

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy
August 19, 2022

A Funding Cliff on the [Deepwater] Horizon

Louisiana has a lot of work ahead of it if it wants any shot at restoring and protecting its coast. And, if you read our [series of papers](#) starting in 2014, it should come as no surprise that this kind of work takes a lot of [money, honey](#). Since 2010, that money has largely come from a settlement following the Deepwater Horizon oil spill. Unfortunately, that source has an expiration date, and we're fast approaching the [end of the road](#).

A new [commentary by the Public Affairs Research Council of Louisiana](#) outlines what will be left when Deepwater Horizon dollars run out and, spoiler alert, it's not enough. PAR explains that the state only has three other "reliable" financing sources: state mineral revenue, a federal revenue-sharing program for offshore oil and gas production, and federal financing from the 1990 Coastal Wetland Planning, Protection, and Restoration Act. Relying on mineral revenues to support coastal restoration is [risky business](#) for a couple reasons. First, with fluctuations in oil and gas prices and a general transition away from fossil fuel use, it's not as dependable as it used to be. Second, it's a little too [ironic](#) (not to mention counterproductive) to pay for coastal restoration with funds from an [industry that is in large part responsible for coastal deterioration](#) in the first place. And it just adds insult to injury when the need for coastal restoration funds is used as justification for expanding oil and gas production in the state. Relying on federal funds is also difficult because there's almost always a cost-share element. For example, the 1990 Act requires the state cover 15% of the work for any project. Even assuming mineral funds remain stable and the state can scrape together the cost shares, it's still nowhere close to enough. So, this means the state has just 10 years to figure out how it will replace the dwindling Deepwater Horizon funds. If only money grew on mangroves.

Western States Call Feds' Bluff

In June, the US Bureau of Reclamation gave the seven states that signed the Colorado River Compact an [ultimatum: cut your water usage by 2-4 million acre-feet \(about 15-25%\) by August 15](#), or we're stepping in. With only hours left before the deadline on Monday, conversations between the states stalled after the 62 days ["produced exactly nothing in terms of meaningful collective action"](#) (according to the general manager of the Southern Nevada Water Authority). But as it turns out, the Bureau's threat amounted to little more than a parent telling a toddler they're going to count to 3. And, the toddler isn't even being put in time-out for carrying on anyway. On Tuesday, the Bureau announced that next year it will [withhold 21% of Arizona's annual allocation, 8% of Nevada's, and 7% of Mexico's](#) (a country

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:

[Water Collaborative Seeds of Innovation: Resilient Design Competition](#); Registration ends August 25

[ABA SEER 30th Fall Conference](#); September 21- 24

[Louisiana Climate Initiatives Task Force Fall Meeting and Workshop](#); October 22

[Restore America's Estuaries, 2022 Coastal and Estuarine Summit](#); December 4-8; New Orleans

Water jobs:

[Water Quality Technician](#); Pontchartrain Conservancy; Metairie, LA

[Clinical Instructor Tulane Environmental Law Clinic](#); New Orleans, LA

[Associate Attorney, Senior Attorney, and Paralegal](#); Earthjustice; Multiple Locations

[Climate Risk Legal Fellow](#); Environmental Defense Fund; Boulder, CO

[Summer Associate 2023](#), Sher Edling LLP, San Francisco

[California Resources Control Water Board](#); Sacramento, CA

[Maryland Staff Attorney](#); Chesapeake Bay Foundation; Annapolis, MD

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already [without water to spare](#)). However, these aren't additional cuts or part a new plan, it's what all of the states agreed to in the 2019 [Colorado River Basin Drought Contingency Plans](#). Those plans established tiered mandatory reductions based on the surface elevation of Lake Mead. The Bureau's announcement revealed that Lake Mead is predicted to drop to 1047.1 feet above sea level by Jan. 1, 2023, triggering Tier 2a reductions (and closing in on Tier 2b at 1,045 feet). No cutbacks beyond those arising from a Tier 2a shortage were imposed on Nevada or Arizona, and California along with all of the Upper Basin states have emerged with a business-as-usual setup.

All this while [Lake Powell is headed for deadpool levels](#) (no, not that [Deadpool](#)). Deadpool refers to the point at which a reservoir doesn't have enough water for the dam to produce any electricity. In other words, if the water in Lake Powell drops just another 45 feet (it's already more than 160 feet below its full pool level), 3 million customers across Arizona, Colorado, New Mexico, Utah, and Wyoming will need to find another source of power. As the water line in Lake Powell continues to fall, a coalition of groups is [trying to save motorized recreation on the reservoir](#). It's an admirable cause, but if the states couldn't come up with a plan to make 15% water cuts when people's electricity is at stake, it's unlikely they'll be able to pull off the 30% cuts that would be necessary to save boating.

When Europe to Your Neck in Drought...

With the American West enduring its worst drought in 12 centuries, news that Europe is at its driest in 500 years may seem like a drop in the bucket. But the drought in Europe is no joke ([for most people](#)). A few weeks ago we wrote about how [low water levels on the Rhine River are threatening the shipping industry](#)—but it's not just Germany, and it's not just navigability. [In Spain, reservoirs are averaging only 40%](#) of their capacity, with some dropping to as low as 22%. England is contemplating [restrictions on cleaning windows and filling swimming pools](#). In the Netherlands, increased salinity may soon make [water sources too corrosive for use](#) by major industrial and manufacturing water users. And in France, just about everything that can go wrong is going wrong. Rivers are drying up all over the country to the point where 100 municipalities have resorted to [hauling drinking water in on trucks](#). The state energy company has [reduced output at nuclear power plants because rivers are too hot](#) to provide cooling. [Wildfires are tearing through wine country](#). And now, farmers are warning that the [price of food is going to skyrocket](#) as crop yields drop. This is on top of a food system already strained by the war in Ukraine. It seems the only industry with [some security in these dry times is golf courses](#); thanks to a 2019 agreement between the French Golf Federation and the Ministry of Ecological Transition that [environmental activists are less than supportive of](#), golf courses are exempt from certain water use restrictions.

If all of this [isn't sign enough for you](#) that the situation in Europe is alarming, keep in mind that ["hunger stones" having been appearing in rivers](#) all over the continent. The stones are only visible at extremely low water levels and document droughts going back to the 1400s. Some even contain friendly warnings for future generations, like the one in the Elbe River which notes, "Wen du mich seehst, dann weine," or in English, "If you see me, then weep." Any chance they mean [happy tears](#)?