

# TUWaterWays

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

[January 14, 2021](#)

## **Hot Hot Heat, Not in the Middle of Nowhere**

Actually, all over the Pacific Ocean. After 2020 tied with 2016 for the [hottest year on record](#), it should be no surprise that oceans are warming, and 2020 also brought one of the largest [marine heat waves](#) in the Pacific Ocean. One serious problem caused by this is that warming oceans contribute to the climate change cycle because they affect surrounding climate and weather, not to mention that as oceans warm, glaciers melt which creates less reflective surface area on the planet. As a side note, if you're interested in climate feedback loops, this week [Greta Thunberg, the Dalai Lama, and climate scientists](#) discussed the issue and the launch of [a series of short films](#) on it.

Warming oceans and marine heat waves also contribute to the presence of toxic algal blooms and change biodiversity dynamics, which both create a myriad of problems for ocean ecosystems. Warmer water species move further north; whales feed closer to shore, putting them in danger of being struck by boats; sea lion pups are stranded while their parents search for food; fisheries are shut down; and more. Because some of the largest marine heat waves have occurred in recent years, now scientists are grappling with whether this will just be the new normal for ocean temperatures and the definition of a marine heat wave will need to change. If all that isn't bad enough, hotter oceans have also made [baby sharks smaller and undernourished](#). That doesn't just mean no more [Bruces](#); it puts sharks, which are already threatened worldwide, at even greater risk of endangerment, which would be even more devastating for ocean ecosystems.

## **Yazoo Pumps Get the Green Light**

Big week for the Yazoo Pumps project - on Monday, EPA Administrator Andrew Wheeler did an interview with a Mississippi morning talk radio show to discuss the recently revived Yazoo Pumps project, and later that afternoon announced that the EPA would be officially approving it. In case you need a reminder, EPA vetoed the project back in 2008 (one of just thirteen vetoes in its history), and a few months ago, released a statement that this revised version of the project is not subject to that veto. That decision became official Monday with Administrator Wheeler's [announcement](#) that the project could move forward. However, the project still has some hurdles to get through, so the green light is more like a [yellow light](#), which could turn into a [red light](#). One potential problem is funding for the project. Administrator Wheeler explained in the interview that, although the Corps may have "some funds" to get the project started, Congress will need to appropriate significant funding moving forward. This will likely

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:

[CPRA Board Meeting](#); January 20; Chalmette, LA

[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

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

[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

[Water Conservation Administrator](#); City & County of San Francisco; Bodie, CA (no, not really)

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

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

[Environmental Specialist](#); Metropolitan Water District of Southern California; Parker Dam, CA

[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, 1<sup>st</sup> Floor  
New Orleans, LA 70118  
504-865-5982

[tulanewater.org](http://tulanewater.org)

TWITTER: [@TulaneWaterLaw](#)

be even trickier with the upcoming new administration and changing Congressional leaders. Another problem is the opportunity for legal challenges. As reiterated in Wheeler's Monday interview, there is only an eight mile (no, not [that Eight Mile](#)) difference in the 2007 and 2020 projects and vague new environmental data analysis. Unsurprisingly, many believe that is not adequate to justify the EPA revoking its veto, so they're suing. A group of environmental organizations [filed suit](#) on Tuesday, alleging that this revocation is in violation of the Clean Water Act and the Administrative Procedure Act in a number of claims. More lawsuits like these could follow, further delaying the project that Wheeler stated would hopefully be completed in "a few years."

### **Will This Affect [Greenland Whale Fisheries](#) Management?**

Probably not, since Greenland is, well, Greenland – part of the greater Greenland/Denmark metroplex. But for fisheries that do exist outside of sea shanties and within the reach of US law, a sea change (pun absolutely intended) may be coming. The Magnuson-Stevens Act may be getting an update this year. For those who are unfamiliar, the [Magnuson-Stevens Fishery and Conservation Management Act \(MSA\)](#) was first enacted in 1976 and regulates federal fisheries management and conservation. In late December, Representatives Jared Huffman and Ed Case introduced a new [discussion draft](#) that would reauthorize, update, and enhance conservation measures in the MSA. After a year-long "[listening tour](#)" in which Representative Huffman organized nationwide meetings with fishing and coastal communities to discuss federal fisheries management, his team drafted this new MSA based upon those discussions. Most notably, the new bill would address climate change and how fisheries can respond and adapt, as well as policy guidance related to it. The draft also includes measures for greater fish species conservation, limiting overfishing even more, and improving protections for other marine species. The environmental organization the [Natural Resources Defense Council](#) has already voiced their support for the new version of the MSA. However, this draft is just a peak at what the actual bill will be, and a final version will be introduced this year. For now we'll just have to wait in anticipation and enjoy the [sea shanty revival of 2021](#).

### **[Fixing a Hole](#) Where the River and Gulf Get In**

Here in Louisiana, a new levee system may be coming soon (estimated beginning in 2023). Recently, the Army Corps of Engineers unveiled the [draft feasibility study and corresponding environmental impact statement](#) for the Upper Barataria Basin project. The project is a levee system intended to reduce flood impacts to the Upper Barataria Basin, protecting the area from a one-hundred-year flood event. The system is an optimization and extension of the existing St. Charles Parish system and will consist of both structural measures and "non-structural measures" - buyouts. According to the study report, the project and its construction alternatives will include environmental impacts to wetlands, wildlife, fisheries, air quality, and water quality. This is the second draft report for the project, and it is currently in the public comment step of the approval process. If you'd like to submit comments on the draft, [here is the website](#) that gives all necessary information. Comments are due January 25<sup>th</sup>!