

TUWaterWays

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

[April 1, 2021](#)

Feeling the Chill in Chilean Water Law

Not so long ago (in water law terms) Chile made news by enshrining private property rights to water in its constitution. Oh sure, there are other places in Chilean law that speak of water as a public good and water for human consumption as the highest priority, but after years of drought and the experience of seeing private irrigators using water when towns had little to none, [Chilean lawmakers are revisiting the *de facto* primacy of private water rights](#). While it is too soon to say how that will turn out, it is a reminder that private laws can say one thing, but reality and human necessity can say another; and in the case of water, those realities can be harsh. How harsh, you ask? Well according to a new report from the World Health Organization, [within 4 years half of the planet's population will be living in water stressed areas](#). (Places like the country [Jordan](#) and [Lemitar NM, for example](#)). That is not a situation that most water laws and management programs were set up for so [prepare yourself for a bumpy ride](#).

FERC's Final Feelings on Federalism (Water-style)

Thinking of building your own liquified natural gas project or maybe a natural gas pipeline? Or maybe you are thinking of objecting to somebody else's gassy plans. Or maybe you are a diligent but probably overworked state employee charged with looking after your state's waters. If so, the Federal Energy Regulatory Commission (FERC) has a [rule](#) for you. Under a [new rule, states will have one year to rule on water quality certification requests for natural gas projects or be found to have waived their rights](#). All of this deals with the authority of states under Section 401 of the Clean Water Act (CWA) to set and apply water quality standards as part of the CWA's regulatory scheme. FERC and the gas industry have been frustrated by states taking "unreasonably long" to decide on water quality certification requests and delaying pipeline projects and such. While this won't likely settle this hash, it may lead to increased sales of [sophisticated calendar tracking systems](#).

Hands Off!-- You Know Who You Are

Hey, you! What are you looking at? If it is the Nile River, then Egypt has some words for you—words of warning. In a sharply worded but not clearly directed statement, [Egypt's president Abdel Fattah el-Sissi made it clear that Egypt's share of Nile water is "untouchable and that touching them is a red line"](#). President el-Sissi did not mention Ethiopia by name, but since he was talking about the Grand Ethiopian Renaissance Dam and the risks posed by filling

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:

[WRDA 2020 Army Corps Implementation Comment Stakeholder Session: Water Supply and Hydropower Provisions](#); April 6

[WRDA 2020 Army Corps Implementation Comment Stakeholder Session: Any Provisions](#); April 13

[Gulf of Mexico Conference](#); April 14

[CPRA: Atchafalaya River Basin Restoration and Enhancement Task Force Meeting](#); April 14; Napoleonville, LA

[ABA 50th Spring Conference on Environmental Law](#); April 27-30

Water jobs:

[Assistant Director For Policy and Assistant Professor in Environmental Policy and Ecology](#); University of Georgia; Athens, GA

[Executive Director](#); Bayou City Waterkeeper; Houston, TX

[Manager of Equity and Resilience Programs](#); Groundwork USA; New York City, NY and Boston, MA

[Director, Sustainable Land Science](#); Conservation International; Arlington, VA

[Associate Research Scientist, Marine Protected Areas and Climate Change](#); Conservation International; Santa Barbara, CA

[Designer/Planner](#); Center for Planning Excellence; Baton Rouge, LA

Multiple Intern Positions with Conservation International: [Conservation and Sustainable Development](#); [Climate Adaptation Science Intern](#); [Evidence Review of Natural Climate Solutions Intern](#); [Wildlife Insights Business Development](#)

[Law Clerk](#); San Francisco Baykeeper; San Francisco, CA

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the new reservoir without a binding international agreement, you probably have a good idea of who he is talking about ([don't look so surprised Ethiopia](#)—you too, Sudan). Negotiations on an international deal have been stalled even as construction on the project has continued. Given the stakes, maybe this not your [everyday warning](#).

Seems There is Something in the Water

For years, the dream of any Chicago-area young kid with any refinement and gumption was to grow up and spend weekday afternoons (when everybody else was working) at Wrigley Field watching the Cubs and drinking [Heileman's Old Style beer](#). At the heart of that dream was LaCrosse, Wisconsin, home to the Old Style brewery. Within that heart lay another, deeper heart: the waters of LaCrosse. No water, no beer. No beer, no Cubs. No Cubs and the fabric of civilization—nay the cosmos—unwinds. We hold these truths to be self-evident. But that dream may be in danger thanks to an airport, its efforts (quite prudent) to be ready to fight fires, and PFAS chemicals used in firefighting foam and lots of other things. [As has too often been the case with PFASs, they found their way into the ground water of LaCrosse County and as a result, hundreds of wells are now showing unacceptably high levels of PFAS in drinking water. Since these chemicals persist a long time \(they are commonly referred to as "forever chemicals"\) this could be a real problem, especially given the fact that cleaning up groundwater is no easy or quick matter. In response, officials are temporarily supplying bottled water \(no, not Old Style\) to affected residents. Just where this goes is not clear.](#) Temporary fixes to forever problems tend not to stick and even then, it may be too late for some. Not even Old Style is immune. While still brewed in LaCrosse (not with PFAS water we hope), it is not the same old Old Style, Heileman's having tanked years ago, and heaven knows the world may now be beyond the ability of the Cubs to keep sane. But with each new baseball season and each new frosty glass hope is renewed. [So c'mon, let me hear you....](#)

Don't Be Shellfish, Florida

After years of litigation, expert testimony, and scientific reports, [the Supreme Court unanimously declared that Florida failed to meet its burden of proof to show that Georgia is the cause of all its oyster troubles, and dismissed the case](#). Florida's lawsuit claimed that Georgia's overconsumption of water from the Flint and Chattahoochee Rivers, which join to form the Apalachicola River that leads to the Apalachicola Bay, played a major role in the [devastation of its oyster industry](#). It asked the Court to limit the amount of water Georgia withdraws from the rivers. The Court, however, seemed to take particular notice of the Florida's own inaction in alleviating the oyster shortage. Justice Barrett, newly minted and a Louisiana native, delivering the opinion of the court, emphasized that the cause of the oyster decline is still a matter of scientific debate and that water is becoming an increasingly scarce resource that Georgia needs to use reasonably. While the fate of the Apalachicola oysters looks as if it will remain dire, Louisiana's oyster industry is as important as ever, especially to those of us who value 75 oyster happy hours.