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CPR's McGarity Raps Ex-Corps of Engineers Officials' Effort to Blame Environmentalists for Katrina Damage

McGarity: 'Joseph Towers' assertion that environmentalists are to blame for Katrina's damage is pure fiction.'

Washington, DC – Center for Progressive Reform President Thomas A. McGarity today responded to an assertion by former Army Corps of Engineers chief counsel that New Orleans might have been spared the wrath of Hurricane Katrina, but for a 1977 lawsuit by an environmental group. McGarity called the assertion, “pure fiction.”

Joseph Towers, a retired chief counsel of the Army Corps of Engineers is quoted in the September 9, 2005 Los Angeles Times. The article describes a 1977 lawsuit by Save Our Wetlands and others that secured an injunction from U.S. District Judge Charles Schwartz, Jr. against a massive construction project that, according to Towers, would have prevented the flooding that occurred in New Orleans in the wake of Hurricane Katrina. “My feeling was that saving human lives was more important than saving a percentage of shrimp and crab in Lake Pontchartrain," Towers is quoted saying.

McGarity responded: “It’s pure fiction to assert that the project was abandoned because of the court’s injunction. The reality – one Towers surely knows – is that the Army Corps of Engineers was directed by the court to conduct a proper Environmental Impact Study, in accordance with the law. Before doing that, the Corps reassessed the project’s costs and benefits and concluded that a less costly alternative would be preferable. That’s why the project was abandoned. The Corps botched the project by failing to follow the law, and then devised an alternative that has still not been fully implemented. The effort to blame environmentalists is outrageous and cowardly.”

Background: The project at issue, called the “Lake Pontchartrain and Vicinity Hurricane Protection Project,” was authorized in 1965 as part of the federal government’s response to Hurricane Betsy, which struck the Gulf Coast that year. It called for the construction of several miles of levees in the area where the narrow mouth of Lake Pontchartrain empties into Lake Borgne and ultimately the Gulf of Mexico. At the three points where water flows between the two lakes (Rigolets, Chef Menteur and Seabrook),

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massive gates and locks would have been erected to permit the passage of water and ocean going vessels during ordinary periods. As hurricanes approached, the locks and gates would be closed to prevent some or all of the storm surge from entering Lake Pontchartrain and threatening New Orleans.

In assessing the suggestion that a lawsuit brought by an environmental group indirectly caused the 2005 New Orleans flood, the following points are critical.

- First, and most important, the litigation concerned only the adequacy of the environmental impact statement (EIS) that the Corps of Engineers had prepared to detail the environmental effects of the proposal and reasonable alternatives. The court found that the EIS did not adequately consider alternatives, and in particular the “high levee” alternative had not been fully considered. The court was also impressed by the fact that the Corps of Engineers had not implemented a request by the chief of its own New Orleans engineering division to complete an adequate hydraulic design for the project before launching into a project that, in his words, might have “far-reaching and adverse consequences.” Finally, the biological assessment in the EIS relied exclusively on telephone conversations with a single marine biologist. The injunction would have been lifted had the Corps of Engineers simply updated the EIS with adequate hydrologic modeling, as requested by its own chief engineer, conducted a more thorough biological assessment, and considered a few reasonable alternatives.
- Second, the project lacked public support. A substantial majority of the New Orleans citizens either opposed the project (38.5 percent) or favored discontinuation until the studies could be completed (23.6 percent), according to an informal poll conducted at the time by Representative Robert Livingston. The League of Women Voters reported at the time that the citizens opposed it because it would have encouraged rapid development in the East New Orleans wetlands.
- Third, the Corps did not abandon the project because of the threat of environmental groups to continue the litigation. In the process of responding to the EIS injunction, the Corps reevaluated the “high levee” alternative and decided to adopt that approach instead. By 1982, according to the U.S. General Accounting Office, the Corps favored the high levee plan because “it would cost less than” the barrier project. It also concluded that the high levee plan would have fewer adverse effects on the environment.
- Fourth, a large proportion of the economic benefits that the Corps relied on to justify the barrier project prior to the 1977 injunction derived from an accompanying 28,000-acre development, called the Orlanda subdivision, that the outer levees and sea gates would have allowed, and the fact that the barrier project would offer more protection to the existing industrial areas that were outside the existing New Orleans levee system. That development was the principal cause of environmentalists’ concern,

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not the barrier itself. But the Corps coupled the two developments together in its cost-benefit assessment, and refused to separate them in response to legitimate environmental concerns.

- Fifth, it was never clear that the project would in fact have worked as envisioned, and it is by no means clear that it would have protected New Orleans from Hurricane Katrina had it been built as designed. More recent proposals for a Seagate project are more environmentally friendly and provide for a higher outer levee system.
- Finally, the project would have done nothing to protect the areas of St. Bernard Parrish that were flooded not by waters from Lake Pontchartrain, but by waters from Lake Borgne, which would have been on the other side of the barriers. Indeed, it is possible that the barrier project would have exacerbated the flooding of St. Barnard Parrish south and east of highway 90. This potential was alluded to by the opponents of the project in 1977.

It is therefore erroneous to suggest that the barrier project was derailed by the lawsuit. It could easily have progressed as soon as the appropriate Environmental Impact Studies were completed and the alternatives considered. Significantly, the National Environmental Policy Act, under which the lawsuit was filed, would not have empowered the court to consider the merits of a Corps determination that the project should go forward.

In the end, the Corps declined to conduct a satisfactory Environmental Impact Study of the barrier project as then designed. Instead, it killed the project on its own during the Reagan Administration primarily because of its costs.

The Center for Progressive Reform is a 501(c)(3) nonprofit research and educational organization dedicated to protecting health, safety, and the environment through analysis and commentary. For more information, contact Matthew Freeman at 301-762-8980 or at mfreeman@progressivereform.org. Visit CPR on the web at www.progressivereform.org.

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Note to Media: CPR and the Georgetown Environmental Law & Policy Institute are jointly sponsoring a public forum, "Katrina: An Unnatural Disaster," at 3:00 today (Friday, September 9) at the Georgetown University Law Center, McDonough, Room 200, 600 New Jersey Ave., N.W. Washington, D.C. For more information, contact Elissa Free at (202) 662-9500.