TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law & Policy

September 30, 2022

It Was a Long, Dry Summer in the Mississippi River Basin, Too

A lot of attention this summer was paid to drought conditions in the Southwest or in Europe. But, aside from historic flooding in Kentucky in July, it's been a fairly dry year in the Mississippi system. How can you tell? Well, there was the surprisingly less-gigantic Gulf of Mexico Dead Zone that defied expectations simply because there was less river water bringing nutrient pollution to the Gulf this year. There's the fact that the river is so low right now that the Corps of Engineers is putting in a sill at the bottom of the river to keep the Gulf's saltwater tongue from reaching upstream far enough to lick at the intake for municipal water supply. Not enough for you? How about the fact that the river is so low in places that barge traffic is being limited, and fewer barges means it is harder and more expensive to get goods like grain and manufactured goods to market?

Maybe for the region's farmers that's a good thing, too. Because half of the country's phosphate fertilizer plants were just shut down by Hurricane Ian. Of course, it means all that phosphate could be polluting the floodwaters plaguing much of Florida right now. But maybe after this year with fewer tons of runoff into the Mississippi River and her tributaries, farmers will not need to apply another round of fertilizer this coming growing season. It could be the perfect time to take lessons from nutrient pollution success stories and apply them at a larger scale – the continent's largest scale, even.

Welcome to Personhood, Mar Menor! Sorry, There's No Orientation Materials or Onboarding Process.

As Dave Gahan and co. once told us, people are people. However, in the eyes of the law, so are corporations. And ships. And, now, so is the largest saltwater lagoon in Europe, El Mar Menor in Southeastern Spain. The lagoon has been in peril for decades, largely due to fertilizer runoff from nearby farms and development on the strip of land that separates it from the Mediterranean Sea. This week the lagoon was granted personhood via a vote in the Spanish Senate, so it now has a group of caretakers made up of local officials, scientists, and residents who are legally empowered to take action on behalf of the lagoon. It's like how the Lorax speaks for the trees, except these people will speak for the lagoon in a court of law and not just standing outside on a stump. Last year the Spanish government appropriated millions of Euros for restoration projects. It can be these caretakers' duty to make sure those projects are implemented correctly. Other bodies of water, such as the Ganges River in India and the Whanganui River in New Zealand, have been granted legal personhood before, but El Mar Menor is the first to gain such designation in Europe. So, the likelihood of other soggy things gaining personhood on the

Coming Up:

Restore America's Estuaries, 2022 Coastal and Estuarine Summit; December 4-8; New Orleans, LA

Water jobs:

Project Manager, Louisiana Political Affairs; Environmental Defense Fund; Remote

Restoration Programs Director; Coalition to Restore Costal Louisiana; New Orleans, LA

Regional Watershed Coordinator; Capitol Region Planning Commission; Baton Rouge, LA

Water Quality Technician; Pontchartrain Conservancy; Metairie, LA

Clinical Instructor; Tulane Environmental Law Clinic; New Orleans, LA

Associate Attorney, Senior Attorney, and Paralegal; Earthjustice; Multiple Locations

Summer Associate 2023, Sher Edling LLP, San Francisco

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continent might depend on the success there. However, it should be noted that the Spanish Senate felt so inclined to grant personhood only after more than half a million Spaniards signed a petition demanding it. Turns out grassroots organizing matters even when the grass is seagrass. Perhaps if we can garner half a million signatures by this Monday our Supreme Court might be more inclined to keep soggy things on our side of the pond under federal protection (but probably not).

Maybe Bumble Bee Tuna Had the Right Idea

Speaking of the law making things up, like turning boats into people, under California law, bumblebees can be fish. Back in May, an appellate court ruled that although the California Endangered Species Act (which predates the federal Endangered Species Act) doesn't list invertebrates among the types of creatures eligible for protection, elsewhere in the state's Fish and Game Code invertebrates are included in the definition of "fish." Just last week, the California Supreme Court declined to hear the appeal of May's ruling. It could have far-reaching effects on the much-needed protection of rare invertebrates as well as the agriculture industry that finds wide application of pesticides dead useful. Hooray for the law telling science what's what; rivers can be people, and bees can be fish. After all, if you ask a scientist, they might tell you people are fish. How's that any more helpful?

Tulane Environmental and Energy Law Summit—It's Baaaaack! Mark Your Calendars, March 17 and 18, 2023

Spring was less spring-like since COVID-19 relegated America's favorite student-run environmental conference to being a mostly virtual affair. Those were still great and there is much to be said for doing things virtually but there is no substitute for doing some things in person. So write it down and make plans to be at hand. More details to follow.