA**

**[June 6-7, 2013](#)**

**American Bar Association's  
31<sup>st</sup> Annual Water Law Conference  
Las Vegas, NV**

**[June 16-21, 2013](#)**

**EPA Region 6 Stormwater Conference  
New Orleans, LA  
<http://epa.gov/region6/water/npdes/sw/m4/2013conference/index.html>**

**Tulane Institute**  
on Water Resources Law & Policy

6329 Freret Street, Suite 155G  
New Orleans, LA 70118  
504-865-5982

<http://www.law.tulane.edu/enlaw/>

### ***Delayed Treasury Rules Could Slow RESTORE Act Implementation***

In the hardly surprising but still newsworthy department comes a report from the Inspector General for the U.S. Department of the Treasury that [concludes](#) that Treasury is has missed its deadline for setting rules for how civil penalties flowing into the RESTORE Act Trust fund as a result of the Deep Water Horizon oil spill be administered. It also concludes that the delayed rule making could slow the flow of dollars from that fund to states, projects and programs as called for in the Act. The Act called for those rules to be in place by January 2, 2013. The IG's report does shed light on the reasons for the delay. According to the report, Treasury has drafted two sets for rules but they have been snagged by the required consultations with the Departments of Commerce and Interior.

### ***Federal Court Strikes Down Nationwide Permit 21***

Reversing a lower court ruling, the U.S. Court of Appeals for the 6<sup>th</sup> Circuit struck down the Army Corps of Engineers Nationwide General Permit No. 21. General permits authorize categories of activities in lieu of requiring the issuance of individual permits. Permit 21 authorized coal miners to discharge materials into waters of the United States. At issue in [Kentucky RiverKeeper v Rowlett](#), was the question of whether the Corps properly considered the aggregate impacts of past activities when promulgating Permit 21 as required by the National Environmental Policy Act. The Court found that the Corps had not and so had acted arbitrarily and capriciously in adopting the Permit.

### ***Save the Date for Urban Water Series***

The excitement in New Orleans does not end with Jazz Fest. Starting on May 15 and continuing through four informative sessions, the Greater New Orleans Foundation in partnership with the Urban Institute (and an assist from this Institute) will be hosting the [Urban Water Series](#). The series aims to improve the level of thinking and discussion of urban water management in the New Orleans region.