

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law and Policy
March 20, 2014

Congress Decides Protect Homeowners Against Flood of Insurance Premiums, Reverses Itself on Key Reforms to Flood Insurance Program

To avoid the “[unintended consequences](#)” of the Biggert-Waters reform to the National Flood Insurance Program, Congress rallied together and is now waiting for the president to sign the newly passed [Homeowner Flood Insurance Affordability Act of 2013](#).

The bill limits premium increases to an average of 15 percent and a cap of 18 percent. It also goes back to grandfathering homes that complied with previous flood maps, and homes that are sold will not see immediate premiums skyrocket. Interestingly, the Congressional Budget Office found that the bill would [not add to the deficit](#), as costs would be offset by surcharges of \$25 for residential properties and \$250 for non-residential and vacation homes. While many homeowners, realtors, and builders applaud the bill, critics [are sounding off](#) against the bill as a step away from program solvency as well as encouraging sustainable growth.

From Potty to Potable, Drought Stricken West Ventures Deeper into the Bowels of Water Conservation

Over the last three years, Wichita Falls, TX has run the gamut of water conservation measures. Rainwater harvesting systems are in place, surcharges levied for people using more than the average residential consumption, and the most resourceful residents are bringing buckets into the shower for later use on landscape plants. Despite these measures and more, the city has marched through its four stage drought plan as reservoir waters continued to drop. If things get worse, the city will have to implement Stage 5, which was not contemplated at the inception of the plan and has yet to be written. To avert further restrictions, Wichita Falls is [nearing regulatory approval](#) to recapture over half of the eight million gallons of wastewater released from its treatment plant and recycle as drinking water. The program will require the construction of a pipeline from the wastewater plant to a specially equipped water treatment facility, which is currently used to filter salty water from nearby Lake Kemp. While water recycling has been around for decades in Texas, Wichita Falls will blend a higher percentage of wastewater than ever attempted.

Meanwhile, California [will soon finalize new regulations](#) aimed at making it simpler to recharge drinking water aquifers with recycled wastewater. California is already the nation-leader in

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:

March 24, 2014
[2014 Water Challenge](#)
Gallier Hall
New Orleans, LA

April 7-11, 2014
[Meetings of Mississippi River Commission](#)
Tiptonville, TN, Helena, AR, Greenville, MS, & New Orleans, LA

April 8, 2014
[Horizon Initiative Water Committee](#) Meeting
Garden Study Center, City Park
New Orleans, LA

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such indirect potable reuse projects via groundwater recharge; however, the current regulatory regime evaluates projects on a case-by-case basis. Once the new regulations for indirect potable reuse are in finalized, the California Department of Public Health will then turn its focus to promulgating regulations for direct potable reuse projects. For those of you unfamiliar with the difference between the two, you can brush up on the subject [here](#).

World of Difference between Imperial Valley and Central Valley Farmers—And Between California and Texas

The water cutbacks facing drought-ridden localities across the American west is not new news. If it's not an update on the farms in the Central Valley and their [currently losing battle](#) against the smelt of the Sacramento-San Joaquin Delta then it's another story about water shortages creating [conflicts over water rights](#). As we are seeing across the west, these conflicts include any number of states, agencies, farmers, urbanites and suburbanites, environmentalists, and titans of industry. For surface waters, generally the "first in time, first in right" rule wins the day, a rule [Imperial Valley farmers](#) are appreciating now more than ever. However in Texas, this rule is under review. In 2011, the state legislature authorized the state's Commission on Environmental Quality to consider how water was being used when deciding which water rights would be suspended in emergency droughts. After the Commission allowed municipalities to leapfrog some farmers with senior rights, the farmers went to court and won. The case is now on appeal, and similar legal battles appear to arising more frequently. As one Texas lawyer put it "It truly is a good time to be a water attorney in Texas. There's work here as far as the eye can see." Graduating law students, consider hitching a tank of water to your car before making the trek to sit for the Texas State Bar.

WV Agencies Say Actions Against Them Are Moot

As we reported last week, the West Virginia legislature [passed](#) new safety standards for chemical spill regulations. Now, two West Virginia State agencies [are saying](#) the new legislation moots the legal action against the Department of Environmental Protection and Department of Health and Human Services for inaction to prevent the spill. Local citizen groups filed an emergency claim to compel the agencies to institute "appropriate and meaningful chemical contamination prevention measures and emergency response mechanisms." In [its brief](#), the secretary of the environmental agency argues that the new legislatively mandated safety standards are the kind of relief the claimants prayed for.

As the US Awaits a Final Water Resources Development Act, Other World Powers Move Full Speed Ahead

The two Houses of Congress are still working out the differences between their respective bills, but the lack of news could signal that the discussions have stalled. Meanwhile on the other side of the world, India and China are [ramping up programs to develop their own water resources](#). In northeast India, the Assam region is considered by current government officials as the "future powerhouse" of India, and more than 160 dam projects have been announced for that region to date. The region shares a border with China, which has its own dam program in the works. As with most major dam programs, environmental and social controversies are inextricably linked to future construction. In this case, the programs are seeking to dam the Brahmaputra, one of the world's major rivers. The river is large, six miles wide in some places. It is volatile, as the monsoon season causes water to rise dramatically in short periods of time. It is located in a highly seismic region. And some critics claim that climate change has been completely ignored in the planning process. But, for now, the planned 60,000 MW of electricity is just too much for officials in New Delhi to pass up.

Clean Up in Aisle 6... and the Gulf of Mexico: Will Wal-Mart Be the One to Fix the Dead Zone in the Gulf?

Say what you will about the world's largest retailer, but over the past five years, Wal-mart has played an important role when it comes to [supply chain sustainability efforts](#). The cornerstone of that efforts was the development of a sustainability index to grade suppliers and products on a host of environmental and sustainability factors. With the success of this effort, the retail giant is now turning its attention to agriculture. Come this fall, Wal-mart will [require suppliers of crops](#), including the big three staple crops wheat, corn, and soy, to develop "fertilizer-optimization plans." These plans would then inform farmers about the most cost-efficient way to grow crops. While the requirement is touted as a business decision (after rent, fertilizer is the biggest cost for a farmer), it will also reduce the amount of fertilizer runoff into rivers and streams. We

therefore respectfully submit this plan to the [hypoxia Grand Challenge](#) review board as “the best solution to combat annual ‘dead zones’ in the world’s lakes and oceans.” We look forward to your call.

Water Challenge Highlights New Orleans Entrepreneur Week –Register Now

Okay, maybe there are other important things going on at New Orleans Water Entrepreneur Week but the Water Challenge is sure one of the highlights. The Challenge, sponsored by the Idea Village and the Greater New Orleans Foundation, will be held Monday March 24 at Gallier Hall (New Orleans’ old City Hall). For more information and to register, click [here](#).