

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law and Policy
June 18, 2013

Supreme Court Upholds 10th Circuit Decision in favor of Oklahoma in Tarrant Opinion

On Thursday, the Supreme Court handed down a [decision](#) in the *Tarrant Regional Water District v. Herrmann* case. The unanimous opinion [supported](#) Oklahoma's stance that, under the Red River Compact, Texas water districts were not allowed to retrieve water from within Oklahoma.

Although some within Texas are [licking their wounds](#), there seems to be little damage to their faith that Texas development will [continue](#) unabated.

The opinion, which largely tracked the arguments contained in friend of the court [brief](#) we signed on to, specifically denied the Tarrant Regional Water District the right to a percentage of water in a part of a subbasin of the Red River located in Oklahoma. However, in general, it clarified what states may put into play in interstate water compacts and the importance of the language needed to make those compacts stand up to judicial scrutiny.

Louisiana Water Resource Commission Releases Update to its Report to the Louisiana Legislature

To inform the public and the legislature of its work over the past year, the Louisiana Water Resource Commission has released an [update](#) to last year's report. As directed by legislature last year, the Commission has expanded its scope from only groundwater to both groundwater and surface water. Anyone looking to track progress at a state level on water management would be well served to keep an eye on this body.

Lake Pontchartrain Basin Foundation Puts Out Call for Papers for "Basics of the Basin 2013"

The LPBF is hosting the 11th Basics of the Basin meeting October 24 through 26 at the Lindy Boggs Conference Center at the University of New Orleans. Research papers to be presented at the conference must address research done in Lake Pontchartrain Basin or strongly relevant to the Basin. Submissions should be 3-5 pages. For more information, contact Theryn Henkel at therynhenkel@gmail.com.

Klamath River Water Rights Shuffle Begins

Back in March the Klamath Tribes of southern Oregon were [granted](#) their superior rights to waters in the Klamath River Basin. Last week, the Tribes [made formal calls](#) for their water. The federal government and irrigators using a Bureau of Reclamation project also made calls for their water rights. Junior rights holders such as ranchers who irrigate pasture with Klamath water are likely to be

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:

[June 16-21, 2013](#)

[EPA Region 6 Stormwater Conference](#)
New Orleans, LA

[June 18, 2013](#)

[NFIP: Preparing for Changes to Flood Ins. Louisiana Resiliency Assistance Program](#)
Baton Rouge, LA

[June 18, 2013](#)

[Northshore Water Symposium](#)
9:30-11:30
Castine Center, Pelican Park
Mandeville LA,

[June 19, 2013](#)

[GNOF Urban Water Series](#)
New Orleans BioInnovation Center
1441 Canal Street
New Orleans, LA

Tulane Institute
on Water Resources Law & Policy

6329 Freret Street, Suite 155G
New Orleans, LA 70118
504-865-5982

<http://www.law.tulane.edu/enlaw/>

forced to reduce or stop diversions this year. The result could be greater in-stream flow for fish, including salmon and endangered suckers traditionally harvested by tribes.

But ranchers who are likely to lose their rights aren't taking this lying down! They have [filed a motion](#) in state court to stop the Tribes from exercising their rights, though it is difficult to tell on what grounds they are making their case.

Compounding the difficulties is Congress. A 2010 [agreement](#) signed by the Tribes, the US Government, California, Oregon, and others protects farmers served by the Bureau of Rec. project from the Tribes fully exercising their water rights. In exchange, four dams are to be removed from the Klamath River in order to greatly improve salmon harvests in the river. However, the dams can not be removed until Congress authorizes the agreement. That has not happened for three years, but the Senate Energy and Natural Resources Committee will hear from the agreement's supporters and opponents on [Thursday](#).

Upriver Countries Asserting Their Rights to the Nile River

Egypt is to Texas as Ethiopia is to Oklahoma? The source of many tributaries to the Nile River, Ethiopia became the sixth country to [ratify](#) a treaty amongst countries in the Nile River Basin this week. The treaty rejects an old colonial-era agreement that gave Egypt a veto over dam projects upriver. The treaty also clears the way for Ethiopia's new hydroelectric project. Egypt is [furious](#), but says it is not a military matter "yet." Hopefully the countries will take this as an [opportunity](#) for regional cooperation rather than a reason for an international water war.

El Salvador Choosing Water over Gold, So Far

A country the size of Massachusetts with a greater population, rampant deforestation, extensive soil erosion, and limited access to clean water, El Salvador has [chosen](#) to value over gold mining. For their efforts, they are being sued by two international mining companies, Commerce Group and Pacific Rim. In an effort to begin to get the country's water-house in order, the companies were denied mining permits by former president Tony Saca. The FLMN party, now in power, has explored banning hard rock mining entirely, and a water bill is in the country's legislature now that would protect water sources and set the goal of universal access to water and sanitation. Meanwhile, the country has to defend itself in The International Centre for the Settlement of Investment Dispute. The mining companies are suing the country for \$400 million for exercising its own sovereignty. The outcome could prove important not only to Salvadorans already dealing with cyanide-tainted waters, but to other developing countries looking to avoid destroying their water resources at the hand of exploitative industries.

Because sometimes breaking news keeps breaking: Following up on Items from Last Week's TUWW

Last week we reported on Mayor Bloomberg's \$20 billion [plan](#) to protect New York City from climate change and sea level rise. One observer has [pointed out](#) that NYC could end up looking a lot like NOLA. Well, no. But we understand the point. As Hurricane Sandy proved last year, the two cities have more in common than was previously acknowledged, and the NYC plan has many of the same elements as the Southeast Louisiana's Storm Damage Risk Reduction System. The main shared element being Corps of Engineers' involvement. Bloomberg has followed up on the resiliency plan with a proposal to [overhaul](#) the city's building code.

TUWW also reported last week on the EPA requiring Miami to make \$1.6 billion in upgrades to its wastewater system. It looks like that is one drop-sized plug in the sieve that is where our nation's water infrastructure bucket should be. The EPA last week released a [report](#) stating that water utilities will need to spend [\\$384 billion](#) by 2030 to maintain drinking water service. Note that this huge number only covers drinking water and does not even address wastewater issues like Miami's 10-figure problem.