

# TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law and Policy  
March 7, 2017

**Sorry If You Missed Getting a TUWaterWays Last Week**  
But it was Carnival.

## **The Lawsuit is Dead. Long Live the Lawsuits!**

For four years the Southeast Louisiana Flood Protection Authority – East (SLFPA-East) has fought a lawsuit against scores of oil and gas companies for the damage to SLFPA-East property caused by negligence and nuisance from the region’s many oil and gas canals. Last Friday, the US 5<sup>th</sup> Circuit Court of Appeals [upheld](#) a Federal District Court judge’s dismissal of the suit. Where SLFPA-East goes from here is still up in the air. They could motion for an en banc rehearing at the 5<sup>th</sup> Circuit or take the district court’s opinion as a road map for another swing at a lawsuit in state court. Or, they could give up on the matter entirely. But no matter what, SLFPA-East needs to find a funding source for the millions annually that they have to spend in operation and maintenance of the post-Katrina levee system that keeps our own Chateau d’Eau dry.

No matter what happens on the “levee board lawsuit” front, this is hardly the end of coastal erosion [lawsuits](#) against oil and gas companies in Louisiana. Governor John Bel Edwards and Attorney General Jeff Landry have intervened in the suits brought by some coastal parishes, and Gov. Edwards has plans to file suits in other coastal parishes, as well. The situation will continue to warrant monitoring, since the state’s coastal [funding gap remains wide open](#).

## **It’s Been a Minute, So Let’s Check in on Florida**

The Sunshine State, or The Whole Lot of Interesting Water Issues Going on State if you’re not into the whole brevity thing, has been busy on the water front from one end to the other. In the Panhandle, where people apparently still [want the EPA](#) around, the Special Master’s [report](#) on the Apalachicola-Chattahoochee-Flint Supreme Court suit continues to be parsed before the case goes before the Supreme Court proper. The report states Florida has clearly suffered from lack of basin management, but notes that the Corps of Engineers controls the water more than any of the states party to the suit. So, in [Florida](#) they’re readying for the SCOTUS hearing but also for involving the Corps, and in [Georgia](#) they’re doing pretty much the same. These fights, for as long as there are shortages, they never end.

Meanwhile in the middle and south of the state, they have a lot of water, but maybe not enough. It’s certainly not clean

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:

[CRCL Coastal Restoration Road Show](#)  
Abbeville, Lafitte, Cameron & Lacombe, LA  
February & March, 2017

[Tulane Environmental Law & Policy Summit](#)  
New Orleans, LA  
March 10-11, 2017

[Mississippi River Commission High-Water Inspection Trip](#)  
Hickman, Memphis, Greenville, Baton Rouge  
April 3-7, 2017

## Water jobs:

[Senior Research Fellow](#)  
Tulane Institute on Water Resources Law & Policy (us!) – Closes March 12<sup>th</sup>  
New Orleans, LA  
[Project Specialist \(Enviro. Initiatives \(Temp\)\)](#)  
World Economic Forum  
Geneva, Switzerland  
[U.S. Government Relations Coordinator for Water Policy](#)

The Nature Conservancy  
Washington, DC  
[Assistant Analyst \(Climate Finance\)](#)  
Climate Policy Initiative  
San Francisco, CA

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enough, but just how to clean it is a prickly issue. Many of the state's issues start with Lake Okeechobee and the farmland around it. First of all, [droughts happen](#) and municipal water supplies aren't limitless, and regional cooperatives, such as in [Polk County](#), are trying to ensure supply by working together on sourcing and conservation – placing them in competition with agricultural users. Those same agricultural water users create a fairly large amount of polluted runoff. That runoff heads to Lake Okeechobee and then is shunted off east and west to the coasts in addition to being allowed to follow its natural path down through the Everglades. So, that means taking polluted water from one waterbody and moving it to another. Something that the EPA and the US 2<sup>nd</sup> Circuit Court [agree](#) doesn't need a Clean Water Act Permit, so one less hoop for water managers but one less protection for environmental stewards. That permit-free water movement can have disastrous effects, as they've found out with [seagrass die offs](#) on both the Atlantic and Gulf Coasts.

None of this, of course, is getting the state any closer to cleaning up the Everglades. The Central Everglades Restoration Project (CERP) has been around for nearly 17 years and was intended to clean up The 'Glades in 20. [It largely hasn't](#). Now, water managers are trying to get the Department of Justice to end the consent order that forced CERP into existence in the first place. Managers say "hey, we've done a pretty good job, and that consent order is antiquated!" Others say, "Nah, man, not much has actually changed since the order was signed and now's not the time to be leaving things up to the EPA and their slashed budget." The whole matter takes on another layer when talking about the super-duper politically contentious plan to purchase farmland to create a cleaning zone for that polluted water coming out of Lake Okeechobee. Plan proponents and plan opponents have [dueling](#) reports aimed at showing how wonderful or how terrible that reservoir plan will be for the state. Apparently the plan will create 39,000 jobs and \$12 billion in real estate value while also costing the state 4,000 jobs and \$695 million. No matter whose report you believe, it sure would be swell to finally get this nipped in the bud, since time might be [running out](#) for the Everglades in the face of sea level rise and global warming.

Speaking of which, global warming is front and center in the [planning](#) for the Miami metro region. Sea level rise has already led cities and counties in the region to change municipal codes and order new flood maps. While the state as a whole might be pretty average in its climate change planning, the metropolitan counties have signed a compact to work together on sea level rise prep – a good idea because otherwise flood reduction for one place can simply mean flood increase for neighbors.

Finally, according to Yale's newly [updated climate opinion maps](#), it seems that Miami residents aren't alone in their concern, and 70% of American adults believe in global warming and 58% are now worried about global warming. They're maps worth exploring, and you can't help but come away with a very different feeling about our country's attitude towards climate than the one emanating from the [White House](#) these days.

We've just made it over seven hundred words without a joke at [Florida's expense](#). That's gotta be some sort of record.

### **Join Us This Week!**

This Friday and Saturday Tulane Law School will be hosting the [22<sup>nd</sup> Annual Tulane Environmental Law & Policy Summit](#). We'll be there feeling chatty and looking extra spiffy. Hope to see you there.