

# TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law and Policy  
October 6, 2015

## **BP's Deepwater Horizon Settlement Takes Next Step Forward**

The [legal saga](#) over BP's role in the 2010 *Deepwater Horizon* Oil Spill is drawing to a close. On Monday the Department of Justice released its [final settlement](#) with BP for a total of \$20.8 billion. It is the largest civil settlement with any one entity in the history of the United States. In July, a draft of the agreement in principle was released and it was [reported](#) that BP's total payments would be \$18.7 billion. The change in the final amount does not reflect any additional fines, but a more fulsome accounting of the total penalties; the \$20.8 billion includes money already paid by BP for early restoration and money that BP will pay to reimburse federal and state governments for costs previously incurred. Louisiana's share of that total remains at least \$6.8 billion. On top of that, settlement money will go to coastal parishes directly and Louisiana will compete with other Gulf States for additional spill-related funds administered by the [RESTORE Council](#). The consent decree is open for [public comment](#) until December 4, 2015. After receiving comments, the government will submit the decree to the court for approval. The date the decree is approved by the court, likely in early 2016, will be the annual due date for payment installments, set to begin in 2017. BP will pay off most of the fines over a 15 year period ending in 2032. While the total amount was [not as high as it could have been](#), this settlement avoids several more years of litigation and gives Louisiana a steady stream of revenue to help begin some of the more imperative projects in the [Coastal Master Plan](#).

## **New York City is More Vulnerable than Ever, Yet Better Prepared than Most Other Coastal Cities**

New [research](#) shows that what was once a "500 year flood" is now a "24 year flood." Researchers reconstructed the history of hurricanes and floods back to 850 AD, and found that the 9.2 feet of surge Hurricane Sandy pushed into [the Battery](#) used to be a one in 3,000 year event. It can now be expected to happen every 130 years. So what's the [Ghostbusters' hometown](#) to do? Well, one new law journal [article](#) finds that the city might be well on its way with climate change resilience initiatives that could serve as a model for other coastal cities, even though it faces many wicked policy binds that will have to be unlocked to really moderate climate change's harm. New York has indeed done well post-Sandy to confront climate change's challenges, but saying New York

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 stewardship of water.

## Coming up:

### [8th Annual Anba Dlo Water Symposium and Halloween Festival](#)

October 17, 2015

New Orleans Healing Center  
New Orleans, LA

### [State of the Coast: Call for Abstracts and Session Proposals](#)

Open until Nov. 30, 2015

[Online Here](#)

## Water jobs:

### [James McCulloch Chair in Energy Law](#)

Tulane University Law School  
New Orleans, LA

### [Coalition to Restore Coastal Louisiana](#)

Restoration Programs Director, Habitat Restoration Program Coordinator, Science/Technical Director  
Baton Rouge, LA

### [Virginia Energy Attorney](#)

Southern Environmental Law Center  
Charlottesville, VA

### [MRD & Natural Infrastructure Economist](#)

(Two Year Postdoc Position)

Environmental Defense Fund  
Washington, DC, New York City, or Boston, MA

# Tulane Institute on Water Resources Law & Policy

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City's plan is a model for other cities to follow feels a bit like saying a [Bentley's](#) interior is the model for other cars to follow (if you have to ask, you can't afford it). What else can New York City and other coastal cities do? Build storm-proof infrastructure that's been tested in the [world's largest artificial wave generator](#)!

### **Serious Flooding in Charleston, SC This Week**

Hurricane Joaquin battered [The Bahamas](#) and [Bermuda](#) and is headed [towards Europe](#). But it missed the Atlantic Coast of the U.S.A. So how is it that we are seeing pictures of flood homes and cars in the Carolinas? The answer is sadly simple, coastal flooding is not just a matter of hurricanes. Thanks to a separate low pressure system parts of [South Carolina](#) have seen more than 24 inches of rain, dam failures, and a death toll currently at 14. According to Charleston's mayor, things could still [get worse before they get better](#). Charleston is on the front line of [climate change and sea level rise](#), so their mayor is likely right in both the short-term and the long-term. It is also important for citizens and the media to remember that it is not just storms with names that we have to be on the watch for. If you have any way of helping those folks in South Carolina, the Bahamas and Bermuda, please consider doing it.

### **"The Tragedy of the Horizon" – the Bank of England's Governor on Climate Change**

In a [speech](#) to Lloyd's of London last week, Mark Carney, head of the Bank of England spoke of the dangers of stranded assets and investments in the face of climate change. Central to his message was the problem that these issues function on a time scale incompatible with the business cycle, the political cycle, or the horizon of authorities like central banks that are bound by their mandates. This is "the tragedy of the horizon" (a term we really wish we had thought up) and how it [relates to the insurance industry](#) has profound impacts on the viability of not only investments, but entire communities. It has already impacted some Caribbean neighborhoods, where houses have become uninsurable, creating abandoned neighborhoods and collapsed housing blocked from mortgage lending. Carney points out that the alternative to widespread and pervasive stranded real estate investment is to leave fossil fuels in the ground and strand those investments instead. Whether or not they realize they are confirming the existence of the tragedy of the horizon, [critics have claimed](#) Carney is speaking out of turn and that energy investments don't have anything to worry about for decades.

While we did not coin the "tragedy of the horizon" phrase, the concepts behind it have been a big part of this Institute's work since its founding 8 years ago. Until our legal mandates and regimes catch up with the rapidly evolving world of water risk and opportunity, human society as a whole is going to keep missing tricks in a game it cannot afford to lose.

### **America's Drinking Water Infrastructure is Like a [Rembrandt](#) – Old and Costly**

Boil water advisories are no fun. Trust us. They're also one of several consequences of old, broken infrastructure that's costly to fix. Addressing the problem isn't optional. Drinking water is fundamental to the economy of and existence of cities. But what to do? Generally, cities can't take water for granted, but they have and now they have to be prepared to pay the bills that have been due for decades now. Florida alone is looking at a [\\$16.5B bill](#). Cities across the country, [from Monroe, LA](#) to [Des Moines, IA](#) are searching for answers. For one thing, how about making effective use of the [federal drinking water loan system](#)? [Protecting the source waters](#) makes things easier for utilities, too. That's likely more feasible than copying Singapore's solution of [wiring the pipes](#), but if you've got the population of Houston in an area the size of Lexington, KY with an [economy](#) a lot smaller than Houston's – wait – never mind. Wire those pipes, all you big, rich American cities! You [little water districts](#) (as in the vast majority of them) might have to try something even more drastic – like merging yourselves out of existence.

So, the lesson is clear, [the era of cheap water is over](#) and the [treasure hunters](#) are on the hunt! This is one asset sure not to be abandoned in the face of climate change! It is the [stuff dreams are made](#) of for real.