

Annual Report

For the academic year 2014-15

Tulane Environmental Law Clinic

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Adam Babich, Director
Lisa W. Jordan, Deputy Director
Elizabeth Livingston de Calderón, Clinical Instructor
Machelle Hall, Clinical Instructor
Corinne Van Dalen, Clinical Instructor
May Nguyen, Community Outreach Director
Linda Swanner, Legal Assistant

"Legal representation should not be denied to people who are unable to afford legal services, or whose cause is controversial or the subject of popular disapproval." MODEL RULES OF PROF'L CONDUCT R. 1.2 cmt. 5 (2009)

DIRECTOR'S STATEMENT

September 29, 2015

Dear Colleagues:

This annual report covers a turbulent and productive year at the Tulane Environmental Law Clinic. This spring we lost a student-attorney and Tulane University lost two promising students in an almost unimaginable tragedy—an apparent murder-suicide. Among its continuing impacts, this tragedy brought home one of the most challenging aspects of our profession: clients *always* deserve their lawyers' best work, no matter what else is going on in the lawyers' personal or professional lives. And TELC's student-attorneys delivered.

This month, on behalf of the Waterkeeper Alliance, the Louisiana Environmental Action Network (LEAN), and the Apalachicola Riverkeeper, TELC lodged a settlement with Taylor Energy Co. to resolve a particularly challenging Clean Water Act citizen suit. The settlement concerns an 11-year long oil leak into the Gulf of Mexico from a destroyed drilling platform about 11 miles offshore. Taylor and the U.S. government had been attempting to respond to the leak in secret. They had been basing the response on drastically understated estimates of daily oil flow (4 gallons per day instead of at least 85). The settlement unfortunately will not stop the leak. Nobody currently knows how to do that. TELC's clients adopted a "sunlight as disinfectant" approach, relying on public disclosure to 1) increase chances of an effective solution, and 2) help the government and members of the public more accurately assess the risks of offshore drilling proposals. Taylor withdrew its claims of confidentiality as to most relevant documents and will fund \$400,000 worth of Supplemental Environmental Projects. The case kept student attorneys busy since 2012: students prepared key legal documents, took and defended depositions, assisted in negotiations, and argued motions in court.

In August, TELC's clients, Gulf Restoration Network, Sierra Club, and LEAN, lodged a consent decree with United Bulk Terminals to help keep coal and petroleum coke out of the Mississippi River during ship loading operations. This case was a challenge because much of it occurred in parallel with a state enforcement action, creating a moving target. After TELC's clients submitted their notice of intent to sue in November 2013, the State of Louisiana issued a compliance order in January 2014. After TELC's clients filed suit in March 2014, Louisiana and UBT signed a settlement agreement in January 2015 and modified UBT's permit in May 2015. The clients' August 2015 proposed consent decree 1) provides for additional operational improvements on top of those required by the state settlement agreement, 2) allows the Court to order additional measures if necessary to prevent future illegal discharges, and 3) provides for a Supplemental Environmental Project.

To assist the Town of Abita Springs in protecting its water supply, TELC's student attorneys launched three lawsuits to stop a "fracking" project on residentially zoned property. We lost one of these cases, but in another the state court overturned a Louisiana Department of Natural Resources permit to Helis Oil & Gas Company for oil exploration under a sole source drinking water aquifer in St. Tammany Parish. The court found that DNR had not done the analysis to discharge its duty as public trustee of the environment under Louisiana's Constitution. The third case, in federal court, is still pending.

Court victories can be temporary and settlements almost always represent imperfect compromises. Inarguably, however, TELC's class of 2015 will be entering the profession having already served their clients well.

Very truly yours.

Balil

Since its inception, the Clinic has provided free legal representation and community outreach to more than 180 community organizations, lower-income individuals, and local governments throughout Louisiana. By representing clients who have historically been left out of governmental processes, the Clinic has become a powerful force for environmental reform.

The Clinic contributes to the Louisiana legal community both by training strong, ethical litigators and by helping the Bar meet its obligation, under the legal profession's rules, to ensure that access to justice is not denied to people who cannot afford legal services or whose cause is controversial or unpopular. TELC is also a proud member of the Mississippi River Collaborative, http://www.msrivercollab.org.



Student attorneys William Lindsey, Devin Lowell, and Justine Keel



Student attorneys Caitrin Reilly and Vanessa Graf



Student attorney Amanda Serfess



Student attorneys Taylor Doyle, Dean Boyer, and Joshua Albritton

For more information on the Clinic, please see TELC's webpage at http://www.Tulane.edu/~telc.



Fall 2014

From top left: Vanessa Graf, Justine Keel, Caroline Wick, Devin Lowell, Maxwell Malvin, Nolan Dean Boyer, Liza Livingston de Calderón, Taylor Doyle, Lisa Jordan, Adam Babich, William Lindsey, Bethanne Sonne, Joshua Albritton, Kristine Talbot, Malory Weir, William Dunkelman, Tulane Law School Dean David Meyer. From bottom left: Rebecca Timmons, Daniel Newman, Kelly Parks, Jessica Johnson, Caitrin Reilly, Matthew Landry, Brooke Riggs, Andrea Storer.



Spring 2015

From top left: Adam Babich, Nolen Dean Boyer, E. Carra Smith, Zita Orji, William Lindsey, Matthew Landry, Daniel Newman, Vanessa Graf, Caitrin Reilly, Bethanne Sonne. From middle left: Susan Frye, Jared Pessetto, William Dunkelman, Devin Lowell, Garreth DeVoe, Taylor Doyle, Justine Keel, May Nguyen. From bottom left: Terence Alost, Amanda Serfess, Caroline Wick, Andrea Storer, Rebecca Timmons, Jeffrey Friedman, Linda Swanner, Maxwell Malvin.

Each year, the Clinic trains up to 26 law students to practice environmental law. The Louisiana Supreme Court and the U.S. District Courts in Louisiana have adopted "student practice" rules that authorize Clinic students to appear, argue, and present witnesses. This authorization is a privilege, carrying with it the responsibility to provide zealous, diligent representation that meets the highest standards of professional behavior. Clinic students are sworn to place "the interests of the client" above their "personal interests or clinic interests."

Our summer research assistants help TELC's staff keep our cases moving between semesters. Undergraduate interns assist in the Community Outreach Program.

Fall '14 Student Attorneys

Joshua C. Albritton Nolen Dean Boyer Taylor B. Doyle William H. Dunckelman Vanessa W. Graf Jessica A. Johnson Justine A. Keel Matthew S. Landry William A. Lindsey Devin Lowell Maxwell A. Malvin Daniel T. Newman Kelly D. Parks Jared A. Pessetto Caitrin Reilly Brooke A. Riggs Bethanne M. Sonne Andrea M. Storer Kristine Talbot Rebecca K. Timmons Malory M. Weir Caroline Jasmine Wick

Fall '14 Intern Erin Platt

Summer '15 Intern Andrew Vaughan

Spring '15 Student Attorneys

Joshua C. Albritton
Terence J. Alost
Nolen Dean Boyer
Garreth Albertson-Moe DeVoe
Taylor B. Doyle
William H. Dunckelman
Jeffrey Edwin Friedman

Susan J. Frye
Vanessa W. Graf
Justine A. Keel
Matthew S. Landry
William A. Lindsey
Devin Lowell
Maxwell A. Malvin
Daniel T. Newman
Zita A. Orji
Jared A. Pessetto
Caitrin Reilly
Amanda M. Serfess
Emily Carra Smith
Bethanne M. Sonne
Andrea M. Storer

Rebecca K. Timmons

Caroline Jasmine Wick



TELC Research Assistants
From Left: Terence Alost, Judith Gronna, Alison Dunbar, Jacob Kronish
(not pictured: Sarah Kalis)

Summer '15 Research Assistants

Terence Alost Judith Gronna Alison Dunbar Jacob Kronish Sarah Kalis



TELC Student Intern Erin Platt

Student Attorneys at Work



Terence Alost (on left)



Andrea Storer



Taylor Doyle









Brooke Riggs

Many of the Clinic's clients have struggled for years to improve environmental protection and the quality of life for Louisiana residents. The Clinic's representation of such clients means that access to the courts becomes one of their available tools. Each client, however, remains responsible for the bigger picture. In other words, the Clinic's job is to serve as a tool available to clients who struggle to protect public health, welfare, and the environment. The Clinic does not take over, or direct, the struggle. The Clinic represented the following clients, along with several individuals, during the 2014–2015 academic year:

Apalachicola Riverkeeper
Atchafalaya Basinkeeper
Center for Biological Diversity
Charter Fisherman's Association
Christian Ministers Missionary Baptist
Association of Plaquemines Parish
Citizens Against Multi-Chem
Concerned Citizens Around Murphy
Concerned Citizens of Belle River
Galveston Baykeeper
Gulf Restoration Network
Lake Pontchartrain Basin Foundation
Little Tchefuncte River Association
Louisiana Audubon Council
Louisiana Bayoukeeper



Community activist Stephanie Anthony with Jared Pessetto



Louisiana Crawfish Producers Association – West (LCPA-West)

Louisiana Environmental Action Network (LEAN)

Lower Mississippi Riverkeeper
Ouachita Riverkeeper
Orleans Audubon Society
Oakville Community Action Group
RESTORE

Save Lake Peigneur, Inc.
Save Our Hills
Sierra Club
Town of Abita Springs
Waterkeeper Alliance, Inc.



Lisa Jordan, Machelle Hall, May Nguyen, Adam Babich, Linda Swanner, Elizabeth Livingston de Calderón, and Corinne Van Dalen

Adam Babich, Director

Adam Babich has directed TELC since May 2000. He is a professor at Tulane Law School, where he teaches environmental and administrative law. He received his J.D. from Yale Law School in 1983 and his B.A. from Dickinson College in 1977. He has served as an assistant attorney general for the Colorado Attorney General's CERCLA Litigation Section, as adjunct attorney for the Environmental Defense Fund, as partner in a Denver law firm, as editor-inchief of the Environmental Law Institute's Environmental Law Reporter, and as a law clerk for the Colorado Supreme Court. Under Adam's watch, TELC received the 2010 Federal Bar Association's (New Orleans Chapter) Camille F. Gravel, Jr. Pro Bono Award and has raised more than \$3 million in foundation grants, individual donations, and attorney fee awards.

Lisa Lavie Jordan, Deputy Director

Lisa Lavie Jordan, a New Orleans native, originally came to the Clinic in its early years as a

1990-1991. student attorney from She received her LL.M. in environmental law, with distinction, from Tulane in 1991. She went on to serve as a prosecutor in the Orleans Parish District Attorney's Office, where she eventually became a member of the office's Violent Offender Strike Force. In 1996, she returned to the Clinic, this time as a Supervising Attorney. Lisa left in 1998, but returned in July 1999 to serve as Acting Director of the Clinic for the 1999-2000 academic year. In 2006, she returned to the Clinic as a Supervising Attorney and then as Deputy Director. Lisa retains an



From right: Lisa Jordan with Caroline Wick

interest in trial education, having taught in Tulane's Trial Advocacy Program, as well as the NITA program, and having served as a coach for Tulane ATLA trial teams.

Corinne Van Dalen, Clinical Instructor and Staff Attorney

Corinne Van Dalen received her JD in 1990 from the University of Florida, where she also received a B.S. in Journalism in 1986. Following law school, Ms. Van Dalen began her practice



From right: Corinne Van Dalen with community activist Florence Robinson, guest, Daniel Newman, and Dean Boyer

in New Orleans representing community organizations in Fair Housing Act suits. In Ms. Van Dalen moved to Washington, D.C. to work as a legislative specialist for the Coastal Organization and later for a private law firm counseling clients on environmental matters. Returning to litigation in 1996, she worked at the Washington D.C.-based firm Arnold & Porter on product liability cases. In 2001, Ms. Van Dalen took a position with a firm that brought her back to New Orleans where she worked on insurance coverage suits involving pollution claims. She joined the Tulane

Law School faculty in 2005 where she supervises and trains student attorneys at the Environmental Law Clinic. As supervising attorney, she has represented Louisiana Environmental Action Network, Sierra Club, Gulf Restoration Network, and several community organizations in citizen suits and permit challenges under the Clean Air Act, Clean Water Act, Louisiana Coastal Resources Management Act, and Louisiana Environmental Quality Act.

Elizabeth Livingston de Calderón, Clinical Instructor and Staff Attorney

Elizabeth Livingston de Calderón started her career in private practice, first with Winthrop,

Stimson, Putnam & Roberts in New York City and then with Pepper Hamilton in Detroit, Michigan. She moved to New Orleans in 2002 to teach Legal Research & Writing at Tulane Law School, and directed Tulane Law School's international graduate legal studies program from 2004 to 2006. Ms. Calderón earned her J.D. *magna cum laude* from Tulane Law School, where she was a member of the Tulane Law Review. She also earned an M.A. in classical languages from Tulane University and a B.A. from Connecticut College. She joined the clinic in May 2006.



Liza Livingston de Calderón with Malory Weir

Machelle Lee Hall, Clinical Instructor and Staff Attorney

Machelle Lee Hall received her JD from Tulane University Law School where she was the Editor in Chief of the Tulane Environmental Law Journal, her MA from Central European University, and her BA from Hamline University. Ms. Hall worked at F. Gerald Maples, PA in New Orleans for 4 years, where she represented clients in the Comer global warming, Miss. River Gulf Outlet takings. Murphy oil spill, and CAPECO oil facility explosion cases. Before becoming an attorney.

Ms. Hall was a consulting archaeologist performing cultural resource and environmental

compliance for highway, pipeline, commercial construction, superfund and other development and mitigation projects in the Upper Midwest and Gulf Coast states. Ms. Hall also volunteers for the New Orleans Citizen Diplomacy Council, New Orleans Association for Women Attorneys, Louisiana SPCA, and Linda Bruneau Regional Breast Cancer Association.



Machelle Hall with Justine Keel

May Thi Nguyen, Community Outreach Director (Joined the clinic in Feb 2015)

May Nguyen received her J.D. from UCLA School of Law where she was selected to be part of



May Nguyen and Louisiana Oysterman Association President, Byron Encalade

the Epstein Program in Public Interest Law and Policy. Nguyen received her M.A. in International Economics and Southeast Asia Studies from Johns Hopkins University, School of Advanced International Studies (SAIS) in Washington D.C., and her B.A. from Amherst College. Previously, Nguyen worked as a social justice strategy consultant for non-profits, most notably helping coastal Louisiana fishing communities successfully demand recognition and calculate damages for their lost subsistence use due to the BP Oil Spill. For her contribution, Nguyen received the Rishwain Social Justice Entrepreneurship Award. During law school, she was a legal intern at the Natural Resource Defense Council (NRDC) in Santa Monica, CA.

Linda Swanner, Legal Assistant

Linda Swanner joined the Clinic in April 2006 as the Clinic's legal assistant and webmaster. Ms. Swanner previously worked in the Office of Academic Services at Tulane Law School. Her move was prompted by her interests in environmental and environmental justice issues. She provides administrative and clerical support to faculty, clinical staff, and student attorneys. Ms. Swanner is also is TELC's webmaster.



Linda Swanner



Student attorneys Matthew Landry and Caroline Wick (far left) and supervising attorney Lisa Jordan (far right) with residents of the Town of Abita Springs and Mayor Greg Lemons (center).

TELC's Legal Advisory Board

The Legal Advisory Board reviews case approval memoranda and recommends approval or disapproval of individual cases. Board members also provide Clinic staff with invaluable advice. We find that the process of seeking case-specific approval from a board forces us to think objectively and critically about potential cases before committing to them. Board members' questions can uncover aspects of a proposed case that we had failed to consider. Neither Tulane University nor Law School administrators appoint or control this board.

Legal Advisory Board Members

Professor Paul Barron
Professor Kirsten H. Engel
Monique Harden, Esq.
James M. Hecker, Esq.
Professor Jane L. Johnson
Professor Maxine Lipeles
Michele Merkel, Esq.
Karla Raettig, Esq.
Ronald Simon, Esq.

Gopher Frog Habitat Protected: TELC's clients initiated negotiations and collaborations that culminated in purchase of 170.6 acres of gopher frog habitat for preservation by the Land Trust for the Mississippi Coastal Plain. TELC's clients Gulf Restoration Network (GRN) and Center for Biological Diversity (CBD) kicked the process off in 2009 and 2010 with TELC's preparation and

issuance of notices of intent to litigate about the Tradition residential development in Harrison County, Mississippi, and an associated sewage treatment plant, under the Endangered Species Act and the National Environmental Policy Act. GRN, CBD and others announced the purchase agreement on May 14, 2015. (157-027 & 157-027.1)

Shell Decides Not to Build Pipeline through Atchafalaya Basin: On May 4, 2015, the Shell Pipeline Company LP informed the Louisiana Department of Natural Resources that it would not build its proposed Westward Ho Project, which was to be a crude oil pipeline originating in St. James, Louisiana, and terminating near Nederland, Texas, a distance of about 204 miles. The Tulane Environmental Law Clinic represented the Atchafalaya Basinkeeper, the Delta Chapter of the Sierra Club, Gulf Restoration Network, and Louisiana Environmental Action Network



Kristine Talbot, Matthew Landry, and Caroline Wick

in submitting comments opposing this pipeline project. (155-016)

Louisiana Department of Natural Resources Conditions Helis Drilling Permit: On December 19, 2014, the Louisiana Department of Natural Resources, Office of Conservation, issued a drilling permit to Helis Oil & Gas, LLC, but conditioned the permit on Helis applying mitigative measures requested by the Town of Abita Springs and the Concerned Citizens of St. Tammany as part of their opposition to Helis's fracking project. Among other measures, the Office of Conservation



Caroline Wick representing the Town of Abita Springs at a public hearing

required Helis to: 1) monitor noise, air, stormwater, and groundwater, including establishing a baseline for these parameters; 2) use a closed loop solids control system with no pits; 3) limit the source of water for fracking purposes to surface waters from private ponds not replenished groundwater; and 4) employ three strings of casing/pipe. The Tulane Environmental Law Clinic represented the Town of Abita Springs in these proceedings.

<u>Drinking Water Audit Exposes Violations</u>: On November 13 2014—pursuant to a TELC-negotiated settlement in RESTORE v. Beauregard Water Works District No. 3, No. 12-cv-2602 (W.D. La. May 30, 2014)—an audit report disclosed regulatory violations at a municipal waterworks in Beauregard Parish, Louisiana. Among other violations, the report revealed "numerous instances of lower than allowed chlorine residual values of 0.50 mg/l. Some of these occurred for consecutive days at a time and it is unknown if these conditions were recognized by operations staff as out of compliance. ... There is a pattern of repetitious events to which there is no documented response

or correction apparent. There was one incident where there was no sample taken and tested at all." The Louisiana Department of Health and Hospitals (LDHH) set the minimum .5 mg/l level in an emergency rule to guard against rare but potentially deadly infections by the "brain-eating amoeba," Naegleria fowleri. See Health Department Enacts Rule to Combat Brain-Eating Amoeba, NEW ORLEANS TIMES PICAYUNE, Nov. 7, 2013 (2013 WLNR 27968090) (noting, "The emergency rule comes about three months after a 4-year-old [child] ... died in August after contracting the fatal bacteria while visiting St. Bernard [Parish, Louisiana]). The audit report does not speculate about why LDHH failed to discover, or alert the public to, the Water Works' violation of the emergency rule. (170-001)

Alleged Clean Air Act Violations Abated: On about October 31, 2014, Heck Industries, Inc. completed a move of its concrete production facility away from its Moreauville, Louisiana, location to resolve a February 28, 2014, Notice of Clean Air Act violations that TELC submitted on behalf of Sierra Club. The notice alleged that Heck was violating its Clean Air Act permit by failing to control fugitive emissions from concrete loading operations. The notice stressed concerns about the impacts of particulate pollution on children in two nearby schools. Heck has now moved its operations from the Moreauville community to a site in Mansura, Louisiana, that reportedly provides a buffer to minimize offsite impacts. (126-020)

Settlement Requires City of Hattiesburg to Build Wastewater Treatment Plant: On September 29, 2014, the U.S. District Court for the Southern District of Mississippi entered a Consent Judgment settling Gulf Restoration Network's claims against the City of Hattiesburg for violations of the Clean Water Act at the City's wastewater treatment lagoons. The consent judgment requires the City to design and construct a plant that can treat the City's wastewater sufficiently to meet its permit limits and other Clean Water Act requirements by September 2018. It also requires the City to fund a water quality monitoring station downstream of its discharges to gauge the health of the impacted river. In addition to the consent judgment, GRN negotiated amendments to an agreed order between the Mississippi Commission on Environmental Quality and the City so that the agreed order now imposes stipulated penalties of \$1500 per day against the City should it fail to meet design and construction deadlines for the new plant, and imposes a stipulated penalty for failure to meet the September 2018 compliance deadline of \$2000 a day. The amended order also strengthens the interim permit limits the City must meet until September 2018. The consent judgment incorporates all terms of the amended agreed order, making it enforceable by the federal court. (157-039)

Court Overturns Agency Decision Allowing Storage of Natural Gas in Salt Dome Underneath Lake Peigneur: On September 23, 2014, Judge Comeaux of the 16th Judicial District Court based in New Iberia reversed the decision of the Louisiana Department of Natural Resources to issue a Coastal Use Permit to Jefferson Island Storage & Hub for its proposal to construct and operate two natural gas storage caverns in the Jefferson Island Salt Dome under Lake Peigneur. The court agreed with the Plaintiffs that the DNR should not have issued the permit without first finding that the project would not unreasonably endanger public safety and that the location had foundation conditions sufficiently stable to support the use. Further, the court ruled that DNR's decision violated the agency's Constitutional duty as public trustee of the environment under Article IX, section 1 of the Louisiana Constitution because DNR did not do an environmental impact analysis of the potential impacts of the project. The court stated that DNR should have taken into account, among other things, the implications of the unexplained bubbling in Lake Peigneur and the potential risk of contamination to the Chicot Aquifer. The Tulane Environmental Law Clinic represented the Plaintiffs, including Save Lake Peigneur, Inc. and Louisiana Environmental Action Network, in this case. (172-001.5)

CLEAN AIR INITIATIVE

On behalf of and in consultation with its clients, TELC manages the Clean Air Initiative to target dangerous air pollution in Louisiana from industrial facilities, including oil refineries and chemical and petrochemical manufacturing facilities, which are overwhelmingly concentrated in lower-income, minority communities. The Initiative's goals are to abate dangerous air emissions, deter industry violations of the Clean Air Act, and empower citizens to participate effectively in the permitting and enforcement processes. Below are clean air matters the Clinic worked on during the 2013–2014 academic year:

Lawsuits & Administrative Adjudications

Michigan v. EPA, Nos. Nos. 14-46, 14-47, 14-49 (U.S., brief filed Mar. 2, 2015) (Amicus brief on behalf of the American Thoracic Society in support of EPA's decision not to consider costs when determining that it is appropriate to include electric utility steam generating units among the categories of industrial sources required to control emissions of hazardous air pollutants) (174-002)

Christian Ministers Missionary Baptist Association of Plaquemines Parish, Inc., et al. v. Louisiana Department of Environmental Quality, No. 2014-ca-0421 (La. 1 Cir., March 25, 2014) (Appealing the 19th JDC's January 2, 2014, decision to dismiss for lack of jurisdiction a challenge to LDEQ's issuance of a Clean Air Act "minor source" permit to RAM Terminals LLC) (177-005) (Adverse decision Dec. 10, 2014)

Citizens Against Multi-Chem v. Louisiana Department of Environmental Quality, No. 2014-C-1464

(La. July 8, 2014) (Applying for a Louisiana Supreme Court writ to review a First Circuit Court of Appeal decision holding that the 19th Judicial District Court had no jurisdiction to hear an appeal of a minor source Clean Air Act permit that LDEQ issued to a chemical facility) (178-001.2) Adverse decision Oct. 10, 2014



Comments, Notices, and Administrative Petitions

Petition to EPA on behalf of Sierra Club and Louisiana Environmental Action Network (seeking an EPA objection to a Title V Clean Air Act permit (No. 2560-00295-V0) that the Louisiana Department of Environmental Quality issued to Yuhuang Chemical Inc. for a new methanol plant in St. James Parish, Louisiana, and alleging that the permit fails to meet the Act's requirements for Prevention of Significant Deterioration ("PSD"), including permitting and public participation requirements) (126-024.1) (May 18, 2015)

Freedom of Information Act Request to EPA on behalf of Concerned Citizens Around Murphy (seeking documents related to Valero's refinery operations in Meraux, Louisiana) (161-006.2) (April 21, 2015)

Comments on behalf of the Sierra Club and the Louisiana Environmental Action Network (Opposing the issuance of an air permit proposed by the Louisiana Department of Environmental Quality to

Yuhuang Chemical, Inc. for a new methanol manufacturing plant in St. James, Louisiana based on 1) LDEQ's failure to apply the Clean Air Act's Prevention of Significant Deterioration requirements; 2) LDEQ's failure to require measures to assure compliance with permit limits; and 3) Yuhuang Chemical's failure comply with its obligation to submit an adequate Environmental Assessment Statement to LDEQ) (126-024) (Mar. 18, 2015)

Petition on behalf of the Oakville Community Action Group to the Agency for Toxic Substances and Disease Registry (requesting that the agency evaluate the health impacts of hydrogen sulfide

exposure to the residents of the Oakville in Plaquemines Parish, Louisiana from the adjacent construction and demolition debris landfill) (104-035) (April 30, 2015)

Supplemental Notice of Intent to file Clean Air Act citizen enforcement suit against ExxonMobil Chemical Co. on behalf of Louisiana Environmental Action Network and Ms. Stephanie Anthony (Supplementing a April 22, 2013, notice and alleging that ExxonMobil's Baton Rouge chemical plant releases dangerous air pollutants in violation of its permits and the Clean Air Act) (101-055.1) (Jan. 30, 2015)



Student attorneys Daniel Newman and Bethanne Sonne with community activist Florence Robinson

WATER QUALITY PROTECTION INITIATIVE

The Water Quality Protection Initiative addresses water pollution problems in Louisiana by enabling citizens to pressure the responsible government agencies to protect water resources and to enforce the Clean Water Act directly against polluters. The Water Quality Protection Initiative's goals are to reform water protection programs, to abate harmful water discharges, and to empower citizens to participate effectively in permitting and enforcement processes. The Clinic worked on the following matters during the 2013–2014 academic year:

Lawsuits & Administrative Adjudications

Town of Abita Springs v. U.S. Army Corps of Engineers, No. 15-451 (E.D. La. Feb. 12, 2015) (Challenging the U.S. Army Corps of Engineers' handling of a fracking-related application for a Clean Water Act § 404 permit for Helis Oil & Gas Co. to conduct drilling in St. Tammany Parish wetlands. The lawsuit alleges, inter alia, that the Corps unlawfully denied a request for a public hearing, failed to conduct sufficient notice and comment, and failed to require a complete application.) (183-001.3)

Ouachita Riverkeeper v. EPA. No. 14-cv-4495 (N.D. TX, Dec. 22, 2014) (alleging that EPA issued an unlawful decision not to object to a permit for discharges from Georgia-Pacific LLC's Crossett Paper Operations to Coffee Creek in Crossett, Arkansas that fails to meet Clean Water Act requirements) (166-004)

Contempt Motion, Little Tchefuncte River Association and Gulf Restoration Network v. Artesian Utility Company, Inc., No.12-1923 (E.D. La. Dec. 16, 2014) (Alleging continuing wastewater discharges to the Tchefuncte River in violation of an October 18, 2013 Consent Decree) (167-002)

Gulf Restoration Network, et al v. Gina McCarthy, No. 13-31214 (5th Cir., Nov. 21, 2013) (Federal appeal of the district court's remand of EPA's denial of a petition for rulemaking under the Clean Water Act to establish numeric water quality standards for nitrogen and phosphorous for Mississippi River Basin states, to abate water quality degradation including the massive low-oxygen "dead zone" in the Gulf of Mexico (173-001.1) Vacated & Remanded April 7, 2015.

Gulf Restoration Network v. City of Hattiesburg, No. 12-cv-36 (S.D. Miss., Mar. 2, 2012) (Alleging ongoing violations of Clean Water Act discharge permits at two Hattiesburg sewage and wastewater treatment lagoons) (157-039) Settled September 29, 2014

Waterkeeper Alliance, Atchafalaya Basinkeeper, Galveston Baykeeper, Louisiana Bayoukeeper, Apalachicola Riverkeeper, Louisiana Environmental Action Network v. U.S. Coast Guard, No. 13-

289 (D.D.C. Mar. 5, 2013) (Appealing the U.S. Coast Guard's refusal to divulge documents under the Freedom of Information Act related to an eight-year oil leak at Taylor Energy Co.'s MC-20 site in the Gulf of Mexico and Taylor's decommissioning efforts) (101-127.1) Sept. 29, 2014 Remand Order



Sheen from a decade-long oil leak from a destroyed Taylor Energy offshore platform in the Gulf of Mexico

Comments. Notices. and Administrative Petitions

Freedom of Information Act Request to EPA on behalf of Ouachita Riverkeeper and Louisiana Environmental Action Network (seeking documents pertaining to Georgia-Pacific's application for renewal of its Clean Water Act permit for its paper mill discharges to Coffee Creek in Crossett, Arkansas) (166-002.2) (July 10, 2015)

Petition on behalf of the Apalachicola Riverkeeper and others to Secretary Sally Jewell, U.S. Dep't



TELC Deputy Director Lisa Jordan at a public hearing

of the Interior, Secretary Jeh U.S. Johnson, Dep't Homeland Security, & Admiral Paul F. Zukunft, Commandant of the Coast Guard re: Taylor Oil Spill (requesting that the government share information about the Taylor Oil Spill with the public because. withholding information about the spill, DOI and the Coast Guard have cut themselves off from the expertise and ideas of outside commenters and experts from industry, the environmental community. academia, and the public at large) (101-127) (April 23, 2015)

Comments to EPA on behalf of the Gulf Restoration Network, the Louisiana Environmental Action Network, the Lower Mississippi Riverkeeper, and the Sierra Club, Delta Chapter (supporting EPA's proposal to disapprove the Louisiana Department of Environmental Quality's 2014 Integrated Report under the Clean Water Act, in which LDEQ delisted the nearshore waters of the Gulf of Mexico for Dissolved Oxygen impairment from the impaired waters list and delisted dozens of other waterbody subsegments for mineral impairments; and also supporting EPA's proposal to place all these delisted waterbodies on Louisiana's Clean Water Act 2014 List of Impaired Waters) (157-047) (April 9, 2015)

Freedom of Information Act Request to EPA on behalf of Ouachita Riverkeeper and Louisiana Environmental Action Network (seeking documents pertaining to EPA's review of its review of a draft Clean Water Act permit for Georgia-Pacific's paper mill in Crossett, Arkansas) (166-004) (Mar. 11, 2015)

Comments on behalf of the Louisiana Environmental Action Network to EPA (Supporting in part and opposing in part a draft rule amending EPA's and the Corps' regulatory definition of "waters of the United States" under the Clean Water Act) (101-130) (Nov. 14, 2014)



Tulane Law School Dean David Meyer, Lisa Jordan, Adam Babich, Student Attorney Jessica Johnson, and Louisiana Fourth Circuit Court of Appeal Judge Roland L. Belsome

ENDANGERED WETLANDS INITIATIVE

Wetland loss in southern Louisiana has reached catastrophic proportions, threatening the productivity of ecosystems, the economic viability of its industries, and the safety of its residents. The Endangered Wetlands Initiative uses client-directed administrative comments and litigation to enhance citizen efforts to protect and restore wetlands and empower citizens to participate effectively in wetlands decisions. On behalf of its clients, the Clinic worked on the following matters within its Endangered Wetlands Initiative during the 2013–2014 academic year:



Lawsuits & Administrative Adjudications

Industrial Pipe, Inc. v. Plaquemines Parish Council, et al., No. 2014-C-1653 (La. Sup. Ct., Aug. 1, 2014) (Applying for a writ on behalf of the Oakville Community Action Group and others for review of a Louisiana Fourth Circuit decision upholding a 25th Judicial District Court judgment that granted Industrial Pipe a coastal use permit for disposal of waste in coastal wetlands in Plaquemines Parish) (104-029.3) Adverse decision Oct. 31, 2014

Save Lake Peigneur, Inc., Louisiana Environmental Action Network, and Roger Stelly v. Secretary,

Louisiana Department of Natural Resources, No. 122358E (16th Jud. Dist. Court, April 8, 2013) (Appealing LDNR issuance of Coastal Use Permit to Jefferson Island Storage & Hub, LLC for creation of natural gas storage caverns in a salt dome underneath Lake Peigneur and alleging that LDNR failed to consider the potential negative impacts of the project to people and the environment) (172-001.5) (Favorable ruling Sept. 23, 2014)



Guest, Daniel Newman, Devin Lowell, Jared Pessetto, and Taylor Doyle

Comments, Notices, and Administrative Petitions

Petition to U.S. Army Corps of Engineers on behalf of Atchafalaya Basinkeeper and the Louisiana



Jeffrey Friedman

Crawfish Producers' Association-West (seeking public notice and NEPA review for the Corps' reissuance of Clean Water Act §404 regional general permit New Orleans District 13 for board road and ring levee projects in wetlands) (155-017) (May 21, 2015)

Comments on behalf of Save Our Hills et al. to the U.S. Army Corps of Engineers (Opposing issuance to Southern Aggregates LLC of a Clean Water Act § 404 permit for destruction of 12.91 acres of wetlands in conjunction with a sand and gravel mine adjacent to the Oak Hills residential subdivision in Livingston Parish, Louisiana, and urging the Corps to prepare an Environmental Impact Statement under the National Environmental Policy Act (NEPA)) (184-001) (Mar. 30, 2015)

Freedom of Information Act Request to the Army Corps on behalf of Atchafalaya Basinkeeper (seeking documents pertaining to the Corps' public notice of a proposed general permit) (155-015) (Jan. 6, 2015)

Comments on behalf of the Town of Abita Springs to the U.S. Army Corps of Engineers (Opposing the revised application of Helis Oil & Gas Co., LLC, for a Clean Water Act § 404 permit to dredge and fill wetlands in St. Tammany Parish to create a well pad from which to drill a vertical, exploratory well as the first step in a fracking operation, based on its violation of zoning, availability of alternative sites, and being contrary to the public interest) (183-001) (Nov. 13, 2014)



Michael Orr, Michael Shaw, Oneil Couvillion, Cynthia Couvillion, Adam Babich, guest, Florence Robinson, Frank Bonifay, Rebecca Timmons, Bethanne Sonne, Marylee Orr, guest, Jared Pessetto, Maxwell Malvin, Paul Orr

The Community Preservation Initiative helps Louisiana residents defend their communities and environment against damage from land use decisions that threaten the historic value, cultural fabric, and environmental integrity of communities. On behalf of citizens and community organizations, the Clinic represented communities in the following matters during the 2013–2014 academic year:



Lawsuits & Administrative Adjudications

Coastal Conservation Association v. Pritzker, No. 15-cv-1300 (E.D. La., intervention filed May 14, 2015) (Intervention as a defendant on behalf of the Charter Fisherman's Association in support of U.S. Department of Commerce regulations under the Magnuson-Stevens Fishery Conservation and Management Act. The regulations at issue divide the recreational sector for Gulf of Mexico red snapper into two components: a Federal charter vessel component and a private angling component. The regulations also allocate the red snapper recreational quota and annual catch target between these two components.) (182-003)

Louisiana Environmental Action Network v. Louisiana Department of Environmental Quality, No. 2015- CA-0749 (La. 1st Cir., May 12, 2015) (Appealing district court decision dismissing case challenging LDEQ's issuance of a landfill permit for the Brooklawn Disposal Facility) (101-131.1)

Town of Abita Springs v. James H. Welsh, in his official capacity as Commissioner of Conservation and Assistant Secretary of the Louisiana Department of Natural Resources, No. 637,209 (19th Jud. Dist. Feb. 18, 2015) (Appealing the Commissioner's order granting Helis Oil & Gas Co.'s application for a Permit to Drill a well in St. Tammany Parish through which it will conduct hydraulic fracturing operations and alleging that the Commissioner failed to perform his Constitutional duties as public trustee of the environment to analyze and minimize the risks associated with the project) (183-001.2)

Town of Abita Springs v. James H. Welsh, Commissioner Of Conservation of the Louisiana Department of Natural Resources, and Helis Oil & Gas Co., LLC, No. 2014-15348 (22nd Jud. Dist, Dec. 1, 2014) (Requesting Declaratory Judgments that: 1) the St. Tammany Parish Unified Development [Zoning] Code controls where drilling operations permitted by the Office of Conservation may occur, and 2) Helis's drilling project violates the St. Tammany Parish Zoning laws in the St. Tammany Parish Unified Development Code) (183-001.1)

Louisiana Environmental Action Network v. Louisiana Department of Environmental Quality, No. 630630 (19th Jud. Dist, May 19, 2014) (Appealing LDEQ's issuance of a landfill permit for the Brooklawn Disposal Facility based, inter alia, on arguments that: LDEQ lacked jurisdiction to grant the permit because the agency's prior denial was still before the district court, LDEQ based its decision on a flawed consideration of alternatives, and the permit contributes to a disproportionate

environmental impact on a lower-income, minority community) (101-131) (Adverse decision Jan. 14, 2015)

Entergy Gulf States Louisiana, L.L.C. and Entergy Arkansas, Inc. v. EPA, No. 14-cv-1827 (E.D. La., motion filed Sept. 11, 2014) (Moving to intervene on behalf of Sierra Club to defend EPA's decision to release Entergy documents in response to Sierra Club's requests for information about three coal-fired power plants in Arkansas and Louisiana under the Freedom of Information Act (FOIA)) (126-023). Motion to Intervene denied March 5, 2015.

Guindon v. Pritzker, No. 14-cv-45 (D.D.C., motion filed June 24, 2014) (Moving to intervene on



View of the Industrial Pipe Landfill from a playground in Oakville, LA

behalf of the Charter Fisherman's Association in a case challenging the National Marine Fisheries Service's implementation of annual quotas for recreational fishing of red snapper in the Gulf of Mexico under the Magnuson - Stevens Fishery Conservation and Management Act) (182-002) Motion administratively terminated with leave to re-file Nov. 19, 2014

Comments, Notices, and Administrative Petitions

Comments on behalf of Save Our Hills et al. to the Louisiana Department of Environmental Quality (Opposing a Clean Water Act §401 water quality certification for a Southern Aggregates LLC proposed sand and gravel mine adjacent to the Oak Hills residential subdivision in Livingston Parish, Louisiana) (184-001) (April 21, 2015)

Comments on behalf of the Louisiana Environmental Action Network, Concerned Citizens of Belle River, Ms. Hazel Cavalier, the Atchafalaya Basinkeeper, and the Sierra Club, Delta Chapter to the Louisiana Department of Natural Resources (Opposing a Louisiana Department of Natural Resources proposal to issue a permit to FAS Environmental Services to relocate an oil production waste transfer station to the batture of the Intracoastal Waterway levee, near the Belle River community in St. Martin Parish, Louisiana based on DNR's and FAS's failures to conduct adequate alternative sites and alternative projects analyses, to identify and assess negative environmental impacts of the proposed site, to consider Saint Martin Parish's master plan and zoning laws, and to consider FAS's history of safety and environmental violations) (101-132) (March 5, 2015)

Oral Comments on behalf of Hazel Cavalier (Opposing a Louisiana Department of Natural Resources proposal to issue a permit to FAS Environmental Services to relocate an oil production waste transfer station to the batture of the Intracoastal Waterway levee, near the Belle River community in St. Martin Parish, Louisiana. The oral comments alleged that the DNR and FAS failed to conduct an adequate alternative sites analysis, identify negative environmental impacts of the new site, or provide quantitative data comparing current and proposed diesel use in connection with the relocated facility (101-132) (Feb. 26, 2015)

Supplemental Comments on behalf of Oakville Community Action Group, Louisiana Environmental Action Network, and Ms. Gloria Mayfield (Opposing the renewal of a solid waste permit for a landfill to continue operating directly next to the community of Oakville in Plaquemines Parish) (104-030) (Jan. 13, 2015)

Comments on behalf of the Town of Abita Springs to the Louisiana Department of Natural Resources (Opposing the application of Helis Oil & Gas Co., LLC for a drilling permit to drill a vertical exploratory well and then a horizontal well for hydraulic fracturing, based on failure to conduct an environmental impact statement, violation of local zoning laws, risks to the drinking water aquifer, geologic faults in the proposed drill area and other unmitigated risks of the proposal (183-001) (Nov. 19, 2014)



Maxwell Malvin, LEAN Executive Director Marylee Orr, Bethanne Sonne, guest, Rebecca Timmons



William Lindsey and Dean Boyer

COMMUNITY OUTREACH



- July 31, 2015, May Nguyen participated in a Louisiana Clean Gulf Commerce conference call.
- July 30, 2015, May Nguyen attended a Gulf Coast Center for Law and Policy meeting.
- July 30, 2015, May Nguyen met with Louisiana Vietnamese fishermen and advocates.
- July 30, 2015, May Nguyen participated a conference call with the Gulf Restoration Network and the Woodland's Conservancy.
- July 30, 2015, May Nguyen attended a Green Army meeting.
- July 30, 2015, May Nguyen attended a Gulf South Rising five state conference call.
- July 27, 2015, May Nguyen attended a Louisiana Water Network Strategic Plan & Presentation.
- July 25, 2015, May Nguyen attended a Gulf Coast Center for Law and Policy meeting.
- July 23, 2015, May Nguyen attended a Gulf South Rising five state conference call.
- July 22, 2015, May Nguyen met with the Gulf Organized Fisheries in Solidarity & Hope Coalition.
- July 21, 2015, May Nguyen attended a Gulf Coast Center for Law and Policy meeting.
- July 20, 2015, May Nguyen participated in a Concerned Citizens of St. Tammany Parish meeting.
- July 16, 2015, May Nguyen attended a Gulf South Rising five state conference call.
- July 15, 2015, May Nguyen participated in a Clean Gulf Commerce conference call.
- July 15, 2015, TELC's Director spoke to the Tulane University Mandela Washington Fellows about environmental law in the United States.
- July 2, 2015, May Nguyen attended a Gulf South Rising five state conference call.
- June 26, 2015, May Nguyen organized and participated in a cross-group, strategic meeting for individual and organizations working on wetlands issues.
- June 25, 2015, May Nguyen met with the Louisiana Environmental Action Network (LEAN) staff and consultant.
- June 24, 2015, May Nguyen met with the Sierra Club regional staff.

- June 23 24, 2015, May Nguyen attended the Clean Gulf Commerce Coalition Strategy meeting.
- June 23, 2015, May Nguyen participated in a United States Human Rights Network -Human Rights Award Selection Committee conference call.
- June 18, 2015, May Nguyen met with Zion Travelers Cooperative Center Executive Director.
- June 17, 2015, May Nguyen participated in a Clean Gulf Commerce conference call.
- June 17, 2015, May Nguyen met with the Atchafalaya Basinkeeper Board, Director, and members.
- June 15 August 14, 2015, May Nguyen attended weekly Gulf South Rising Louisiana conference call.
- June 11, 2015, May Nguyen and Linda Swanner organized and facilitated a Tulane Environmental Law Clinic, Community Outreach Program Advisory Committee conference call.
- June 3, 2015, Adam Babich and May Nguyen participated in a phone conference with concerned residents near the Camp Minden site.
- June 3, 2015, May Nguyen attended a Gulf South Rising United Houma Nation community meeting.
- June 1, 2015, May Nguyen attended a Gulf South Rising conference call.
- May 30, 2015, May Nguyen attended a Gulf South Rising Louisiana meeting.
- May 28 29, 2015, May Nguyen participated in a Gulf South Rising training in Fairhope,
 AL, for gulf wide community leaders involved in ecological justice
- May 27, 2015, May Nguyen participated in a Clean Gulf Commerce conference call.
- May 26, 2015, May Nguyen attended the Louisiana Department of Natural Resource Public Hearing for the Nola Oil Terminal in Belle Chase, LA.
- May 21, 2015, May Nguyen organized a cross-group, strategic meeting for individual and organizations working on wetlands issues.
- May 20, 2015, May Nguyen participated in a Clean Gulf Commerce conference call.
- May 17, 2015, TELC's Director spoke at the May meeting of the Delta Chapter of Sierra Club about TELC's role and cases.
- May 14, 2015, May Nguyen organized and facilitated the TELC Community Outreach Program Community Advisory Committee conference call.
- May 13, 2015, May Nguyen participated in a Clean Gulf Commerce conference call.
- May 8, 2015, May Nguyen participated in a Clean Gulf Commerce conference call.

- May 7, 2015, May Nguyen attended a Save Louisiana Coalition Town Hall meeting in Chalmette, LA.
- May 5, 2015, TELC's Director testified at a during a City Council hearing about the Recovery School District's plans to build a high school on a former toxic dumpsite. A New Orleans nonprofit, Advocates for Environmental Human Rights, coordinated the testimony.
- April 30, 2015, May Nguyen attended a US Army Corps of Engineers and Louisiana fishing leaders meeting.
- April 30, 2015, May Nguyen attended a Vietnamese Louisiana community memorial event.
- April 30, 2015, May Nguyen participated in a Clean Gulf Commerce conference call.
- April 29, 2015, May Nguyen participated in the Clean Gulf Commerce conference call.
- April 28, 2015, May Nguyen participated in a US Human Rights Network Conference Planning Committee conference call.
- April 23, 2015, May Nguyen participated in a Clean Gulf Commerce conference call.
- April 20, 2015, May Nguyen attended a BP oil drilling disaster five year panel event in Davant, Plaquemines Parish, LA.
- April 17, 2015, May Nguyen attended the US Army Corps of Engineers NGO Partnership Meeting.
- April 16, 2015, May Nguyen organized and facilitated the Tulane Environmental Law Clinic Community Advisory Committee conference call.
- April 15, 2013, May Nguyen organized a cross-group, strategic meeting for individual and organizations working on wetlands issues.
- April 13, 2015, May Nguyen attended a Justice and Beyond meeting.
- April 10, 2015, May Nguyen participated in a Clean Gulf Commerce conference call.
- April 10, 2015, May Nguyen attended a Recirculating Farms Coalition meeting.
- April 7, 2015, May Nguyen attended a Ban Toxic School Building campaign meeting.
- March 31, 2015, May Nguyen and Linda Swanner organized a training for staff and community partners on navigating the Louisiana Department of Natural Resources database.
- March 28, 2015, May Nguyen served as a panelist at the 6th Annual Building Resiliency Workshop in Louisiana.
- March 24-26, 2015, May Nguyen attended the Mississippi River Collaborative conference in New Orleans.
- March 19, 2015, May Nguyen attended Gulf Restoration Network and Sierra Club event.

- March 18, 2015, Corinne Van Dalen met with The Lens staff to provide training in investigative environmental journalism techniques.
- March 15, 2015, May Nguyen tabled at Earthfest in Abita Springs, Louisiana.
- March 13, 2015, May Nguyen organized a cross-group, strategic meeting for individual and organizations working on wetlands issues.
- March 11 August 18, 2015, May Nguyen attended a weekly Gulf South Rising Louisiana meeting.
- March 10, 2015, May Nguyen attended a St. John the Baptist Parish Council meeting.
- March 7, 2015, May Nguyen served as a panelist at the Public Interest Environmental Law Conference (PIELC) in Eugene, OR.
- March 1, 2015, May Nguyen attended a St. John the Baptist Parish Wallace Community Action Panel meeting.
- February 28, 2015, May Nguyen attended a Lowlander Center coastal community meeting in Jean Lafitte, LA.
- February 28, 2015, TELC cosponsored a Public Forum on Toxic-Free Schools at Dillard University. Other cosponsors included Advocates for Environmental Human Rights, the Children's Defense Fund (Southern Region Office), the Deep South Center for Environmental Justice, and the NAACP. Additionally, TELC's director spoke at the event.
- February 28, 2015, Corinne Van Dalen moderated an Environmental Justice panel at the Tulane Law School Environmental Law & Policy Summit, a two-day conference for activists, practitioners, and community members.
- February 27, 2015, TELC's director moderated a climate change panel at the Tulane Law School Environmental Law & Policy Summit.
- February 27, 2015, Corinne Van Dalen spoke at the New Orleans Bar Association, Environmental Law and Toxic Torts Committee meeting, where she provided an overview of the Tulane Environmental Law Clinic's structure and activities.



Adam Babich, TELC Director, with Tulane University Mandela Washington Fellows

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