

TUWaterWays

Water News and More from the Tulane Institute on Water Resources
Law & Policy
March 19, 2021

First Circuit Reverses a Call

Drew Brees announced his retirement on Sunday ([and in the most charming way](#)); he's stepping off the field and into the studio. While we probably won't be asking for [his red beans and rice recipe](#) any time soon (let alone sandwich recommendations), fans will get their weekly doses of Drew from his role as a analyst on "Football Night in America." He says it'll ease the transition for him and, let's be honest, probably for us, too. Okay, now onto business! The [Louisiana 1st Circuit Court of Appeal reversed a call by the district court and held](#) that Judge Trudy White of the 19th JDC "abused her discretion" in the Formosa case. [As a reminder](#), back in November, Judge White sent the matter back to LDEQ and directed the agency to re-evaluate permits previously granted for the Formosa Plastics facility in St. James Parish, paying specific attention to the environmental justice issues. It was a win for Louisiana environmental groups and St. James residents. But alas, 'twas not to be ([much like relationships on the Bachelor](#)). On appeal, the 1st Circuit held that Judge White exceeded her authority by ordering LDEQ to do another analysis, especially when neither parties had submitted their briefs yet and the plaintiffs did not request for the matter to be remanded back to LDEQ. What this all means is that the case will appear in front of Judge White once again and commence with next steps of trial. We promise to give you the highlights.

Get In Loser, We're Writing a Bill

Big things happening at the Louisiana Coastal Protection and Restoration Authority (CPRA)! Along with proposing the [Mid-Barataria Sediment Diversion Project](#) to the Army Corps, it has [thrown its support](#) behind the in-the-works Reinvesting in America's Shoreline Economies and Ecosystems Act. Proposed by Senators Bill Cassidy and Sheldon Whitehouse, the bill seeks to increase the revenue given to coastal states. Under [the Gulf of Mexico Energy Security Act](#), a share of energy revenue from the outer continental shelf goes to improvements and maintenance of public lands—mainly parks and refuges. Gulf Coast states ([Alabama, Louisiana, Mississippi, and Texas](#)) are currently receiving 37.5 percent of the revenue the federal government gets from wells created on federal Gulf waters. The bill seeks to expand the 37.5 percent portion to all wells developed since 2000, a wider range than the one already established. Last year, Louisiana received \$155.7 million (of \$353 million), which were divided between [the 19 coastal parishes](#). The bill would [also end revenue sharing caps](#) earlier than previously set. The hope is that the added revenue would enable more projects that would restore and protect the coast. As everyone knows, [we lose an average of a football](#)

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:

[SLU Summit for Water: Navigating the Currents of Water Research](#); March 22

[WRDA 2020 Army Corps Implementation Comment Stakeholder Session: Flood Risk and Coastal Risk Storm Damage Provisions](#); March 23

[ASBPA Coastal Summit](#); March 23-25

[EPA Small Drinking Water Systems Webinar: Disinfection Byproducts Control](#); March 30

[WRDA 2020 Army Corps Implementation Comment Stakeholder Session: Ecosystem Restoration and Nuisance Species Provisions](#); March 30

[WRDA 2020 Army Corps Implementation Comment Stakeholder Session: Water Supply and Hydropower Provisions](#); April 6

[WRDA 2020 Army Corps Implementation Comment Stakeholder Session: Any Provisions](#); April 13

[ABA 50th Spring Conference on Environmental Law](#); April 27-30

Water jobs:

[Assistant Director For Policy and Assistant Professor in Environmental Policy and Ecology](#); University of Georgia; Athens, GA

[Executive Director](#); Bayou City Waterkeeper; Houston, TX

[Manager of Equity and Resilience Programs](#); Groundwork USA; New York City, NY and Boston, MA

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

[Associate Research Scientist, Marine Protected Areas and Climate Change](#); Conservation International; Santa Barbara, CA

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

Multiple Intern Positions with Conservation International:
[Geospatial Trainer](#); [Conservation and Sustainable Development](#); [Climate Change Adaptation](#); [Climate Change and Biodiversity](#)

[New Orleans Policy Manager](#) and [Climate Coordinator](#); Alliance for Affordable Energy; New Orleans, LA

[Senior Staff Attorney](#); San Francisco Baykeeper; San Francisco, CA

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field size of land per hour. Along with this, CPRA released its Draft Fiscal Year 2022 Annual Plan in the last week of February and is accepting public comments through March 27, 2021.

The PFAS and the Furious

Any avid reader of the TUWaterWays knows that PFAS are worth paying attention to. While PFAS regulation made little movement during the previous administration, times are changing, and there's a new driver at EPA's wheel. Michael Regan (who, for the record, looks nothing like Vin Diesel, but who does?) was sworn in as EPA Administrator on March 11, and the EPA added a proposed rule about PFAS discharge to the Federal Register on March 17—which means that comments are due May 17. Now, don't get excited; this is not some giant overhaul that will forever change drinking water standards. No one's breaking any speed limits here. EPA is simply announcing they're going to collect more data in order to inform their future rulemaking. So, not the big play watchdogs are hoping for, but it's progress. It's nice to see EPA following through with their announcement in February.

Not to be outdone, California has also announced that it plans to regulate these chemicals—and faster than EPA; they're setting 2023 as its goal. It could be a much-appreciated race to regulate these "forever" chemicals, and California already has a head start. California state laws already have thresholds for PFOS, PFOA, and PFBS, and the state began an investigation in 2019 to sample public water supplies. Cross your fingers that EPA presses on the gas and makes some big moves in the near future.

No, You Can't Just Unplug It

Back in February (last month, or 7,000 ages ago) a person hacked into a water treatment plant in Oldsmar, Florida and increased the sodium hydroxide levels in the water to dangerous levels. While the breach was immediately detected and the hacker's actions were reversed, this incident raised concerns about cyber protection of facilities that manage drinking water. With increasing use of technology in all aspects of our lives, cybersecurity is becoming more and more important. New Orleans civil servants are surely still getting flashbacks from when City Hall was hacked. While the Oldsmar hack was detected early on, cybersecurity experts say that it was more of a stroke of luck rather than a testament to the system's security. Actually, 151,000 public water systems are inadequately equipped to protect against cyberattacks. EPA even admits that it's a critical threat to our water and wastewater systems. This problem is not limited to the United States; Israel and Australia have both experienced a cyberattack on their water infrastructures. Considering the consequences of a successful attack, eliminating these vulnerabilities is crucial to protecting water infrastructure. Otherwise, who needs to drink water (so, everyone) are just sitting ducks, and evil villains won't even have to leave their houses to release hallucinogens into our water supply.