TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law and Policy
July 24, 2013

Wowza. Louisiana Flood Protection Authority Sues Oil Companies for Damage to Wetlands

In a move that some are calling audacious and others are calling overdue, the Southeast Louisiana Flood Protection Authority has filed suit against more than 100 oil and gas firms for damaging and not repairing the wetlands that buffer the levee system the Authority manages. At the heart of the suit are two facts. First, that the levees protecting most of metropolitan New Orleans work best with lots of wetlands in front of them that buffer the effects of hurricanes. And second, that the cost of maintaining and operating those levee systems is the Authority's responsibility even though the levees were built by the Army Corps of Engineers. The Authority is about to take custody of the upgraded levee system and is apparently coming to terms with just what that is going to mean in terms of cost and its place in the coastal landscape. It plainly thinks that all or some of the oil gas firms have unmet legal duties that could help the Authority deliver is promised level of storm protection. Stand by for what promises to be a thrilling ride. For more see:

"Suit seeks damages from oil companies for coastal erosion," Jeff Adelson, The Advocate, July 24, 2013.

"Historic lawsuit coming against Big Oil," Clancy Dubos, The Gambit, July 24, 2013.

"Science to be key factor in lawsuit against oil and gas companies for coastal loss," Bob Marshall, The Lens, July 23, 2013.

"East Bank levee authority to file lawsuit Wednesday aimed at getting oil, gas, pipeline firms to restore wetlands and ridges," Mark Schleifstein, NOLA.com, July 23, 2013.

"Louisiana flood board to sue oil companies over erosion," Michael Kunzelman and Kevin McGill, AP, July 23, 2013.

"Louisiana Agency to Sue Energy Companies for Wetland Damage," John Schwartz, New York Times, July 24, 2013.

Slowing the Salt: USGS Models the Effects of Managing Saltwater Migration in Baton Rouge

Unlike New Orleans and many other river communities, Baton Rouge gets its drinking water from aquifers, aquifers that have seen saltwater encroaching for decades. These aquifers provide about 167 million gallons of freshwater for public supply (i.e. drinking) and industrial supply each day. Because this salt water intrusion is not so much a natural phenomenon as it is induced by pumping groundwater, interest has been growing in just what might be done to avoid or lessen the problem. A new report from the United States Geological Survey considers that question, modeling a number of scenarios and projecting their impacts on the Baton Rouge's groundwater. Of course it still remains for someone to do something with these or other alternatives. The obvious someone's are the Capital Area Groundwater Commission and the Louisiana Water Resources Commission.

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:

July 24-25, 2013
National Academy of Sciences
Gulf Program Advisory Group Meeting
New Orleans, LA

July 30 & 31, 2013
Toledo Bend Hydroelectric Project
FERC Public Meetings for Draft EIS
Orange, TX & Many, LA

October 24-26 2013
Lake Pontchartrain Basin Foundation
Basics of the Basin 2013
New Orleans, LA

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The Never Ending Story—Georgia versus Alabama and Florida

There have been the Hatfields and the McCoys, the Capulets and the Montagues, the Trojans and the Greeks, and we now have Georgia versus Alabama and Florida at least where water is concerned. The latest skirmish took place before members of the U.S. Senate Committee on Environment and Public works in a hearing called by Alabama Senator Jeff Sessions. (For the record, only two committee members were actually there, including Senator Sessions). At issue was the frustration felt by Alabama and Florida over the Army Corps of Engineers perceived bias toward providing drinking water to Georgia from federally authorized reservoirs on the Apalachicola, Chattahoochee and Flint Rivers. The Committee has shown a growing desire to have the states come to an agreement over water management, but, given the dismal history of negotiations between these states and Georgia's recent successes in the courts and with the Corps, one has to wonder just how realistic that option is.

Fisheries Lesson 3: Revisiting Lessons 1 & 2

Loyal readers may recall that last week we covered coastal restoration efforts in Louisiana by the state and federal agencies. In that coverage, we attempted to give a very brief explanation of "essential fish habitat" (EFH) from the Magnuson-Stevens Act. We've since heard from our friends at National Marine Fisheries Service (NMFS) who have given us a more nuanced understanding of EFH, and we're pleased to share the lesson with you. First of all, the maps we linked to are not an accurate depiction of EFH, and so the description of brown shrimp EFH was incorrect. To find an accurate (though not terribly digestible) description of EFH for monitored species in the Gulf, see Generic Amendment Number 3 from the Gulf of Mexico Fishery Management Council. At the least, we (and we hope now you) do understand that EFH is not an on/off switch. There are degrees of productivity for EFHs, and a single action or inaction of coastal restoration does not simply create or delete EFH. A project such as barrier island restoration that does create dry land like dunes is almost certainly part of a larger project that creates a net improvement of EFH even if, on a micro level, it damages or even destroys some fisheries habitat. Class dismissed, again.

Dancing Around Global Water Shortages

It comes as no surprise that water shortages are a problem in the Middle East and elsewhere around the globe. After all, there have been scores of reports, whitepapers, articles and cable documentaries telling us that. But Tunisia's Hammamet International Festival, in case you missed it, took a more novel approach to addressing the water shortages in the Palestinian territories and elsewhere. They danced to music and poetry. Director Nawal Skandrani is quoted as saying (quite correctly) that water problems are not just concerns for policymakers. Still unanswered is the question of whether a dance can be fit into the typical 3 minute public comment slot allowed at state and federal public meetings.