

TUWaterWays

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

[October 2, 2020](#)

And They're Off!

[Horseracing has been called the sport of kings](#), and if so it is time for that king's "privy council" to get down to business if news from New Orleans Fair Grounds Race Course is any indication. More than horses have been running there according to a [consent decree just inked between the USEPA and Churchill Downs Louisiana Horse Racing Inc.](#), the owner of the Fair Grounds. For years untreated urine, manure and other stuff has been running from the Fair Grounds into New Orleans' storm sewers and ultimately into Lake Pontchartrain in violation of the Fair Grounds discharge permits. This may not sound like a big thing, being the sport of kings and all, but a racetrack is actually a Confined Animal Feeding Operation (CAFO) - the \$2.79 million fine is the largest EPA has ever collected from a CAFO (yeah, we were kind of surprised by that too). Beyond the fine, \$5.6 million will be invested in things and practices to make sure this never happens again. That, will make [Secretariat very happy](#).

Money, That's What I Want...

If you can't do something about this nasty water. [That is the message California farmers are sending in a recently recussitated law suit against the federal Bureau of Reclamation \(BRec\). At issue are crop yields \(which correlate to money\) and a drainage system BRec hasn't built.](#) It all began years ago when BRec was developing its complex Central Valley Project designed to deliver water to the Westlands agriculture district, which is roughly the size of Rhode Island (a state on the eastern seaboard that is roughly the size of the Westlands district).

Delivering water is one thing, taking it away is something else, and that something else is what this dispute is about. When the irrigation water is not drained away it can lead to changes in the soils that are not so good for growing things. No one disputes that drainage was part of the plan, and a court even held it was BRec's responsibility some 20 years ago, but none of that actually made things happen. Hopes for a settlement were dashed after Congress failed to approve the deal for 7 years leading to the recussitation of the case back in July. The essence of the case is the farmers claim that if BRec can't handle the drainage then the farmers deserve to be paid for having their property "taken" by BRec's lack of action. [The notion that government can take property by not doing something is not sitting well with the US Department of Justice so it looks like the unpleasantness will continue unabated.](#) A SNAFU as they used to say (Situation Normal, All Fouled Up).

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:

[WEFTEC](#); October 3-7

[Virtual Governor's Advisory Commission Meeting](#); October 7

[Making the Case for Equitable Water Infrastructure Investment, Repair and Upgrades](#); October 8

[Comments due for MR&T MRL Project Draft SEIS II](#); October 13

[ASBPA National Coastal Conference](#); October 13-16

[Deadline to Submit Projects for the Atchafalaya Basin Program](#); October 15

[CPEX Virtual Growth Summit: Time to Define the New Normal: Dr. Michael Oppenheimer on Our Future Climate](#); October 20

[CPRA Board Meeting](#); Baton Rouge, LA; October 21

[Council on Watershed Management Meeting](#); October 22

[CPEX Virtual Growth Summit: Climate and COVID-19: The Diabolical Duo](#); October 22

[Drinking Water Webinar: Disinfectants and Disinfection Byproducts](#); October 27

[Health Effects Associated with Harmful Algal Blooms and Algal Toxins](#); October 28

Water jobs:

[Public Information Specialist](#); Mojave Water Agency; Apple Valley, CA

[Attorney III \(Water Rights Unit\)](#); California State Water Resource Control Board; Sacramento, CA (deadline 10/5/20)

[Attorney III \(Drinking Water Unit\)](#); California State Water Resource Control Board, Drinking Water Unit; Sacramento, CA (deadline 10/6/20)

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

[Policy Specialist \(Resilient Coasts & Floodplains\)](#); NWF; D.C.

[Senior Specialist \(Water Stewardship\)](#); Gap, Inc.; San Francisco, CA

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Gonna Sit Right Down and Write Myself a Letter

To the folks at the US Army Corps of Engineers. Yes, it's that time again, folks, public comment on flood management infrastructure time! Part of the Mississippi River and Tributaries (MR&T) project, the system of levees and other flood management structures that protect those of us along the Mississippi River, is undergoing an environmental review. Since NEPA's enactment in 1970, the Army Corps of Engineers has conducted two Environmental Impact Statements (EISs) on the MR&T – the first complete EIS in 1976 and a Supplemental EIS (SEIS) in 1998. The Corps is in the process of finishing another, and is currently in the public comment period of that process. The Draft SEIS II for a Mississippi River Levee Lengthening project, part of the MR&T, was released in August and comments are due in about two weeks, on October 13, 2020. You can find more on the history, the 1976 EIS, the 1998 SEIS, and the new Draft SEIS and its supplemental appendices [here](#). Based on our reading and discussion with others who are commenting, we'd say the major points for those concerned about how this project will effect the environment are: the alternative selected is not the most environmentally-conscious of the alternatives, and it does not utilize nature-based methods, as some of the other alternatives do; the alternative selected also will likely have negative impacts on wetlands because of the potential use of them for levee construction materials. Another deficiency is that the SEIS does not address the substantial changes that have occurred since 1976 and 1998, in both MR&T structures and use, and scientific understanding of the river's hydrological conditions. Despite the fact that [the river's behavior](#) has grown as erratic as a toddler on their 3 juicebox, the Corps chose not to use this SEIS to re-examine management of MR&T and river flow. We urge anyone who is interested or has a stake to check it out and make your voice heard by October 13, the link to all of the necessary documents also provides instructions on how to do so – [here it is again](#) for you.