

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law and Policy
September 13, 2017

Harvey and Irma: America's Least Favorite Couple

We are limited in the format of our modest water blurbs, but we hope to pay the proper respect owed to the [100+ lives lost](#) and the profound suffering caused by [Irma and Harvey](#) across the Caribbean, and in Florida and Texas. Hurricane Harvey made landfall as a Category 4 hurricane with 130 mph winds, brought 51.88 inches of rain, 12.5 feet of storm surge, and left 300,000 people without power. Irma made landfall as a Category 5 hurricane with 160 mph winds, brought 16 inches of rain and 15 feet of storm surge, and caused the evacuation of 6.5 million people. Irma also caused a ["reverse storm surge"](#) where the strength of the hurricane actually pushed water away from the shorelines in the Bahamas and the Gulf Coast of Florida and [left manatees stranded](#). While [Disney World](#) has been able to re-open, not everyone has been so lucky. Islands like St. Maarten, the twin-island state of Antigua and Barbuda, the British territories of Anguilla and the Turks and Caicos Islands, the British Virgin Islands, and the U.S. Virgin Islands have suffered [extensive damage](#) that is still being assessed. Hurricane Irma turned a number of islands [brown](#) by wiping out foliage, and may have [changed The Everglades forever](#).

Recovery and research continues on the other side of the Gulf after Hurricane Harvey. The estimated [33 trillion gallons of water](#), weighing roughly 275 trillion pounds, pushed the earth's crust [down 2 centimeters](#). Researchers [note that](#), "This should be a temporary drop. Once floodwaters recede, we should expect a similar, but opposite elastic response of the crust." Unfortunately, those floodwaters contain a [wide variety of toxins](#).

Hurricane anticipation inspired storms of advice. Some advice is practical, like the CDC's tips on [creating and storing an emergency water supply](#). Some advice is obvious, such as a Florida Sheriff's office suggesting that [shooting bullets](#) into a hurricane is a bad idea. Some advice is just plain dangerous, such as [Rush Limbaugh's characterization](#) of severe storm predictions as "fake news." Although Rush and [his peers](#) may not wish to include [climate change](#) in the hurricane preparedness discussion, [many others are eager](#) to do so. How effective we are in dealing with future storms just might depend on it.

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:

September 14, 2017

[Mayoral Forum on Flood Risk](#)

5:30 p.m.

New Orleans Jazz Market
1436 OC Haley Blvd

September 27, 2017

Louisiana Water Resources Commission
11:00 a.m.

LaBelle Room, LaSalle Building, 617 N. 3rd St
Baton Rouge, LA

October 27, 2017

[Rights of Nature Symposium](#)

8:30 a.m.

Tulane University Law School
6329 Freret Street

Water jobs:

[Senior Policy Advisor, Intl. Climate Policy](#)

The Nature Conservancy
Washington, DC

[Conservation Director](#)

Friends of the Mississippi River
St. Paul, MN

[Manager, Coastal Projects and Programs](#)

Environmental Defense Fund
New Orleans, LA or Washington, DC

Tulane Institute
on Water Resources Law & Policy

6325 Freret Street, 1st Floor
New Orleans, LA 70118
504-865-5982

tulanewater.org

TWITTER: [@TulaneWaterLaw](https://twitter.com/TulaneWaterLaw)

Flint Residents Will Get their Day in Court

Nearly three years after Flint's disastrous switch to river water, the Michigan Legislature has approved only a single policy reform inspired by the city's lead contamination crisis. Flint residents, however, celebrated a victory in the U.S. 6th Circuit Court of Appeals. The court reversed a dismissal of two lawsuits alleging violations of constitutional rights to due process and equal protection under the law. The 6th Circuit Court overturned the lower court's decision that lawsuits related to safe drinking water must be filed under the federal Safe Drinking Water Act and cannot be filed as constitutional claims. The 6th Circuit found that some cases of water pollution *can* infringe on resident's civil rights without violating the Safe Drinking Water Act, for example, if drinking water was contaminated by a pollutant not regulated by the Safe Drinking Water Act, or if residents were subjected to polluted water based on racial discrimination.

The ruling was not entirely in the residents favor because the appellate court dismissed allegations against the State of Michigan and state agencies, saying they enjoy sovereign immunity from such lawsuits, and Gov. Rick Snyder was dismissed as a defendant in one of the two lawsuits. However, now that it has been established that Flint residents may bring constitutional claims, there is a potential for monetary damages. If Flint residents were limited to claims under the Safe Drinking Water Act, their only remedy would be a court order making polluted water safe to drink.

Currently, this victory has more legal significance than practical significance. Flint's mayor has estimated that it will be more than two years until they can recommend that residents drink their tap water without filters. The state of Michigan continues to supply Flint residents with free filters and bottled water. However, of the nine original water distribution centers, only four remain.

Despite Rasheed Wallace's continuing work and the donated \$1 million from Bruno Mars to the Community Foundation of Greater Flint, Flint's water fund is estimated to be bankrupted around September-October 2018 unless it signs a 30-year contract to buy water from the Great Lakes Water Authority. On September 26th, the U.S. District Court will hear a motion brought by the Department of Environmental Quality to force the city to sign this contract.

Studies Confirm: Moon's Surface Contains Water – Not Cheese

Since you may need a break from water politics on this planet, let's check-in with our moon. A recent study has reported that large amount of water molecules could be permanently present on the surface of the moon. We are excited to hear that because over here at the Institute on Water Law, instead of chasing ambulances, we chase water molecules. It was previously thought that lunar water may only be found at high latitudes, away from the moon's equator. The scientists looked at the entire lunar surface at three different times in the day: morning, midday and afternoon. Surprisingly, water or hydroxyl "can be detected basically all over the moon at all local times of day." The scientist hope to continue their research to better understand the origin and behavior of lunar water.

The Glamorous Side of Water Law

Stephen McCaffrey received the 2017 Stockholm Water Prize presented by H.M Carl XVI Gustaf, King of Sweden during World Water Week. McCaffrey is being honored for his leadership and scholarship in international water law. Honors from New Orleans's own sovereign are surely coming soon. Until then, party at McCaffrey's house!