

# TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law and Policy  
October 3, 2013

## IPCC's Fifth Assessment Report Shows Climate Change a Fact of 21<sup>st</sup> Century Life

The Intergovernmental Panel on Climate Change, a UN scientific body created to review and assess climate-change studies released its [Fifth Assessment Report](#) last week, and, although there were no surprises in the report since it was "leaked" over the summer, the report's contents were still enough to make much of the world take notice (be thankful we resisted the urge to make each word in this article a different hyperlink to articles on and reactions to the report).

Summaries of the report are [widely available](#), but the basics of the [results](#) are a 95% certainty of human-induced climate change, an ability to limit change in the latter half of the 21<sup>st</sup> century through limiting carbon emissions today, and an estimated sea-level rise of 21 to 38 inches by 2100.

If 21 to 38 inches before 2100 doesn't sound like a huge amount of sea-level rise, then you don't live in South Louisiana, Florida, or a large number of [island nations](#). Also, keep in mind that the IPCC's Fourth Assessment Report showed a sea level rise of 7 to 32 inches by 2100, so don't be surprised by a larger sea level rise estimate in the Sixth Assessment Report in a few years.

## MRGO Ecosystem Restoration Plan Approved by OMB

The Office of Management and Budget has [approved](#) \$1.335 billion of the Corps of Engineer's \$3 billion plan for restoring 57,000 acres of coastal Louisiana east of the Mississippi River. In order to proceed, the Corps will need to find an entity to pick up the non-federal share.

## New Flood Insurance Rates Now in Effect and the True Cost of Water Management gets Clearer

After repeated attempts by Representatives and Senators from Louisiana, Florida, and New Jersey to delay the start of the Biggert-Waters Act went nowhere, rate hikes for the National Flood Insurance Program [kicked in](#) October 1st. Although Louisiana Treasurer John Kennedy [proposed](#) a state-run flood insurance program, others have [noted](#) that localized insurance defies the fundamental basics of insurance economics. Given the current state of Congress and the federal government (or lack thereof), no one should expect much resolution to the situation (including finalization of flood maps?). Regardless of the ultimate outcome, the Biggert-Waters induced premium increases offer a taste of the cost of not investing in coastal restoration, hurricane protection, and hazard mitigation. There simply is no escaping the reality that it will cost more to live and work in flood risk areas. The real question is who will pay, who much, and what will it will buy.

## Meet the New Boss, Same as the Old Boss?

Following Hurricane Katrina, anger and frustration pared up

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:

**October 19<sup>th</sup> 12:00pm – 4:00pm**  
[Second Annual Anba Dlo Water Symposium](#)  
New Orleans Healing Center  
New Orleans, LA

**October 20<sup>th</sup> 9:00am**  
[Day Paddle on the Tangipahoa River](#)  
Land Trust for Louisiana  
Independence, LA

**October 24-25, 2013**  
Lake Pontchartrain Basin Foundation  
[Basics of the Basin 2013](#)  
New Orleans, LA

**February 21-23, 2014**  
Tulane Environmental Law Summit  
Tulane Law School  
New Orleans, LA

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with a reborn civics movement in Southeast Louisiana to revamp the state agencies charged with protecting the region's communities from hurricane flooding. A big part of the effort was aimed at increasing the professionalism of what became the Southeast Louisiana Flood Protection Authority (SLFPA) and [taking the politics out](#) of flood protection. Previously flood protection was the province of boards dominated by folks appointed by and accountable to Louisiana's Governor. A recent law suit filed by the SLFPA-East against a number of oil and gas firms has raised questions about just how far beyond politics the Authority is. Faced with filling three vacancies on the Authority, an independent nominating committee advanced a [slate of candidates](#) for the Governor to choose from. The absence of Authority Vice President John Barry from that slate and statements from the Governor's office that support or opposition to the suit would be a "litmus test" for selection by the Governor have [fueled concern](#) over the Authority's independence. Plainly, political concerns entered into the committee's thinking though there was no discussion (that we know of) of the nominees' views on the pending litigation. Regardless of the merits of the lawsuit or the ultimate names selected by the Governor, it seems clear that the Governor retains a great deal of influence over who handles flood protection in Southeast Louisiana, more than many thought was supposed to be the case.

### **Florida Files Suit in Supreme Court Against Georgia for Apalachicola River Water**

On Tuesday, Florida followed through on Governor Rick Scott's promise to sue its upstream neighbor over dwindling waters in the Apalachicola-Chattahoochee-Flint river system. A 2011 appellate court ruling upheld a Corps of Engineers decision to allow the use of Lake Lanier for water supply for metropolitan Atlanta, but the [suit](#) asks for the Supreme Court to [cap](#) Georgia's overall water use levels at 1992 levels and for a special master to equitably divide the water resources of the basin. The suit likely won't be considered by the Supreme Court until next year, but we will be watching for developments.

### **Ohio Appellate Court Says No to Sewer District's Drainage Fee**

As part of an effort to fund various erosion control and storm-water management projects, The Northeast Ohio Regional Sewer District enacted a fee for storm-water control in 2010 and has already collected \$12 million in fees for draining runoff from property owners' hard or impervious surfaces. A district court judge ruled that the fee was legal and that managing storm-water was within the authority of the district, but the appellate court [said](#) that runoff is not waste water and barred the fee. From here, the sewer district can (and will) appeal to the Ohio Supreme Court and can look to the state legislature to pass a law to clearly define water to include runoff. A drainage fee has been discussed as part of the future of storm-water management in New Orleans, so resolution of the matter in Ohio could have an effect in the Crescent City.

### **Inland Waterways Infrastructure So Bad That Barge Industry Says "PLEASE TAX THE BARGE INDUSTRY!"**

File this one under "requiring congressional action, so not going to happen any time soon" (again), but the barge industry is [petitioning](#) Congress to increase taxes on the barge industry. The industry and others who rely on the barge industry are asking for an increase in the fuel tax shippers pay in order to reinvigorate the Inland Waterways Trust Fund. The Fund pays for inland navigation infrastructure, but does not contain nearly enough to cover needed projects. The groups are asking for the tax hike to be added to the House's WRRDA bill that was originally slated to see the House floor on October 7. The hike was not included in the Senate's WRDA bill or the House WRRDA bill that made it out of committee last week.

### **California's Water Infrastructure Bad & Californians Know It, but Don't Want to Pay for It**

A new USC/LA Times [poll](#) shows that Californians know that their water supply system needs major improvements, but that same poll shows that they're not willing to pay for those improvements. When asked about proposals to improve levees & clean groundwater or the San Joaquin Delta [tunnel](#) proposal, California voters were in favor of the concepts, but when told the cost to California taxpayers, support dropped greatly. Presumably, pollsters didn't inform those polled what the cost of not improving infrastructure would be.

### **Freighter Completes Northwest Passage, Henry Hudson Spinning in His Watery Grave**

A large freighter leaving Vancouver [passed](#) over the top of Canada on its way to Norway this week to become the first large freighter to make the Northwest Passage. The route is 1,000 nautical miles shorter than going through the Panama Canal, saves fuel, allows for deeper draft ships, and never existed until global warming got the polar bears and their sea ice out of the way. Maritime analysts are saying that large scale shipping through the Arctic is at least ten years away.

### **There's Water on Mars! Tulane Institute on Water Resources Law & Policy Considers Expansion to the slopes of Olympus Mons**

NASA's Mars rover Curiosity has found that [Martian soils](#) contain water! About two percent of the soil in Hale Crater is water. Clearly the next step is to establish some water law and policy on the Red Planet. As soon as our new branch is set up, we will be hosting a reception. See you there in 2113!