

# TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law and Policy  
July 29, 2014

## Putting the Notion of Water as a Basic Human Right to the Test

In the abstract, it's hard to argue with: all people should have access to potable water. But what does that mean in practice? Is it a guaranteed right to flowing water from your kitchen sink, or merely via a [public fountain](#)? Should a property owner's water be shut off if the bill isn't paid? Detroit brought this question to the fore when it [shut off the water for roughly 15,000 households](#) that were delinquent on their water bills in an attempt to chip away at the utility's \$6 billion of debt. The move sparked international outrage and protest, particularly when people learned that [delinquent businesses](#) were not getting the same treatment. Detroit [isn't unique with this policy](#) aimed at collecting receivables. After all, cleaning and delivering water is a service that costs money, and water utilities support themselves through user fees. Officials say that a hit on your credit score cannot be the only incentive for paying the water bill and that the threat of disconnecting the waterline is largely effective, for those that can afford it. There are no easy answers in a bankrupt city with high unemployment and poverty, but Detroit's mayor will try to [forge a path forward](#) for the utility and his thirsty residents.

The right to access potable water is being tested on another front over in North Carolina. The question: should undocumented immigrants be allowed to access municipal water? The town of Dallas, NC requires valid, government-issued identification in order to get water service, which effectively excludes undocumented immigrants. One woman thinks this policy violates the fifth and fourteenth amendments and is [fighting this policy in court](#). We will follow the issues on both fronts as they develop further.

## Water Shortage in Colorado River Basin Runs Deeper than You Might Think

For those who don't know, the Colorado River Basin has been a bit [stressed over the last decade](#). Evidence of this stress is seen most clearly on [Lake Mead](#). The nation's largest man-made reservoir recently fell to its lowest level since its creation. While the risk of future shortages on the lake is cause for concern, [a recent study](#) by NASA and University of California, Irvine indicates that more concern should be given to the basin's subsurface water storage. Over roughly the last decade, aquifers accounted for 75% of the water loss in the

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:

[Louisiana Water Resources Commission Meeting](#)  
July 30, 2014, 9:00 a.m.

LaBelle Room, LaSalle Building  
617 N. 3<sup>rd</sup> Street  
Baton Rouge, LA

[Restore America's Estuaries and Coastal Society Summit on Coastal and Estuarine Restoration](#)

November 1-6, 2014  
Washington, DC

## Water jobs:

[Water Resources Manager](#)

National Wildlife Federation  
Water Protection Network & MS River Network  
Washington, DC

[Communications Director](#)

Coalition to Restore Coastal Louisiana  
Baton Rouge, LA

**Tulane Institute**  
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Colorado River Basin and the [rate of depletion](#) far exceeded those of Lakes Powell and Mead. The study concluded that “[a]s groundwater supplies reach their limits, the ability to supply freshwater during drought, or to fill the predicted, increasing gap between supply and demand will be severely constrained.” The answer? The authors of the study suggest mirroring what was done for surface water in the basin: more active and enforceable groundwater management that approaches surface and subsurface resources conjunctively.

### **City of New Orleans Looks to Comprehensive Zoning Ordinance as Water Management Tool**

Nearing the final stages of its major overhaul to the zoning regulations, the City released the [latest draft](#) earlier this week. [Article 23](#) focuses, in part, on stormwater management. This draft contains the most comprehensive water management requirements to date. Water management plans will be required for any new development or redevelopment with 5,000 square feet (down from 10,000 in the previous draft) or more of impervious surface or any new development or redevelopment on a site of one acre or more in size. Single family and residential duplexes, however, are exempt from this requirement. In the previous draft, multifamily residential properties of up to six units were exempt. Additionally, the latest draft increased the onsite retention, detention, or filtration requirement from the first inch of rain to 1.25 inches. The City Planning Commission has tentatively set [public hearings](#) for August 26 and September 9.

### **Fracking Continues State-by-State Face-Offs against NIMBY**

Last week, a Colorado state court judge [struck down](#) the City of Longmont’s ban on fracking. Longmont argued that the ban on fracking was not preempted by the Colorado Oil and Gas Conservation Act and rules promulgated pursuant thereto by the Commission of the same name because the Commission did not explicitly regulate or issue permits for fracking. The court disagreed, finding that a comprehensive regulatory framework existed on the state level and fracking falls under that regulatory umbrella. Specifically, the state law requires the Commission to prevent the waste of oil and gas, and a ban on fracking, the court reasoned, would wastefully leave recoverable minerals in the ground. Colorado is not the lone battlefield between oil and gas producers and local governments. Earlier this month, New York’s highest court found that [local governments have the right to ban fracking](#). Bans in other states are working their way through the judicial system as well. Down here in south Louisiana, Mandeville is considering a [ban on fracking](#), prompted by the first proposed well in the parish. That well faces additional pushback from [state and federal agencies](#) over the siting of the proposed well, which is mostly located in a wetlands area.

### **Public Outreach on the Impacts of Global Warming Easier When Framed Around Essential Liquid. No, not Water, Beer!**

In addition to rising seas, global warming is projected to cause [major shifts in precipitation trends](#). This shift is expected to bring Chicago and other areas much more rain than their infrastructure can handle. Chicago is experiencing noticeably [more system overloads](#) than before, which causes raw sewerage overflows into Lake Michigan. Well, one [water fanatic](#) will not stand idly by and watch the source water for his beer be subject to such degradation. And what he’s learned about his public outreach effort is that, apparently, if you put a beer in front of someone, they are much more likely to listen to you pour out your water soul, and if not listen, at least sing along to some [water soul](#).

### **With LeBron Gone, Miami Takes It upon Itself to Fortify Against Climate Change**

For those New Orleanians who bemoan the [hike in water and sewerage rates](#), at least you’re not alone. The Miami Beach Commission took a preliminary vote last week to [raise stormwater fees](#) by 84%. Across the board, property owners would pay \$16.67 a month instead of \$9.06. City officials say the hike is necessary to pay for infrastructure projects that combat sea level rise and don’t expect the hike to become a public access issue, as 87% of residents surveyed said that they would pay more taxes to address sea level rise. The Commission’s vote was timed nicely with the [recent report](#) by the National Research Council that identified Miami as one of the eight U.S. cities most vulnerable to potential annual economic loss due to coastal flooding. These eight are among the top twenty cities in the world with this kind of flooding vulnerability.