



TUWaterWays

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

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Bring Out the (Liability) Umbrellas

An [umbrella](#) can be used in countless ways, but it's usually to protect us from a rainy day... and we mean that in every way possible... As the first Hurricane of the season, Beryl brought with it exactly what was expected: rain, floods, and winds. The thing that was not expected was just how big of a storm would come this early in the year. Of course, hurricane season starts in June, but [not that many happen so soon](#), making it the earliest category 5 hurricane on record, and only the [second ever in July](#). Beryl hit Texas as a category 1 hurricane, but it still made significant impacts in the cities it touched on. In Houston, [3 million houses and businesses](#) did not have any power for days. Other states like [Vermont](#) and [New York](#) were affected by the mere remnants of the hurricane that still made impactful damages. [Insurers are preparing themselves](#) for the number of losses they will have to [take on](#) this year, and where it may go from here. Experts believe that [Texas's insurance impact will be manageable](#), which is a pretty underwhelming adjective considering that NOAA has predicted 2024 to be an [above-normal hurricane season](#), and it's just starting to prove itself.

So, if all of that happened to places where Hurricane Beryl wasn't at its highest category, what happened to those who saw it in its full force? After being hit, Jamaica was declared a [disaster area](#) by their prime minister. The good news is that Jamaica is considered to be one of the most financially prepared islands in the Caribbean for a disaster like this with a \$1.6 billion disaster safety net, which includes insurance policies. Jamaica was the first country in the Caribbean to independently set up catastrophe bonds ("[cat bonds](#)"), given its history with natural disasters, this sets up a perfect disaster risk financing strategy, or so it seemed. The bad news? Besides the obvious destruction-y stuff, Jamaica will also [not be able to use the catastrophe bonds](#) they set a few months ago to rebuild itself after this record-breaking hurricane. Cat bonds are a type of insurance where an issuer transfers risks to capital market investors. This means that investors would have had [to pay approximately \\$150 million](#), since the country got this insurance accredited in April by the World Bank for named storms. But, in this case, since the air pressure did not reach the defined minimum the terms of the bond payout were not met (in a Category 5 storm!?!), therefore there is no payout for the island.

But [wait a minute!](#) Insurance is not just a problem during hurricane season. In fact, homeowners insurance has been in a bit of crisis for years, and that storm is also brewing. It's like someone decided [one twister just wasn't enough](#). The average premium for home insurance [has escalated 33% since 2020](#), making some places in the country completely unaffordable, depending on the level of risk. If we look at Louisiana specifically, risk continues to escalate, payments continue to escalate, and the state needs to address affordability and availability for its residents. This week, the Tulane Institute on Water Resources Law and Policy takes a dive into Louisiana's ongoing insurance crisis in its new white paper titled "[Climate Crisis and Insurance in Louisiana: Beyond the Last Resort.](#)" The paper aims to inform both the public and policymakers on how Louisiana lawmakers can better handle the insurance crisis. It also explores where working with other states or the federal government could make a big difference.

Speaking of federal government collaboration, FEMA just finalized the new rules for the [Federal Flood Risk Management Standard](#). With the new standards, FEMA's goal is to get federally funded buildings to construct their infrastructure in a way that prevents flood damage. This may be done in many ways, from elevating them to relocating

them. The first time FEMA proposed this rule was in 2016, withdrawn in the following government, and now reintroduced. Of course, [administrative law has changed](#), so FEMA will have try to implement this rule without facing too many legal challenges along the way.

Everybody Wants to Rule the Colorado Waters

There is never peace for too long when dealing with the Colorado River, even when states try to [fairly distribute](#) its water. The Colorado River provides water to seven different states, and Mexico. It is estimated that the Colorado River supplies water for [1 in 10 US citizens](#), mostly for drinking water purposes, including major cities like Los Angeles, Las Vegas, and Pheonix. The Colorado is also known to be associated with many indigenous tribes, like the Mohave, the Chemehuevi, the Hopi and the [Navajo](#). However, the river has been under [extreme and unprecedented drought](#) since the 2000s, and States have taken innovative measures to incentivize its conservation. Recently, Imperial Valley, a town in California, introduced a program where farmers can be eligible for payments if they [temporarily shut off the water to their fields](#), for two months, hopefully starting in August. The money is in part expected to come from a federal fund used in the [Deficit Irrigation Program](#), which has been set up since the Inflation Reduction Act of 2022. Following is not the first alternative choice that comes to growers when dealing with the escalating lack of water, so after discussions with the general public, the Imperial Irrigation District approved the plan for growers to earn up to [\\$430 per acre-foot of water saved](#). Depending on different circumstances, this may be a great deal for some farmers, and it may be a sacrifice for others, nevertheless, it would make a great impact on the amount of water usage in the West, even if only [20 very distinct families](#) do it.

The American West, and therefore the Colorado River, follows a system of water rights called “prior appropriation”, which in very basic terms means first in time, first in right. In more educational terms, this doctrine followed by western states, where they have historically had less water than other parts of the US, dictates that anyone who got assigned their water rights first have priority rights over those who get it later for beneficial use. The term beneficial use can be stretched to the point of covering many things. This has been recently seen in Cibola, Arizona, where a private company, [Greenstone Resources Partners LLC](#), bought 500 acres of agricultural land years ago, but has now sold its water rights from the land to a town over 200 miles away. The “[more than 2000 acre-feet of water](#)” is intended to be transferred through a canal to be used by this town, while Cibola, which has been affected by the drought of the river, fights the transfer in court. On February of this year, a US court judge ruled that the transfer must undergo an environmental impact statement. This unprecedented transfer opens the door to future big-money transfers of water rights from the river, which would deprive smaller towns from fully accessing their own water, as this resource is moved to bigger and [richer](#) areas.

Coming Up:

Water jobs:

[Staff Scientist](#); Healthy Gulf; Houston, Southeast Texas, or Southwest Louisiana (Remote)

[Chief Development Officer](#); Healthy Gulf; Gulf South (Remote)

[Director of Clean Water Protection](#); Harpeth Conservancy; Brentwood, TN

[Operations Manager](#); Harpeth Conservancy; Brentwood, TN



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.

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