

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law and Policy
June 4, 2014

Bill to Kill Levee Board Lawsuit Passes Legislature, but What Else Does It Kill?

[Senate Bill 469](#) passed the Louisiana legislature last week and is sitting on Governor Jindal's desk awaiting his signature or veto. The bill's intent is to protect the oil and gas industry and kill the lawsuit brought by the Southeast Louisiana Flood Protection Authority – East (SELFPA-E). It is a killing that Gov. Jindal himself called for. But the bill, if it becomes law, could do a lot more than that, a concern that has prompted the Governor to [delay signing the bill](#).

The gist of the concern is that the bill could limit state and local claims under the Oil Pollution Act and other laws, even possibly extending to the ongoing proceedings against BP stemming from the Deep Water Horizon disaster. This question was raised in a [memo](#) signed by a number of legal scholars (including this Institute's director, in the interest of full disclosure) and a retired judge. Louisiana Attorney General Buddy Caldwell asked the governor for time to review the bill for these consequences. So for now, Gov. Jindal waits, but if he waits twenty days, the bill becomes law without his signature.

RAND Corp. Reports on Value of Louisiana's (& RAND's) Coastal Planning Work

It might be easy to forget now, as it has become a part of our daily lives, but Louisiana's Coastal Protection and Restoration Authority's (CPRA) 2012 Comprehensive Master Plan was a major accomplishment in addressing problems plaguing our coast. Many of those problems affect other coastal regions, and few of those regions have as robust a plan as Louisiana's. RAND, which supported CPRA's efforts in Louisiana, thinks other regions should follow suit. RAND's study [recommends](#) other regions copy Louisiana's decision-making process that valued public participation, technical analysis, and a robust & adaptive long-term strategy. That process has not resolved all the questions or made everyone happy, but it has moved the level of discussion, and even disagreement, to a different plane. Perhaps that is what progress most often looks like.

In Memoriam: SCR78, Louisiana Water Code Resolution

Earlier this spring, Sen. Dan Claitor introduced a [resolution](#) to ask the Louisiana State Law Institute to form a committee to draft a water code. It was passed unanimously in the Senate, but failed to make it out of the House Natural Resources Committee before the end of this year's legislative session. This is highly

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:

[Restore America's Estuaries and Coastal Society Summit on Coastal and Estuarine Restoration](#)

November 1-6, 2014
Washington, DC

Water jobs:

[Water Resources Manager](#)
Mississippi River Network &
National Wildlife Federation
Washington, DC

[Executive Director](#)
Center for Climate Change Law,
Columbia Law School

[Gulf Guardian Fellowship](#)
Gulf Coast Center for Law & Policy
Gulf States

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likely to be revisited in the future as Louisiana comes to terms with both the limits and values of its water resources.

Summer Beach Reading: Latest Louisiana Nutrient Management Strategy Released

Louisiana takes another whack at the Gordian knot of nutrient pollution and hypoxia with the release of the [Louisiana Nutrient Management Strategy \(May 2014\)](#). The strategy aims to work in concert with efforts elsewhere in the Mississippi River Valley to reduce the excessive amounts of nutrients (nitrogen and phosphorus) that lead to hypoxic “dead zones” in the Gulf of Mexico and shallow coastal waters. Despite years of talking, planning, and efforts to encourage practices that would limit nutrient runoff from fields and communities, the problem has been depressingly persistent. The Louisiana strategy focuses on the nutrients that are contributed from within the state of Louisiana, a relatively modest contribution, and relies heavily on the use of coastal wetlands to take up those nutrients. The Strategy cites a number of “river diversion” projects contained in the state’s 2012 Coastal Master Plan that could, over time, remove more nutrients than Louisiana contributes to the waters flowing to the Gulf. Those diversions, however, are largely matters of conjecture right now, being mostly unauthorized, unfunded, or subject to being [reconsidered](#). Even then, most of the benefits from those projects would be decades away, well outside the 5 year horizon of this Strategy.

California’s Mellow Water Bodies Harshed by State-Federal Gap in Regulation of Marijuana Farmers

California allows medical marijuana use and cultivation. The federal government does not. Marijuana farmers, mostly in the state’s remote northern counties, are left in a gray zone—legal, but ineligible for federal programs depended upon by other farmers. Granted, other farmers’ crops aren’t worth \$3,000/lb. However, all crops, legal and illegal, need one thing – water. The feds, who are bending over backwards to try and find a way to irrigate farms during California’s drought (see last week’s TUWW), say that weed farmers are [not eligible](#) for any federal irrigation waters, even in Washington or Colorado where recreational pot use is now legal. So what are weed farmers to do? Well, in California they’re using illegal fertilizers and appropriations of headwater streams to create a [water quality and quantity crisis](#) in several counties. Counties are trying to zone these harmful farms away. Lake County has banned outdoor farms, and the zoning and code battle will continue. However, printed words on paper don’t win battles without a sufficient army of enforcers.

Gulf Guardian Fellowship Application Now Open

The [Gulf Coast Center for Law & Policy](#) has opened fellowships for an 18 month program focused on social and ecological equity in the Gulf region. The program is opened to all individuals 18 years or older who live in a Gulf state and would work on a project addressing the causes, consequences, or solutions for social inequity or climate change. If this is you, take a look.

Rocket Scientists Getting Out of the Way of Rising Seas

NASA is looking for [higher ground](#). NASA is trying to get out of the way of sea level rise, subsidence, and storm surge. From Virginia, to Cape Canaveral, to Houston, to San Francisco, NASA facilities are building seawalls where they can and moving to higher ground where there’s space. Think they know something the rest of us don’t?

South American Capitals Grapple With Water Issues both Chronic and Acute

Caracas residents face unsafe, rationed water and skyrocketing costs. Venezuela’s inflation crisis has already created shortages of basic foodstuffs and soaring costs for everything else. The economic crisis has combined with a drought to inflict a [water shortage](#) on *caraqueños* who are even running out of jugs for water due to a lack of plastic.

Lima, Peru, on the other hand, just keeps growing, but its water infrastructure does not. Instead water tank trucks [deliver water](#) like milkmen once delivered eggs and milk in the US. In decades past, the government dealt with insurrections and economic crises, so it couldn’t build the water infrastructure to keep up with growth. Now, things are going well for Peru and the economy is growing, but the water infrastructure doesn’t grow with it. On the other hand, perhaps residents don’t want it to grow – what water treatment and supply system there is untrusted by users due to upstream [mining operations](#).