

# TUWaterWays

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

May 26, 2015

## Just Say No: US Urges SCOTUS to Stay Out of MS TENN Sparta dispute

Tennessee has been [drinking Mississippi's milkshake](#) for a long time and Mississippi has not been the least bit happy about it. The two states share (along with Arkansas and Louisiana) the Sparta Aquifer which is also the main water supply source for Memphis. The demand in Tennessee is so great that water is being sucked from the Mississippi side of the aquifer. Mississippi previously tried suing the City of Memphis for taking water that did not belong to them but that case was tossed by the Courts as really being a fight between two states, a sort of dispute that can only be brought directly in the Supreme Court of the United States. So now Mississippi is asking SCOTUS to [let it sue](#) Tennessee. Normally when one state sues another over water it is to seek an "equitable apportionment" of the waters. But Mississippi is not most states and instead water it wants to be declared the owner of the water and money damages. Will SCOTUS take the case? It is too early to know but "America's lawyer" the U.S. Solicitor General is [asking SCOTUS not](#) to. According to the U.S. Mississippi has no claim against Tennessee since the aquifer is an interstate water that has not been apportioned (divvied up) between the states. The Camellia State says the water is an intrastate resource since once the aquifer flows into Mississippi it never naturally goes back. Confused? Think of a deer being stalked by a Tennessee hunter that wanders from Tennessee to Mississippi. The hunter throws a lasso across the border, snares the deer and drags it back. Is that an intrastate deer or an interstate deer? And is water sufficiently like a deer to justify treating them alike? And people think water is easy.

## Nuclear Power is Not Cool in Florida

But it needs to be, which is why Florida Power and Light created a 5900 acre loop canal to provide its Turkey Point nuclear plant with water to cool its twin reactors. It seemed a good idea; a closed loop of water that could be used, cooled, and reused. It would have worked too if not for one thing: Summer in Florida. It turns out that the canal water gets too hot (and salty and algae filled) to be used to cool the reactors. To remedy the problem FPL has gotten a special one year dispensation to take water from a neighboring canal and is developing plans to drill groundwater wells that would pump 14 million gallons of water day from the same aquifer that supplies much of Miami-Dade County's drinking water. The

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:

### [Army Corps Levee Armoring Public Meeting](#)

June 2, 2015

Lake Vista Community Center  
6500 Spanish Fort Blvd  
New Orleans, LA

### [ABA Water Law Conference](#)

June 4-5, 2015

Denver, CO

## Water jobs:

### [Campaign Director](#)

Gulf Restoration Network  
New Orleans, LA

### [Manager, Coastal Habitat Restoration](#)

National Fish and Wildlife Foundation  
Baton Rouge, LA

### [Attorney](#)

Community Water Center  
Sacramento, CA

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situation and the conflicting demands for water are nicely summarized in a piece by the [Miami Herald](#). We have no idea how this will or should turn out but it does suggest the ultimate unsustainability of the conventional view that water will always be found to fuel ongoing cycles of growth and service expansion.

### **Flushed With Success: FTC Reins in Wet Wipe Claims**

If you see any employees of the Federal Trade Commission and it seems that they are more than usually flushed with sense of pride and purpose it just may be because they just marked a milestone in their effort to save your pipes and pocketbook from the ravages of nonflushable flushable wipes. A growing problem for drains and sewer systems is the use of “flushable wipes”, as a substitute or supplement for toilet paper. The wipes are, we are told, produce a sense of freshness and well-being that TP alone can’t deliver. These are basically an extension of the wet-naps that barbeque joints have handed out for years and that have been a staple of baby care for more than a decade. And when such comfort and convenience can be flushed away like its shabby TP cousin what is not to like. Actually, quite a lot if they don’t actually breakdown and end up clogging septic systems and [sewers](#) and washing up on [beaches](#). The cost of contending with these oxymoronic products has led to a [backlash](#) from local governments. To better bring marketing into line with reality, the FTC has entered into a [Consent Order](#) with Nice-Pak Products under which Nice-Pak will stop claiming that the products such as Kirkland Signature Moist Flushable Wipes are in fact flushable and safe for plumbing.

### **Water to Your Door, It is So Darn Convenient**

Not so long ago a hallmark of civilized convenience was that clean water came from your tap and milk was delivered to your door. The milkman has largely disappeared but may be set for a sort of rebirth, courtesy of a growing consumer preference for bottled water even in our homes. By way of evidence, consider that over the past year online sales of bottle water for home delivery by Nestle’, the nation’s leader in bottled water sales, increased by 21% in 2014. The reason for this? Convenience, according to Nestle’ Waters North America CEO Tim Brown (by way of the [Wall Street Journal](#)). After all it is not fun to lug gallons of the stuff from the store where it can cost upwards of \$5 to buy a case (24) of half liter bottles. Of course convenience comes at a price since the price of that case delivered to your door can be \$6 to \$7. Less clear is just how any of this is more convenient than going to the tap and taking as much water as you want when you want it and paying \$.0035 per gallon (at least here in New Orleans) for it (compared to \$0.79 for the to-your-door option). This preference for bottled water owes much to public skepticism about what is coming out of our taps. Clearly there have been and still are reasons for some of that (boil water advisories, brain eating amoebas, various chemicals, etc...) but considering many brands of bottled water are basically nothing more than tap water from somewhere and almost all of it comes to you courtesy of plastic bottles one has to wonder if we have heard the last word on this and whether that word will in fact be “convenience”.

### **REMINDER: Attention New Orleans Area Water Entrepreneurs—Yes You!**

The New Orleans based business incubator Propeller is currently accepting applications for its [Startup Accelerator](#), a sector-based 12-week intensive program, specifically designed to connect early-stage social entrepreneurs with the resources they need to turn their ideas into tested and viable solutions. One-on-one executive mentorship, access to high-level networks, peer-to-peer learning, pro bono resources, and free office space, are just some of the benefits of being a Propeller Impact Venture. Entrepreneurs working in coastal restoration, urban water management, fisheries, maritime, ports, and water quality are especially encouraged to apply.

**Program Dates:** September 12, 2015 – December 14, 2015

**Application Feedback Deadline:** June 9, 2015, 11:59pm CST

**Final Application Deadline:** July 31, 2015, 11:59pm CST

To learn more you can attend one of Propeller’s Q&A [sessions](#) or [read more about the program](#). Or you may contact Ginny Hanusik at [ghanusik@gopropeller.org](mailto:ghanusik@gopropeller.org).