

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy
September 24, 2021

That's Just Wonderful

You've heard it, we've heard it: Necessity is the mother of invention—especially [if what you need is a freak out](#). But what are other people's necessities the mother of? Economic opportunity! That's what, at least in the case of California water where mega drought is creating a world of water haves and water have-nots. Among the [water "haves" is Wonder Co](#). If you eat, there is a good chance you eat something that was grown by Wonder Co., a closely held company that owns some 175,000 acres of farmland (mostly in California) that consume around 150 billion gallons of water per year (apparently 10 times more than San Francisco's annual consumption). Clearly, Wonder needs water, but it has ways of getting that water that many others don't. That is because Wonder is controlled by the same family that has a majority interest in the [Kern Water Bank](#), a public/private venture that stores and dispenses water to member organizations, which can be public or private. This is [cozy and complicated stuff](#) that is off the radar for most people but that doesn't mean they don't have a stake in it. Big forces and big money are at work here, and if you have been wondering when water will really start to be commodified, [well, time has come today](#).

Pipe Dreams

What do you call someone who believes that society is better off when we redistribute wealth from those with "lots" to those with "not"? If money is the item in question, you likely will hear words like socialist or even communist bandied about. If the item is water, then maybe you will hear "big thinker", "problem solver" or Arizonan/Texan/Californian That is because we don't treat all wealth the same and because, even with better water conservation and water banking, more is going to be necessary to deal with the unfolding impacts of population growth, western drought, climate change, and disappearing water supplies. Enter the problem solvers.

It turns out that the problem is not that too many people are living in places with too little water, but that the water isn't living where those people have chosen to live. The solution: move the water with [massive new public infrastructure](#) or maybe even with [some of those pipelines](#) that we won't be needing when we are all driving electric cars and using wind and solar-generated power. After all, isn't that what the Great Lakes, eastern rivers, and aquifers have been waiting for, some [latter-day Cappadocians](#) to give them meaning and purpose? Truthfully, some big out of the box problem solving is going to be needed and moving water around may well be part of it. But there is nothing new about that idea, just a new

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:

[2021 National Coastal Conference](#); September 28-October 1

[Colorado River District Annual Water Conference](#); Oct. 1

[ELI Annual Supreme Court Review & Preview](#); Oct. 4

[Eighth Biennial University of Florida Water Institute Symposium Abstract Deadline](#); October 6

[ABA SEER Fall Conference](#); Oct. 13-15

[ELI Constitutional Right to Save the Environment?](#); Oc. 13

[EPA Webinar: Freshwater Explorer](#); Oct. 20

Water jobs:

[TMDL and Water Quality Improvement Lead](#); State of Washington Water Quality Program; Lacey, WA

[Program Operations Associate](#); The Ocean Foundation; Washington, DC

[Senior Attorney, Fossil Fuels Program](#); Earthjustice; New Orleans or Texas

[Senior Manager, Environmental Policy \(EMEA\)](#); Amazon; Brussels, Belgium

Louisiana Bucket Brigade; [Campaign Director](#), New Orleans, LA; [Economic Development Manager](#), River Parishes, LA; [Liquefied Natural Gas Campaign Coordinator](#), Lake Charles, LA

[Staff Attorney](#); Great Rivers Environmental Law Center; St. Louis, MO

Sierra Club; [Gas Exports Campaign Representative](#), New Orleans/Gulf Coast, LA; [National Distributed Organizing Representative](#), LA/TX/DC.

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impetus. (Submitted into evidence as Exhibits A and B: [Great Lakes Compact](#), the [Texas Water Plan of 1968](#)). No one disputes that the West faces a water crisis that threatens its growth and sustainability. What *can* be disputed is that there is excess water [somewhere out there](#) and that its best use is to be exported to subsidize the prosperity of more arid places. The truth is that we have no national water budget to guide us, and if we did, it would need to consider the actual role of “abundant” water in the economies, cultures, and ecology of those places where nature put it. The simple fact is that water has been spoken for. Spoken for legally, politically, ecologically, and many other ways. Does that mean there is no way to pry it loose? No, but it would have to be pried at a price. Which brings up the most obvious (and the default) option. If you, your business, or your great new idea need water, why not consider moving to where the water is? Heaven knows you might be welcomed. Of course, say that to [a Californian and you might get a different reaction](#).

Just Looking for (Dis)Closure.

If you are like a lot us here, if you were raised to [keep your troubles to yourself](#), then you were raised right. Of course, when things go off the rails, it turns out that some things would have been better off on the table, especially when your troubles become someone else’s. Meet Gary Gensler, family counselor---no wait, make that [Securities and Exchange Commissioner Gary Gensler](#). In a free market system, people are allowed to make their own investment decisions, but they are also supposed to be able to access important information. Making the business of investing in publicly traded companies more of an informed choice and less of a hassle is the work of the SEC.

What does this have to do with water? Well, according to Mr. Gensler’s SEC, investors need to know a lot more about the vulnerabilities posed by climate change, extreme weather and water availability. This has been brewing for some time but the [SEC is now getting more specific about just what these disclosures need to address](#)—even sending letters ([remember those](#)) to companies it believes have soft-peddled or ignored important issues. As the first two articles in this issue undoubtedly have convinced you, we have crossed the Rubicon from water being an issue to water being big deal. Facing up to that may not be what good manners or a sales promotion to highlight, but it is what the law requires. And that is very good thing.