



TUWaterWays

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

Authors: Christopher Dalbom, Mark Davis, and Haley Gentry

June 16, 2023

Arizona? More like AriNOna!

Arizona made headlines recently when it struck upon the novel idea of demanding a plan to meet water needs for new real estate developments. Specifically, this [new limit on development](#) applies to the sprawling edges of the Phoenix area that don't fall within the region's groundwater management area. The announcement was made following a [report](#) showing that the area's groundwater supplies wouldn't be able to meet the needs of its projected growth. Of course, [home builders](#) feel targeted when the state is also trying to boost [water-intensive high-tech manufacturing](#). But Arizona is also [taking a harder look](#) at agricultural groundwater use and considering not letting at least some of them get away with murder. How that plays out (and the state's exposure to takings claims) will likely depend on application of the application of its [Groundwater Act of 1980](#).

Of course, water issues are all over the news in Arizona lately; water has been a focus of Gov. Hobbs' administration, and for good reason. The Colorado River is drying up and no matter how long-term [negotiations among the CO River Compact states](#) and the Federal government resolve themselves, Arizona will be getting less. The only question is how much less. In turn, the state is exploring its desalination options—[in Mexico](#)—and [working with its fellow Lower Basin states](#) to put their [best minds](#) on their water challenges.

Although builders and farmers might be shocked by the news that Arizona can be less than helpful when it comes to development and water infrastructure, the Indigenous peoples of the state are very used to [Arizona standing in the way of tribal nations getting their water](#). Back in 1908, the Supreme Court [recognized](#) that treaties with Native peoples were impossible to fulfill without corresponding water rights allowing them to live, farm, fish, etc. on the reservations those treaties created. It's known as the [Winters Doctrine](#), named after the case. However, to access that water recognized as a right by the Federal government, a tribe usually has to work with the state(s) where it is located (especially in the West). How much the tribes or the states want to work as partners or as adversaries varies, but it sure seems like no other state is as committed to playing hardball as is Arizona. The result is tribes going decades (or more than a century now, really) without safe water supplies and with the cascade of impacts like poverty and health outcomes that should embarrass the rest of the country. Now, if a tribe is willing to give up many of its other rights to water and land, Arizona has proven willing to let them have (some) water. This tension is playing out differently across the state's 20+ tribes, but it is also why the [Supreme Court heard a case from the Navajo Nation](#) this spring where they will determine whether or not the Federal government has an affirmative duty to aid tribes in accessing the water the Winters Doctrine says they have rights to.

England's Droughting

Climate change is already being felt at disastrous levels, of course, with drought potentially having [pandemic-level disruption](#) around the globe. And it's being felt most immediately in hot, dry places with poor infrastructure and an inability to respond to the challenges of a rapidly changing world—places like Britain. Wait, what? Yes, Britain. The [drought](#) in southern England right now is wreaking havoc in usually damp places like Kent and Sussex. Those areas are seeing record temperatures and long stretches without rain. The areas are instituting [bans on non-essential water use](#), including bans on watering lawns. Suddenly, towns like Crawley are having to approach water use like

Wichita in August. Some areas have even [lost access to water entirely](#), shutting down schools and businesses. Even [one river in the Lake District](#) (the LAKE District!) is drying up and on the verge of environmental collapse. No wonder [the waters off the coast are full of drugs](#). And [plastics](#). And [DNA](#).

The systems in the country simply aren't equipped to handle what were once extreme conditions that are now becoming sadly common. The water networks themselves are [neglected and leaky](#). Why? Partly because England's water and water utilities were privatized in 1989. Now, they're almost entirely run by nine companies that are owned by [private equity running them for profit](#). They've been able to pay dividends to shareholders (including £1.4bn in 2022) while the systems have gotten leakier and leakier. But, hey, at least they've [apologized](#) and pledged to [spend £10bn on infrastructure](#)—to be paid for by customers, not shareholders of course. Meanwhile, spills are also taking place, and, even with a [lack of transparency from the companies](#), at least one agency in the country still is able to come up with some form of regulating them. The [Advertising Standards Authority has banned an ad from Anglian Water](#) for not acknowledging their poor track record. Feels good to see an underdog like the English government get a win, doesn't it?

More Work for the [Beltalowda](#)?

A new [study](#) found salt crystals in an asteroid sample. Okay, sure. But these crystals had to have been formed in water and they came from a type of asteroid that asteroid scientists (asterologists?) didn't think had water. So, this discovery gives fuel to [the hypothesis that most of Earth's water arrived on the planet thanks to these types of asteroids](#). Asteroid water mining: the next thing for certain Silicon Valley billionaires to blow their money on.

Coming Up:

[14th Louisiana Water Conference, Baton Rouge, LA, August 2-3](#)

Tulane Environmental Law Summit, New Orleans, February 23 & 24, 2024 (save the date!)

Water jobs:

[Senior Campaign Coordinator](#); National Wildlife Federation; New Orleans, LA

[Deputy Director](#); Bayou City Waterkeeper; Houston, TX

[Water Policy Advisor](#); The Nature Conservancy; Home-based/Remote

[Climate Change & Climate-Resilient Coastal Development Policy Expert](#); DT Global; Belgium

[Research Attorney](#); Roger Williams University (RI SeaGrant); Bristol, RI

[Senior Fellow \(Water Security\)-Global Food Security Program](#); Center for Strategic & International Studies; Washington, DC



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.

6325 Freret Street, 1st Floor
New Orleans, LA 70118
504-865-5982

tulane-water.org

