

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy
April 6, 2018

Dammed if You Do, Dammed if You Don't

A recent [study](#) shows that upstream flood control infrastructure on in the Mississippi River Basin has increased flooding events in the downstream states of Louisiana and Mississippi. The study first places blame on climate change, but recognizes that the huge jump in flooding over the last 150 years wouldn't be likely given just those changes. Instead, it places blame on things like levees, dams, and other channel control infrastructure. Some are [skeptical](#), however, calling the study incomplete because it leaves out other factors such as increased rainfall and changes to the landscape from farming practices.

One Administrator to Rule Them All

A recent [memo](#) covertly released from the EPA directs regional EPA offices to delegate all Clean Water Act jurisdictional questions through Administrator Scott Pruitt's office. Generally, when a question of whether a body of water is subject to the CWA comes up, regional scientists and employees of the EPA go out to the stream, wetland, lake or other water body, and determine whether a project is subject to CWA rules and procedures. This memo directs those same determinations to be made on a case-by-case basis by the administrator himself. The EPA says this "[explains that jurisdictional determinations that raise significant issues or technical difficulties should be handled in a consistent and uniform manner](#)" during rulemaking over the WOTUS rule. Environmentalists [argue](#) that this imposes a "one-size fits all" approach to CWA determinations, eliminates regional understanding of ecosystems, and "subjects safeguards for clean water across the US to filtration through one politician's hands". This comes on the heels of a [whole lotta news questioning Mr. Pruitt's ethical standards](#) at the helm of the EPA.

Big Oil Says "Yes" in Climate Suit

The California cities that filed suit against 5 oil companies in an industrial nuisance claim have amended their suit to change the filing from state to federal issues after being [pushed into federal court](#) last month. The cities are seeking damages in the form of an abatement program to fund climate protections such as seawalls and other infrastructure (maybe like [this?](#)), "shifting the costs" from the public purse to the private one. After a successful hearing where all five companies copped to the fact that climate change is, indeed, a man-made beast, the cities revised their complaint to say that the companies' products create a public nuisance through rising sea levels and other climate change related damages. In the hearing this past week, Chevron took the lead, using information from 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:

[36th ABA Water Law Conference](#)

Orlando, Florida
April 16-18, 2018

[Book Signing: A Thirsty Land by Seamus McGraw](#)

Octavia Books; New Orleans, LA
April 19, 2018

Water jobs:

[Coordinator](#)

Raise the River Coalition
Not location specific

[Water Policy Analyst](#)

Kyl Center for Water Policy
Phoenix, AZ

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Intergovernmental Panel on Climate Change to say that, yes, climate change is caused by humans. While the other four companies didn't appear in court, they were given two weeks to disagree. [None did](#). While the companies are backing the theory that humans, in fact, are to blame, they aren't interested in accepting the responsibility. Instead, they argue that they simply provide the product, and because they do not force folks to use it, everyone who is using fossil fuels is adding to the emissions and responsible for the nuisance. This collective responsibility can't be attributed to their production of the product. Exxon has responded by [requesting a subpoena](#) to depose city officials in California, aiming at the cities for defrauding investors by not properly alerting them to the existence of the very climate change impacts they are claiming in their suit against the oil giant. You bring [the refreshments](#), [we'll get the popcorn](#).

Spring Training Ends in the Toilet

Have you dreamt of running the bases at Dodger Stadium? Sliding into home, taking the big W for your team? Crowds cheer, as fans throw roses onto the field. Well, you're not alone. So had many of the players in a pre-season game against the Angels at Dodger Stadium. Unfortunately for them, they couldn't make it past third base, where [sewage began to seep out](#) on to the field in the fifth inning. After taking 30 minutes to determine whether they could hold it until clean up came, the teams decided the foul smell was worth calling an out on the whole game. There's no word on whether the sewage leak has been stopped, and even some rumors that it has infiltrated the clubhouse as well. With opening day fast approaching, here's hoping this isn't a bad omen for the team. As pitcher Ross Stripling said, "[crappy way to end the spring](#)". We couldn't have said it better, sir.