

TUWaterWays

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

[April 23, 2021](#)

What's at the Top of the EPA Water Agenda? Would You Believe it's WOTUS and PFAS?!?

It sure looks like the same topics TUWaterWays has touched on the most over the last year (or nine), will continue to be front and center in the coming year(s). New EPA Administrator Michael Regan was [in front of](#) the House Appropriations Committee this week. What came up? Why, WOTUS and PFAS, of course!

As you'll [surely](#) recall, Congress passed the Clean Water Act (CWA) in 1972 to "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." A few decades later, the Supreme Court scaled back and confused the extent of "the Nation's waters" (or the Waters of the United States, "WOTUS") through the [SWANCC](#) majority and Kennedy's concurring [Rapanos](#) opinions. The Obama EPA tried to formalize that in regulations, and although they didn't expand the reach of the CWA (contrary to some reports), they didn't really make it much simpler to understand, either. The Trump EPA did explicitly try to roll back the extent of the CWA and redefine WOTUS, but it's been challenged in multiple courts in cases that are now mostly in a holding pattern waiting to see what the Biden EPA is going to do about it. So, plenty of people were all ears when Administrator Regan let the committee know that the EPA sure is going to do... something. It sounds like he's hoping they can walk the tightrope between the two previous administrations: not abandoning their duties under the language actually in the CWA and not facing utterly and inexplicably overwhelming opposition from the agricultural industry. [Good luck!](#)

The other topic addressed by Mr. Regan was those [diamonds](#) of patented industrial chemicals, PFAS. He said the EPA is looking to quickly establish a national drinking water standard for the chemicals. To this end, they have already released [a new toxicity assessment](#) after finding the previous one suffered from political interference. He also noted that the cleanup of these chemicals already in the environment will take billions of dollars – a burden that states will likely be unable to face without assistance from that very House Appropriations Committee. Producers of the forever chemicals are starting to get a taste of their own liability for these; 3M just [agreed](#) to help fund an entirely new water treatment plant in Bemidji in settlement of the suit brought by the city. 3M is getting sued in Minnesota? Only one conclusion on this PFAS stuff. [It's bad you know.](#)

Neither the WOTUS news nor the PFAS news are going away any time soon, not for Administrator Regan or for TUWaterWays.

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:

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

[Water Week 2021](#); April 25-May 1

[Virtual Remote Oyster Setting Demonstration](#); April 29

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

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

Water jobs:

[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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When You Hear About Volcanic Eruptions, Worry About the Water

Everything comes back to water, but you, dear reader, already know that don't you? When news breaks that a volcano is erupting and many thousands of people are in danger and being displaced, the knee jerk reaction is to think of volcanic ash blocking out the sun and choking the air or maybe lava flowing through the town like in a Hollywood action flick (or [in Guatemala](#)). Once those people are out of immediate harm's way, what do they need, though? Water. The eruption of La Soufrière in St. Vincent has made that clear. Although reports from health organizations are finding that the 20,000 or so people closest to the volcano have been evacuated, [the entire island is now without clean water or electricity](#). The Pan American Health Organization is working on getting water tanks and pumps to the island, but this situation is going to last for months. It seems like there should be a better solution than this or just shipping tanks full of plastic bottles to this or any other disaster. Why haven't our technocratic overlords come up with a mobile desalinization plant or something? Come on, [Bill Gates!](#) [Elon Musk!](#) [Matt Damon!](#) Figure this out!