

# 19th Annual Tulane Summit on Environmental Law and Policy

---

Tulane's 19<sup>th</sup> Annual Summit brings together once again prominent jurists, academics, scientists, activists and policy makers on recurring issues and breaking new ones. This year's focus is WATER, from local impacts and engagement to global. Water is nine-tenths of the planet and there is something here for all. Nineteen Panels will highlight a wide range of water-related topics, as seen below. Two world-recognized Keynoters will focus on ocean issues ranging from plastics to prospects for accelerated marine conservation. Welcome to one of the largest and most inter-active environmental programs to be found.

## **Friday, February 21<sup>st</sup>:**

**8:30am – 9:50:** (1) Ethics

**10:00am-10:10am** – Welcome and Orientation

**10:15am – 11:35** (2) Cancer Alley; (3) Gulf Coast Restoration

**11:35 – 1** Lunch

**1 – 2:20** (4) Urban Water; (5) Hydraulic Fracturing

**2:30 – 3:50** (6) Mining in Montana; (7) Shark Finning

**4:00 – 5:20** (8) Menhaden Fisheries; (9) Plastics and International Corporate Responsibility

**6pm** – Keynote Speaker: Dr. Marcus Eriksen

- Dr. Erikson is the cofounder of the 5 Gyres Institute, a research group dedicated to understanding and reducing plastics pollution through research and public awareness, including an oceanic raft made exclusively from plastic waste. He will speak about the role of plastics in our oceans and waterways, and how groups and individuals can work to reduce it.

**Reception Immediately to Follow Keynote Address**

## **Saturday, February 22<sup>nd</sup>:**

**8:50-9:00am** – Welcome and Orientation

**9:00 – 10:20am** (10) West Shore NEPA Streamlining; (11) Polar Bears; (12) The Elk River Disaster: Can It Happen Here?

**10:30am – 11:50pm** (13) Ocean Acidification (14) Appalachian Uranium Mining; (15) Chinese Hydro Power

**12:00 – 1** Lunch

**1 – 2:20** (16) Civil Disobedience; (17) Lake Peigneur Underground Gas Storage; (18) Texas Whooping Cranes

**2:30 – 3:50** (19) Micro Plastics; (20) Dead Zone; (21) The Levee Board Lawsuit

**4 – 5** Stump the Chumps

**5:30pm** – Keynote Speaker: Dr. Sylvia Earle

- Dr. Earle is one of the world's foremost oceans experts. Her impressive career has arced between academia to founding multiple ocean conservation organizations. Most recently she founded Mission Blue, an alliance of ocean conservation groups created to support a global move towards increasing the number of marine protected areas.

- **Introduction** – Tricia LeBlanc: Director of Education and Volunteers of Audubon Aquarium of the Americas and the Audubon Butterfly Garden and Insectarium

**Reception Immediately to Follow Keynote Address**

**Panel Descriptions:**

(1) Ethics:

- Ethics are imperative to effective practice of law. This panel will look at the obligations attorneys have to their clients and each other.
- Participants:
  - Robert S. Westley, Professor of Legal Ethics & Professional Responsibility, Tulane University Law School
  - William Boggs, Deputy Chief Defender, Public Defenders Office of New Orleans

(2) “Cancer Alley”: Rethinking the Term

- "Cancer Alley" - the section of the Mississippi River corridor between Baton Rouge and New Orleans - is nationally and internationally infamous. Nearly three decades after the term was first used, is it appropriate? This panel will discuss the science behind the name and associated legal issues.
- Participants:
  - Dr. Charles Miller, PhD – Professor Department of Global Environmental Health Sciences, Tulane University School of Public Health and Tropical Medicine
  - Dr. Patricia Williams, PhD, DABT – Associate Professor, University of New Orleans
  - Damon Kirin (moderator), JD, Adjunct Law Professor of Toxic Torts, Tulane University Law School, Partner at Diliberto & Kirin

(3) Gulf Coast Restoration: What’s the Plan?

The Louisiana Master Plan attempts to restore coastal Louisiana at a cost of \$50 billion. How well does it respond to sea level rise, and what alternative measures may be necessary.

- Participants:
  - Ed P. Richards – Clarence W. Edwards Professor of Law, LSU Law Center
  - David Muth – Louisiana State Director, NWF's Coastal Louisiana Campaign, National Wildlife Federation
  - Tim Osborn – Central Gulf Coast Region Navigation Manager, NOAA

(4) Living With Water: the Urban Water Plan

- Greater New Orleans has a long history of water management techniques to overcome catastrophic realities. Outbreaks of mosquito-borne illness were a regular phenomenon, so the city built pumps to eliminate standing water. Storm surges inundated streets and buildings, so levees were built. Today, we face a sinking landscape and rising tides. The New Orleans Plan ushers in a new era of adaptive management. Our panelists will

discuss what implementation looks like, the obstacles to overcome, and opportunities to navigate them.

- Participants:
  - Gil Rogers – Senior Attorney, Southern Environmental Law Center
  - David Waggoner – Architect for the Greater New Orleans Urban Water Plan, Co-Founder of Waggoner Associates
  - Robin Barnes – Executive Vice President and COO, Greater New Orleans, Inc.
  - Robert Miller – Deputy Executive Director, New Orleans Sewerage and Water Board

#### (5) Hydraulic Fracturing and Waste Water

- Hydraulic fracturing, among other things, consumes enormous quantities of fresh water, millions of gallons per activity per day. What are the alternatives? Is recycling realistic?
- Participants:
  - Liz Nolan – Assistant Counsel, Bureau of Regulatory Counsel, Pennsylvania Department of Environmental Protection
  - Andrew Williams – State Regulatory and Legislative Affairs Manager, Environmental Defense Fund
  - Barry Stevens, PhD – Founder and President, TBD America, Inc.
  - Ken Gelburd (moderator) – Attorney, Pennsylvania Federal Bar Association Section on the Environment, Energy and Natural Resources

#### (6) Montana Mining, Water and Hazardous Waste

- Mining law in Montana from the Copper Kings to today. A history of land and water abuse, and a search for a remedy.
- Participants:
  - Pat Munday, PhD – Professor and Department Head of Technical Communication, Montana Tech
  - John Ray, PhD – Professor of Political Science and Public Policy, Montana Tech, President of Citizens Technical Environmental Committee
  - Amy Stein (moderator) – Associate Professor of Law, Tulane University Law School

#### (7) Shark Finning: What's Next?

- US federal law banned shark finning in US waters in the early 2000s. However, the sale of fins has remained legal and various states, especially on the west coast, have instituted their own bans. Does federal law preempt state initiatives, and where do we go from here?
- Participants:
  - Dominique Cano-Stocco – Campaign Manager, Oceana
  - Sergeant Adam Young – Enforcement Division, LA Fish and Wildlife Service

#### (8) Menhaden Fisheries – the most valuable fish in the sea?

- Ever heard of menhaden? Commonly known as “pogies”, menhaden are caught throughout the Atlantic Ocean and the Gulf of Mexico, ground up, and added to commercial feed for livestock and farmed fish, domestic pet food, and even human

dietary supplements. As importantly, menhaden are vital to the ocean life as a food source for larger fish, marine mammals and sea birds, and their life behaviors help keep cleanse pollution. They are in trouble. Now what?

- Participants:
  - H. Bruce Franklin, PhD – The John Cotton Dana Professor of English and American Studies, Rutgers University—Newark, Author of *The Most Important Fish in the Sea: Menhaden and America*
  - Marianne Cufone, Esq. – Environmental Policy Advocacy Clinical/Environmental Program Manager, Loyola University of New Orleans School of Law, Executive Director: Recirculating Farms Coalition
  - Captain Louis Skrmetta, Ship Island Excursions in Mississippi
  - Andrea Jones Rogers (moderator) – Loyola University of New Orleans School of Law

#### (9) Controlling Plastic Pollution through International Law and Extended Producer Responsibility

- Marine plastics are pandemic. This panel focuses on Extended producer responsibility programs as a way to address the problem. Papers from this session will be included in the next issue of the Tulane Environmental Law Journal.
- Participants:
  - Megan Herzog – Emmett/Frankel Fellow in Environmental Law and Policy, UCLA School of Law
  - Mark Gold – Associate Director, UCLA Institute of the Environment and Sustainability
  - Leila Monroe – Staff Attorney, Oceans Program, NRDC
  - Lisa Boyle (moderator) – Staff Attorney, 5 Gyres Institute

#### (10) The Future of Civil Works: SMART Planning & NEPA Streamlining

- To better meet our nation's water resource needs, the planning process for water infrastructure projects is getting reworked both internally and externally. Internally, the Army Corps of Engineers revised its approach in 2012 with the goal of increasing “efficiency.” Externally, Congress is working itself towards “streamlining” provisions of the National Environmental Policy Act. Our panelists will discuss the impacts of these changes on civil works planning and public participation, on which we all depend
- Participants:
  - Theodore “Tab” Brown – Chief of Planning and Policy, US Army Corps of Engineers Headquarters
  - Matt Rota – Senior Policy Director, Gulf Restoration Network
  - Harry Vorhoff (moderator) – Senior Research Fellow, Tulane Institute on Water Resources Law & Policy

#### (11) Polar Bears, Species at Risk and Climate Change

- This panel focuses on the plight of species at risk in an era of climate change, including the well-known Polar bear and also smaller species found nearer to home. It also addresses creative uses of the law to address the problem.
- Participants:

- Jason Rylander – Senior Staff Attorney, Defenders of Wildlife
- Dr. Karyn Rode – Research Wildlife Biologist, USGS Alaska Science Center
- Paul Hartfield – Invertebrate Biologist, Fish and Wildlife Service
- David A. White (moderator) – Professor of Biological Sciences, Loyola University of New Orleans

(12) The Elk River Disaster: Can It Happen Here?

- On January 9<sup>th</sup>, 2014 over 7,500 gallons of 4-methylcyclohexane methanol spilled into the Elk River in West Virginia. The area is now a federal disaster area. Like Charleston, WV, New Orleans sits downriver from an array of industrial developments. Could it happen here too?
- Participants:
  - Kevin Thompson, Esq. – Thompson Barney PLLC
  - (invited) Joe Becker – New Orleans Sewerage and Water Board

(13) Ocean Acidification: Can the Clean Water Act Help?

- Ocean acidification is a global problem of a truly massive scale The Clean Water Act regulates ocean pH levels. Is the Act a useful tool for battling one of the most adverse effects of global climate change?
- Participants:
  - Julia Roberson – Director of the Ocean Acidification Program, Ocean Conservancy
  - Erica Ombres, PhD – NOAA Ocean Acidification Program
  - Stephan Howden, PhD – Associate Professor of Marine Science, The University of Southern Mississippi

(14) Appalachian Uranium Mining: More Trouble in the Mountains

- The uranium industry is making a well-financed push to repeal a long standing mining ban in Appalachia to begin to excavate and process uranium, starting in Southside Virginia. Drinking water, human health, farmland, property values, wildlife and tourism across Virginia are at risk.
- Participants:
  - Deborah Ferruccio – Grassroots Activist
  - Andrew Lester – Executive Director, Roanoke River Basin Association
  - Chris Pugsley, Esq. – Attorney, Thompson & Pugsley PLLC
  - Dr. Brent Blackwelder, PhD (moderator) – Professor of Environmental Sciences and Policy, Johns Hopkins University

(15) Hydro Power in China: Panacea or Problem?

- China's hydropower sector has boomed, as have adverse effects on aquatic life and systems. Both panelists have extensive backgrounds in dealing with Chinese history and its energy sector's growing dependency and insistence on hydroelectricity as a sustainable source of power. Is mitigation possible?
- Participants:
  - Dr. Charlton Lewis, PhD – Professor of Chinese History, Yale Environment 360

- Dr. S. T. Hsieh, PhD – Director of the US/China Energy and Environmental Technology Center, Payson Center, Tulane University
- Siu Tip Lam (moderator) – Assistant Professor of Law, Program Director of US-China Partnership for Environmental Law, Vermont Law School

(16) Radical Environmentalism: Civil Disobedience?

- Environmental Law and policy has reached a plateau while new and larger threats appear. Recent arrests of protesters of mega-mines in Latin American and Asia, of deepwater drilling in the Russian Arctic, and of the Keystone XL pipeline make headlines, and dramatize these issues, But at what cost? Is civil disobedience an effective strategy for pursuing change?
- Participants:
  - Randy Hayes – Co-Founder, Rainforest Action Network
  - Todd Myers – Director, Center for the Environment, Washington Policy Center
  - Dr. Brent Blackwelder, PhD (moderator) – Professor of Environmental Sciences and Policy, Johns Hopkins University

(17) Lake Peigneur: A Region at Risk

- Underground salt caverns are used in Louisiana to store natural gas, butane, and propane. Some have experienced accidents. The Louisiana Department of Natural Resources has received a permit application to authorize expansion of an existing cavern storage operation through creation of two new caverns for storage of natural gas. Now what?
- Participants:
  - Blake Hudson – Burlington Resources Associate Professor in Environmental Law, Edward J. Womac, Jr. Associate Professor in Energy Law, LSU Law Center
  - Nara Crowley – President, Save Lake Peigneur, Inc.
  - Patrick Courreges (or other rep.) – LA Department of Natural Resources

(18) Texas Whooping Crane

- As Texas and other western states allocate scarce water resources, how much is left for critically vulnerable species? The global population of Whooping Cranes has struggled to reach approximately 200 individuals, but water rights in Texas may determine their future. Current litigation on behalf of this endangered species has the potential to dramatically alter environmental law and western water rights.
- Participants:
  - Dr. Charles Irvine, PhD – Attorney, Blackburn & Carter, Aransas Project
  - Andy Jacoby – Attorney, Jones, Swanson, Huddell & Garrison, LLC
  - Dr. Ron Outen, PhD (moderator) – Regional Director, Aransas Project

(19) Legislative Solutions to Plastic Pollution: From Plastic Bags to Microbeads.

- Two plastics issues on tap: industry, New York's proposed plastic bag ordinance, and the impacts of microplastics used in personal care products. Each holds a piece of the answer.
- Participants:
  - Jennie Romer, Founder & Director, Plasticbaglaw.org
  - Rachel Doughty, Attorney, Greenfire Law

- Lisa Boyle (moderator) – Staff Attorney, 5 Gyres Institute

(20) Dead Zone: Litigation Needed?

- Each year the Mississippi Gulf dead zone increases. The costs to marine life, fisheries, and the overall viability of the coast, even state restoration plans, are large. Federal law requires that water quality standards be met by all states. They are not meeting them. Can the law step in?
- Participants:
  - Blake Hudson – Burlington Resources Associate Professor in Environmental Law, Edward J. Womac, Jr. Associate Professor in Energy Law, LSU Law Center
  - Matt Rota – Senior Policy Director, Gulf Restoration Network
  - Monica Reimer – Staff Attorney, Earthjustice
  - Brett Korte (moderator) – JD Candidate, Tulane University Law School

(21) Levee Board Suit: THE CASE

- The New Orleans Levee Board's pursuit of environmental damages against the oil industry for nearly a century of canal construction and wetlands degradation has captivated the state, and enraged the political establishment. Here's what it's about.
- Participants:
  - Mike Veron – Attorney, Veron, Bice, Palermo & Wilson
  - Gladstone Jones – Attorney, Jones, Swanson, Huddell & Garrison, LLC
  - John A. Lovett – Associate Dean for Faculty Development, De Van D. Daggett, Jr. Distinguished Professor of Law, Loyola University of New Orleans School of Law
  - Bob Marshall (moderator) – Pulitzer Prize Winning Reporter at The Lens