

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy
December 22, 2022

[This One's for Rudolph](#)

Almost 200 countries have “agreed” on a [landmark biodiversity deal](#) that commits to protecting 30% of critical land and water across the globe by 2030. Currently, only 17% of land and 10% of marine areas are protected. This will include a heavy focus on rainforests and wetlands and safeguarding the vital species they support. In other words, “[Merry Christmas, ya filthy, \[important, and threatened\] animals \[and plants\]!](#)”

The UN summit in Montreal was led by the Chinese minister of ecology and environment who pushed the agreement through at the last minute, [apparently overruling an objection from the Democratic Republic of the Congo](#). The DRC, one of the most biodiverse countries in the world and home to the second largest rainforest, wasn't content with a deal that didn't create a new fund for biodiversity, instead relying on the existing UN global environment facility (GEF) which primarily divvies out money to China, Brazil, Indonesia, India, and Mexico. The [DRC's environment minister claims that her country formally objected](#) to the deal, but UN lawyers disagree based on a legal technicality. Other African countries such as Uganda and Cameroon have backed the DRC in their frustrations over the procedure.

Despite the controversy, some are [already comparing this deal to the 2015 Paris Agreement](#) which aimed to reduce global greenhouse gas emissions. So that sounds pretty monumental. Then again, here we are seven years later and [global coal use just hit an all-time high](#). Apparently recent fluctuations in natural gas prices have sent people scrambling towards other fuels. While some of this movement has been [towards renewables](#), it's sent some in the opposite direction. Another culprit of high coal use: stocking stuffers for naughty children. A medical journal even published a [new article admonishing the tradition](#) for supporting a harmful industry. So, if [youth climate anxiety wasn't bad enough already](#), don't forget to remind your kids that their bad behavior is killing our planet.

[Building A Wetlands Wonderland](#)

Five years and thousands of pages of environmental impacts later, the Army Corps has finally published its record of decision on the Mid-Barataria Sediment Diversion EIS and [approved environmental permits and a permit allowing the project to impact levees and navigation](#). From the beginning, reactions to the diversion have ranged from [passionate support](#) to [complete disapproval](#) and [everywhere in between](#). Now, construction on the long-awaited and heavily-debated diversion could begin as early as March 2023. And the southeastern parishes can expect to stay busy as Gov. John Bel

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:

Tulane Environmental and Energy Law Summit; March 17-18; New Orleans, LA

[2023 State of the Coast Conference](#); May 31-June 2; New Orleans, LA; [Proposal Submission Deadline](#), January 17

Water jobs:

[Assistant Professor of Marine Affairs: Fisheries Management and Policy](#); University of Rhode Island; Kingston, RI

[Restoration Programs Director](#); Coalition to Restore Coastal Louisiana; New Orleans, LA

[Regional Watershed Coordinator](#); Capitol Region Planning Commission; Baton Rouge, LA

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

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

[Staff Attorney](#); WaterWatch of Oregon; Portland, OR

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Edwards just announced investments in a proposed container ship terminal which should break ground in St. Bernard Parish in 2025. Its construction will certainly require additional projects to accommodate transportation and mitigate impacts.

In granting the permits for Mid-Barataria, the Corps specifically noted that it “take[s] great care to [neither endorse nor oppose any project](#) when administering [its] regulatory authorities.” This may seem like a cop-out, especially for a project as controversial as this one, but it’s also reflective of the NEPA process at work. NEPA doesn’t demand impactless projects, but simply the best alternative, to which CPRA offered seven options for comparison. The explicit purpose of a sediment diversion is to cause environmental impacts, and with ecosystems as delicately balanced as those in coastal Louisiana, that’s bound to mean adverse impacts along with the beneficial. The state will spend at least \$360 million mitigating some of these adverse impacts. Of course, the diversion itself is also paid for with mitigation funds from the Deepwater Horizon oil spill, and it’s predictable that the next projects will also have impacts that need offsetting. So, at what point are we simply passing degradation down a chain of “mitigation”? And what happens if we [suddenly deregulate links in that chain](#)?

[They Wish They Had a Bigger River](#)

Things are looking pretty [bleak in the midwinter](#) negotiations over water cuts on the Colorado River. State officials from across the River Basin have [gathered in Las Vegas and have until Feb. 1st to come up with a plan](#) that at this point can only involve radical usage cuts across the region. The two largest reservoirs on the river are nearing dead pool levels, meaning the Glen Canyon and Hoover [dams would no longer generate electricity and would purely stand as barriers to delivering water](#) to areas of Arizona, California, and Mexico. Despite the urgency, so far officials have failed to come to any voluntary agreement and a federally-imposed plan seems more likely [day by day](#). Perhaps negotiators are waiting for a [miracle on the Las Vegas Strip](#).

At the far reaches of the River’s sphere of influence (but outside the Basin), San Diego has [put the brakes on its plan to build a \\$5 billion pipeline](#) directly connecting it to the Colorado River. Since the 1940s, about 75% of San Diego County’s water has come through Los Angeles and been controlled by the LA Metropolitan Water District (Metro). The idea for a separate pipeline that cuts out the middleman has come and gone several times since the 1990s. But some proposals [die hard](#) and the most recent [plan was resurrected in 2020](#) but has paused again in hopes that an ongoing court case between the San Diego County Water Authority and Metro will produce a settlement that negates the necessity for the pipeline. Of course, both strategies require the river to make it past the Hoover Dam.

It’s important to remember that only some of the Colorado River’s problems are attributable to historically poor management and over consumption. Climate change has rapidly altered the equation for not only the Colorado, but all rivers across the country; and it’s continuing to cause significant impacts, many of which we still don’t fully understand. Consider the dozens of [streams and rivers in Arctic Alaska which are literally rusting](#). The once crystal-clear waterways are turning orange, not due to a spill or a pipeline break, but likely due to an influx of nutrient-rich sediments from degrading permafrost oxidizing in the running water and open air. At least, that’s the theory—but scientists are still trying to explain why these once pristine rivers are now “so acidic that they curdle your powdered milk.” Just to be safe, [Father Christmas](#) should probably be extra cautious of the milk and cookies in Alaska this year.

[A Drippy, Drippy, Drippy...we made it out of nothing and it’s completely meaningless](#)

This will be the last TUWaterWays of the year, but before we sign off...

It’s time to crown the top water song of 2022! Thanks to many of you wonderful readers, over the past month we assembled an eclectic [playlist of some of our and your favorite tunes released this year related to water](#) (the relation could be pretty tenuous, there really weren’t many rules to this competition). Then, applying a [careful algorithm](#) that can be loosely summed up as evaluating [the vibe of the thing](#), our [panel of experts](#) selected the winner of the first annual Drippy Awards, and [here it is](#)! Congratulations to the nominees! And thank you all for bearing with us for another year, through our antics and efforts to bring you water news and more in a unique and hopefully helpful way.

Stay warm out there! See you in 2023!