



Legal Programs Newsletter

Programmatic Updates

April/May 2010

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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

On March 30 – 31, the Law Center hosted its third *Sea Grant Law and Policy Journal* symposium. This year's theme was "Addressing Uncertainty of Environmental Problems: The Challenges of Adaptive Management." PowerPoint presentations and videos of the speaker's presentations can be viewed at <http://nsglc.olemiss.edu/SGLPJ/symposium10.htm>.

Volume 9:1 of *The SandBar* is now available online at <http://nsglc.olemiss.edu/reporter.html>. This issue included articles on a U.S. district court's decision to halt a water diversion project, the U.S. Supreme court's ruling in the *South Carolina v. North Carolina* dispute over water from the Catawba River, the Vermont Supreme court's decision regarding thermal effluent discharge from a nuclear power station, as well as the Ninth Circuit's ruling on shore defense structures and a shoreline conflict in the Point Reyes National Seashore.

At the request of Pennsylvania Sea Grant, Terra Bowling is completing a citizens' guide to natural gas drilling in the Marcellus Shale. The guide is geared both to landowners who might lease land, as well as residents who are not leasing land but are seeking information on the process and how they might get involved. The guide will provide a brief overview of potential impacts, the regulatory process in Pennsylvania, how residents may participate in the process, and where to go for more information.

Director Stephanie Showalter attended the Mid-Atlantic Sea Grant Regional Meeting in Corolla, NC on April 27 – 29. In addition to learning a lot, Stephanie gave a presentation on hot legal topics including NOAA's proposed regulations regarding administrative hearings in fisheries enforcement cases.

With the assistance of Professional Associates, a research, training, and evaluation firm based in Jackson, Mississippi, the Law Center is conducting a retrospective formative study to determine how the Law Center has contributed to Sea Grant's mission over the past eight years. The evaluation began in April and results are expected early next year.

Finally, the National Sea Grant Law Center is now on Facebook. Feel free to become a fan! If you aren't on Facebook, you should be able to view our page at <http://www.facebook.com/pages/Oxford-MS/National-Sea-Grant-Law-Center/129712160375306>

Louisiana Sea Grant Law and Policy Program

Director Jim Wilkins and Legal Coordinator Melissa Daigle have both been heavily involved in research and outreach regarding the Deepwater Horizon oil spill. Two fact sheets have been created by the Louisiana SGLPP: If You Suffer Damages Because of an Oil Spill . . . (http://www.lsu.edu/sglegal/pdfs/Oil_Spill_Remedies.pdf) and Recovery of Public Natural Resources by the Federal and State Governments in the Event of an Oil Spill (http://www.lsu.edu/sglegal/pdfs/Natural_Resource_factsheet.pdf). They are in the process of creating more fact sheets. These fact sheets can also be found on the Gulf of Mexico Sea Grant Programs regional website's oil spill page at <http://gulfseagrant.tamu.edu/oilspill/index.htm>. Additionally, Melissa will be attending multiple town hall meetings in the coming weeks to answer questions from fishermen and others impacted by the spill.

In April, Jim and Melissa attended a symposium on takings law and sea level rise at Florida State University. The symposium was held in conjunction with a regional grant on the topic. Jim's presentation on governmental liability for failing to protect citizens from known or impending hazards is available at <http://masglp.olemiss.edu/GOM/information.html>.

Melissa Daigle also attended a workshop on Sea Level Rise in the Gulf of Mexico. The goal of the workshop was to provide tools to people involved in extension on how to communicate sea level rise to communities. It also focused on adaptation plans communities could implement in order to make them more resilient and sustainable in the future. Additional information on the workshop is available at <http://masgc.org/climate/cop/index.html>. Melissa is hoping to implement what she learned through a grant she has won to work with a small coastal community on its long-term sea level rise planning.

Melissa attended the Sea Grant Coastal Storms meeting in Ocean Springs on May 6. Additionally, both Jim and Melissa will be presenting papers at the 3rd Annual CNREP conference the last week in May. Jim's presentation will deal with local government liability for planning decisions in the face of hazards, including sea level rise. Melissa's presentation is on access to natural resources in the Atchafalaya Basin. Both Jim and Melissa will also serve as moderators of panels. Four law clerks will be presenting posters during the poster session on the following topics: Elmer's Island access, the Louisiana Coastal Zone Boundary, curbside composting, and hydrokinetic electricity.

Mississippi-Alabama Sea Grant Legal Program

Like the LSGLPP, the Legal Program has been heavily involved in research and outreach related to the Deepwater Horizon spill. The latest issue of Water Log (<http://masglp.olemiss.edu/waterlog.html>) contains articles providing background on the Oil Pollution Act and the assessment of natural resource damages by federal and state governments. The Legal Program has produced a number of fact sheets so far, including ones on exercising caution when making oil spill litigation decisions and the Oil Spill Liability Trust Fund. For copies of these facts sheets and links to other resources, visit our oil spill webpage at <http://masglp.olemiss.edu/oilspill.htm>. On May 25th, Director Stephanie Showalter was interviewed on Mississippi Public Broadcasting regarding some of the legal issues facing fishermen. You can listen to the interview, which runs from 4 minutes 15 seconds (4:15) to 13:00, at <http://mpbonline.org/mississippiedition/shows/mississippi-edition-may-25-2010>.

In April, Research Counsel Niki Pace traveled to St. Petersburg, FL to attend the Gulf Sea Grant Community of Practice workshop on sea level rise. Later that week, Niki and Stephanie traveled to Tallahassee to present preliminary research related to the Legal Program's regional project on sea level rise. In February

2010, the Mississippi-Alabama Sea Grant Legal Program and project partners Florida Sea Grant, Louisiana Sea Grant Law and Policy Program, Harte Research Institute for Gulf of Mexico Studies, and Texas Wesleyan School of Law launched a new legal research and outreach program on the impact of the "regulatory takings" doctrine on the ability of local governments to implement sea level rise adaptation policies. Niki's research is currently focusing on living versus armored shorelines. More information about the project is available at <http://masglp.olemiss.edu/GOM/GOMProject.html>.

In May, Niki attended the Coastal Development Strategies Conference in Biloxi, Mississippi. With generous support of the Mississippi Department of Marine Resources, we were able to send four law students to the conference as well. Students learned about a variety of topics, including MASGC's Homeowner's Handbook to Prepare for Natural Disasters, the Institute for Marine Mammal Studies, and the Mississippi Seafood Industry.

In partnership with Louisiana Sea Grant, the Legal Program organized a discussion forum at CNREP 2010 in New Orleans, May 28. For almost twenty years, the Mississippi-Alabama Sea Grant Program's publication "Understanding Fisheries Management," currently in its second edition, has been educating and informing fisheries stakeholders on the federal fisheries management process. A third revision of this seminal publication is currently underway to address the 2007 amendments to the Magnuson-Stevens Fisheries Management Act and subsequent regulatory changes. This session, moderated by the Mississippi-Alabama Sea Grant Legal Program, convened an expert panel to provide updates on the biological, economic, and legal contributions.

Finally, the Legal Program is pleased to announce our 2010 Summer Intern, April Hendricks. April is a second year law student at the University of Mississippi School of Law. This summer she'll be assisting Niki and Stephanie on a variety of projects, including research on state laws and policies impacting coastal resilience for the Gulf of Mexico Alliance.

North Carolina Coastal Resources Law, Planning and Policy Center

No update this month.

Rhode Island Sea Grant Legal Program

Congratulations to the Marine Affairs Institute's 2010 Joint Degree (J.D./M.M.A.) graduates!

Joseph Barker, Gavin Black, Dawn Euer, Kate Haber, Christina Hoefsmit, Allison Novelty, Ronald Rose, Sarah Sebren, Steven Surdut, and Maureen Wagner

Marine Affairs Institute Welcomes New Staff Attorney

The Institute is pleased to announce that after a national search and thanks to continued support from our partners at Rhode Island Sea Grant, Julia Wyman started as its new staff attorney on May 10. Julia will be overseeing the RI Sea Grant Law Fellow Program, providing law students' hands-on experience with nonprofit groups, governmental agencies and private industry, and supporting the Institute's other programs and events. She brings a range of national, state and regional experience to the Institute, having worked most recently as a policy analyst at the Coastal States Organization in Washington, D.C., analyzing federal law and regulations and advising coastal states. While at CSO, Julia served as lead author on an amicus brief to the U.S. Supreme Court on *Stop the Beach Renourishment v. Florida Department of Environmental Protection*, led activities on climate change policies, and oversaw law student interns. Julia is from Massachusetts, received her J.D. from the University of Maine School of Law and her bachelor's degree from Trinity College. We look forward to working with Julia as part of our team to train the next generation of marine law professionals and serve as a national clearinghouse for marine law and policy professionals.

The Marine Affairs Institute Has A New Website

Roger Williams University School of Law recently unveiled its new website with the Institute being highlighted as one of its Centers of Excellence. You can visit the Institute's new webpage at <http://law.rwu.edu/institute/marine-affairs-institute>.

SAVE THE DATE!

8th Marine Law Symposium: ***Taking Stock: The Magnuson-Stevens Act Revisited***, November 4-5, 2010, Roger Williams University School of Law, Bristol, RI

Since passage in 1976, the Magnuson-Stevens Act has been the basis of one of the most compelling natural resource management issues of our time: the sustainable management of our nation's fisheries. The law has been amended several times and the subject of contentious debate and litigation in response to rapidly evolving information and policy objectives. This Symposium will examine the current and future state of this body of law as a resource management scheme, including the complex integration of scientific, economic, and social information.

Planning Committee:

Michael Conathan, *U.S. Senate Subcommittee on Oceans, Atmosphere, Fisheries and Coast Guard*

Barry Costa-Pierce, *Director and Professor, Rhode Island Sea Grant College Program and University of Rhode Island*

Josh Eagle, *Associate Professor, University of South Carolina School of Law*

Susan E. Farady, Esq., *Director, Marine Affairs Institute/RI Sea Grant Legal Program, Roger Williams University School of Law*

Jared Goldstein, *Professor, Roger Williams University School of Law*

Gene S. Martin, Jr., Esq., *Office of NOAA General Counsel, Northeast*

Andrew E. Minkiewicz, Esq., *Kelley Drye & Warren, LLP*

Dennis Nixon, *Associate Dean, Graduate School of Oceanography, University of Rhode Island*

Peter Shelley, Esq., *Conservation Law Foundation*

For more information about the Symposium, please contact the Marine Affairs Institute at marineaffairs@rwu.edu.