

# TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy  
October 1, 2021

## Well, That's Disappointing

You never know the value of water until your [well runs dry](#) and you can never know what horrible demons and mysteries lie at the bottom of your well in any event, at least in the case of Yemen's 367 feet deep [Well of Barhout or "Well of Hell"](#). Unless you have 375 feet of rope (allowing a few feet for tying off). Yes, that is what it took to solve the centuries old mystery of the really impressive natural sinkhole that legend said emitted horrible odors and was home to genies and demons of various stripes. But now we know that at the bottom is a bit of water, some shade, [cave pearls](#) and [snakes](#). For [this discovery, human kind owes a debt of gratitude to 10 intrepid cavers](#) (if you count the 2 bravest who stayed up top to hold the rope) who rappelled to the bottom the natural well assisted by, presumably, the latest advances in rope and carabiner technology. The only evidence that the well is home to otherworldly beings with untold powers was the absolute absence of [trash](#). We will see how long that lasts now.

## Taking the Waste out of Wastewater

You never know the value of wastewater until you need to drink it, [like the astronauts do](#). With competition for water getting hotter along with the weather, pressure is mounting on Los Angeles, CA and others to find new sources of usable water and relieve demand on shared sources like the Colorado River. And lo and behold one of those sources has been staring us in the face—and our behinds—for years. [You know where we are going with this](#). Today, whenever we flush our toilets or run our dishwashers the water we use is whisked away, treated (up to a point) and then returned to nature somewhere at no inconsiderable cost. What if instead of that we cleaned the water and reused it? That is exactly what [Metropolitan Water District of Southern California is planning to do with the hopes of creating 150,000 gallons for water daily use](#). Let's be clear, this is not new nor is the notion that "wastewater" isn't really waste. What is new is the recognition that conventional water sources are playing out and that unconventional ways of paying for the recycling are now emerging. It turns out that solving LA's water woes helps Arizona and Nevada with theirs, since every gallon of Colorado River water LA doesn't have to take can go to those states, which rank lower in the water rights pecking order. That is the reason those states are helping LA pay for its water recycling program. Altruism it is not, but it is an example of the much sought but rarely seen win-win situation. What it also is not is a blueprint that can be copied just anywhere. LA discharges its treated wastewater into the Pacific Ocean which nobody else has claims on. If LA was discharging back

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 legal stewardship of water.

## Coming up:

[Colorado River District Annual Water Conference](#); Oct. 1

[Eighth Biennial University of Florida Water Institute Symposium Abstract Deadline](#): October 6

[ABA SEER Fall Conference](#); Oct. 13-15

## Water jobs:

[Summer Associate](#) and [Associate Attorney](#); Sher Edling LLP; San Francisco, CA

[TMDL and Water Quality Improvement Lead](#); State of Washington Water Quality Program; Lacey, WA

[Program Operations Associate](#); The Ocean Foundation; Washington, DC

[Senior Attorney, Fossil Fuels Program](#); Earthjustice; New Orleans or Texas

[Senior Manager, Environmental Policy \(EMEA\)](#); Amazon; Brussels, Belgium

Louisiana Bucket Brigade; [Campaign Director](#), New Orleans, LA; [Economic Development Manager](#), River Parishes, LA; [Liquefied Natural Gas Campaign Coordinator](#), Lake Charles, LA

[Staff Attorney](#); Great Rivers Environmental Law Center; St. Louis, MO

Sierra Club; [Gas Exports Campaign Representative](#), New Orleans/Gulf Coast, LA; [National Distributed Organizing Representative](#), LA/TX/DC.

[Adaptation Program Director](#); Georgetown Climate Center; Washington, D.C

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into a river (called return flow) there is a good chance somebody downstream is counting on those flows and, under the prior appropriation approach to water rights, may have rights to them. That doesn't mean it can't get worked out, but it does mean there'll still likely be winners and losers.

### **Meanwhile, Back in Tennesseetucky**

Drinking toilet water? Won't that be enough to drive anybody thinking about their future out of California to, say, Kentucky or Tennessee where a person can use as much "fresh" water as they please? Maybe not, given the big announcement by [Ford Motor Co. of its huge electric vehicle campus in Tennessee and Kentucky](#). [Unlike many industrial siting deals that go easy on \(or flat out ignore\) environmental and water impacts in order to land the deals and jobs, Ford is promising essentially a zero emissions facility and no use of "fresh water" except for human consumption](#) (coffee, meals, drinking fountains we presume). This has our attention and should get the attention of economic development gurus elsewhere. Needless to say, words are sometimes said in courtship and at the altar don't add up in the marriage. The "fresh water" pledge certainly begs the question of just what water the plants will need and where it will come from but, nonetheless, this is one to watch. As for being down on toilet water, maybe it is time to [recognize the French for taking the stigma out of that years ago](#). [Bien Joue'](#).

### **Flood Insurance Risk Rating 2.0, Flood Insurance Drama 10.0**

Let's be candid. Here in New Orleans, we have floods, we like having flood insurance, and we very much like having affordable flood insurance. But it's not just us. Whatever the causes, the frequency and severity of flooding events across America is on the rise which means the need for and cost of insuring against flood damage is also going up. But flood insurance is not ordinary insurance program. Normally, insurance is based on assessing risk, encouraging risk reduction behavior ([Hey, stop smoking!](#)), charging premiums that are high enough to cover the expected payouts, and not insuring bad risks. None of which really describes the National Flood Insurance Program today but could better describe it after October 1 when [FEMA's Risk Rating 2.0](#) rules are slated to take effect. [By take effect we mean flood insurance will cost more in general and a lot more in some places](#), though some will see premiums go down. Basically the new approach will be based on the loss risk and experience for specific properties, not broader flood zone maps. Driving the change is the fact that the NFIP is broken and has had to be subsidized for years. Objectively, this is just good business. Subjectively, it could force some people and communities out of the market which is a hard pill to swallow even if it is ultimately for their own long-term good. And since good business is not always good politics or good policy, you can expect Congress to step in to delay or modify FEMA's plans—[which is exactly what is happening](#). Of course, none of this applies to the cost of affording health care if you are injured preparing for or cleaning up after a flood. That would be [madness](#).