TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy
November 1, 2020

Water's Lying on the Moon

That's right - not only have we put a man on the moon, we have also found water on the moon. This week, NASA made the momentous discovery that Earth's moon has water and ice on the sunlit surface. It was previously believed that there was only water and ice on the shadowed portions of the moon's surface, but with this discovery it is possible that water could be more widely distributed across the moon. However, NASA is still working towards understanding how water could be created in the airless conditions of the moon's atmosphere, how it is stored there, and exactly how much of it there is. The amount detected by SOFIA (NASA's Stratospheric Observatory for Infrared Astronomy) was fairly minimal – there is approximately 100 times that amount of water in the Sahara Desert. So we definitely aren't talking lakes or even puddles here, but there is still much to be discovered. And if there does turn out to be more, this would have serious implications in the water law and policy world – namely who has rights to that water, if anyone? Perhaps satirical articles won't be too far off. If not, this is still an incredibly important breakthrough, particularly in the water and space science community, because of the questions it raises regarding how even small amounts of water can exist and persist in harsh atmospheres. But until more deep space exploration is done, we'll just keep being moonstruck by this discovery.

Like Paper in Fire

We've heard a lot in the past few months about the wildfires plaguing the western United States, but that region isn't the only place suffering such hardships this fall. In South America and primarily Brazil, the world's largest wetland is being demolished by wildfires. The Pantanal wetland, which is larger than Greece, has lost almost a quarter of its area to fires this year. Not only is this 42 million acre wetland extremely biodiverse and home to species (some of which are endangered) such as jaguars, giant otters, tapirs, and hyacinth macaws, it is also extremely important for flood control, water purification, carbon storage and more. Over 90% of the Pantanal is privately owned, mainly by ranchers, who annually use fires to clear fields. But this year, climate change-fueled drought made the fires impossible to control, leading to the horrendous situation playing out there now. Despite fires being regularly used as a farming technique, Brazilian police are investigating the fires because most local farmers know better than to burn in such dry conditions; police believe some of the fires may have been purposeful. No matter the cause, the loss of such a large area of wetlands is devastating for South America and the world, and will no doubt have long-term consquences.

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 legal stewardship of water.

Coming up:

CPEX Virtual Growth Summit: Relapse or Resilience: Healthy Community Design; November 5

PFAS: Learn How to Navigate the Evolving Regulatory and Legal Landscape; November 5

AWWA: Swan International Smart Water Symposium; Virtual/Denver, CO; November 10-11

Drinking Water Webinar: Creating Resilient Water Utilities; November 17

Property Values and Water Quality: Supporting Decisions with the Hedonic Model; November 18

Drinking Water Models and Tools; November 18

CPEX Virtual Growth Summit: Green Infrastructure in the Delta; November 18

Rocky Mountain Mineral Law Foundation: Water Law Institute; November 19

Water jobs:

Water Rights and Instream Flow Specialist; Montana Dept. of Fish Wildlife and Parks; Helena, MT

Programme Associate; Global Water Partnership; Stockholm, Sweden

Associate Attorney; Earthjustice; Seattle, WA

Staff Attorney; Delaware Riverkeeper Network; Bristol, PA

Senior Specialist (Water Stewardship); Gap, Inc.; San Francisco, CA

Hydraulics and Hydrology Lead; Dewberry; Raleigh, N.C.

Great Lakes Equity and Justice Partnerships Senior Coordinator; National Wildlife Federation; Chicago, IL

Surface Water Storage Fellowship; EPA; Cincinnati, OH

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Down By the Lakes

In late 2018, Enbridge announced its agreement with the Mackinac Straits Corridor Authority to build the Great Lakes Tunnel, an oil pipeline that will run underneath the Great Lakes as relocated housing for a pipeline that already exists, "Line 5." More specifically, the pipeline would run under the Straits of Mackinac, which connects Lake Michigan with Lake Huron - both of which are used as drinking water sources in the region. The company claims that there is almost no chance of leaks or incidents, but understandably, many are skeptical. Environmental and native groups have fought against the plan since its announcement, and Michigan Governor Whitmer has joined them in calling for its end. This week, a Michigan administrative law judge ruled that the Michigan Public Service Commission has authority to evaluate the Great Lakes tunnel plan before the project proceeds. The ruling holds that the agency can evaluate the need for the project and its impacts on public safety, but cannot get into broader environmental impacts, such as the project's contributions to climate change. Environmental groups say they are going to appeal that second portion of the ruling, but are pleased with the first part. Enbridge also must still obtain permits from the Michagan Department of Environment, Great Lakes Energy, and the Army Corps of Engineers – so there are still a few hurdles it must get over before moving forward.

Draining the Backwater

We mentioned it last week, but wanted to go into a bit more detail on the Yazoo Pumps project that the Trump Administration has been pushing to revive the past few years. The Yazoo Backwater Area is a natural floodwater storage area for the Mississippi and Yazoo Rivers. Thus, much of the area is subject to a two-year flood, meaning it has a 50% chance of flooding any given year. Due to increased private land ownership in the area, specifically by agricultural interests, it was isolated from the rivers by levees, and in 2000 the Army Corps released the Yazoo Backwater Area Reformulation Study, a drainage plan for the area. The study and plan had numerous problems, therefore in 2008, the Bush Adminstration's EPA vetoed the project because of the mass damage it would have caused to wetlands in Mississippi. This was only the 12th Clean Water Act Section 404 veto in the EPA's history, and the agency said the project could not move forward because it would cause "unacceptable damage." The Trump Administration has been trying to revive the Yazoo Pumps project, and announced in April that it would move forward by publishing a notice of intent to prepare a new Supplemental Environmental Impact Statement ("SEIS"). The Army Corps just released this new Draft SEIS on the Yazoo Pumps project last week, and it is available for public comment. Check it out for yourself here (as well as the old versions if you're really interested) and get your comments in by November 30th.