

# TUWaterWays

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

June 3, 2015

## After Years of Guidelines and Proposals and Drafts and Misplaced(?) Outrage and Whatever Else, There is Finally a Definition for “Waters of the United States” – at Least for the Clean Water Act

The development of this rule has been covered here before, so there’s not too much need to go into depth, but the [finalization](#) of the [rule](#) defining “Waters of the United States” (WOTUS) is noteworthy. Industry groups, such as those for farmers and developers, have tried to frame the rule as a massive expansion over the old post-[Rapanos](#) case-by-case non-rule situation and as a huge power grab for “Washington bureaucrats.” Neither is likely true. The rule does not go [anywhere the Clean Water Act has gone before](#) (instead making the law’s boundaries more definitive than ever), and most of the power administering the rule lies [outside of Washington](#). What is clear, is that the reach of Clean Water Act does not come anywhere near that of the Commerce Clause (see [Sporhase](#)) or the Compact Clause (see [KS v NE](#)).

## Anyone Else Want to Petition Texas to Change Its Motto from “Friendship” to “When It Rains, It Pours”?

Four years of drought had Texans treating and reusing wastewater and looking to expand desalination on the coast and in the desert. Well, [torrential rains](#) in the month of May have taken the state (and neighboring Oklahoma) completely [out of severe drought](#). However, getting half-a-year’s worth of rain in a [month](#) doesn’t come without other problems beyond the deadly flooding. First of all, this scenario of drought followed by heavy rain events is [“consistent with what we would expect from climate change,”](#) and that’s a topic [state GOP leaders](#) would prefer to continue to ignore. Additionally, the severity of floods in Central Texas, where downpours and flash floods are relatively common, is being exacerbated by unchecked [sprawl and urbanization](#) (something else leaders would likely prefer to ignore). Finally, it puts Texas’ Tea-Party politicians in the awkward position of having to [ask the federal government](#) for help (i.e. [disaster aid](#), [flood insurance](#), [crop insurance](#)) when they’d much rather accuse Washington of [overreach](#) and [land grabs](#). At least some Texans got to reenact “the good ol’ days” with a [cattle drive](#). What a [Texas Flood](#).

## The Rock Some Rocks (and Drought) Causing Big Trouble in Little China.

No, this isn’t about the recently announced [remake](#) of the

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:

### [ABA Water Law Conference](#)

June 4-5, 2015

Denver, CO

## Water jobs:

### [Communications Director](#)

Gulf Restoration Network  
New Orleans, LA

### [Policy Director, MD and DC](#)

Potomac Conservancy  
Silver Spring, MD

### [Manager, Coastal Habitat Restoration](#)

National Fish and Wildlife Foundation  
Baton Rouge, LA

### [Attorney](#)

Community Water Center  
Sacramento, CA

# Tulane Institute

## on Water Resources Law & Policy

6325 Freret Street, 1<sup>st</sup> Floor

New Orleans, LA 70118

504-865-5982

<http://www.law.tulane.edu/tlscenters/waterlaw/>

TWITTER: [@TulaneWaterLaw](#)

John Carpenter classic now starring the greatest half-Samoan action star in history. This is about water-related tensions in and around [the sea south of China](#).

Taiwan has been experiencing severe drought since last year, and responses have been both [great and small](#). Restrictions have led people to reusing bathwater to flush toilets and Taiwan and mainland China have [entered discussions](#) to supply the Taiwanese-controlled island of Quemoy with water from the mainland.

Elsewhere in that same body of water, Chinese [dredging and development](#) of the [Spratly Islands](#) continue. In fact, they're planning [lighthouses](#) there. Of course, that just seems like good policy; if you're going to build up islands that ships can wreck on, the least you can do is throw a lighthouse on there. Nonetheless, both President Obama and Defense Secretary Carter have [noted](#) that China should not be acting unilaterally in the area and increasing tension with [other claimants](#) Vietnam, the Philippines, Malaysia, and Brunei, nor [militarizing](#) the area.

### **ProPublica at it Again, This Time in The Colorado River Basin**

Remember a few months ago when ProPublica and The Lens put together the [Losing Ground](#) project, an [award-winning](#) visual on coastal land loss in Louisiana? Now they've done one on the other end of the dampness spectrum and charted the [growth of Las Vegas](#) and the town's thirst. Check it out, and play with the timeline visual to see the city grow and spread out over the valley like it was a giant Petri dish. Additionally, you can track the growth of the Las Vegas Strip and watch its hotels and casinos come and go, if you're into that sort of thing.

The project is part of ProPublica's "[Killing the Colorado](#)" series which features a [long story](#) about Pat Mulroy, Nevada's Water Czar, Ret. It's full of good information, but the tone seems to be one of shock that someone would do their job. Mulroy's job was to get water to match Vegas's growth, and she did. To simultaneously preach water conservation across the Colorado River Basin (in order to use it more) isn't necessarily hypocritical or contradictory.

As for Mulroy and Las Vegas' water mercantilism approach, it's true that "with enough money, savvy and will, almost any limit could be overcome," but, there's something of a zero sum to these games – every gallon of water used in Vegas is a gallon that can't get used elsewhere. Once upon a time, there was the will (and funds) to tame the Mississippi River, set New Orleans as the port to serve the country from Appalachia to the Rockies, and, as Mulroy would say, "be able to take the last drop" of oil from the coast. How's that working out for Louisiana now that there's not so much money, savvy, or will? What happens to Las Vegas when they run out of the money, savvy, and will?

### **REMINDER: Attention New Orleans Area Water Entrepreneurs—Yes You!**

The New Orleans based business incubator Propeller is currently accepting applications for its [Startup Accelerator](#), a sector-based 12-week intensive program, specifically designed to connect early-stage social entrepreneurs with the resources they need to turn their ideas into tested and viable solutions. One-on-one executive mentorship, access to high-level networks, peer-to-peer learning, pro bono resources, and free office space, are just some of the benefits of being a Propeller Impact Venture. Entrepreneurs working in coastal restoration, urban water management, fisheries, maritime, ports, and water quality are especially encouraged to apply.

**Program Dates:** September 12, 2015 – December 14, 2015

**Application Feedback Deadline:** June 9, 2015, 11:59pm CST

**Final Application Deadline:** July 31, 2015, 11:59pm CST

To learn more you can attend one of Propeller's Q&A [sessions](#) or [read more about the program](#). Or you may contact Ginny Hanusik at [ghanusik@gopropeller.org](mailto:ghanusik@gopropeller.org).