TUWaterWays

Water News and More from the Tulane Institute on Water Resources Law and Policy
June 13, 2017

Not So FAST Mr. President

Environmental compliance is just one of the factors that can drag the process of getting to "yes" or "no" on public works projects, and the President has set his sights on streamlining that process as part of his infrastructure investment program. Vowing to create a new office at the Council on Environmental Quality to coordinate the federal permitting process, President Trump staked his claim to leading the way to a more efficient approach to decision making, saying that help is finally on the way after decades and decades. Well maybe not. At least not according to a letter sent by Senators Portman (R-OH) and McCaskill (D-MO) that pointed out that the Fixing America's Surface Transportation Act (FAST-41) enacted in 2015 already covers much of the ground the President mapped out and that in fact his proposal could lead to conflict and confusion. You may read the letter here or check out this rough translation from the Temptations: Great googamooga, it's a ball of confusion.

A Few Simple Pages…

Nobody likes them. Environmental Impact Statements, we mean. Mounds of paper that can run for hundreds of pages and easily can leave you glassy-eyed if you (actually) read them. But they can also leave you better informed and serve as an important defense against the inevitable attacks that "major federal actions" can expect to endure. But why can't they be shorter? There are reasons for that, but they were not at the forefront of President Trump's mind when he announced that he wants to see environmental reviews reduced to a "few simple pages" and wants to shorten the process to two years from of up to ten. He is fundamentally talking about the National Environmental Policy Act (and some other acts) that require federal agencies to consider the impacts of their proposed actions and alternative ways of going about them. Nowhere in those laws does it say these reviews should take a decade and hundreds of pages. Indeed, for most actions they don't but for some they can, and do. So, can he wave a wand and change things? Unless he can change or repeal those laws the answer is no—unless the plan is to just shift to increasingly smaller fonts. To be sure, the entire environmental review process could be improved, but at its core this comes down to doing what the law requires and the number of people you have doing the work. Improvement in

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 stewardship of water.

Coming up:

One Water Summit
New Orleans, LA
June 27-29, 2017

Water jobs:

Water Law & Policy Fellow
UC Berkeley School of Law
Berkeley, CA
Senior Manager (State Policy)
Ceres
Boston, MA
Water Scarcity & Markets Strategy Director
The Nature Conservancy
Washington, DC

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the former is very unlikely to happen, and the second is slated to get worse if the trends set by the Trump administration's staffing and budgeting proposals play out. Cuts to the staffing and budgets of federal agencies do not change what they must do, it only effects their ability to do it well and quickly.

Its Unbeweevilable

Salvinia: it is not your distant cousin from Georgia and it is not a country in the Balkans. Nope, it is a plant, and one that is not easy to get along with. And if that were not bad enough, there is also giant Salvinia (*Salvinia molesta*), which is even worse. How bad is it? Well, when it gets into lakes and streams it can create dense mats that choke off sunlight, deplete oxygen, and impede navigation. This is exactly what is happening in Louisiana's Lake Bistineau, in the northwestern part of the Bayou State. The noxious plant can't really be blamed, since it did not ask to leave its native Brazil to serve as an adornment in aquariums and then be flushed down drains into our unsuspecting waters. But now that it is here, efforts to poison it, harvest it and otherwise control it have come up short. But they hadn't tried weevils, apparently an arch enemy of giant Salvinia. To knock back the invader, the State of Louisiana is giving away live weevils to put into the Lake. But you can't just toss weevils in the water, they need something to cling to, so Louisiana is giving away weevils that are attached to plants—Salvinia (common, not giant) believe it or not. There may be a lesson here about the wisdom and cost of introducing nonnative species, but given that Congress is considering relaxing the Lacey Act, which regulates interstate transport of nonnative species in Louisiana in order to facilitate water transfers to Texas, maybe not.

A Very Sorry Trend

It was curiosity when Elton John did it. When it spread to Justin Bieber and Ciara we all took it in stride. But now that Chicago contractor NPL Construction has done it we think it is time to put this disturbing trend to a stop. Saying "sorry", we mean. It seems that when NPL was replacing a water main in Chicago things went very wrong and people got mad. The City Council set hearings to allow people to vent and let NPL really have it. But NPL turned the tables, leaving people aghast and lawyer's families worried about their futures. Instead of loading up on lawyers, public relations pros and political muscle, NPL apologized instead. They said they were sorry. The hearing was cancelled and everybody went back to work. We can't begin to tell you how bad things could get if this sort of thing catches on and decency and civil discourse become commonplace. Not to worry, there are plenty of red-blooded folks out there to stand up for acrimony and divisiveness. Besides, this probably just fake news anyway.