

Marsh Resilience Summit: *Legal & Policy Challenges for Planning for Marsh Migration and Wetlands Preservation*

February 6, 2019

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Planning Ahead

We are not good at it:

- ▶ **Psychology 101 - Human Nature**
- ▶ **Our political system**
- ▶ **The needs of today demand our attention (and our \$\$)**
- ▶ **Over-reliance on real property tax**

Planning Ahead

Made more complicated by multiple sets of SLR predictive data:

- ▶ NOAA
- ▶ US Army Corps of Engineers
- ▶ IPCC (U.N.)
- ▶ U.S. NCA4 (global mean sea level has risen approx. 7-8” since 1900 & approx. 3” since 1993; predicted to rise .3m-2.5m by 2100)
- ▶ VIMS - http://adaptva.com/info/virginia_sea_level.html

Planning Ahead

Also made more complicated by legal issues:

- ▶ Boundary line shifts
- ▶ Potential locality liability
- ▶ Limitations of legal framework in Virginia
 - ▶ Private ownership to the MLW
 - ▶ Living Shorelines
(<https://law.wm.edu/academics/programs/jd/electives/clinics/vacoastal/reports/livingshorelineimplementation.final1.pdf>)
 - ▶ CBPA
(<https://law.wm.edu/academics/programs/jd/electives/clinics/vacoastal/reports/cbparesiliencefinal.pdf>)
 - ▶ Stormwater Management

Planning Ahead - Current Options

- ▶ **Comprehensive plans that take future flooding into account**
 - ▶ Leave room for upland marsh migration
- ▶ **Zoning ordinances with incentives**
 - ▶ Norfolk's Zoning Ordinance: Coastal Resilience Overlay & Upland Overlay Districts
 - ▶ TDR programs
- ▶ **Buyouts/conservation easements**
- ▶ **Better use of living shorelines**

Planning Ahead - What We Need

- ▶ Regional solutions
- ▶ Adaptation, Mitigation, and Managed Retreat

Left to Louisiana's Tides, a Village Fights for Time

<https://www.nytimes.com/interactive/2018/02/24/us/jean-lafitte-floodwaters.html>

For the community of Jean Lafitte, the question is less whether it will succumb to the sea than when – and how much the public should invest in artificially extending its life.

By **KEVIN SACK** and **JOHN SCHWARTZ** FEB. 24, 2018 **The NY Times**

The policymakers “don’t place value on anything but the money, not the longevity of these communities, not the culture,” said Tracy Kuhns, 64, a longtime resident of the Barataria community across the bayou from Jean Lafitte. “One of the problems in this country is that people don’t have any connection to where they live. People really want that. Why would you take it away from people who already have it?”

Planning Ahead - What We Need

▶ Other Incentive Ideas

- ▶ Fund the use of flooding areas for marsh migration, aquaculture sites, living shoreline studies?
- ▶ Create a fund to compensate flooding localities for lost tax revenue, like the Tobacco Region Revitalization Commission and the Tobacco Revitalization Revolving Fund?

Ivo Cassol, Brazilian politician: *“If the Amazon is the lungs of the world, they’re going to have to pay us to breathe.”*

- ▶ **A plan for Superfund & toxics storage sites**
- ▶ **Virginia Coastal Master Plan**

Planning Ahead - What We Need

- ▶ **Public Education**
- ▶ **Funding**
 - ▶ **Using our Funds More Wisely - *Rethinking the NFIP***
- ▶ **Political Courage**
- ▶ **Holistic Thinking:**

Planning Ahead - What We Need

- ▶ **Dual Goals: Sea Level Rise Resilience *AND* Water Quality Protection**

- ▶ e.g., CZM Program dredging grant

- ▶ **Multiple benefits**

- ▶ Stormwater management, CBPA, Bay TMDL, local TMDLs, flood buffers, habitat

- ▶ FEMA: coastal wetlands prevented approx. \$625 M in property damage from Hurricane Sandy

Rising to the Challenge, Together

A Review and Critical Assessment of the State of the US Climate Adaptation Field

A REPORT PREPARED FOR THE KRESGE FOUNDATION

December 2017

BY Susanne C. Moser, Joyce Coffee, Aleka Seville

*The most important thing thought leaders can do to advance the field is to **press the urgency of climate change**. They must insist on the need to address climate challenges through both mitigation and adaptation in ways that enhance equity and social cohesion. Thought leaders can push the field to think bigger, bolder, and deeper about challenges and solutions.*