

# TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy (we're trying out "WaLPo" as a nickname, what do you think?)

March 6, 2019

## You're invited to a party with us and all our closest friends, including Governor John Bel Edwards!

Okay, "party" might be a stretch. But on [Thursday, March 21<sup>st</sup> at 5:30 PM we will be celebrating the launch of the Tulane Center for Environmental Law](#). Our Tulane Institute on Water Resources Law & Policy Director, Mark Davis, and our Assistant Director, Chris Dalbom, are wearing those same hats for the TCEL as we get it up and running. The Center will be providing structure, connections, and leadership for the law school's environmental law program and redouble our commitment to creating students who can go on to be leaders in the dynamic and interdisciplinary world of environmental law. We will hear from Gov. Edwards, Tulane President Michael Fitts, and Tulane Law School Dean David Meyer. Professor Oliver Houck will moderate a panel with distinguished scholars and alumni. If you're interested in joining us, please rsvp to Lauren Glaser at [events@tulane.edu](mailto:events@tulane.edu). It's the perfect party to attend before hitting the Tulane Environmental Law Summit the next two days. What an [after party!](#)

## Bonnet Carre Spillway opened for the second time in two years

The Corps of Engineers opened the [Bonnet Carre Spillway](#) last week for the second time in two years, diverting water from the Mississippi River into Lake Pontchartrain. In fact, the river has risen so much that the Governor [declared a state of emergency](#). The Corps made the decision to open the Spillway after significant rainfall and snowmelt in both the [Ohio and Mississippi River Valleys](#) (which had their wettest winter on record in the [last 124 years](#)) caused the Mississippi to swell. The Spillway is usually opened once the river hits 17 feet (aka flood stage), and the Corps has been watching the river's water level since it topped 15 feet in January. The river is forecast to [swell to 17 feet](#) on March 12, so opening the Spillway will prevent the Mississippi from flooding [homes and other private property](#).

The Corps is slowly opening up the [Spillway's bays](#) and plans to open 200 in total. And, they'll stay open [for at least a month](#). The Spillway has only been opened 13 times since it was built in 1931, and it's been opened 3 times [since 2016 alone](#). But sure, [climate change isn't real](#). There's also been speculation that the [Morganza Spillway](#) may be opened as well, but it's not quite at that stage yet.

The Corps also has teams ready to capture a couple of different types of endangered or threatened fish (e.g., the [pallid sturgeon](#)) and to capture and tag invasive species (e.g., the [Asian carp](#)). But, the environmental impacts don't stop there! Opening the Spillway causes fresh water to flow into Lake Pontchartrain, which is usually brackish water. In the past, this influx of fresh water into the lake has caused

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:

[Coastal Law CLE](#)

March 14-15, 2019

New Orleans, LA

[Tulane Environmental Law Summit](#)

March 22-23, 2019

New Orleans, LA

## Water jobs:

[Fellowship](#)

Environmental Protection Agency  
Washington, DC

[Climate Policy Associate](#)

The Nature Conservancy  
Arlington, VA

[Clinical Teaching Fellow](#)

UC Berkeley Environmental Law Clinic  
Berkeley, CA

[Postdoctoral Researcher](#)

US Department of Agriculture  
Research Triangle Park, NC

**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)

toxic algae to pop up ([who doesn't love a good surprise?](#)), leading to recreation bans in certain areas. Algae diminishes oxygen levels overall within the water, and some types of algae are also toxic to animals. But that's not the only [controversial aspect](#) of opening up the Spillway; some environmental groups are upset that sediment that would otherwise be bolstering coastal wetlands are instead being diverted into Lake Pontchartrain. Opening up the Spillway also guarantees that [hundreds of millions of gallons](#) of fresh water will flow into the Mississippi Sound and Gulf of Mexico, impacting marine life there that is sensitive to fresh water, including oysters and crabs. And, with the effects of climate change making weather [more and more extreme](#), increased rain upstream of the Mississippi is only going to cause more and more flooding [down in New Orleans](#). In any event, this is the first time the Spillway has been opened two years in a row, meaning [we don't really know](#) what the environmental effects will be. The Corps, along with the Lake Pontchartrain Basin Foundation, are monitoring the Lake's water quality. Regardless, this opening is a reminder that once upon a time America made the protection of cities and towns from rising waters a priority and was willing to make the choices and investments necessary make those decisions stick.

### **Corporations are trying to become greener (#NotAnAd)**

We've known since last year that [beer prices may double](#) because of climate change (*quelle horreur!*), but apparently plenty of big companies are now taking climate change into account in their business plans. According to a [new report](#) by the CDP (formerly the Carbon Disclosure Project), most of the 16 companies they surveyed are working on reducing carbon emissions and trying to get ready for the impacts of climate change on their supply chain. Part of the reasoning behind all of these changes is that consumers are starting to become more environmentally conscious and are expecting corporations to do the same. The report cites efforts to create a type of barley that requires less water-intensive growing, as well as the development of a laundry detergent that works better at cooler (and more eco-friendly) temperatures. But it's not just the biggest corporations who are jumping on the bandwagon. Etsy, aka the website known for selling weird, beautiful, or weirdly beautiful handmade stuff that oh so often ignores intellectual property rights, is set to be the [first ecommerce retailer](#) to offset all of its shipping emissions. And, some companies are also starting to get involved in new initiatives to reduce plastic waste, by allowing consumers to receive their goods in [reusable packaging](#). [Local New Orleans companies](#) are also doing more to reduce their environmental impact, like Folgers [working to be zero waste by 2020](#). Ooh! Quick! Someone figure out how to combine biodegradable Mardi Gras [bead technology](#) with coffee wastes! Think of how amazing parades would smell!

### **Lake Erie is now a person! Kinda. Sorta. Maybe.**

The city of Toledo recently voted to amend the city's charter to include a [Bill of Rights for Lake Erie](#) that would allow Toledoans to sue- on behalf of the lake- for environmental degradation. So it's basically a way of giving Lake Erie its own legal standing; the only problem is that US law doesn't give legal standing to inanimate objects like lakes, meaning that it probably won't hold up in court (lakes aren't corporations, you see?). The amendment faced its first [legal challenge](#) barely even a day after the amendment passed. This all comes after a local environmental group already went to the Ohio Supreme Court just to [get the amendment on the ballot](#) in the first place.

There are no other laws like this in the US currently, but some [other countries](#) have already recognized that forests and rivers have some legal rights. The US Supreme Court held decades ago in [Sierra Club v. Morton](#) that natural resources do not have their own rights, but one Justice wrote a famous dissent in the case, arguing that the Court should create, "a federal rule that allowed environmental issues to be litigated before federal agencies or federal courts in the name of the inanimate object about to be despoiled, defaced, or invaded by roads and bulldozers and where injury is the subject of public outrage."

The Bill of Rights amendment movement started after Toledo had to shut down its water supply for three days after Lake Erie was contaminated with [toxic cyanobacteria](#), which was at least in part a symptom of agricultural runoff. It's surely hard for everyone to sympathize with Toledo, as we never have water supply issues [in New Orleans, or anywhere else](#), for that matter.