

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy
[January 22, 2021](#)

We're Hiring!

The Tulane Institute on Water Resources Law & Policy is in the market for our next postgraduate research fellow to start in August 2021! If you're a recent (2020) or upcoming law school graduate this spring (JD or LLM), you could be a part of the team who writes this remarkable newsletter (among other things). By the time the position starts, we'll hopefully be back in Chateau d'Eau and up to our armpits in office coffee, [Tulane Tuesday giveaways](#), morning bagels, puzzled reactions to mid-20th-Century-pop-culture references, and long, rousing discussions of water law and policy! If you're interested in the position (and who wouldn't be?), check out [this job posting](#) and send your resume on in!

Beat It

...is what the new presidential administration made clear to several of his predecessor's regulations. After some tumultuous weeks, Joseph R. Biden took office this week as the 46th President of the United States. His inauguration day was highly anticipated not only for its significance, but because Biden's team had announced that he would take executive action on Day One to address the climate crisis. Apparently not one to [dilly-dally](#) or not wanting to be accused of [lollygagging](#), a few hours after taking office he issued an [executive order](#) that, among other things, places a moratorium on the Coastal Plain leasing program. It also revokes the permit for the Keystone XL Pipeline and revokes nine executive orders promulgated by the previous administration—one of which is the WOTUS rule (the saga this Institute will never stop following).

[What's next on the chopping block?](#) Just about everything, actually. Section 2 of the Order requires all agencies to review their actions taken between January 2017 and January 2021 for all regulations, guidance, and policies that are inconsistent with the policy set forth by the Order. It looks to be an eventful 100 days for the environment.

Oh, and the US is also rejoining the Paris Climate Agreement, which aims to keep global temperatures from rising more than 2 degrees Celsius, or about 3.6 degrees Fahrenheit, by 2100. However, the U.S. won't be officially rejoining until February and, on the environmental front, time is of the essence. Biden has pledged to make the country carbon-neutral by 2050. But these things are easier said than done, and it remains to be seen what other actions this administration will take in furtherance of that goal.

An Appealing Concept?

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:

[Webinar: Disinfection Byproducts Formation Tools for Drinking Water Utilities](#); January 27

[American Water Works Association: Final Lead and Copper Rule Revisions – What it Means for Water Systems](#); January 28

[National Wetlands Day](#); Feb 5

[CRCL and Louisiana Sea Grant: Shell-A-Bration](#); February 5

[Food Life Cycle: Effectiveness of Food Scrap Recycling Mandates & Landfill Bans](#); Feb 10

[Cost-Benefit Analysis and the Environment](#); Feb. 17

[ELI: PFAS and Public Health: Covid-19, Vaccines, and Environmental Justice](#); February 23

[EPA Small Systems Webinar: Lead and Copper](#); February 23

Water jobs:

[Manager, Conserving Marine Life in the U.S.](#); Pew Charitable Trusts; Washington, D.C.

[Associate Attorney](#); Earthjustice; Seattle, WA

[Assistant Director](#); Virginia Coastal Policy Center, William & Mary Law School; Williamsburg, VA

[Director of Conservation](#); The Nature Conservancy; TX

[Watershed Restoration Specialist](#); McKenzie Watershed Alliance; Springfield, OR

[Legal Counsel](#); Arizona Department of Water Resources; Phoenix, AZ

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

6325 Freret Street, 1st Floor
New Orleans, LA 70118
504-865-5982

tulanewater.org

TWITTER: [@TulaneWaterLaw](https://twitter.com/TulaneWaterLaw)

The Supreme Court heard oral arguments earlier this week [for BP PLC v. Mayor and City Council of Baltimore](#), and while the issue centered around a [technical aspect of the case](#), the entire thing is cloaked in the crucial question of whether state and local governments can hold the oil and gas industry financially responsible for climate changes disasters. Baltimore filed its lawsuit in 2018, arguing that the actions of oil and gas companies have put the already vulnerable city at risk by accelerating climate change. And Baltimore is not alone in this; over 20 other cities and states have filed similar suits. Lower federal courts have already held that these lawsuits belong in state court and that these remand orders aren't appealable, except in certain circumstances. But lawyers for BP, Shell, and other oil and gas companies argue that that, in reviewing the remand, federal courts should be allowed to look more broadly at the case instead of being limited in scope to the questions on appeal. And while this debate is occurring in the context of an environmental law case, the ruling will affect a range of other cases. The concern here is whether expanding the scope of what judges can consider on appeal could potentially allow parties to slide weak claims into a consideration for a stronger, more appealable issue.

Aw, Shucks!

[Channel your inner Walrus and dig into some oysters](#)—it's good for our coasts. Oyster reefs serve a multitude of purposes in coastal conservation. Not only are they food for wildlife, they filter water – reducing nitrogen and sediment – and act as barriers against storms. However, over 85 percent of oyster reefs have been lost due to increased demand for the bivalves, and their shells often end up in landfills. The [Coalition to Restore Coastal Louisiana](#) and the Nature Conservancy are working hard to change that. Oyster shells are the gold standard when it comes to materials for building artificial oyster reefs, but prior to the introduction of an oyster recycling program in Louisiana, most of our oyster shells were simply being trashed. [Working with local restaurants, the Coalition is trying to collect and recycle those empty shells](#)—garlic, butter, and cheese excluded. They're making progress, but the pandemic is proving to be an obstacle. Despite our love of oysters, Louisiana is doing a comparably poor job to encourage shell recycling. Maryland requires shucking houses to return shells to the coast; the [Chesapeake Bay Program](#) has constructed over 94 acres of oyster reefs with support and funding from partners and the federal, state, and local government; and [North Carolina](#) and [South Carolina](#) continue to expand their shell recycling programs. The Coalition is currently seeking a sponsor to fund a study to figure out where the shells are going and recommend new rules for recycling programs. And if you'd like to be a part of this effort, CRCL will be hosting its annual [Shell-A-Bration on February 5](#), where you can learn to shuck your own oysters.

Dredging in Action

For a while now, Grand Isle, Louisiana has been losing its beach. Over time, coastal erosion has transformed the area into a [shadow of its former self](#). Back in July, the state Coastal Protection and Restoration Authority pursued talks with the U.S. Army Corps of Engineers to repair Grand Isle's damaged levee. The Corps was already working on a \$15 million storm protection project, but after Hurricane Cristobal wore down the levee to its literal core, affectionately called the "burrito," CPRA felt that it was crucial to speed up the repair process. The Corps acknowledged that [CPRA may be right](#), but it couldn't shorten the timeline. CPRA took it upon itself to manage the second part of the project, which required dredging at least 400,000 cubic yards of sand and pumping it across the beach and over the damaged levee—for which it's seeking reimbursement. When the project started, the beach extended out no more than 10 feet; and the multiple storms that hit Louisiana in 2020 certainly did not help. [Flash forward](#) five months and \$7.5 million dollars later, the burrito is now covered, that very same beach is 20 times wider, and the residents are feeling a lot safer. Until next storm season, that's [a wrap!](#)

And Now, An Announcement from Our Friends at the Tulane Energy and Environmental Law Society

"We are so excited that the Tulane's 26th Annual Environmental Law & Policy Summit is just about a month out! This year, the Summit's panels focus on themes of environmental justice as it relates to the legal and policy realm. After the turbulent events of 2020, it is crucial these themes be addressed. We hope you will join us this February 26th and 27th to engage in discussions on topics ranging from environmental refugees, food and agricultural justice, and current legal changes in environmental regulations. All are welcome, and cost to all attendees is free! CLE credit will be available for many of the panels."

A detailed schedule of the Summit and registration for attendance will open in early February. If you have any questions, do not hesitate to reach out to Haley Gentry, Director of this year's summit, at hgentry@tulane.edu.”

Three words: Count us in! We always find the Summit to be a treasure trove of information and excitement and wouldn't dream of missing it. The event will be virtual and we hope to see your faces onscreen!