



TUWaterWays

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

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July 21, 2023

What Do You Know About Lead?

About one year ago, researchers announced the findings of a [study](#) that showed that leaded gasoline used in the 20th Century cost American's a cumulative 824 million IQ points, affecting half of the country's population and working out to almost 3 points per person in the country, a burden those born between 1951 and 1980 ([hello!](#)) bear disproportionately. Hell of a caper to get away with, [General Motors and Standard Oil](#), real [Bond-villain stuff](#). Anyhow, with that report, the lead-pipe-driven [Flint water crisis](#), and lead contamination from old paint in cities like [New Orleans](#), it seemed like the United States had mostly figured out where lead poisoning was coming from and how to deal with it. After all, lead exposure seems to only be at one fifth the level it was in the 1970s. But just this month along came [Justice Alito's favorite paper](#) surprising everyone with an [excellent, thorough investigation](#) of the miles and miles of lead-cased phone lines laid by [Ma Bell](#) for decades. Seriously, During the entire run of TUWaterWays this is the [most impressive environmental reporting](#) to have come out of the Wall Street Journal.

It turns out that the phone company used lead to insulate the copper wires in its phone lines. Later on, in the 1960s or so, they switched to insulating their wires with plastic, then switching to fiber optics entirely. So, what did they do with all the lead lines in the air and under the water? Mostly just left it. Ma Bell's descendants, Verizon and AT&T, have stated that they've always managed those lead lines within the bounds of the law and many of those left behind aren't theirs anymore. So, there's miles and miles of this stuff basically abandoned along roads, under streams, and above schools polluting water and soil in places from Lake Tahoe to [Bayou Teche](#). What comes next? Nothing, unless laws are changed and/or funding is made available to deal with it. It's probably get [right on top of that](#). We need [all the IQ points we have left](#).

I'm Shocked. Shocked to find that Water Remains Contentious in Arizona

Recently, a fair amount of the water news in the Grand Canyon State has focused on tribal aspects, be it the US Supreme Court [deciding](#) the [Navajo Nation is on its own](#) when it comes to exercising their water rights or the state government's general philosophy of playing hardball when it comes to [any tribe's water rights](#).

In the past few weeks, hubbub around the Saudi company growing thousands of acres of alfalfa to export has grown once again after it was first [reported a year ago](#) that the state was vastly undervaluing land it was leasing to the company. First, the state government [rescinded a couple of their well permits](#) in April. On top of that, [a large report from the Washington Post](#) put this on many people's radars for the first time. Presumably, everyone in Arizona already knew about this. It's presumable because the controversy is exposing a larger rift in the state and its water plans between urban and rural water users. It's brought out a fascinating range of takes: from other farmers in the region sticking together because they're more worried about the whole valley losing water rights in favor of municipal supply ([Phoenix just keeps on growing, y'all](#)); to pointing out that some residents have [had water cut off](#) while the Saudi farm in question keeps pumping; to pointing out that singling out the one company is only [useful for scoring political points and nothing more](#). While that last point might seem like it's carrying water for this intensive

water export economy, the author is really pointing out that improving rules for all the water users of the state would be far more helpful. Hmm, what's the opposite of scoring political points? Perhaps nothing benefits those who are benefiting from the unreasonable system more than advocating for systematic overhaul that no elected or appointed official will take on.

Of course, none of it is likely to benefit the Navajo Nation, who are [back in front of Congress again](#) asking for necessary water project support.

On Season 22 of As The WOTUS Turns

No. Nobody yet knows what the EPA and Corps of Engineers are going to do with the application of the Clean Water Act in wetlands after this summer's [Sackett](#) opinion. The agencies probably won't just accept the 9-0 decision that the Sackett's property three hundred feet away from Priest Lake is not a Water of the United States and treat the other eighty pages as [dicta](#), but wouldn't it be fun if they did? Anyway, perhaps it's related to the decision and perhaps not, but the [EPA is proposing making it easier for states and tribes to assume section 404 programs](#) and take that responsibility away from the federal government. Section 404 of the Clean Water Act regulates the placement fill and/or dredged material in a Water of the United States. The kind of thing you'd need if you were going to, say, turn a wetland into a [Circle K](#) (but only if that wetland is part of the Waters of The United States—hence *Sackett* being a big deal).

Only 3 states and no tribes have already assumed 404 administration, but does *Sackett* change the math for states? [Hard to say](#). The supposed pros for it are improved permitting timelines and reduced costs for applicants and resource management consistency for the state or tribe. But assuming 404 permitting costs money. So, a state or tribe has to feel strongly about one or more of those pros because the cons are the costs and potential political heat the state or tribe also assumes. But now that the EPA has likely been taken out of much of the 404 and wetlands game, how does that change the financial and political equations? Does it make the whole prospect cheaper for the states? Make it more of a necessity in order to build back up protection of their waters? Something else to keep an eye on in the post-Sackett landscape!

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

[Program Director, Southern Aquatic and Coastal Programs](#); National Fish and Wildlife Foundation; Washington, DC

[Senior Attorney](#); The Nature Conservancy; Remote

Community Outreach Specialist, Louisiana; Environmental Defense Fund; Remote



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.

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