When It Comes to Federal Flood Risk Management, Obama Says “I Want to Take You Higher”

Last Friday, President Obama issued an Executive Order aimed at protecting federal investments from flood risks. The Order modifies a previous Executive Order, issued in 1977 by President Carter, which directed federal agencies to consider flood risk when designing and siting federal projects in floodplains. Importantly, floodplains were defined as places where there was at least a 1% chance of flooding in any given year.

Given sea-level-rise projections, more intense storms in the future, and outdated flood maps, President Obama felt it prudent to raise the bar, so to speak. A floodplain is now determined one of four ways: 1) using the best-available climate-informed science that integrates current and future changes in flooding, 2) adding two or three feet to the base flood elevation depending on whether the action is, respectively, non-critical or critical, 3) calculating whether an area is subject to flooding by the 0.2 percent annual chance flood, or 4) using any Federal Flood Risk Management Standard identified in the future. While the new standard will add 0.25-1.25% to the cost of constructing federal projects, the Executive Order is projected to cut recovery costs and save taxpayers in the long run. The timing of the Order is conspicuously close to the release of a comprehensive Army Corps study on how to protect the North Atlantic Coast in a post-Sandy world.

The Water-Energy-Food Nexus Plays Out in California

Over the last five years or so, the “water-energy-food nexus” has reached buzzword status, but it remains a useful tool for approaching interrelated issues in the three sectors. Let’s use drought-stricken northern California, where some areas just experienced the driest January in 165 years, as an example. The San Francisco Chronicle, with the help of the U.S. EPA, recently uncovered that the state has been permitting for the last 30 years the injection of produced water from oil fields into aquifers clean enough for drinking or irrigating crops.

How could this have happened? Well, when EPA handed regulatory control of wastewater injection over to the state back in 1983, it agreed to exempt a number of aquifers (into which produced water could be injected) that also were suitable drinking or watering crops with little to no extra work. Moreover, California regulators also glossed over the fact that
for some exempt aquifers, only parts of those aquifers were exempt. Eleven injection wells were shut down last year after regulators feared contaminated water would taint aquifers used for drinking and agriculture. So far, test results show that no contamination has taken place. EPA has given California officials until the end of this week to figure out how to fix the problem and prevent it from happening again.

So what does this have to do with food? Well, on the one hand, the agriculture sector is benefitting from robust oil production (and overproduction) as it is heavily dependent on diesel to fuel everything from irrigation to cultivation. On the other hand, due to the drought, U.S. consumers are relying more on produce imports and getting hosed at the local wine bar.

**Elections Have Consequences**

Earlier this week, President Obama unveiled his $4 trillion budget proposal. To help offset increased spending in nationwide natural resource management, watershed protection, and conservation programs, the president proposes that Congress scrap part of the Gulf of Mexico Energy Security Act of 2006 (GOMESA). What’s GOMESA you say? It’s a law that, in relevant part, shares revenues from Outer Continental Shelf oil and gas leases with the adjacent petroleum producing Gulf States and their political subdivisions. While a trickle of revenue-sharing started in 2007, more leases would be shared starting in 2017 and would therefore become a significant source of revenue for these states (capped at a combined total of $500 million per year). Importantly, these revenues must be spent on coastal restoration or protection or otherwise mitigating the effects of Outer Continental Shelf activities. GOMESA plays a prominent role in financing Louisiana’s Master Plan for a Sustainable Coast. With the ousting of Mary Landrieu in last year’s election, the Deep South no longer has any Democratic representation. It is then not surprising that our Democratic president has little to lose, and some to gain, by pushing to reallocate these federal dollars to other parts of the country, like battleground state Florida. Time will tell whether this proposal takes root in the Republican-controlled Congress, but Louisiana’s delegation will certainly fight to hold onto this revenue stream.

**Colorado River Inspires Colorful Conversation between Its Users**

According to one Central Arizona Project official, there’s a 61% chance of the Department of the Interior declaring shortage on the lower Colorado River by 2017. In other words, there’s a 61% chance of Lake Mead falling below 1,075 feet above sea level, triggering a level one shortage. Right now, the lake is around 1,089 feet. Such a declaration would, for example, cut Arizona’s allocation from 1.6 million acre-feet per year to 480,000 acre-feet per year. If Lake Mead falls below 1,000 feet, which could happen in the next 5-8 years if drought conditions persist, 40 million people and $1.4 trillion in economic activity would be severely impacted. Even if drought conditions do improve, there’s the long-term issue that there’s just too much demand on the river. The demands were designed and formalized in 1922 under the Colorado River Compact. Unfortunately, the river allocations set out in that compact were based on river flows during an unusually wet period of time. Drought in much of the Colorado River Basin is causing states and political subdivisions to scramble for short and long-term solutions. To cope with the risk of Lake Mead falling below the intake pipes distributing water to Las Vegas, the city is working to complete an $817 million, 3-mile long tunnel from the bottom of the lake to the city’s water utility. The State of Colorado, which has generally had more allocation than demand, is rethinking its policy of allowing California to use some of its surplus. California has been preparing for this as it invested more than $1 billion over the last decade to reduce its Colorado River dependence (sounds like an opportunity for water conservation entrepreneurs). As water availability in the American West continues to dwindle, the levels of cooperation, litigation, or both are sure to rise.

**Deepwater Horizon Trial – That’s a Wrap!**

While a final decision has yet to be made and appeals are likely in the offing, all we have to say at this point is that we commend you, Judge Carl Barbier, for completing the trial phase of this saga in less than two years.