

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy
January 27, 2023

I Me Mine

It's a comfort to know what's yours; to know that something is yours to use, enjoy, share, or hoard. It's hard-wired into most people and [quite a few animals we know](#). But there are times and places when it is hard to know what is yours, what is your neighbors, and what belongs to the public. No, those are not communist countries, they are right here in the USA. Legally they may be called private, public, or common things, but you may know them as rivers, streams (bayous), lakes, bays, banks, shores, and tidelands. These areas have always been wrestled over by [swells](#) with waterside estates, [fishers](#), [boaters](#), [factories](#), [farms](#), [ports](#), and [governments](#) of all shapes and sizes. They still are, but with rising seas and growing demand for water, it has never been more important to know who has what rights to water and the lands around them. To help you understand the array of public and private property rights that come into play in these shapeshifting environs, we, your friends at the Institute, have [prepared a primer to improve your understanding](#)—or at least refine your confusion. We can promise it won't answer all of your questions, but if it does nothing more than make you more aware that public and private rights and duties can exist simultaneously and that they can shift over time, then we will have done our job. Because you flat out cannot make workable plans for people, water, and other natural resources without taking property rights into account and not just private property rights. We mean that. [Really](#).

Well, That Didn't Take Long

On the same day EPA and the US Army Corps of Engineers published their new regulations defining what they think the phrase "waters of the United States" now means for purposes of Clean Water Act, a gaggle of agriculture, energy, and construction groups filed a [federal law suit](#) to block those rules from taking effect. The suit alleges that the rule goes beyond what the Clean Water Act can legally regulate and that all sorts of bad things will ensue, particularly on farms and in rural area. Putting aside who it would burden, the question of just what the Clean Water Act covers is an important one and right now nobody knows the answer because the U.S. Supreme Court hasn't told us—[but it may be about to in the pending Sackett v. EPA case](#). That is what the new rule will be judged against. So why not wait for that decision before suing? Mostly likely it is in anticipation of a Court decision that narrows the Act's reach and have the challenge on the table ready to go. Also it rarely hurts for an organization to make a show of doing something that its members can see.

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 Environment and Energy Law Society's Environmental Law Summit. March 17 and 18 New Orleans.

[Blue Carbon Law Symposium](#); May 17-18; Athens, GA

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

Water jobs:

[Communications Director](#); Healthy Gulf; Multiple Locations

[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

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Message in a Bottle

For quite a while the bottled water industry has pitched its products as a convenience and, at least implicitly, a safe alternative to that stuff that comes out of your tap. [How else can they get people to pay so much for it?](#) And you know what? They are right up to a point, especially on the convenience point. Whether tap water is such a bad thing is very debatable in most places, but if folks feel better with bottled water, [let 'em have it](#). But does putting water—often just more filtered tap water—in plastic bottles make it safe?

Great question, and the answer is no. Unless the bottle is magic it still matters where the water comes from, how it is treated, and what kind of bottle it is. A reminder of that comes to us from Pakistan where [20 brands of bottled water have been declared unfit for people to drink due to elevated levels of certain minerals or microbial contamination](#). The public is being urged to read the government's report to see if it describes the waters they use. We know knowledge is power but it may take more than that to get safer water.

Hey Early Birds! Sign Up for State of the Coast. Now!

You may have already blown your chance to get a Brass Pass for the 2023 New Orleans Jazz and Heritage Fest but you still have a chance to get an “early bird” registration for the 2024 State of the Coast Conference being held in New Orleans May 31-June 2. To be clear, the coast in question is coastal Louisiana but cut them slack, nobody questions metro San Francisco’s claiming the title “Bay Area” as if theirs is only one. [Early bird registration ends January 31](#). To make it even sweeter, the [deadline for proposing a session has also been extend to January 31](#). Hop to it.