

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy
August 16, 2018

Whose Turn is it to Cut the Grass? Well, Who's Paying?

After St. Bernard Parish voters twice rejected a property tax increase to pay for levee and drainage maintenance, the Southeast Louisiana Flood Protection Authority-East voted to cut back on funding for the Parish's drainage system, effectively ending maintenance of 22 drainage canals and reducing staffing at seven pump stations. The Authority argued that its scarce revenue must pay for operation and maintenance of the levees in St. Bernard to maintain the area's eligibility in the National Flood Insurance Program. [Negotiations regarding who should pay](#) for drainage and levee maintenance broke down and the levee authority voted on June 14 to unilaterally turn over the canals and pump stations to the Parish. The Parish challenged that action in a lawsuit filed June 18, which asked the court to rule that the Parish does not have to take over operation of the drainage canals and pump stations. The Parish has now filed a [separate lawsuit](#) asking the court to force the Flood Protection Authority to resume maintenance of part of the Parish's interior drainage system. The Parish asserts that the levee district has allowed canals to become overgrown; has failed to clear canal bottoms; and has failed to remove debris that now blocks intake structures at pump stations. The Parish contends that these problems increase the threat of flooding during major rainfall events.

Actually cutting through the knot of separate parishes separately funding a united flood protection system (via separate levee districts) is surely well beyond either of the lawsuits. Still, just because it's not a series finale doesn't mean it's not worth watching!

Caribbean Coping with Climate Change

Along with two dozen Caribbean nations and territories, British billionaire and [balloon enthusiast](#) Richard Branson has launched a multimillion dollar initiative known as the [Caribbean Climate-Smart Accelerator](#), which is aimed at transforming the hurricane prone area into "the world's first climate-smart zone." [Sir Branson](#) said that the initiative will provide startups with easier access to financing for green infrastructure projects as part of his push to replace fossil fuel-dependent utilities with low-carbon renewable energy sources in the region. Those behind the initiative seek to simultaneously spark economic growth and combat climate change. Other partners include the Inter-American Development Bank (IADB); private firms; and countries, such as Grenada, Saint Lucia, Anguilla, and Dominica. The initiative follows the December [One Planet Summit](#) where the IADB pledged \$1 billion in loans, which will help Caribbean islands switch from costly imported fuels to cheaper renewable energy; build coastal defenses, such as sea walls; and fund other initiatives to buffer

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:

[World Water Week](#)

August 26-31, 2018

Stockholm, Sweden

Water jobs:

[Associate Legislative Counsel](#)

EarthJustice

Washington, DC

[Utility Services Manager](#)

Sewerage and Water Board of New Orleans
New Orleans, LA

[Director of Development and Membership](#)

Coalition to Restore Coastal Louisiana
New Orleans, LA

[Director of Finance and Administration](#)

Coalition to Restore Coastal Louisiana
New Orleans, LA

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communities against the effects of global warming. Surely, this initiative would have taken place even if Branson didn't own [an entire Caribbean island](#) that got walloped by Hurricane Irma. Right?

Illinois Attorney General Sues Trump Tower Chicago

The Illinois Attorney General claims that Trump Tower Chicago takes in almost 20 million gallons of water per day from the Chicago River to cool the property's heating and ventilation systems, and that heated water is later discarded into the river. The AG has filed a lawsuit, alleging that Trump Tower has not conducted required studies on pollution or the impact on fish and that Trump Tower's National Pollutant Discharge Elimination System permit expired on August 31, 2017. Perhaps Trump Tower is merely vying for the responsibility of [dyeing the river green](#) for St. Patrick's Day next year. Beyond that, there are a host of issues here to set a water law wonk's heart aflutter. Does Trump Tower even have riparian rights to remove water from the Chicago River? Who does? Where does the EPA get involved? After all, we're in Clean Water Act territory, here. Is this why Congress and the White House has been trying [to limit states' roles](#) in 401 permitting against the wishes of [governors and others](#)? Probably not, but allow yourself a flight of fancy to imagine Sen. Gillibrand using water from the Erie Canal to cool off a factory she owns that makes Red Baron frozen pizzas and other such law school exam hypotheticals.

Another Water War in the West

In a recent [opinion](#), the Arizona Supreme Court concluded that a proposed 7,000-home development has adequate long-term water supply to proceed on a 2,000 acre tract of land in Sierra Vista, Arizona. Opponents say that groundwater pumping associated with the development will dry out one of the Southwest's only free-flowing rivers—[the San Pedro River](#). The river is said to be a critical habitat for millions of birds and home to over 80 species of animals, and the San Pedro riparian area is a designated [national conservation area](#). As such, reserved water rights protect the flow of the river; however, the exact amount of that reserved water is being decided as part of a water rights case called the [Gila Watershed Adjudication](#), which has been dragging on for decades. The court concluded that the Arizona Department of Water Resources does not have to consider the impacts of the development's groundwater pumping on those federally reserved water rights. The plaintiffs include environmentalists, who have vowed to appeal, as well as the Bureau of Land Management, whose spokesperson says that the bureau is "currently reviewing the court's opinion to determine appropriate next steps." So, the saga is to be continued. Maybe.