

# TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law and Policy  
December 8, 2015

## Could Rio's Poor Water Quality Make Antibiotics the Performance Enhancing Drug of Choice?

Winning an Olympic swimming or sailing event is hard enough but it shouldn't have to entail beefing up your immune system. But if the health of the waters at some of the 2016 Summer Olympics are as bad as [news reports](#) claim it may be a problem. When the Olympics were awarded to Rio de Janeiro its water quality problems were well known but concerns were assuaged by assurances that things would be cleaned up. A things turn out getting clean is not so easy. A major bone of contention involves just what constitutes "clean". Traditionally, water quality was a matter of testing for certain bacteria. There is growing concern—and ability to monitor—about viral contamination. Recent [tests run for AP](#) (yes, the Associated Press) found high levels of both bacterial and viral contamination of coastal and ocean waters where sailing and some swimming events will be held. Here at the Institute we are feeling a bit better about having slept through the Olympic tryouts.

## Georgia Has Reservations About Its Water Plans

Until recently, the driving assumption behind much of Georgia's water management was that it needed many more reservoirs because it was going to have lots more people. As it turns out, growth is not what was projected, but those reservoirs, well Georgia still wants them, at least the ones that can serve purposes beside drinking water supply. The [new view](#) is that reservoirs can help maintain the flows and quality of the state's rivers—including those it has been [fighting](#) (and fighting and fighting) with its neighbors over (looking at you Chattahoochee). This changing focus also comes at a time when Georgia [agriculture](#) is doing some soul searching with regard to water. It seems that droughts and competition for water may just need to be planned for. Maybe [Dylan](#) was right.

## The Mysteries of Water—and EPA's Duties to Protect It

Our guess for one of the most often asked questions around the Thanksgiving table this year: When is water coming out of a pipe (tunnel, canal, aqueduct, channel, etc...) not a point source discharge for purposes of America's Clean Water Act? Well maybe not at your house. The answer is when the other end of pipe is located in another "water of the United States" and there were no intervening additions of

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:

[Tulane Environmental Law Summit](#)

New Orleans, LA  
February 19-20, 2016

[Center for Natural Resource Economics & Policy](#)

New Orleans, LA  
March 20-22, 2016

[State of the Coast 2016](#)

New Orleans, LA  
June 1-3, 2016

## Water jobs:

[Clean Water Advocate](#)  
Environment America

[Professor of the Practice/Managing Attorney](#)

Virginia Coastal Policy Center,  
William & Mary Law School  
Williamsburg, VA

[Water Resources Campaign Coordinator](#)

National Wildlife Federation  
Washington, DC

[Tennessee Clean Water Network Staff Attorney](#)

Knoxville, TN

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industrial, commercial, or municipal pollutants. Or at least that is how EPA sees it, a view that led them issue a [rule](#) exempting such discharges from the Clean Water Act. It is an interpretation that also got [EPA sued](#) in Federal court in New York resulting in a [ruling against EPA](#). That case (consolidated with cases from Florida, California and elsewhere) is now on appeal to the Second Circuit Court of Appeals where a three judge panel heard oral arguments last week. You may think this is a rather esoteric matter but it really isn't when you consider the lengths cities and states go to get water from remote areas. It even comes up in ecosystem restoration efforts like those in the Everglades, San Francisco Bay and here in Louisiana where the line between conveying diverted water and reconnecting watersheds and waters is a fine one.

### **Desmond's the Name, Trouble's the Game**

November 1 may have closed out the official Atlantic hurricane season but that doesn't mean trouble is behind you. In fact if you are in Ireland, the UK, and western Europe it just means that it is winter windstorm season. Borrowing a bit from hurricanes, winter storms have begun [getting names too](#) and this year's Desmond has been a [doozy](#) in Ireland and the UK. The wind driven rains and waters have flooded many areas in ways not seen in centuries. Like recent storms in the U.S. Desmond has raised [questions and criticisms](#) about just how prepared and well coordinated water managers have been. We are not sure that even the best planners could have anticipated some of the risks suggested by [some storm posts](#).