

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law and Policy
September 14, 2012

Flooding in the Lower 9th Ward and St. Bernard Parish on Trial in Federal Court (Again)

Judge Stanwood Duval is hearing a trial deciding whether the levee separating the Industrial Canal and the Lower 9th Ward was overtopped or collapsed due to negligence by the Corps of Engineers and its contractors. Although Judge Duval already decided the Corps was partly responsible for the flooding due to negligence of the Mississippi River Gulf Outlet, this trial will decide liability for the other point of entry for the water into the Lower 9th Ward, Arabi, and other parts of St. Bernard Parish.

[Hurricane Katrina flooding in Lower 9th Ward, St. Bernard Parish heading to court, Mark Schleifstein, The Times-Picayune, September 10, 2012.](#)

Getting to Why: Studies Look at Isaac's Floods.

The flooding caused by Hurricane Isaac is obvious but the same can't be said for its reasons. Whether the flooding was just a factor of the storm's track and ill-mannered lingering, our coast's ongoing collapse, or was linked to the upgraded levees and flood walls around metro New Orleans is topic of broad discussion. The answers may come from a series of studies to be conducted by the Army Corps of Engineers and at least two other groups. In addition to the Corps' own study, the Louisiana Water Resources Council and the recently created Water Institute of the Gulf will review the flooding and the Corps' study.

[Corps to get independent review of how new structures impacted Isaac flooding, Bruce Alpert, Times-Picayune, September 12, 2012.](#)
[Water Institute to Probe Isaac Flooding, David Jacobs, Business Report, September 12, 2012.](#)

White House issues Executive Order re: RESTORE Act and NRDA Trustees.

On Monday, President Barak Obama released an executive order regarding the post-Deepwater Horizon restoration efforts. The order structures the hand-off from the President's Gulf Coast Ecosystem Restoration Task Force to the Gulf Coast Ecosystem Restoration Council, created by the recently enacted RESTORE Act. It reinforces language in the RESTORE Act that the Council's Comprehensive Plan will follow the Task Force Strategy. The Comprehensive Plan will dictate how 60% of the Gulf Coast Restoration Trust Fund will be spent. The Order also added both the EPA and the USDA to the Natural Resource Damage Assessment Trustee Council. The NRDA process is separate from the Council and the Restoration Trust Fund.

[Obama creates new council to oversee Restore Act ecosystem restoration, Bruce Alpert, Times-Picayune, September 10, 2012.](#)
[Landrieu says Obama must fund RESTORE act she helped pass, Amite-Tangi Digest, September 10, 2012.](#)

Louisiana DEQ Gives Mixed Signals on Braithwaite Chemical Spill

Stolthaven, which operates a petroleum and chemical storage facility south of New Orleans, now says there may have been a release of toxic chemicals from its Braithwaite facility during

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:

[September 25, 2012](#)

Louisiana Hypoxia Meeting
10:00 AM
Room 1215
LSU Coast & Environment Building

[September 25-27, 2012](#)

America's Great Watershed Initiative Summit
St. Louis, MO

[October 17, 2012](#)

America's Wetland Foundation
"Big River Thrives"
Memphis, TN

[October 20-25, 2012](#)

Restore America's Estuaries Conference
Tampa, FL

[February 22-23, 2013](#)

18th Annual Tulane Environmental Summit

Tulane Institute
on Water Resources Law & Policy

6329 Freret Street, Suite 155G
New Orleans, LA 70118
504-865-5982

<http://www.law.tulane.edu/enlaw/>

Hurricane Isaac. Just one day before, LDEQ said there had been no offsite contamination. At issue is not only the extent of any spill but the adequacy of the disaster plans at the facility which lies outside of the hurricane levee system that was upgraded following Hurricane Katrina.

[Stolthaven Braithwaite terminal may have released more than 191,000 gallons of toxic chemicals during Isaac, Mark Schleifstein, The Times-Picayune, September 13, 2012.](#)

Louisiana Water Resources Committee Meeting Postponed

Due to the Department of Natural Resources' continued response to Hurricane Isaac, the Water Resources Commission meeting previously scheduled for Wednesday, September 19, 2012 in Baton Rouge will be rescheduled to a later date. Notice will be provided when a new meeting date is determined. If you have any questions, you may contact Charlotte Hardison at Charlotte.Hardison@la.gov.

BP Oil Confirmed & Deep Clean Proposal

Tar mats and tar balls that washed ashore in Louisiana in the wake of Hurricane Isaac have been confirmed to be from the Macando well that was the site of the BP *Deepwater Horizon* disaster.

BP has renewed its proposal to "deep clean" the sand on Louisiana beaches. Although this process was used on some more heavily managed beaches in Alabama and Florida, Louisiana beaches did not receive this "deep clean" treatment in 2010 because it can destroy organisms in the sand and remove from the beach the clay that helps to hold the beach together and reduce erosion. In order for BP to proceed, the process must be approved by the Corps of Engineers, other federal agencies, and the state of Louisiana.

[Storm Isaac tars Louisiana beaches with oil from BP spill, Kathy Finn, Reuters, September 12, 2012.](#)

[BP proposes deep cleaning of Louisiana beaches in aftermath of Hurricane Isaac, Mark Schleifstein, The Times-Picayune, September 11, 2012.](#)

The Clean Water Act Giveth and Taketh Away

Florida and Virginia are currently feeling the effects of the Clean Water Act. Because Virginia has not made sufficient progress on combatting stormwater runoff into the Chesapeake Bay, the EPA is withholding \$1.2 million of federal aid that was slated to aid stepped up efforts at restoring the Bay. Should the state stop foot-dragging, it may reapply to the EPA for the funds.

To different effect, Florida approved \$880 million in Everglades restoration projects this week. These projects are the result of a settlement between the state and plaintiffs in a Clean Water Act suit that a federal judge approved in July. The suit accused the state and federal agencies of violating the Clean Water Act by not making enough progress to restore the Everglades. Now, \$880 million in state funded projects (plus \$80 million in USDA funded projects) can get underway with a new deadline to achieve water quality goals by 2025.

While we're on the subject, we here at the Institute would like to wish the Clean Water Act a happy 40th birthday.

[EPA withholds aid until Va. improves Chesapeake Bay, Scott Harper, The Virginian-Pilot, September 11, 2012.](#)

[State formally approves Glades clean-up plan, Curtis Morgan, The Miami Herald, September 12, 2012.](#)

[The Clean Water Act turns 40, Russell McLendon, Mother Nature Network, September 4, 2012.](#)

Former Heads of State Urge the International Community to Improve Water Management in Face of Heightened Water Demands and Security Risks

The InterAction Council, a group of former government leaders and heads of state that includes Nelson Mandela and Bill Clinton as members, urged the UN Security Council to recognize the importance of water as a security concern for the global community. The study highlighted the instability that water crises can create as well as the extent of projected increases in water demands. The study estimates that global agriculture will expand demands by the equivalent of the annual flow of 100 Colorado Rivers. The report urges reformed water management, preparation for water and climate related refugees, and expansion of a "blue economy" that rewards water sustainability.

[The Global Water Crisis: Addressing an Urgent Security Issue, edited by Harriet Bigas with Tim Morris, Bob Stanford, and Zafar Adeel, Papers for the InterAction Council, 2011-2012.](#)

New York City Improving Storm and Climate Change Preparedness Piece by Piece, but Will That Be Enough?

Despite plans to spend \$2 billion on environmental projects over the next 18 years, critics worry that New York is underprepared for a future of rising seas and increasing severe storm flooding. The city is working to expand wetlands to cushion tidal surges and green roofs and ground permeability to absorb rainwater. However, those who favor massive public works, such as barriers throughout the city's complex of estuarine waterways, claim the city is only "planning to be flooded."

[New York is Lagging as Seas and Risks Rise, Critics Warn, Mireya Navarro, New York Times, September 10, 2012.](#)