

TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law and Policy
January 22, 2013

Warming to the Issue, President Commits to Action on Climate Change

Faced by growing scientific consensus about global warming and rising seas and by the stark effects of drought, dwindling water supplies and Hurricanes Sandy and Isaac, President Obama used his second inaugural address to commit to action to deal with the threat of climate change. The President did not say what actions he/we would pursue but his choice of words offers a clue. His emphasis on the “threat” of climate change as opposed to just climate change itself suggests that regardless of what might be done to limit the extent of global warming that he believes we must now plan, invest and act in ways that reduce our risk to the effects of climate change. If that is a correct reading then managing water as both a more highly valued asset and a bigger driver of risk can be expected to be a much bigger part of the public agenda in the coming four years.

<http://www.nytimes.com/2013/01/22/us/politics/climate-change-prominent-in-obamas-inaugural-address.html?ref=science&r=0><http://www.whitehouse.gov/the-press-office/2013/01/21/inaugural-address-president-barack-obama>

Texas Sues New Mexico in SCOTUS Over Diminished Rio Grande Flows

Texas has filed an “original jurisdiction” suit against New Mexico in the Supreme Court of the United States alleging that New Mexico through ground water pumping and other withdrawals has diminished the flows of the Rio Grande River (redundant we know for Spanish speakers) in violation of the Rio Grande Compact. The inclusion of ground water withdrawals has a cause of complaint adds a special dimension to this case that could be of interest and application well beyond the Rio Grande.

<http://www.statesman.com/news/news/texas-calls-on-supreme-court-to-settle-water-dispu/nTqmk/>
<http://www.tceq.texas.gov/assets/public/agency/01-08-13-motion-complaint-brief.pdf>
<http://wrri.nmsu.edu/wrdis/compacts/Rio-Grande-Compact.pdf>

Federal District Court Invalidates Stormwater TMDL, Holds that Stormwater is Not a Pollutant Under Clean Water Act

The U.S. District Court for the Eastern District of Virginia has struck down a EPA imposed TMDL (Total Maximum Daily Load) on stormwater discharges into Accotink Creek, a tributary of the Potomac River. The TMDL effectively made stormwater a proxy for sediment (an acknowledged pollutant) but the Court found that the Clean Water Act did not allow stormwater itself to be treated as a pollutant. Though the decision applies only in the Eastern District of Virginia it could portend broader challenges to EPA’s TMDL and stormwater

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:

[February 22-23, 2013](#)

18th Annual Tulane Environmental Summit

[February 27-28, 2013](#)

America’s Wetland Foundation

“Big River Moves”

Chicago, IL

Tulane Institute
on Water Resources Law & Policy

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New Orleans, LA 70118
504-865-5982

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

programs. <http://www.jdsupra.com/legalnews/court-holds-for-first-time-that-epa-cann-51061/>

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Can't We All Get Along: EPA Meets with Mayors Over Water Issues

It is pretty easy to get agreement that compliance with the Clean Water Act and that our waters should be clean(er) but the doing is harder and more costly than the wishing. Often the cost of compliance falls on already cash strapped local governments. Recognizing that and hoping to forge better and less onerous paths forward, EPA has begun reaching out the mayors of America's cities. At the core of this effort is a memo that EPA preview at the U.S. Conference of Mayors winter meeting. The memo sets forth possible approaches that EPA might take to factor the financial capacity of cities into their compliance obligations. With new stormwater rules expected this summer the issue of bringing compliance and affordability into line will take on greater urgency

www.wef.org/EPA_FinancialCapabilityFramework_Memo_011813/http://www.nlc.org/media-center/news-search/local-government-organizations-commend-epa%E2%80%99s-memorandum-concerning-financial-capability-for-clean-water-act-requirements

Flood Protection Woes (1): AP Reports Deficient Levees Across America

A report from the Associated Press concludes that there are hundreds of federal flood protection levees in 37 state that are at risk of failing and that could endanger people. The report, using information gained under the Freedom of Information Act and other sources, found that the federal flood control system that is made up of 2,487 projects and that protects about 10 million people has many deficient or compromised components. The AP cites problems ranging from flawed designs to encroaching development and vegetation as reasons for the system's troubles.

http://hosted.ap.org/dynamic/stories/U/US_TROUBLED_LEVEES?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT&CTIME=2013-01-17-05-07-35

Flood Protection Woes (2): New Orleans Levees Better But Not Good Enough

The \$10 billion upgrade of the levees around New Orleans have provided greater security but are not keeping pace with their rate of changing risk according to a report commissioned by the South Louisiana Flood Protection Authority-Southeast. The report which is intended to guide future upgrades of the system notes that risk factors such as soil subsidence and sea level rise are unfolding at higher rates than designers had hoped and planned for. Without additional enhancements or changes to development patterns the area could face higher flooding risks and the potential for changes in its eligibility for flood insurance.

http://impact.nola.com/environment/print.html?entry=/2011/08/new_orleans_levees_get_a_near-.html