

PUBLICATION

Mississippi Secretary of State Sues the Corps of Engineers for Diverting Floodwaters Off of the Mississippi Gulf Coast

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On December 30, 2019, Mississippi Secretary of State Delbert Hosemann filed suit against the U.S. Army Corps of Engineers, requesting the federal district court in Gulfport to order the Corps to stop diversions of floodwaters from the Mississippi River into the Mississippi Sound until an updated environmental impact statement is completed. Hosemann claims in his lawsuit that these diversions of floodwaters have damaged the Mississippi Sound through sediment loading and freshwater intrusion.

Specifically, the Secretary of State accuses the Corps of diverting the flow of the Mississippi River into the Mississippi Sound by opening the Bonnet Carre Spillway without updating a 1976 environmental impact statement (EIS) which addresses the effects of the spillway. The lawsuit points to regulations of the National Environmental Policy Act requiring that an environmental impact statement be supplemented when there has been a significant change in circumstances.

Hosemann claims that the EIS is no longer valid because of changed circumstances since 1976, including ecological changes caused by Hurricane Katrina and the Deepwater Horizon oil spill. Moreover, the lawsuit alleges that changed circumstances have been caused by the Corps' increased frequency of opening the spillway. According to Hosemann, the Corps has only opened the Bonnet Carre Spillway 14 times since 1937. However, the Corps has opened the spillway five times in the past eight years, including twice, for a total of 123 days, in 2019.

The Secretary of State claims that the opening of spillway has caused lost fisheries and seafood related revenues of more than \$215 million. The complaint filed by the Secretary of State attaches an executive summary of a November 2019 report issued by the Mississippi Department of Marine Resources of commercial fishery and seafood related revenue losses "due to extreme flooding events in the Gulf of Mexico."

Hosemann alleges that the Corps has failed to mitigate the freshwater releases into the Mississippi Sound by using a flood control alternative, the diversion of floodwater into the Atchafalaya Floodway via the Morganza Spillway.

Contact [Mike Dawkins](#) for more information and updates on this decision.