

# TUWaterWays

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

[February 21, 2020](#)

[Happy early Mardi Gras! \(Psst! no issue of TUWW next week\)](#)

## [I Wonder, Wonder Who Wrote the Book of Love?](#)

That question may never be answered, but at we can now tell you who wrote the 10 best works of “eco-fiction”. No, it is not because of our exhaustive work, though our readers know that [we love lists here](#). So our hats go off to the Guardian for their list of the [10 best “eco-fiction” reads out there](#). To be sure, we are not ceding the field. We have our music playlists and [our water movies](#) list. Hopefully, we would have gotten to “water fiction” in time (nominations are always open in all categories), but the fact is we got scooped. Good work, Guardian. It is nice to know you not only write but also have time to read.

## [Last Call for Bottled Water?](#)

Probably not, but the days when an enterprising corporation could blithely turn groundwater into a bottled (plastic mostly) [vessel of liquid relief](#) might be in for a change. Let’s be clear, we are not talking about the bottled tap water part of the market but rather the pump-and-bottle it version that gets marketed as spring or well water and sold hither and yon at robust mark ups (in most cases, ground water can be taken without paying for the water itself). Case in point, [Washington State is considering banning the practice](#) and is pointing to waste and lack of necessity as its reasons. Other states—Michigan, for example—are increasingly taking a dimmer view of the benefits of hosting this industry since an important natural resource is essentially being mined for private benefit and consumers elsewhere. States do get some latitude on things like this, but there are limits to what they can do courtesy of the Commerce Clause of the Federal Constitution. All water, even groundwater, is an article of commerce [according to the Supreme Court of the United States, and states can’t hoard such things without good cause](#).

## [Picking at the Gordian Knot](#)

Water, the stuff of life itself, is so important that is worth fighting for. You need it. Towns need it. Farmers need it. [Overly dramatic movies need it](#). [Eddie Money needed it](#). Let’s go farther; water is so valuable that we are getting close to the point that people might even be willing to have water be managed. Almost. It is axiomatic that it is

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:

[Knauss Fellowship application deadline](#); February 21  
[Mardi Gras Bead Collection](#); February 23; New Orleans  
[CEQ NEPA Public Hearings](#); February 23; Washington, DC  
[Coastal Communities Small Grant Opportunity Letter of Intent Deadline](#); February 28  
[SOUL Tree Planting Event](#); February 29; New Orleans, LA  
[Oyster Shell Bagging](#); February 29; Buras, LA  
[Abstract Registration Deadline for LAWater 2020](#); March 2  
[Early Registration Deadline for LAWater 2020](#); March 4  
[Webcast: Trade-offs of Alternative Water Supplies](#); March 5  
[River and Rain Gauge Network Webinar](#); March 6  
[Tulane Environmental Law & Policy Summit](#); March 6-7; New Orleans, LA

### Water jobs:

[Attorney](#); State Water Resources Control Board’s Office of Chief Counsel: Water Rights and Drinking Water Branch; Sacramento, CA  
[Clinical Fellow](#); Harvard Law School: Emmett Environmental Law & Policy Clinic; Cambridge, MA  
[Governor’s Fellows Program in Louisiana Government](#); Various Cabinet-level Agencies; Baton Rouge, LA  
[Healthy Streams Fellow](#); Nature Conservancy; Topeka, KS  
[Ocean Innovations Fellow](#); World Economic Forum’s Centre for the Fourth Industrial Revolution & Stanford University’s Center for Ocean Solutions; San Francisco and Stanford, CA  
[Director](#); University of Wisconsin-Milwaukee Center for Water Policy; Milwaukee, WI  
[Executive Director](#); Old Dominion Institute for Coastal Adaptation and Resilience; Norfolk, VA  
[International Ocean Wildlife Attorney](#); Earthjustice; San Francisco, CA; Seattle, WA; or Washington, DC  
[Post-Grad Legal Fellow](#); Earthjustice; Various Locations  
[Staff Attorney](#); Guadalupe-Blanco River Authority; Seguin, TX

**Tulane Institute**  
on Water Resources Law & Policy

6325 Freret Street, 1<sup>st</sup> Floor  
New Orleans, LA 70118  
504-865-5982

[tulanewater.org](http://tulanewater.org)

TWITTER: [@TulaneWaterLaw](#)

hard to manage what you can't measure. So, when you write a check\* to pay your cable bill,† it helps to know you actually have [enough money in the bank to cover the check](#). That is called good management, and just about everybody agrees about that. That is the difference between money and groundwater—at least in Arizona (and Louisiana). When it comes to ground water, the combination of tradition, law and politics often conspire to overwhelm even the most basic rules of management—namely measuring what you use and what you have. The fear of regulation can be so profound that even the threat of other pumpers (see the previous story) over taxing the aquifer and interfering with other wells is not enough to make active management seem like a good idea—until it is too late. Even then it is [hard to know where to begin](#). This [scenario is playing out in Arizona now](#), a state not famous for its inexhaustible water supply.

Here in Louisiana, we would like to look at the Grand Canyon State and shake our heads, but we can't. We are pretty much the same. Even where we have seen the need to manage ground water and made it somebody's job, we still can't figure out what to do. Yes, we are talking about the Southern Hills Aquifer that serves Baton Rouge, our state capital and home to the reigning NCAA college football champions, among others. It has long been known that the aquifer is facing water level decline and salt water infiltration, so the Capital Area Groundwater Conservation Commission (CAGCC) was created in 1974 to tend to things. But, per the Louisiana Office of Conservation (OC), the general decline has continued. In a [new report](#), the OC concludes that damage to the aquifer is unacceptable and that the CAGCC should be doing more. Mind you, the aquifer has unacceptable problems, but it isn't so bad that the OC can step in with its own regulatory powers. This is just the most recent straw on this camel's back (see this [report](#) from the Louisiana Legislative Auditor), but until somebody—CAGCC, OC, a court, the legislature—actually flexes the muscles they already have and seeks whatever they lack, the “unacceptable” will continue to be accepted.

So whether you live in Arizona, Louisiana or most other places, there is a day coming when it will be too late to do the right thing. Know that. Fear of regulation is understandable but fear of necessary management will not be. In Louisiana there are signs we getting close to recognizing that. If we won't do it for ourselves and children, surely we must to it for the Tigers.

---

\* For our younger readers, a check is a piece of paper that you sign to order your bank to pay somebody else with money from your account.

† In the days before streaming, “cable TV” was a service you paid for that brought lots and lots of television programs (mostly Chicago Cubs games and very, very bad and/or very, very old shows) to your home.