

# TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy  
June 8, 2018

## RIP Green Lake 1600(?) - 2018

It may not have taken very much to be the largest freshwater lake in Hawaii but [Green Lake](#) (also known more accurately as Ka Wai a Pele or Pele's Lake since it was formed in a volcanic crater nearly 400 years ago) was just that until June 4. That is when lava from Kilauea reached the lake and [dispatched it in a spectacular cloud of steam](#), and taking with it an apparently [unspeakable terror](#). To the hundreds of people who have lost or been driven from their homes, this sort of power is not hard to grasp, but it is an impressive reminder that we are dealing with forces that deserve respect. Perhaps more respect than was shown when the State of Hawaii [forced insurers to offer below market rates to](#) people displaced in earlier eruptions in order to entice them back (in harm's way). Similar things have been done in some states for hurricanes. There are public policy reasons for doing those things, but when the wheel of misfortune rolls around again it is worth asking whether they are the right or most humane routes to take.

## Getting Off the Road to Nowhere?

Everybody needs clean water, but nobody wants to pay much for it, and some people can't. So, what can you do to not only have clean water but comply with Federal drinking water and storm water rules? Especially if people still expect you to do something after you have run through the standard ISPGU (pronounced ISP-Goo) protocol for modern problem solving? (For readers not steeped in management jargon, IPSTU stands for Ignore the problem, Study the problem, Promise solutions, and then Give Up.) If giving up is not really an option, then the choices tend to boil down to behavioral changes and technical fixes all of which tend to cost money. Sometimes that money just isn't there, such as in small or poor communities.

That is exactly what the [Water Affordability Act](#) aims to take on. The bill, introduced in U.S. Senate by California Senator Kamala Harris, would create a pilot program at EPA to provide grants to water utilities that have invested in improvements to help low income households pay the bills. The bill has nearly no chance of enactment in this Congress but does target a growing problem that was recently highlighted here in Louisiana. The [Rural Water Infrastructure Committee](#) released a report highlighting the 10 "most distressed" rural water systems (out of scores more that also need work) that are close to the crisis point. Good for them, but without more it just be notch in the ISPGU belt which will leave a growing number of folks on a [road to nowhere](#).

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:

[World Water Week](#)

August 26-31, 2018

Stockholm, Sweden

## Water jobs:

[Senior Program Officer, Corporate Water Stewardship](#)

WWF

Washington, DC

[Associate Staff Attorney](#)

Riverkeeper

Ossining, NY

[Individual Consultant to develop Drafting Instructions for the drafting of Regulations for the Implementation of the National Integrated Water Resources Act \(NIWRA\)](#)

UNDP

Belize

[Executive Director](#)

Save the River – Upper St. Lawrence

Riverkeeper

Clayton, NY

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## **I Drink Your Milkshake – No, Wait -- My Milkshake – No, Wait -- Whose Milkshake?**

If you have ever lived in a [dry county](#) and had a hankering for [good stiff belt](#), then you know how the oil frackers in parts of New Mexico feel. Well, you probably came up with the same solution they did, which is to say you drove across the county line and [bought your hooch](#) from the sinners next door.

Some context might be helpful. New Mexico and Texas share an aquifer but not set of ground water laws. New Mexico has lots more public land, and it regulates ground water wells and usage. Texas, well, is Texas and allows landowners to do pretty much whatever they want with the water under their lands. So, when frackers wanted water for their planned wells in New Mexico, and the state said “no way,” they [stepped across the state line, paid some landowners sell them water, and piped it back across the state line to New Mexico](#).

This is where the wet/dry county analogy breaks down. Buying alcohol in one county takes nothing from the other, but where shared ground water is concerned, taking water from one state can end up taking water from the other, as [Daniel Day Lewis explained](#). So, New Mexico is accusing Texans of stealing New Mexico’s water to sell to New Mexican’s who want to drill for oil or gas in New Mexico but can’t get the water from New Mexico. We won’t pretend to say how this ends (though we suspect that we will hear some watery versions of Judge Soggy Sweat’s famous “[Whiskey Speech](#)” before all is said and done), but we do suggest a certain special master’s hearing between Mississippi and Tennessee over their shared aquifer might be good thing to watch. Get your seats, [it starts in January in Nashville](#).