

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law and Policy
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[Alley Cats Strike](#)

If you believe the on-screen depictions (and c'mon, [would TV lie to you?](#)), alleys are not good places. Alleys are where [wealthy Gothamites meet their end](#), where [Top Cat and the gang](#) plan their shenanigans, and where roughly half of all Law & Order SVU episodes [start](#). Their best and highest purpose has been for [sneaking Sally through](#)...until now. [Many US cities](#) are working to bring these underutilized, oft-observed public spaces into the light through the use of "green alleys." Green alleys are innovative urban features that help cities manage stormwater, increase walkability, and improve public access to greenspace.

Green alleys hold especially [great promise for Los Angeles](#). The City hopes that green alleys will help achieve its goal of halving its demand for imported water by 2025. Los Angeles' 900 linear miles of alleyways have a combined area of nearly 3 square miles, twice the size of Central Park. While [it never rains in southern California](#), it does [occasionally pour](#). In those infrequent showers, precious drops of water slide off the impermeable concrete and asphalt, eventually washing out to the ocean. By using permeable surfaces and native plants, green alleys help purify, collect, and store valuable stormwater. A pilot green alley project in the South Park neighborhood is projected to catch up to 700,000 gallons per year.

That's Ms. River to You!

In the 17th Century, John Donne told us that [no man is an island](#) (though [latter-day poets](#) would claim [otherwise](#)). But...can an island be a person? In New Zealand, the answer may well be yes. In 2014 the New Zealand government officially abdicated ownership of Te Urewera, a national park on the country's North Island. The land is now [an entity unto itself](#), with a legal personhood similar to that bestowed on corporations. Soon, New Zealand's [Whanganui River](#) will receive the same status. (If it was in the U.S. it would apparently even have its own first amendment right to fund election campaigns, which raises a fever dream world of possibilities).

Recognized personhood for land and waterbodies has groundbreaking legal implications. Generally, lawsuits to protect the environment rely on anthropocentric viewpoints. In the U.S. for, for example, the landmark Supreme Court case of *Sierra Club v. Morton* required claimants to show (over

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:

The 19th Annual Conference on Litigating Takings Challenges to Land Use and Environmental Regulations
New Orleans, LA
November 4, 2016

[RAE/The Coastal Society Summit on Coastal and Estuarine Restoration](#)

New Orleans, LA
December 10-15, 2016

Water jobs:

[Associate Attorney](#)
Northwest Office of Earthjustice
Seattle, WA

[CLEE Water Fellow](#)
UC Berkeley School of Law
Berkeley, CA

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Justice Douglas' [impassioned dissent](#)) that they would be personally injured if a proposed ski resort was built. Some courts have extended standing to litigants of [suits on behalf of future generations](#). Always at the center, however, are the concerns of *Homo sapiens*, merely [one species](#) in the endlessly intricate web of life.

New Zealand's Te Urewera Act means that a lawsuit to protect land or a river can be brought in the name of the land or river itself. While this may seem novel to western jurisprudence, it comes from an understanding of nature that is [as old as the mountains](#). Indigenous cultures around the world have long recognized the life-forces of nature, and respected the diverse community of living beings they share the world with (it's what [Pocahontas was getting at](#)). The New Zealand law taps that tradition, drawing from Maori concepts of nature and ownership. Land, of course, cannot file a complaint in court, so human guardians will still be the [voice of the interests of nature](#). Nonetheless, New Zealand's law signals a philosophical shift (or return) to a view of nature that does not depend on how we experience it. This opens the door for a kind of ecological empathy, a legal recognition of nature's point of view. If a tree falls in the woods, does it matter if no human's around to hear it? The [forest knows](#).

On an Island in the Sun

Prominent Attorney [Barry Zuckercorn](#) once counselled clients to "take to the sea! Three miles out, it's a free-for-all! No rules, pirate radio laws!" Well, as it turns out, there *is* something called [Law of the Sea](#), and it was just invoked by a five-judge tribunal at The Hague to [strike down Chinese territorial claims](#) in the South China Sea.

For some time, China has been [aggressively building land](#) in the Spratly and Paracel Islands. Many of these "islands" were reefs a few short years ago, before dredge ships piled up sand from the sea floor to create (or augment) land. On top of that land, China is constructing radar stations, air strips, harbors, and other facilities designed to assert control over one of the world's major maritime trade corridors. China claims historical rights to the islands based on a demarcation line from a [1947 territorial map](#). That line, [the court held](#), became obsolete when China ratified the UN Convention on the Law of the Sea. While this case was brought by the Philippines, the broad rejection of China's "historic rights" could embolden Malaysia, Vietnam, Brunei and Taiwan to seek legal recourse for their own territorial disputes with the People's Republic.

Technically, the Philippines won the case, but it may be a hollow victory; there is no mechanism for enforcing the decision. For its part, China has roundly rejected the ruling. In a bit of cleverness (or chicanery, depending on your perspective) China argues that the UN Convention only covers disputes over water, not land. It is, apparently, of no consequence that much of the land *was* water as recently as [Taylor Swift's last album release](#). In the disputed Paracels, China even has plans for cruises to visit the islands...[subversives need not apply](#).

Another Activist Lost

Earlier this year, TUWW reported on the tragic murder of [Berta Caceres](#), a Honduran environmental activist who was killed opposing the Agua Zarca dam. Caceres founded the Civic Council of Indigenous and Popular Organizations of Honduras ([COPINH](#)), an organization that helps give voice to indigenous populations. The international outcry following Caceres' murder pressured some of the projects backers to [suspend funding](#), but the struggle – and the danger – persists. Two weeks after Caceres' death, [Nelson Garcia](#) was killed. Last week, [Lesbia Yaneth Urquia](#), another COPINH activist was killed in what the organization condemns as "political femicide." Urquia was an outspoken activist against hydroelectric projects, particularly the Aurora I dam, in the world's most dangerous country for environmental activists.

The killing is part of a disturbing trend, as environmental activists face death with increasing frequency. In 2014, [116 environmental activists were killed](#) around the world, a 20% increase from the year before. [2015 was even worse](#) with 185 dead, the highest annual death toll on record. 2016 appears to be continuing this pace. In response to the violence, Georgia Congressman Hank Johnson introduced the [Berta Caceres Human Rights Act](#), a bill which would cut off US assistance to Honduras until human rights violations stopped. It's potentially a small silver lining on otherwise dark times for the brave men and (especially) women who speak truth to power.

Lights, Camera, Action! Army Corps Names New Acting Director

Of Civil Works, that it is. [James Dalton](#) (no, not [THAT James Dalton](#)) has been [tapped](#) to step into one of the most important positions in the federal government that most people have never heard of. Mr. Dalton will

oversee the Corps' public works, regulatory, navigation and climate change adaption work, a task list that pretty much ensures the opportunity to alienate half the nation at any given moment. The move comes in anticipation of the rapidly approaching retirement of current director, Steve Stockton, who is retiring following a four decade career with the Army Corps of Engineers. On a personal note, we would like to wish Steve the best. If anyone ever earned a moment of peace and a bit of appreciation, it is Steve. So farewell Steve and welcome James.