

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law and Policy
March 5, 2013

Congressional Water Caucus—Big Hopes in Hard Times

California GOP Rep. George Radanovich announces the formation of the Congressional Water Caucus, which will address water issues such as supply, storage, and quality. It will also work to educate the public on water issues. As co-chairman, Rep. Radanovich outlines the Twelve Principles of Water Policy [here](#).

California Revisits Desalination—a Matter of Cost and Opportunity

The newest and largest seawater desalination plant in the Western Hemisphere may go live in just three years providing the Carlsbad region with about 7 percent of the county's water needs over the next 30 years. Encina, an aging natural gas plant that uses seawater as part of its cooling process, will need to undergo upgrades and a permit process before joining other sizable desalination plants, such as those in the Middle East and Singapore. At a cost of more than \$3 billion, some are questioning whether the San Diego County Water Authority should have entered into the [water purchase agreement](#) with Poseidon Resources, the plant developer, whereby guaranteeing a market for the plant. However, given the history of annual rate increases from the Metropolitan Water District of Southern California, the desalinated water could be cheaper than the current supply by 2024.

No Water, No Food, No Water for Chocolate—Nestle' CEO Warns of Big Changes in Food Supply

Paul Bulcke, Nestle CEO and keynote speaker at the annual City Food Lecture in the United Kingdom, warns the industry against misusing "water—the linchpin of food security." The CEO warned against massive food shortages within the next 15-20 years due to the overuse of fresh water. Citing it as a both a political and social stability risk, Bulcke urged policymakers, civil society, agriculture, and other stakeholders to work together to "develop effective, coherent and concrete action." Read more about his suggestions, as well as examples of Nestle leading by example, [here](#).

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:

[March 7-9, 2013](#)

"Building Resiliency Workshop IV: Adapting to Uncertainty"
New Orleans, LA

[March 24-26, 2013](#)

Center for Natural Resources and Economic Policy (CNREP)

"CNREP 2013: Challenges of Natural Resources and Economic Policy"
New Orleans, LA

[May 10, 2013](#)

Coalition to Restore Coastal Louisiana's Coastal Stewardship Award Banquet
Baton Rouge, LA

[June 6-7, 2013](#)

American Bar Association's 31st Annual Water Law Conference
Las Vegas, NV

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/>

Mardi Gras Pass—New River Channel Raises Questions and Possibilities

Did the Mississippi River Mardi Gras mambo its way out of its usual bank and into surrounding wetlands, or was this merely the inevitable end result of an abandoned man-made canal? Since Mardi Gras Day 2012, freshwater continues to flow at an increasing rate, with over 2,000 cubic feet per second pouring through the cut just a couple of weeks ago. John Lopez of the Lake Pontchartrain Basin Foundation has pointed out this is a possible model for coastal restoration as it naturally connects the river with the surrounding wetland, pushing back the saltwater encroaching Louisiana's coast. Considering the state master plan has a diversion project downstream from Mardi Gras Pass with an estimated price tag of \$216 million, a free diversion granted by the hands of mother nature seems like a gift. However, not everyone believes this is a natural event. Robin McGuire, the vice-president and general counsel for Sundown Energy considers this to be a man-made event, resulting from the abandonment of a canal, containing four gates, dug in the mid-1970s. Without the canal, McGuire contends the River would not have left its bank at Bohemia Spillway and it would not have blown out the road Sundown Energy uses to access an oil and gas facility. While the alternative solution of building a bridge rather than a road has been discussed, Sundown Energy is concerned of possible future lawsuits if it assumes all liability and costs associated with bridge construction. Introducing freshwater into saltwater marshes would have impacts on the surrounding ecology and McGuire is wary of future lawsuits, particularly from oyster fisherman. The Southeast Louisiana Flood Protection Authority-East and Garret Graves weigh in on the comparison between \$2 million to build a bridge to \$200 million to build a man-made diversion [here](#).

Missouri River Water for Sale, but It's Not the States Making a Profit

The Army Corps recently brought forth a [proposal](#) that would charge communities for water drawn out of the Missouri River. The Corps contends that any water that pools as a result of their dams creates "surplus water," and the federal government should be reimbursed for its use. In response, the National Governors Association adopted a policy in February giving states jurisdiction over the natural flow of the river. It hopes to engage the federal government in discussions to help address this issue and that by adopting the policy, it will give the Corps the clear message they will be met with resistance should they pursue the proposal.

Cracking The Corps: Class-Action Lawsuit filed for Missouri River Flooding

Remember back in December when the U.S. Supreme Court handed down the 8-0 decision in [Arkansas Game and Fish Commission v. United States](#), which held that temporary flooding by the government was "not categorically exempt" from liability under the Fifth Amendment? Ed Murphy, a partner in a local Missouri law firm sure does and is launching a class-action lawsuit representing landowners whose property was destroyed by the Corps during the 2011 Missouri River flood. Three identified classes have emerged thus far: farmers, individuals, and governmental entities. Read more about the case [here](#).

Registration Open for CNREP Conference—The Place to be For Natural Resource Econ and Policy

If you like to get your brain around natural resource challenges before they hit the headlines and to better understand the ones that have already been lit up then the 4th Center for Natural Resources and Economic Policy just might be the place for you. This year's conference—which includes a panel on water law and policy—will be held in New Orleans March 24-26. For more information go to www.cnrep.lsu.edu.