

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy
February 25, 2022

Meter? I Hardly Know Her

[Carnival time](#) may have (finally!) arrived, but that doesn't mean it's all non-stop king cakes and parades here in Louisiana. For instance, groundwater well owners in Baton Rouge are not too happy with recent actions from the Capital Area Ground Water Conservation Commission. The Commission has [faced criticism](#) in the past that it wasn't doing enough to protect Baton Rouge's drinking water source. So, in January the [Commission adopted an emergency rule](#) in an effort to better understand how much water is being pumped out of the ground and the risk of saltwater intrusion on the Southern Hills Aquifer (an issue that has been [heavily debated](#)). The rule grants the Commission the authority to install its own meters on well owners' property. To fund the meters' installation, the Commission also increased the groundwater pumping fee from \$20/million gallons to \$65/million gallons.

But of course, [you can't please everyone](#), and the [Commission is now being sued](#) for misusing its authority to issue emergency rules that forego the typical rulemaking procedures. The legal challenge comes not from one of the industrial pumpers, but from Baton Rouge Water Co., which represents 2 of the Commission's 18 members. Ultimately, BRW is arguing that the aquifer is not in a state of emergency that justifies the Commission's actions. However, it also claims that, although the new meters will report hourly totals each day instead of monthly data each quarter, the data that is currently self-reported by well owners is sufficient and more accurate than the proposed meters.

The folks at the CAGWCC could turn to their neighbors and lean on the depth of water resource experience brought by [newly-appointed members of the Sabine River Authority](#). Or they could just get in touch with [Elon Musk to swap stories on the struggles of dealing with water utility companies](#).

EPA's Got a Letter

Last week the National Association of Clean Water Agencies sent a [letter](#) to EPA voicing concerns about the equitable division of federal funds by states. The recent Federal Infrastructure Act includes [billions of dollars for water infrastructure improvements](#), including more than \$23 billion for the [Drinking Water State Revolving Fund](#) and [Clean Water State Revolving Fund](#) programs. With the Biden administration's emphasis on [equity](#) and [environmental justice](#), it would make sense for states to channel these funds to underserved communities. But, if [historical methods of state distribution](#) are any indication, this might not be the case. NACWA's letter encourages EPA to issue guidance on

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:

[UF Water Institute Symposium](#), February 22-23

[Flood Resilience and Adaptation Planning in the U.S.: Challenges and Opportunities Webinar](#), March 8

[Lower Mississippi River Science Symposium](#), March 10-11

[Tulane Environmental Law Summit](#), March 11-12

[SLU Summit for Water](#), March 22 – 23

[ABA SEER 51st Spring Conference](#), April 6 - 8

[Coastal Law in Louisiana \(CLE\)](#), April 21- 22

Water jobs:

[Senior Research Fellow](#), Tulane Institute on Water Resources Law & Policy; New Orleans, LA

[Ocean and Coastal Law Fellow](#), National Sea Grant Law Center; Oxford MS

[Western Water Policy Specialist](#), The Nature Conservancy; flexible within the Western US

[Water Justice Specialist](#), Bayou City Waterkeeper, Houston, TX

[Sustainability/ESG Director](#), PwC; multiple locations

[Research Associate](#), University of New Orleans; New Orleans, LA

[Research Associate 1](#), University of Louisiana Lafayette; Lafayette, LA

[Organizing Representative](#), Sierra Club; New Orleans, LA

[Advocacy Director](#), Coalition to Restore Coastal Louisiana; New Orleans, LA

[Policy Advisor, Mississippi River Basin Floodplain](#), The Nature Conservancy; LA, MS, AR, TN, or KY

[Georgetown Justice Fellowship](#), Georgetown Climate Center; Washington D.C.

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how the states can better distribute funds to reduce disparities in federal assistance.

Then on Wednesday, Republican members of the Senate Environment and Public Works Committee also sent a [letter](#) to EPA requesting that it halt its plans to finalize a new definition of “Waters of the United States” under the Clean Water Act. The Senators were critical of EPA’s proposal, stating that it demonstrates a lack of engagement and a disconnect with stakeholders. However, the crux of their argument is that EPA should refrain from finalizing a rule until after the Supreme Court rules on the [Sackett case it recently agreed to hear \(again\)](#). Of course, the Senators might be [shouting into the abyss](#) here as EPA actually asked the Supreme Court to hold off on hearing the *Sackett* case first back in November. Either way, the back and forth is getting a little exhausting and EPA’s inbox is filling up quickly, so someone should probably just [call dibs](#) on the WOTUS rulemaking and settle this once and for all.

USBR to California Farmers: [You Get Nothing!](#)

This week, the [Bureau of Reclamation announced the initial annual allocation](#) for the [Central Valley Project](#) in California with 0% going to farmers. The allocation has municipal and industrial water services faring better—although still not great—with just 25% of their historic use. This announcement came on the heels of a [Dept. of Interior opinion](#) that may serve as the final nail in the coffin for the [controversial Cadiz desert water project](#) in Southern California. The plan was to extract 50,000 acre-feet of water from below the Mojave Desert and transport it to coastal urban areas via a pipeline that ran along a railroad right-of-way. However, opponents insisted that the project would harm the ecosystem near Joshua Tree National Park and threaten indigenous peoples of the California Desert. Interior’s recent opinion interprets a 150-year-old law governing [railroad rights-of-way](#) and undoes a Trump-era decision that would allow the project to proceed without a permit.

While the Cadiz project may not have been the best idea, there’s no denying [that Californians need water](#) as the [drought situation in the West](#) grows more precarious by the day. In these conditions, USBR’s allocation is just the latest [major blow to California’s agricultural belt](#) that produces roughly 25% of the nation’s food. Thankfully, the U.S. has [resumed imports of Mexican avocados](#) after a very brief ban, so you might not have to give up your guacamole just yet.

[Hot Fun in the Summittime](#)

The highlight of the New Orleans social calendar is upon us once again. That’s right, it’s time for the 27th Annual Tulane Environmental Law & Policy Summit! Final details are still being finalized, but we can tell you that it will be held March 11 and 12, attendance will be virtual, CLEs will be available, and Governor John Bel Edwards is slated to give a keynote address. That address will be the in-person cherry on the sessions’ virtual sundae! Get your best summitting gear ready now!

We’re Hiring!

It’s time for the Tulane Institute on Water Resources Law & Policy to find our next postgraduate fellow! [We are now accepting applications through the Tulane Jobs portal, where all the relevant information can be found.](#) Okay, most relevant information. The position is for a 1- or (hopefully) 2-year stint doing public service policy work here with us at Chateau d’Eau. It’s open to students graduating from a JD or LLM program this spring as well as those who graduated in 2021. The posting says it will stay up until the position is filled, but we anticipate starting to review resumes at the end of the month. Tell everybody! But mostly, you know, tell new law grads who’d actually be eligible.