



# TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy

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## In Colorado, a River Only Runs Over It, Never [Through](#)

For now, it remains really, really good to be [a landowner](#) in the Centennial State. The [Public Trust Doctrine](#) and the Equal Footing Doctrine go together like peanut butter and bananas. One of the ways they combine is to determine the lands that states own upon entering the Union, especially the land under navigable waters—water bottoms. Those of us from 49 states have spent the past century or two figuring it all out, culminating in the [PPL Montana](#) Supreme Court case about a decade ago. Colorado, on the other hand, has historically said, “[nuts](#)” to that and decreed that they didn’t have any navigable waters, and, so, they didn’t have any publicly owned state water bottoms. This most recently came up [this week when the state Supreme Court ruled](#) not to upturn this situation.

Therefore, the bottom of every river and stream in the state remains the property of the landowners of the property that the stream flows over or along. Even Colorado can’t/won’t say that the water in the stream isn’t public property (at least until it’s lawfully captured), but this means that everywhere in the state you’ve got public water flowing over private land (unless it’s publicly owned land, but even there you’re going to have specific purposes and restrictions on that land). Also, Colorado’s known for having rivers that are great to recreate in, what with the fishing and the rafting. All this has led to a standoff of sorts where landowners aren’t supposed to stop the public from recreating as long as they’re only floating on the water and never touching the (privately owned) bottom (note that in many contexts the ability to do so would lead to determining the stream is navigable in fact, but don’t let that distract you right now). But, [it’s Colorado](#). So, sometimes [bottoms are bumped](#) and sometimes guns are fired (whether bottoms are bumped or not).

That’s what happened when a couple of fishermen friends of Roger Hill were standing in the Arkansas River while fly fishing. Hill, himself, had a rock thrown down at him while fishing in the same place. So, Hill [sued for a declaration](#) that “the Ark” and other rivers used for commercial activity, like logging transport, at the time of Colorado’s statehood were then navigable and are currently, thanks to the Public Trust Doctrine and the Equal Footing Doctrine, public water bottoms.

The opinion from the Colorado Supreme Court basically says, “nah, you can’t do that. All the hundreds of pages we had to read about public trust and equal footing don’t matter. This dude (nor anyone else from the public) doesn’t have standing to make a title claim on behalf of the state.” The court didn’t shut the door on the possibility that those rivers *do* flow over public property. They just said that if anyone were to make that case before the court it would have to be the state itself. So now, all that state government officials have to do is pursue a case they don’t even want against almost every powerful, landed interest in the state: billionaires, ranchers, billionaire ranchers, developers, billionaire developers.... Don’t hold your breath.

## [They Are Gutting a Body of Water](#). Well, they already have.

(Yes, we have just been looking for an excuse to work that band name in). That water is a weapon of war is old news. [Really old](#). This is part of the answer to the question of [“why is the US Army in charge of our water](#)

[infrastructure?](#)” Still, every time it happens, and it has happened plenty since we started writing TUWaterWays, it’s incredibly disheartening. Prepare to be disheartened.

The Dnieper River is one of the longest in Europe, even if it’s not as famous as similarly sized rivers like the Danube or the Rhine. The Dnieper, like [many other rivers](#) we’re more familiar with, is more like a series of lakes stair-stepped by large dams and is immensely important as a source for irrigation and electricity (hydro or cooling power plants). So, when a war comes along and “[someone](#)” [blows up one of those dams](#), it’s a big deal. It’s a big deal with wide-ranging consequences for: [the environment](#), [agriculture](#), [power](#), [humanity](#), and [the war](#) that’s being fought for of them. At a time when plenty of us somehow seem to take stewardship of water resources for granted or content to [let it be someone else’s job](#), it’s a stark reminder of how lucky we are to have it and how lost we’d be without it. You wouldn’t think we’d need [yet another one](#).

## At [Robot College](#), Nobody Else Can Chug like AI

You may have heard about this last month, but it turns out that AI, such as ChatGPT, [uses a staggering amount of water](#) to cool the servers that run on a staggering amount of energy. A [study](#) released in April found that ChatGPT needs at least half-a-liter of water to generate answers to 20 to 50 questions. Some, though, are not put off by this and are still looking to use AI to [help solve water crises](#) that [those AIs tell you they aren’t contributing to](#) at all. It can [create the jurisprudence you need](#). It can [staff your crisis hotline](#). What can’t AI do? Like alcohol, capitalism, and fossil fuels, it’s going to be [the cause of and solution to all of life’s problems!](#)

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### Coming Up:

[River Days of Action](#); June 8-18; Mississippi River

### Water jobs:

[Staff Attorney, Clean Water Program](#); Environmental Integrity Project; multiple locations

[Multiple Associate Positions, Mitigation Program](#); Georgetown Climate Center; Washington, D.C.

[Policy Coordinator](#); The Water Collaborative; New Orleans, LA

[Legislative Director, Healthy Communities](#); Earthjustice; Washington, D.C.

[Drinking Water Policy Coordinator](#); National Wildlife Federation; various Great Lakes offices

[Lead Policy Advocate](#); James River Association; Richmond, VA



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.

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