

# TUWaterWays

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

April 5, 2016

## [I'm Melting, Melting, Oh What a World](#)

Hardly a news cycle goes by without a story about a new report announcing that some part of modern life is unexpectedly bad for us (think coffee, red meat, wine, vegetarian diets, chairs, tube time, etc...) only to be followed a month later by a story about another report pretty much dismissing the first report and assuring us that we can safely eat, drink, and plop in front of screens without much risk of harm. Well, after reading a new [article in the journal Nature](#) forecasting dramatic increases in sea level rise due to rapid ice melts in Antarctica, we are really hoping to see a story soon about how things aren't really so bad. A story about how the polar realms are expected to get lots colder would be nice. Maybe even one about how smoking and eating chocolate could inhibit climate change. For [Louisiana](#), the new report hardly came as comforting news. Regardless, the pressure to get serious about sea level rise is taking hold, if a recent [Sea Level Rise Solutions Conference](#) sponsored by the Greater Miami (Florida) Chamber Commerce is any indication.

## **It's a Wrap—Judge Signs off on BP Settlement**

Seven years and eleven lives (at the least) after the Deepwater Horizon well blew out, exploded, and sank, it's all over—the law suit between the federal and state governments and BP, LLC, that is. A U.S. District Court judge has approved a \$20.8 billion dollar [settlement](#) that encompasses \$5.5 billion in Clean Water Act fines and \$8.1 billion in Natural Resource Damages. The Department of Justice has a full [breakdown of the \\$20.8 billion](#). Some of these dollars can be used to do good things, like implement coastal restoration plans in Louisiana, but no amount of money puts the genie back in the bottle. This is an excellent example of the limits of the law to in fact do justice.

## **Well That's Just Fine: A Tale of Water and Telling the Truth**

Keeping California's taps running is hard work and it takes money, money that often comes from folks who buy bonds. Getting people to do that requires some measure of confidence in the issuer's ability to pay those bonds back—with interest. So it was no surprise when the Westlands Water District, California's largest agricultural water district issued \$77 million in bonds to fund its work. Part of the deal was a pledge to maintain at least a 1.25 debt service ratio. Trouble came along when the state's drought reduced the amount of

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:

[Seth Siegel—Let There Be Water](#)

Tulane Law School

April 12, 2016, 5 PM

[River Rally](#)

Mobile, AL

May 20-23, 2016

[State of the Coast 2016](#)

New Orleans, LA

June 1-3, 2016

[Summit on Coastal and Estuarine Restoration](#)

New Orleans, LA

December 10-15, 2016

## Water jobs:

[Clean Water Advocate](#)

Environment America

[Staff Attorney](#)

Tennessee Clean Water Network

Knoxville, TN

**Tulane Institute**  
on Water Resources Law & Policy

6325 Freret Street, 1<sup>st</sup> Floor

New Orleans, LA 70118

504-865-5982

[tulanewater.org](http://tulanewater.org)

TWITTER: [@TulaneWaterLaw](https://twitter.com/TulaneWaterLaw)

water Westlands could sell thus reducing its debt service ratio. Being creative, Westlands adopted “extraordinary accounting transactions” and “a little Enron accounting” to paper over things. When investors found out, they were not very happy, which led to a Securities and Exchange Commission investigation and \$[125,000 fine](#) for misleading investors. Maybe that takes care of the bond holders but it apparently leaves a big [question of trust](#) on the table. If you can’t trust public agencies to do the right thing with the monies they get, don’t count on individuals or financial institutions lining up to give them more. With a massive water management challenge facing our communities, states, and nation, that lack of trust just is not going to be helpful.

### **Fractured Findings—Fracking and Groundwater**

Ever wonder if hydraulic fracturing poses a threat to the groundwater that so many people rely on? If so then you have likely been alternately concerned, relieved, concerned, and confused by a spate of recent reports, particularly if you live in the Wind River Basin in Wyoming. In the early days of fracking there were lots of questions and not too many answers, due to the fact that the rapid expansion of fracking got ahead of what was known about the geology and hydrology the new oil and gas fields. It did not help that the chemistry of fracking fluids was outside of the suite of contaminants that reviewing agencies and labs were set up to test for (or even allowed to test for). Back in 2011, a soon to be aborted [draft report](#) from EPA raised concerns that fracking could contaminate groundwater. Soon thereafter, responsibility for the study shifted to the State of Wyoming which released a [report](#) in December 2015 concluding that there wasn’t much to worry about. In the meantime EPA issued a [draft report](#) in June of 2015 that said fracking had contaminated some aquifers but not in a widespread way. Conspicuously missing have been any peer reviewed studies that might shed some new light, at least until a team of [Stanford University researchers](#) release a study in Environmental Science and Technology in late March. The new study (which included a former EPA scientist as one of the authors) concludes that fracking can pose real risks, particularly in shallow aquifers. [EPA](#) quickly chimed in, echoing some of those concerns and challenging some of the findings in the State of Wyoming report. Is this the end of fracking or the beginning of a clear public consensus about its risks? Doubtful. But at the least it should be a reminder that when it comes to drinking water, getting answers in time for them matter is probably a very good idea. That, and when it comes to issues like these, what one sees is often very much a factor of one’s vantage point.

### **Learning the Lessons of Israel’s Water Miracle—Seth Siegel at Tulane Law**

No, not the biblical tale of Moses [parting the Red Sea](#) though that is mighty impressive. But not even Moses (near as we can tell) figured out how to supply a nation of 8 million people with an abundance of fresh water. But that is just what the modern nation of Israel has managed to do. But how? It is tempting to say because they needed to, but needing to do things and doing them are not at all the same thing. To learn more, be our guest and come hear [Seth Siegel](#), author of [Let There Be Water](#), at **Tulane Law School on April 12 at 5 pm**. A brief reception and book signing will follow the talk. Mr. Siegel’s talk is part of the Institute’s periodic [Percy Viosca Jr. Distinguished Speaker Series](#).