

# TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law and Policy  
April 15, 2014

## Latest IPCC Report Shows Climate Change Mitigation Won't Cost Arm & Leg

Recent [IPCC](#) reports have shown that [humans have caused](#) climate change and that it is [already harming humans](#). However, the [latest report](#) shows that avoiding the worst of it won't cripple the world's economy. The easiest way to deal with climate change, the report says, is to [abandon dirty fossil fuels](#) and reduce energy waste. Such a major change is estimated to only reduce annual economic growth rates by 0.06%, but that's before even factoring in the benefits of cutting greenhouse gas emissions. Despite the alarm bells ringing from the last two IPCC reports, this third report shows that we already have the tools to answer that alarm. Whether or not we respond appropriately is only a matter of desire, not ability. As the report's co-chair [said](#), "it does not cost the world to save the planet."

## Navajo Nation Prepares for Climate Change

The Navajo Nation, while not yet taking the steps towards climate change mitigation suggested by the IPCC report, is taking stock of its resources and what challenges climate change will bring. A new [report](#) addresses the challenges facing the Navajo Nation and points to water as the biggest stress both in the present and the future. The tribe is already in water disputes with neighboring states, and those can be expected to continue and even ramp up. Beyond that, better rangeland management and water efficiency will be hugely important. Fortunately, the tribe is a sovereign nation with much more leeway than a state to chart its destiny.

## Property Law Can Adapt with Climate Change

One of the questions we get most often is "what happens to my property rights if...?" Cal-Berkeley professor Daniel Farber's recently published [essay](#) notes that, although property rights are generally designed to create certainty, climate change creates a great deal of uncertainty. As the IPCC and the Navajo reports attest, flexibility will be key in dealing with climate change. So how to create flexibility in the inflexible world of climate change? Conservation and solar easements and transferable development rights may play a larger role in property law. Professor Farber also posits that climate change impacts are likely to shift public perception and the Supreme Court towards a more flexible approach to property laws. Let's hope the Court doesn't take too long. As Professor Farber says, "[p]roperty law is often thought to be an area where the pace of change is glacial. It is well to

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:

**April 19, 2014**

[Earth Day Festival & Green Business Expo](#)

Armstrong Park  
New Orleans, LA

**April 22, 2014**

[Living Green in New Orleans: Earth Day 2014](#)

Botanical Garden, City Park  
New Orleans, LA

**May, 2014**

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

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remember that, these days, even glaciers are moving with unprecedented speed.”

### **Louisiana Republicans Call for Treasury to Get a Move On with RESTORE Act Regulations**

Representatives Scalise and Cassidy and Senator Vitter, all Louisiana Republicans, today [wrote a letter](#) to Treasury Secretary Jacob Lew calling for the issuance of regulations the Treasury Department has to draft to allow implementation of RESTORE Act funds to begin. The regulations were due on January 2, 2013 and are expected to be finalized later this year. While the delay is unfortunate and frustrating, we would remind Reps. Scalise and Cassidy and Sen. Vitter that the [RESTORE Act](#) was a terribly awkwardly drafted law with unrealistic timelines. If Treasury is delaying regulations in order to assure that they work and that RESTORE Act implementation does not turn into a debacle, then we are likely okay with Treasury hewing to the spirit of the Act despite the blown deadline.

### **Everybody’s Talkin’ “Resilience” – Why Don’t They Hear the Word They’re Sayin’?**

At several gatherings last month we heard one word more than any other – resilience. In fact, we heard it so much, we started to wonder just what it meant. Luckily for us, the [Community & Regional Resilience Institute](#) (“CARRI” - formerly of [Oak Ridge National Laboratory](#), now with the [Meridian Institute](#)) has published a [report](#) analyzing just what the definitions of community resilience are. Being lawyers and thinking that words should be defined, we couldn’t be more pleased. In a few decades, the word went from merely describing the behavior of a spring to dozens of definitions across several disciplines. Those definitions have approached “resilience” as a quality or a process, as denoting adaptation, resistance, trajectory, or predictability, and as a quality of planning or of responding. The word itself is beginning to remind us of the springs it originally described – pushed and pulled into whichever shape is needed. So what definition of resilience does CARRI wind up with? “Community resilience is the capability to anticipate risk, limit impact, and bounce back rapidly through survival, adaptability, evolution, and growth in the face of turbulent change.” Whatever definition you use, just make sure your audience knows which one you intend.

### **California Water Plan Meets Decline in Quantity with Decline in Quality**

Whether you’re a fish or a farmer, it’s a tough time to need water in California. Last week, the U.S. Bureau of Reclamation and California Department of Water Resources – the agencies who operate the state’s systems of canals and reservoirs – released their [Drought Operations Plan](#). This is California’s third year of drought, and the plan and the agencies authoring it are pulled in every direction at once. It is intended to protect drinking water supplies and salmon runs, but it [calls for](#) additional hatchery breeding of salmon and loosening of water quality criteria for the Sacramento-San Joaquin Delta. It attempts to limit saltwater intrusion into the Delta by constructing barricades. One thing the plan does not change, however, is that farmers and municipal water agencies will not receive any additional water this year.

### **Seawater to Power US Navy?**

Wind. Slaves. Whale Oil. Coal. Diesel. Nuclear. Seawater? A new era in propulsion on the high seas may be at hand. The United States Navy continues to be at the federal government’s forefront for developing alternative energy. The [U.S. Naval Research Laboratory](#) has found a way to [synthesize fuel](#) by extracting carbon dioxide and hydrogen from seawater. The technology is several years away from actually fueling the Navy’s 289 oil-based ships (so far, it has only powered a [model airplane](#)), but now that the concept has been proven, researchers can move on to improving efficiency, scaling up, and maximizing carbon capture.