



Legal Programs Newsletter

Programmatic Updates

November, 2010

If you have a problem viewing this email, please go to <http://nsglc.olemiss.edu/Newsletter.htm>

WELCOME

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

National Sea Grant Law Center

In September, Terra Bowling completed an advisory memo for Virginia Sea Grant Marine Extension Program. The advisory opinion addresses whether groups, such as Seafood Watch, expose themselves to liability by publishing or listing out-of-date strictures on "seafoods to avoid." She also issued a brief opinion for Michigan Sea Grant addressing whether local governments may shut down a beach area during dangerous conditions and issue citations to violators. Bowling also worked with Law Center research associates to compile summaries of federal laws regarding cooperative agreement authority for the Cooperative Ecosystem Studies Unit (CESU) Network. Finally, Bowling is working with Pennsylvania Sea Grant to publish a Citizens' Guide to activities surrounding natural gas extraction in the Marcellus Shale. The guide is geared 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.

Also in September, Terra Bowling and Director Stephanie Showalter Otts attended the Working Waterfronts & Waterways conference in Portland, Maine, September 27 – October 2. Stephanie gave a presentation entitled "Marine Spatial Planning: Where Do Working Waterfronts Fit In?" For more information about the conference and to access the presentations when they become available in a few weeks, please visit the conference website at <http://www.wateraccessus.com/agenda.htm>.

Louisiana Sea Grant Law and Policy Program

Director Jim Wilkins and Legal Coordinator Melissa Daigle are leading a project focusing on sea level rise in coastal communities. The goal of the project is to find out what information local communities need in order to plan for sea level rise, and then provide them with that information in a format that is most suitable for them. Topics of discussion will include land use planning, social services issues, building concerns, and the legal implications of incorporating (or not incorporating) sea level rise into local planning. The SGLPP is teaming up with the Southern Regional Climate Center and the Stephenson Disaster Management Institute on the project. They are also receiving input from parish planners and the local Sea Grant agent. The pilot community is Mandeville, Louisiana.

There are several other research projects currently in progress. Jim has one law review article on federal consistency under the Coastal Zone Management Act that will be published in the upcoming edition of the *Tulane Environmental Law Journal*. He co-authored this article with Sam Kalen, Ryan Seidemann, and Megan Terrell. He is also working on a law review article on the legal liabilities local governments face when they choose not to plan for natural disasters, including storm surge and sea level rise. Melissa is also drafting an article for publication in the *Ocean and Coastal Law Journal* that outlines the Oil Pollution Act and the Natural Resource Damage Assessment process, and examines how the 20 billion BP fund fits into these established procedures.

Additionally, the SGLPP is providing legal guidance to the city of Delcambre as it begins to engage in land use planning and rezoning of its port area in order to create more of a working waterfront. They are also writing an article on spoil banks from pipeline canals in Louisiana and what options fishermen have when the spoil banks interfere with water flow patterns. The SGLPP is also looking at sand mining on the Chenieres. Lastly, Melissa attended the Working Waterfronts & Waterways conference in Portland, Maine, September 27 – October 2. She presented a paper on the legal impediments to access natural resources in coastal Louisiana. While in Maine, she also sat on a panel on alternative legal careers at Maine Law. The panel discussed the role of the Sea Grant legal programs and upcoming legal issues coastal states will soon face.

The latest edition of the Louisiana Coastal Law email update is available online at <http://www.lsu.edu/sglegal/pubs/updates.htm>. Please contact Melissa Daigle at mtrosc2@tigers.lsu.edu if you would like to join our mailing or emailing list.

Mississippi-Alabama Sea Grant Legal Program

In early September, Research Counsel Niki Pace presented *Adapting Shoreline Regulations to Address Sea Level Rise* via webinar at the International Submerged Lands Management Conference. The Session also included presentations by Jim Wilkins and Thomas Ruppert.

Together with Auburn University extension, the MASGLP sponsored a working waterfronts workshop for Alabama coastal communities on November 4th. The workshop brought together interested local officials to learn about working waterfront preservation opportunities and learn from experiences in other areas of the country. Participants included working waterfront experts from Florida and Maine.

On December 3, 2010, the MASGLP will host its Environmental Law Fall Forum in Mobile, Alabama. We are excited to have distinguished speakers from across the Gulf to address a variety of issues including the *Stop the Beach Renourishment* decision, climate change tort litigation, water quantity issues, CERCLA liability and others. For registration information and to see a list of speakers, please visit http://masglp.olemiss.edu/environmental_law_forum.htm

North Carolina Coastal Resources Law, Planning and Policy Center

In September, NC Coastal Resources Law Planning and Policy Center co-directors Lisa Schiavinato and Joseph Kalo presented on legal and policy issues for wind energy development in state and federal waters before the North Carolina Conservation Network during their education forum on renewable energy. The NCCN is a coalition of environmental interest groups operating within North Carolina. Schiavinato also attended the Working Waterways and Waterfronts Symposium in Portland, Maine. At this symposium, she moderated and presented during a plenary session on North Carolina's Waterfront Access Initiatives. During the week of the symposium in Portland, the Sea Grant Sustainable Coastal Community Development held its annual business meeting. Along with Vicky Carrasco, Kristen Grant and Rob Emanuel, Schiavinato was a part of the planning committee for the business meeting. In addition, the NC Wind Working Group held a quarterly meeting in September, where legal and policy issues regarding wind energy development (land-based and water-based) were the major topics at the meeting.

In September, Schiavinato was offered the opportunity to teach a graduate course on ocean and coastal law that will be a part of the Coastal Resources Management PhD program at East Carolina University. The course will be offered for the first time at the university in spring 2011.

In October, Schiavinato attended the American Shore and Beach Preservation's national meeting in Charleston, SC, where she taught one of four parts of a short course on sand resources and ocean and coastal law. She also attended a meeting hosted by the NC Division of Coastal Management on the development of a sea level rise policy and attended by conference call a meeting of the Sea Grant Legal Programs Network that was held during Sea Grant Week. Schiavinato was contacted by the University of Florida School of Law to participate on a renewable energy panel for the law school's Public Interest Environmental Conference, which will be held in February 2011 in Gainesville.

Work continued into the fall on the Center's study on emerging policy issues for NC's inner coast region. Research on issues of shoreline stabilization and water use and allocation were the major focus. The study committee's second meeting was held in October, where committee members listened to presentations on various shoreline stabilization issues and identified weaknesses in the policy approaches governing them and discussed potential policy recommendations.

In November, Schiavinato and Kalo make their annual pilgrimage to New Bern to host the annual meeting of the Center's Advisory Board and to host the Center's annual continuing legal education program called "The Shape of the Coast."

Rhode Island Sea Grant Legal Program

8th Marine Law Symposium

The Marine Affairs Institute held its 8TH Marine Law Symposium entitled "Taking Stock: *The Magnuson-Stevens Act Revisited*" on November 4-5, 2010 at Roger Williams University School of Law, Bristol, Rhode Island, with over 100 attendees. Keynote speakers were Senator Sheldon Whitehouse (D-RI) and Eric C. Schwaab, Asst. Administrator for Fisheries, NOAA. Leading ocean law scholars from Hawaii to Nova Scotia, advocates from conservation as well as private practice, and management professionals gathered to explore questions about the law's implementation. Panelists and audience members discussed the Act's intersection with other laws, relationship with other natural resource management schemes, and future application in the complex world of catch shares, renewable energy and marine spatial planning. Presentations, resource documents and a stream to the proceedings will be on-line soon at <http://law.rwu.edu/academics/institutes-programs/marine-affairs-institute/symposia>.



Senator Sheldon Whitehouse (D-RI)



Eric C. Schwaab, Fisheries, NOAA

Marine Affairs Fall Faculty Dinner

The Marine Affairs Faculty from Roger Williams University School of Law and the University of Rhode Island will meet on Wednesday, December 8, 2010 for their bi-annual dinner. Professor Larry Juda with the URI Department of Marine Affairs will give the presentation on "International Law, Multilateral Treaties, and Ocean Use Management."

SAVE THE DATE!

Blowout: Legal Legacy of the Deepwater Horizon Catastrophe

April 13-14, 2011

Roger Williams University School of Law

Bristol, Rhode Island

Our nation's worst environmental disaster began when the Deepwater Horizon oil rig exploded and millions of gallons of oil entered the Gulf of Mexico. This conference will convene law and policy experts to examine the legal response to this ecological and human tragedy. We will consider issues of liability, damages, how offshore oil and gas are regulated, and future implications for ocean management.

Additional information will be available soon at

<http://law.rwu.edu/academics/institutes-programs/marine-affairs-institute/symposia/april-2011-deepwater-horizon-catastr>.