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WELCOME

For information on how your program can utilize the services of the National Sea Grant Law Center, please contact Stephanie Showalter, Director, at sshowalt@olemiss.edu or by phone at (662) 915-7775.

National Sea Grant Law Center

A few weeks ago, the Law Center unveiled its new website, which has a new web address - <http://nsglc.olemiss.edu/>. Please update your bookmarks, as the old site will soon be taken offline. We are excited about the new design, which we hope will make it easier to learn about and access the research and outreach products produced by the Law Center. We welcome any and all comments and suggestions from the Sea Grant Network.

In preparation for an upcoming abandoned vessel workshop, the NOAA Marine Debris Program asked the Law Center to compile information on various aspects of the abandoned vessel programs in the thirty coastal states. In particular, information was sought on the definitions of abandoned vessel, designation processes, removal requirements, funding sources, disposal requirements or guidelines, and prioritization schemes. The Law Center prepared a 143-page report summarizing state laws and regulations with respect to abandoned vessels. Director Stephanie Showalter will present this research at NOAA's workshop next month. The report is available at <http://nsglc.olemiss.edu/Advisory/Abandoned%20Vessel%20State%20Laws.pdf>.

As mentioned briefly in last month's newsletter, in response to a request from the U.S. Coral Reef Task Force, the Law Center compiled federal laws that either directly protect coral reefs, grant agency authority to protect coral reefs, or that indirectly protect coral reefs. The summaries highlight the lead agency in applying the law, the law's framework, the law's application to coral reefs, the role of other federal agencies in enforcing the law, and any limitations the law may have in protecting coral reefs. The report is available online at <http://nsglc.olemiss.edu/Advisory/coralreef.pdf>.

Request for Proposals

This month, the Law Center was also pleased to issue a Request for Proposals (RFP) for our 2010 Grant Competition. The Law Center is seeking proposals for one-year legal research and outreach projects of relevance to the Sea Grant network. The RFP is available at <http://nsglc.olemiss.edu/SGLC%202009%20RFP.pdf>. Letters of Intent are due by October 2, 2009 and Full Proposals by December 11, 2009. The total funding level is anticipated to be \$225,000 and the recommended funding request is \$25,000. For more information, please contact Stephanie Showalter at (662) 915-7775 or sshowalt@olemiss.edu.

Louisiana Sea Grant Law and Policy Program

At the beginning of August, the Louisiana Oyster Task Force contacted SGLPP to request that we convert a memorandum drafted for them into a publishable article. The memorandum and subsequent article, both written by Beaux Jones, a legal research assistant, examined legal issues pertaining to the Biloxi Wildlife Management Area (WMA) and other areas in the state where oyster farming is prevalent. The waterbottoms in the Biloxi WMA are claimed by both the State and a private landowner. The State had previously entered into oyster leases of waterbottoms in the area; at least one of the leases has reached the end of its 15-year term and has been denied renewal by the state. The Oyster Task Force sought information on who, if anyone, had the right to harvest oysters in the Biloxi WMA, which led to a discussion of how ownership of waterbottoms is determined. Ultimately, if the State owns the waterbottoms, a private entity would not have the legal capability to lease portions to oyster farmers. The article will be published in the next issue of *Waterbottoms*, which should be available online at <http://www.louisianaoysters.org/newsletter.php>.

Seth Bagwell, another legal research assistant, completed a memorandum for the Sea Grant Communications department that discusses five areas of potential liability that a wind farm owner may face. The five areas are 1) turbine debris from hurricanes or other storm events that cause damage to another's property, 2) neighboring land owner's loss of enjoyment, 3) incidental environmental impacts, 4) pollution, and 5) building code regulations. The information provided by Seth will likely be used in future articles by the Sea Grant Communications team.

Additionally, we began several interesting research projects during August, some of which will be completed in the coming weeks and others that will take more time. The first is a white paper on the Clean Water and Restoration Act, which Sea Grant extension agents and other will be able to use when discussing the legal implications of the CWRA. The second project is an examination of the case *Stop the Beach Renourishment v. Florida Department of Environmental Protection*, which will be going before the U.S. Supreme Court during the upcoming term.

The third project is a paper on the variations of implementation of coastal zone boundaries in various coastal states. The paper is specifically focused on states that utilize a tiered coastal zone boundary structure under the CZMA. This research will be used by SGLPP staff, as Louisiana is in the process of redefining its coastal zone boundary.

Finally, the LSU Coastal Sustainability Studio, of which Jim Wilkins and Melissa Daigle are both members, has selected its first project, titled Lower 9th Ward/Bayou Bienvenue Restoration. The project will include examining coastal forest restoration via wastewater treatment, a proposed freshwater diversion at the town of Violet, Louisiana, and ecosystem restoration in the recently-closed Mississippi River-Gulf Outlet.

Mississippi-Alabama Sea Grant Legal Program

Research Counsel Niki Pace attended the Gulf of Mexico Alliance's yearly conference (August 4-6) in Mobile, Alabama on behalf of Legal Program. In addition to networking with personnel from other coastal agencies, while in Mobile, Niki met with several MASGC extension agents, attended NOAA's stakeholder forum, and participated in group sessions discussing ongoing concerns in the Gulf of Mexico region.

In addition, Niki began preparation for a fall workshop on land trust creation for interested parties along the Alabama coast and continues to work on the Legal Program's disaster preparedness project. Niki met with the Orange Beach, Alabama city attorney on August 7th to discuss specific legal questions of the jurisdiction.

The August edition of *Water Log* is now available online at our new website: <http://masglp.olemiss.edu/>. Please update your bookmarks to reflect this change in the Legal Program's web address.

Preparations have begun on the Legal Program's upcoming Continuing Legal Education (CLE) course focused on legal issues arising after Hurricane Katrina on

October 30, 2008 in Biloxi, Mississippi. In August, Niki worked on organizing the CLE and lining up speakers for the event. For more information, contact Niki at nlp@olemiss.edu.

Finally, the Legal Program was pleased to learn that our submission to the Gulf of Mexico Regional Research Program was selected for funding by the four Gulf of Mexico Sea Grant Programs, the EPA Gulf of Mexico Program, and the Northern Gulf Institute. The Legal Program is partnering with the University of Florida Conservation Clinic, the Louisiana Sea Grant Law and Policy Program, and the Harte Research Institute to conduct analysis of the nuisance and takings law challenges that local planners and regulators face in implementing adaptive management and planning techniques to counter sea level rise and other hazards associated with climate change. The project, scheduled to start in February 2010, will involve extensive legal research and a variety of outreach activities in the four Gulf of Mexico states.

North Carolina Coastal Resources Law, Planning and Policy Center

No update this month.

Rhode Island Sea Grant Legal Program

Meet the Bay Field Trip

Incoming first year law students interested in the Marine Affairs Program joined Professor Susan Farady, Director, and Megan Higgins, Research Counsel, along with representatives from the University of Rhode Island aboard the research vessel the *Cap'n Bert*. The three and a half-hour trip included sample trawls to view creatures with which we share the Bay and a discussion of current events affecting Narragansett Bay. As an added bonus, students were able to take home the catch of the day.

New England Regional Ocean Law and Policy Workshop: Offshore Wind Facility Siting

The RI Sea Grant Legal Program received a grant from the National Sea Grant Law Center to host a workshop on Wednesday, November 4 at the Newport Harbor Hotel in Newport, RI. The workshop will be held in conjunction with the 8th Annual Ronald C. Baird Sea Grant Science Symposium: *The Ecology of Marine Wind Farms Perspectives on Impact Mitigation, Siting, and Future Uses* (see: <http://seagrant.gso.uri.edu/baird/2009/>). The workshop will convene the participating states consisting of Maine, Massachusetts, and Rhode Island to explore the efficacy of more coordinated, leveraged efforts on legal issues regarding the permitting, siting and operation of offshore wind energy facilities to benefit state and federal managers, and act as a clearinghouse for regional legal information.

Marine Affairs Roundtable Luncheon

The Program will host its first roundtable luncheon discussion of the fall semester by showcasing current students' experiences at internships within the Obama Administration.

Allison Novelly—Coastal States Organization

Allison was chosen as this year's ABA Diversity Fellow in Environmental Law and placed with the Coastal States Organization in Washington, DC. During her fellowship, she conducted research and wrote on various projects, including the economic value of the coasts pertaining to the Coastal Zone Management Act reauthorization; the economic impact of climate change, specifically on coastal infrastructure regarding Climate Change legislation; and the adaptive management process and how it can be integrated into the permitting framework for offshore renewable energy projects.

Jackie Rolleri—Office of Senator Sheldon Whitehouse (D-RI)

Jackie's primary responsibilities were maintaining correspondence with constituents and drafting letters in support of Rhode Island organizations and agencies that applied for federal grants. The issues that appeared to generate the most response from constituents pertained to Healthcare Reform, Cap and Trade, and Cash for Clunkers. Having the opportunity to tour the Federal District Court in Providence, hear the Senator speak at The Nature Conservancy's conference on marine spatial planning, meet the President of Colombia, and attend the first day of the Sotomayor Hearings in DC were certainly the highlights. The overall experience in Senator Whitehouse's office was very rewarding, as Jackie was able to expand her network of legal resources and knowledge of the legislative process.

Maureen Wagner—Office of General Counsel, National Oceanic and Atmospheric Administration

While in the Office of General Counsel, Maureen drafted a memorandum examining the implications of Representative Woolsey's proposed bill (H.R. 223). The bill, expected to pass, would expand the National Marine Sanctuary system along the coast of northern California. In addition, she reviewed a draft management plan for the Jacques Cousteau National Estuarine Research Reserve in New Jersey, managed by Rutgers, for compliance with the Code of Federal Regulations.

University of Florida Conservation Clinic - UF Levin College of Law

With continuing support from Florida Sea Grant, the Conservation Clinic continues to pursue a variety of marine and coastal law and policy projects of importance to the state and its coastal communities. Florida enacted a significant boating law reform in 2009, based in part on research and recommendations provided by the Clinic. Among other things, the new legislation reforms procedures by which local governments may seek boating restricted areas and creates a pilot program to authorize local regulation of anchoring outside of mooring fields for qualifying communities. We are currently updating the publication "Anchoring Away: Government Regulation and the Rights of Navigation in Florida" as a result of this legislation and recent case law.

The Clinic is also working with the State of Florida Department of Community Affairs Waterfronts Florida Partnership Program to develop a planning methodology to assign value to regionally important maritime infrastructure as a basis for developing comprehensive plan protection policies. We continue to support the participation of program managers from the Waterfronts Florida Partnership Program in the yearlong UF Natural Resources Leadership Institute.

The Clinic recently launched a new initiative – "from blackwaters to bluewaters" - which focuses on adaptive watershed management of two of transboundary Florida's blackwater rivers, the St. Marys River shared with Georgia, and the Blackwater River shared with Alabama. Both include important estuaries. Led by Thomas Ruppert, The Clinic has also begun to work on a project to examine the enforceability of permit conditions in development and related coastal permits in South Florida that are intended to protect coral reefs