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Greens Fight to Save Crab-Rich Bay in Texas

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GALVESTON, Texas (CN) — Conservationists say a Texas bay known for its blue crab is at risk of habitat loss because a federal agency missed its deadline to update the Gulf of Mexico's fishery management plan.

The nonprofits Matagorda Bay Foundation and the Gulf Restoration Network sued the Department of Commerce and the National Oceanic and Atmospheric Administration on Wednesday in Galveston Federal Court.

The New Orleans-based Gulf Restoration Network advocates for policies to protect the Gulf's natural resources and is a watchdog of industry in the Gulf.

The Matagorda Bay Foundation is dedicated to preserving the health of the estuary 80 miles northeast of Corpus Christi. For more than 40 years, its founder Al Garrison has been a fishing guide on the bay. He expects to take clients out on it around 100 times this year.

The 352-square-mile Matagorda Bay system is the second-largest estuary on the Texas Gulf Coast. "The abundant production of finfish and shellfish make this environmentally sensitive area important not only as a[n] ecological resource, but also as a source of economically significant commercial and sports fisheries. Many factors contribute to this high natural productivity, but the most significant is an ample source of freshwater," the complaint states, citing a Texas Parks & Wildlife Department report.

The nonprofits also sued the Gulf of Mexico Fishery Management Council, one of eight regional fishery management councils in the U.S., each composed of federal and state officials and private parties appointed by the Secretary of Commerce.

Matagorda Bay, fed by the Colorado River and Lavaca River basins, contains brackish water that supports commercial fishermen who harvest oyster, blue crab and shrimp. The bay's average salinity is 19 parts per thousand, while the Gulf's is 35 ppt, according to a study by Texas A&M University-Corpus Christi.

Recreational fishermen also flock to the bay for its healthy populations of red drum, a feisty fish that prefers shallow water with vegetation to hide in, and Southern flounder, tasty fish that draw tourists.

Not to be confused with the Colorado River that originates in the Rocky Mountains, this Colorado River's headwaters are near Lubbock.

The nonprofits say that projects on land could diminish the flow of freshwater into Matagorda Bay and disrupt its salinity, imperiling fish and crustacean habitat, because the fishery management council this month missed its five-year deadline to update the Gulf of Mexico's fishery management plan.

Because management plan revisions must incorporate the latest scientific data, the groups say, without a new plan in place, the federal agencies in charge of Gulf of Mexico fisheries "may have limited ability to require mitigation" of projects on land that can reduce the flow of freshwater into the bay.

They allege violations of the Administrative Procedure Act and the Declaratory Judgment Act. They want the fisheries council ordered to begin updating its management plan within six months and finish it within 18 months.

Doug Gregory, the council's executive director, is also a defendant. He declined comment and, but said in an email: "We need to consult with NOAA General Counsel to confirm what our legal requirements are."

A spokeswoman for NOAA Fisheries, also known as the National Marine Fisheries Service, said the agency cannot discuss pending litigation.

The plaintiffs' Houston attorney Jen Powis said in an email that one project that may decrease the amount of freshwater entering the bay is the Lane City Reservoir, which the Lower Colorado River Authority is building 60 miles southwest of Houston.

The authority, a nonprofit public utility, is the largest supplier of water and electricity in the state. It operates six dams on the Colorado River, including the Mansfield Dam, which formed Lake Travis. Austin gets most of its water from the reservoir.

Powis sent a memo to Courthouse News from the Army Corps of Engineers that cites a permit verification for the Lane City Reservoir. She said the document indicates the Corps of Engineers did not consult with NOAA about ramifications for Matagorda Bay before approving the permit for the reservoir.

"(The memo) indicates that the Corps did not contact any of the resource agencies before building the reservoir on the river which may impact the estuary and instream flows," Powis wrote.

The River Authority says the \$255 million dam, to be completed by 2018, will not diminish freshwater flows into Matagorda Bay enough to cause problems for wildlife, but it refused to release the study informing that position to the Matagorda Bay Foundation. The River Authority also asked Texas Attorney General Ken Paxton to exempt the data from open-records laws, the Texas Tribune reported in December last year.

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