TUWaterWays

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

Are you interested in carbon markets? Maybe worried about the coastal fiscal cliff approaching as Louisiana runs out of Deepwater Horizon oil spill settlement money? Hesitant about putting a price on the amount of carbon stored in a single whale but wish there was a way to promote both environmental health and coastal financing? We may have just the thing!

The latest white paper from the Tulane Institute on Water Resources Law & Policy examines legal barriers to the State of Louisiana developing and selling blue carbon credits to fund future coastal protection and restoration projects. In 2022, Louisiana published the first state-level Climate Action Plan in the Gulf South that included the possibility of funding coastal restoration projects with coastal restoration projects, so we investigated whether such an endeavor could meet legal muster. Check it out. Share it with friends. Bring it to Jazz Fest if you want!

Mutually-Insured Destruction

It increasingly appears that it isn't hurricanes, but the systems we've built to pay for their damage, that are determined to serve as the final nail in the coffin for already struggling coastal communities. In October 2021, the National Flood Insurance Program announced it would be transitioning to a new rating system called Risk Rating 2.0. Risk Rating 2.0 is supposed to provide fairer pricing by calculating flood risk based on individual properties instead of blocks. However, the algorithm FEMA would use to determine premiums has been shrouded in mystery so homeowners have been largely left in the dark about what kind of flood insurance rates to expect. Louisiana property owners were told premiums would rise 18% each year, but until this week didn't have a good idea of what that end point would be. FEMA had previously indicated that Louisiana homeowners might see a 122% increase on average; now, a 122% increase is looking pretty great to a lot of homeowners in Louisiana's coastal parishes. New data released this week and broken down by state, county, and zip code indicates that some Louisiana residents will see rate hikes more than 5x what they anticipated. Pointe à la Hache in southeast Louisiana is projected to see increases of 1,098%—the highest of any zip code in the country—with Plaquemines Parish as a whole projected to increase by 545%.

It's worth noting that Maine, Mississippi, West Virginia, and Hawaii are all projected to have bigger price increases than Louisiana, so it's not just a Louisiana issue. The unaffordable insurance scenario can play out in two ways, but they end the same way. One, people who own a property outright and don't have a mortgage will forego the insurance, leaving them vulnerable to losing everything and having nothing to make them whole after a flood except a hope of getting (some) FEMA relief (eventually) (of course, if you're talking about the wealthy who just visit their property there as a playground and not a community, they might be just fine). Or two, people who need or have a mortgage and have mandatory insurance can either default on the mortgage & insurance payments they have to make and lose their property or try to sell it to get out from under the payments they can't make (assuming they even have a title and not just generations of informal inheritance). Either way, the real estate market in these communities around the country will be in the process of crashing, and people either won't be able to get what they need or won't be able to sell at all, and any sort of wealth they once held in the property will have gone *poof!*

Even though we're nearly two years out from the announcement of the new system and are finally receiving some answers about what it will mean, there's still a lot up in the air. First, the data is still incomplete, so the most recent numbers are still just predictions. Also, the Secretary of the Department of Homeland Security told a U.S. House Committee last week that the agency is rethinking the new approach and reviewing grant programs to make sure they "leave no community disenfranchised." Finally, Risk Rating 2.0 will surely have to hurdle several legal challenges before it can cross the finish line. St. Charles Parish—whose projected average increase of 239% is in the top 100 counties nationwide—filed suit against FEMA on Tuesday, and Louisiana's Attorney General Jeff Landry is said to be preparing a separate lawsuit on behalf of the state. Risk Rating 2.0 is supposed to fairly insure homeowners, but so far it seems that the only thing it will do is ensure owners can't afford their homes.

Broken Record-Breaking

Forensic labs have been hard at work this week identifying human remains recovered from major lakes. In southern Louisiana, a skull fragment found in or around Lake Pontchartrain in the 1980s has been dated as 3,500 years old. Meanwhile, the body recovered from a particularly-low Lake Mead last summer has been identified as a Las Vegas man who went missing in 1998. So, the same culprit probably wasn't responsible for both incidents.

But that's not even the end of the excitement for Lake Mead this week! Western states have finally found some water to move around to try to save some of their most threatened lakes. In Utah, state officials opened the gates on a 50 million gallon per day lifeline for the rapidly disappearing Great Salt Lake. The water is coming from the Deer Creek Reservoir by way of the Provo and Jordan Rivers, helping to replenish the Great Salt Lake but also making space in the reservoir for floodwaters from this winter's snowfall. Meanwhile, just south of the Utah border, the Bureau of Reclamation initiated a 36-hour High Flow Experiment (HFE) from the Glen Canyon Dam. The HFE sent 39,500 cfs of water from Lake Powell down the Colorado River (America's most endangered river of 2023), replenishing beaches and sandbars in Marble Canyon and the Grand Canyon before settling in Lake Mead. Video of the HFE release out of Glen Canyon received a lot of attention on Twitter. And though it may look like a lot of water, anyone who thought this "surge" of water was the opportunity to beat Kent Grua's 1983 record-breaking speed run through the Grand Canyon had to save their plans for another day-o; they wouldn't have stood a chance as the 1983 release shot a whopping 100,000 cfs out of Glen Canyon Dam.

Speaking of records… It's ironic that after months of these lakes teetering on the brink of collapse, actions to replenish them finally come at a time when the western states are experiencing "record snowpack." If you're feeling desensitized to news about record-breaking meteorological events, it may be because headlines like *Record warmth in areas with a record snowpack may cause hazardous flooding this week* seem increasingly commonplace. On the one hand, we're really living during unprecedented times. On the other hand, if you're growing suspicious that some of these records aren't always what they seem, you may not be completely paranoid (but they still might be after you). For example, the snowpack in California's Sierra Nevadas has received a lot of airtime lately for tying the all-time record set in 1952. But snowpack is measured in relation to what's considered "normal"—a standard that, since 1950, the California Department of Water Resources has changed five times. If a consistent standard were applied, this year might not be the record-breaking year we think it is. But that doesn't mean California and the rest of the west is any less at risk of flooding as the unusually high amount of snow starts descending the mountainsides. Not to diminish the impact or significance of any record-breaking events or accomplishments, but we may have to face facts that records aren't the same human constructs they used to be.

Coming Up:

Blue Carbon Law Symposium; May 17-18; Athens, GA

2023 State of the Coast Conference; May 31-June 2; New Orleans, LA

Water jobs:

Policy Coordinator; The Water Collaborative, New Orleans, LA

Assistant General Counsel – Water; Sandia Resort & Casino; Albuquerque, NM

Legal Director; Orange County Coastkeeper; Costa Mesa, CA

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.

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