

# Tulane Environmental Law Clinic



## **ANNUAL REPORTS 2006-2008**

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## MESSAGE FROM THE DIRECTOR

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September 29, 2008

Dear Colleagues:

This is a double issue of our annual report, covering two full academic years, fall 2006 through spring 2007, and fall 2007 through spring 2008. It has been a challenging two years and we are grateful for all the support that has enabled the Clinic, our law school, and university to come back from the devastating effects of the levee failures on our city during Hurricane Katrina.

A legal clinic which emphasizes the representation of people who would not otherwise have access to the legal system is particularly important during times of crisis. Following an emergency, citizen participation in government decision-making and transparency in government tend to fall by the wayside. Since Hurricanes Katrina and Rita in 2005, Louisiana's Department of Environmental Quality has administered environmental laws on an "emergency" footing, allowing LDEQ's secretary to waive public safety regulations and authorize new dumps without engaging in a public permitting process. Use of this "emergency" authority continues more than three years after the storms, although—at least partially in response to litigation brought by the Clinic's clients—LDEQ has limited the scope of emergency waivers and largely returned to normal permitting processes. The legacy of at least some of those emergency decisions, however, will be with us for years to come.

Courts are understandably hesitant to second-guess administrators during an emergency and our clients' challenges to LDEQ waivers have met with mixed success. For example, on August 9, 2006, the Clinic filed litigation about landfill orders that expanded the types of wastes disposed of in unlined construction and demolition debris landfills and waived Clean Water Act requirements. Over the course of the litigation and negotiations, LDEQ took several positive steps, withdrawing authorization for these landfills to accept household hazardous waste, reducing the number of landfills to which the emergency orders apply, and requiring owners and operators of the landfills to apply for Clean Water Act permits. Ultimately, however, the court threw out the lawsuit on procedural grounds, insisting on facility-by-facility challenges to waste-disposal practices in lieu of a broader lawsuit about the legality of LDEQ's emergency orders.

We cannot claim to have solved the problem of how to balance pressures for prompt emergency action with respect for the rule of law and public participation. Further, not all of this report's readers will agree with every position the Clinic advanced on behalf of clients during this difficult period. But I hope that most will find value in the Clinic's overall effort to help affected residents make their voices heard over the post-hurricane hubbub.

Very truly yours,



Adam Babich, Clinic Director

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## MISSION

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Students take an oath at the Louisiana Supreme Court to provide zealous, diligent representation that meets the highest standards of professional behavior

- **To train effective and ethical lawyers by guiding law students through actual client representation;**
- **To expand access to the legal system, especially for those who could not otherwise afford competent legal help on environmental issues; and,**
- **To bolster community members' capacity to help themselves in their ongoing efforts for a cleaner and more healthful environment.**

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## OVERVIEW

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Tulane University Law School started its Environmental Law Clinic in 1989 to offer students the experience of representing actual clients on environmental issues. Today, the Clinic is Louisiana's premier public-interest environmental legal services organization. On behalf of their clients, Clinic student and supervising attorneys litigate environmental "citizen suits" to abate industrial pollution, appeal permits for environmental pollution or destruction of wetlands, challenge agency regulations that fall short of legislative mandates, and prod agencies to perform statutory duties.

Private foundations and contributors provide funding for the Clinic to offer the high quality legal assistance its clients need, supplementing Tulane Law School's contribution to the Clinic's budget. Because the Clinic's student attorneys—who receive credit but no compensation—do most of the Clinic's legal work, the Clinic produces tremendous results with only a few paid staff members.

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 are unable to afford legal services, or whose cause is controversial or the subject of popular disapproval."

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.



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## CASE SELECTION

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To provide the best practical educational experience for its students, the Clinic generally operates at full capacity. Consistent with its client-driven mission, the Clinic evaluates potential new matters primarily on a “first-come, first-served” basis. The Clinic represents clients on cases of legal merit and educational value when:

- The clients are not reasonably able to obtain representation from the private bar, whether on an hourly or a contingent basis; or
- The Clinic serves as court-appointed counsel and the Clinic’s representation is in the public interest; or
- The client is a governmental entity and the Clinic’s representation is in the public interest.



Student attorney Jonathan Binder at the clinic

The Clinic will not take a case unless the case has evidentiary support or is likely to have evidentiary support after investigation. The case must also be warranted by existing law or by a nonfrivolous argument for a change to or an extension of existing law. Once a potential case has been screened by the Clinic staff and meets these criteria, it then is presented to the Clinic’s Legal Advisory Board (listed below) for review. The Board reviews prospective cases and approves or disapproves of cases by a majority vote of its members. The Clinic’s clients determine each lawsuit’s goals (providing, of course, that those goals are lawful). Then, in consultation with the clients, Clinic students and staff attorneys select the legal tactics that best advance their clients’ goals.

There is no requirement or expectation that the Board, Clinic staff, or student attorneys agree with the clients’ lawful objectives. The Clinic will not, however, knowingly accept a case that requires the Clinic to advance positions it believes to be unjust or irresponsible, or that it otherwise cannot competently advocate.

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## LEGAL ADVISORY BOARD

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The Legal Advisory Board's primary function is to review and approve or disapprove the Clinic's acceptance of individual cases and to provide Clinic staff with advice on Clinic matters, e.g., issues, cases, citizen outreach, fundraising, and publicity.

Professor Paul Barron

Professor Kirsten H. Engel

Monique C. Harden, Esq.

Professor Oliver A. Houck

Professor Jane L. Johnson

Michele Merkel, Esq.

Karla Raettig, Esq.

Ronald Simon, Esq.



Student attorney Kelly Jenkins



Student attorney Rina Eisenberg



Student attorney Marne Jones

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**CLIENTS**

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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 keeping an eye on 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 2006 – 2008 academic years:

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| <p>Alliance for Affordable Energy</p> <p>Assumption Parish People’s Environmental Action League</p> <p>Atchafalaya Basinkeeper Organization</p> <p>Austin Civil War Roundtable</p> <p>Bogue Lusa Water Works</p> <p>Citizens for a Strong New Orleans East</p> <p>Concerned Citizens Around Murphy</p> <p>Concerned Citizens of Independence</p> <p>Concerned Citizens of Livingston Parish</p> <p>Gertown Neighborhood Watch</p> <p>Green Zone Task Force</p> <p>Gulf Restoration Network</p> <p>Holy Cross Neighborhood Association</p> | <p>Lake Pontchartrain Basin Foundation<br/>Louisiana Audubon Council</p> <p>Louisiana Bucket Brigade</p> <p>Louisiana Charter Boats Association</p> <p>Louisiana Environmental Action Network</p> <p>National Refinery Reform Campaign</p> <p>North Gulfport Community Land Trust</p> <p>Oakville Community Action Group</p> <p>Ouachita Riverkeeper</p> <p>Save Our Neighborhoods</p> <p>Save Our Wetlands</p> <p>Sierra Club</p> <p>St. Bernard Citizens for Environmental Quality</p> <p>Surfrider Foundation</p> <p>Turkey Creek Community Initiatives</p> |
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Student attorney Jennifer Hoekstra  
during LEAN’s swamp tour

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## STAFF

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### **Adam Babich, Director**

Adam Babich is a professor of law at Tulane Law School. 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-in-chief of the Environmental Law Institute's Environmental Law Reporter, and as a law clerk for the Colorado Supreme Court. Mr. Babich has taught as an adjunct professor at Georgetown University Law Center, American University and the University of Denver. He has directed the Clinic since May 2000.

### **Jill Witkowski, Deputy Director**

Jill Witkowski is a professor of the practice at Tulane Law School. She is a graduate of Washington University School of Law. She started her legal career with Skadden, Arps, Slate, Meagher & Flom in New York City. Immediately before joining the Clinic, she served as a judicial law clerk for Judge Virginia M. Hernandez Covington of the federal Middle District of Florida. She joined the legal staff of the Clinic in August 2005.

### **Corinne Van Dalen, Staff Attorney**

Corinne Van Dalen graduated from the University of Florida Law School in 1990. Ms. Van Dalen started her legal career in New Orleans working as in-house counsel for ACORN, representing its associated organizations in litigation involving the Fair Housing Act and FCC regulations. In 1992, she went to Washington, D.C. to work as a legislative specialist for an organization that represents states' interests and develops positions and recommendations regarding the Clean Water Act, the Coastal Zone Management Act and other federal environmental laws. She also worked as a legislative specialist for a private law firm providing regulatory counseling to clients on various environmental laws. Returning to litigation, she spent five years at a large Washington, D.C.-based firm working on complex product liability cases. In 2001, Ms. Van Dalen took a position with a firm that brought her back to New Orleans. She continued to litigate, working on environmental insurance coverage disputes and complex hazardous waste claims. She joined the legal staff of the Clinic in January 2005.

### **Elizabeth Livingston de Calderón, 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 staff of the clinic in May 2006.

### **Lisa Lavie Jordan, Staff Attorney**

Lisa Lavie Jordan, a New Orleans native, originally came to the Clinic in its early years as a student attorney from 1990-1991. 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. She has recently returned to the Clinic as a Supervising Attorney. Lisa retains an 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.

**Beatriz Pérez, Community Outreach Director (through April 2007)**

Beatriz Pérez received a B.S. in Biology and Environmental Studies from Tulane University and a master's degree in Ecology from the University of California at Santa Barbara. She has held a number of positions in environmental science, environmental resource management, and environmental education. Since returning to New Orleans in 1997, she has worked with the Xavier Center for Environmental Programs and with the U.S. Army Corps of Engineers' Regulatory Program as a Senior Project Manager. In this capacity, she implemented portions of the Clean Water Act and other key environmental regulations, representing the public interest and working with individuals, organizations and government agencies at the local, state and federal levels. Ms. Pérez was with the Clinic from February 2005 until April 2007.

**Mike Murphy, Community Outreach Director (since April 2007)**

Mike Murphy joined the Clinic in 2007 to handle community outreach as well as budget and grant duties for the Clinic. A New Orleans native with an undergraduate degree in electrical engineering from U.N.O., Mike worked as an electrical engineer in Los Angeles for 12 years. His involvement in southern California coastal issues led him to law school. Mike obtained his J.D. and a certificate in Environmental Law from Pace Law School in 2005. At Pace, he was president of the Environmental Law Society, interned at the EPA in Washington, D.C., and was a student attorney in the Pace Environmental Litigation Clinic.

**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.



Close to Timber Branch stream, St. Tammany Parish, Louisiana

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## STUDENT PRACTICE

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Student attorneys (l-r): Benjamin Windurn, Lauren Hassler, Suzanne Dubon, and Jennifer Hoekstra

Each year, the Clinic trains about 26 law students to practice environmental law. The Louisiana Supreme Court and the U.S. District Courts for the Eastern, Western, and Middle Districts of 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." The opportunities and responsibilities afforded by these court rules enhance the Clinic's ability to provide students with real-world litigation experience.

### **FALL '06 – SPRING '07 STUDENT ATTORNEYS**

Jonathan Binder  
Patrick Buller  
C. Todd Campbell  
Suzanne Dubon  
Rina Eisenberg  
Jeremy Epstein  
Leonard Fisher III  
Matthew Fraser  
Amber Gosney  
Kristina Hanson  
Lauren Hassler  
Deanna Hill  
Jennifer Hoekstra  
Katherine Iannuzzi  
Kelly Jenkins  
Marne Jones  
Elizabeth Nagelin  
Shirley Ng  
Elizabeth Roché  
Daniel Smith

Dana Steinberg  
Courtney Stewart  
Kara Vey  
Charles Walsh  
Maria Wang  
Kathryn Wasik  
J. Benjamin Winburn  
Michael Wright  
James Wyman  
Gregory Zitterkob

### **RESEARCH ASSISTANTS**

Suzanne Dubon  
Mike Miller  
Alexander Talsma  
Rachel Welch

### **INTERNS**

Quinn Dennehy  
Lauren Hudson

**FALL '07 – SPRING '08 STUDENT ATTORNEYS**

Melissa Audick

Darin Britt

Matthew Browne

C. Farris De Board

Carrie De Mai

Lynn Doiron

George Driscoll

Suzanne Dubon

Richard Fabiani

Elizabeth Ann Fisher

Glenn Friedman

Heather Janis Gaw

Jesse George

Amanda Golob

Nicole Heyman

Andrew Homer

Andrew Jacoby

Kelly Jenkins

Michael Koger

Jordan Lesser

Emon Mahony

Mary Nagle

Erica Rancilio

Mary Reichert

Bronwen Reichle

Rebekah Robinson

Andrew Seidel

Daniel Smith

Lacy Smith

Angelique So

Timothy Stevens

Andrew Tuozzolo

Jonathan Uhl

Lee Ziffer



**RESEARCH ASSISTANTS**

Carrie De Mai

Suzanne Dubon

Mike Miller

**INTERNS**

Kaitlin Keenan

Alex Korn

Annabelle Pardi

Allison Shipp

Melanie Stephens

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## LEGAL WORK AND ACCOMPLISHMENTS

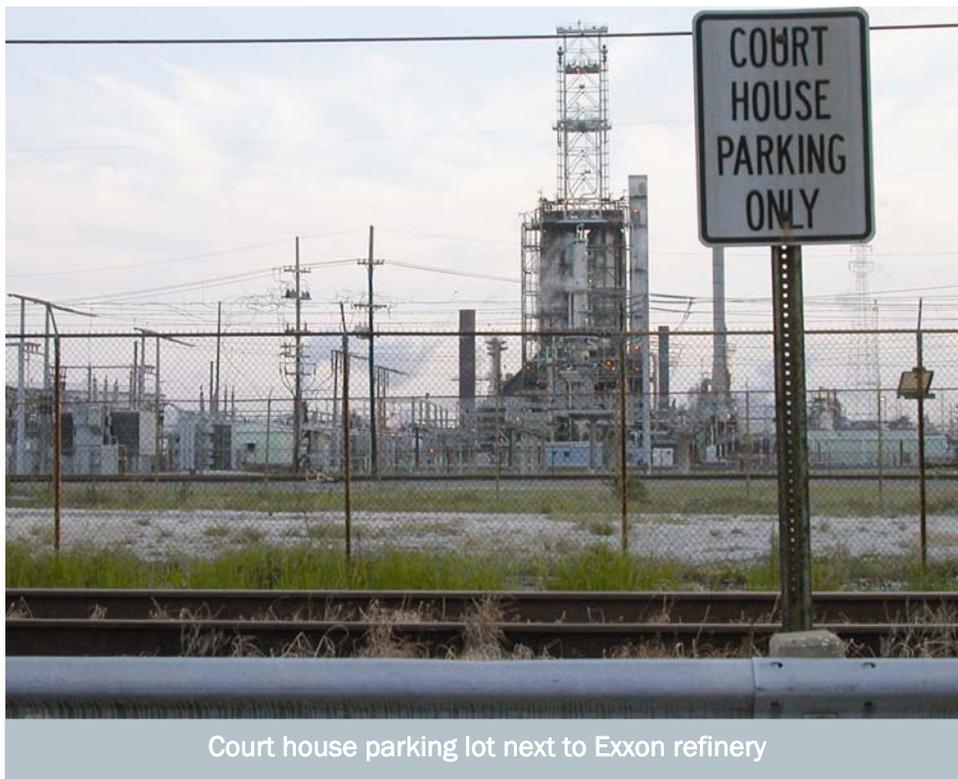
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### CLEAN AIR INITIATIVE

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On behalf of and in consultation with the Clinic's clients, the Clean Air Initiative targets toxic air pollution in Louisiana from industrial facilities, including oil refineries and chemical and petrochemical manufacturing facilities, which are overwhelmingly concentrated in low-income, minority communities throughout Louisiana. 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 is a sample of clean air matters the Clinic worked on during the 2006 - 2008 academic years:



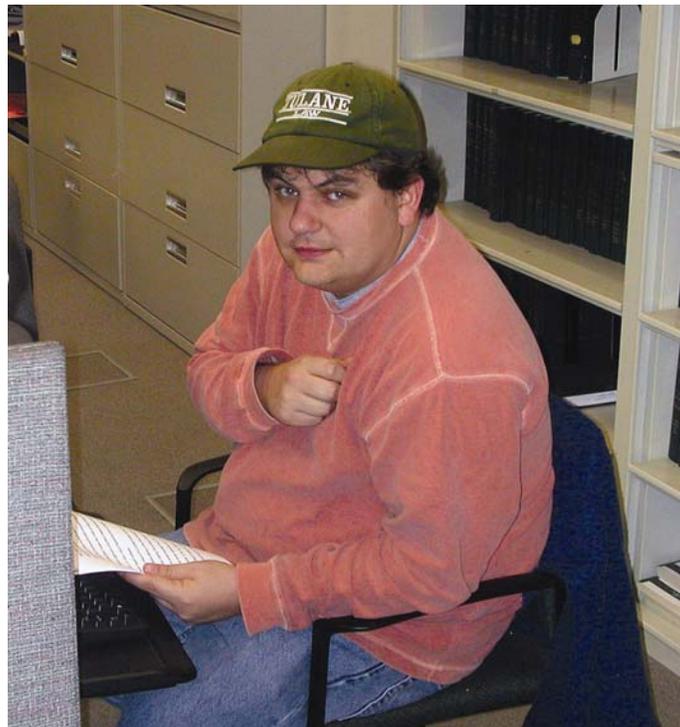
***EPA experimental asbestos burn halted:*** On behalf of Concerned Citizens Around Murphy, TELC and Public Justice provided a *Notice of Intent to Sue* to EPA and others alleging that EPA's proposed experimental asbestos burn in St. Bernard Parish would violate the Clean Air Act. (June 3, 2008). In response, EPA agreed to drop plans to burn regulated asbestos containing material during the experiment.

***Coal-burning power project on hold:*** TELC provided a *Notice of Intent to File Clean Air Act Citizen Suit against Entergy Louisiana, LLC*, on behalf of the Alliance for Affordable Energy, Louisiana Environmental Action Network, Sierra Club, Gulf Restoration Network, and an individual on April 1, 2008. The notice alleges that construction of Entergy's Little Gypsy Repowering project would violate the Clean Air Act's ban on construction of major sources of hazardous air pollutants without state-of-the-art control technology. On April 23, 2008, Entergy informed the Louisiana Public Service Commission that it would delay construction until complying with hazardous air pollutant provisions.

**Refinery lawsuit settled:** On behalf of its clients, TELC negotiated a settlement of *St. Bernard Citizens For Environmental Quality and Louisiana Bucket Brigade v. Chalmette Refining, LLC*, No. 04-0398 (Eastern District of Louisiana, June 30, 2008) During the course of that lawsuit, the Court found the defendant liable for more than 2,600 Clean Air Act violations.

**Landfill permit vacated:** *In re: Waste Management of Louisiana, LLC, Woodside Landfill Air Permitting Decisions*, No. 529640 (1st Circuit Court of Appeal, February 16, 2006) (Challenging the district court's affirmation of LDEQ's issuance of an exemption from the obligation to obtain a Clean Air Act "prevention of significant deterioration" review for a landfill gas collection and control system as well as issuance of a Part 70 permit for that system and for a bioremediation area) The First Circuit issued a favorable judgment, vacating and remanding Woodside's air permit on August 22, 2007.

**EPA's ozone plan overturned:** *Louisiana Environmental Action Network v. U.S. Environmental Protection Agency*, (D.C. Cir., June 29, 2004) (Challenging EPA's plan to roll back Clean Air Act protections for areas that failed to attain the Act's 1-Hour Ozone Standard) The Court overturned EPA's action on December 22, 2006. The D.C. Circuit also denied EPA's petition for rehearing on June 8, 2007 and the U.S. Supreme Court denied industry intervenors' petition for a writ of certiorari on January 14, 2008.



Student attorney Patrick Buller at the clinic

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## WATER QUALITY PROTECTION INITIATIVE

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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 the state's water protection program, to abate harmful water discharges, and to empower citizens to participate effectively in permitting and enforcement processes. Part of this work includes serving as legal counsel on LEAN's Lower Mississippi Riverkeeper project, part of Robert F. Kennedy's national Waterkeeper Alliance. The Clinic worked on the following matters during the 2006 - 2008 academic years:



***Outstanding Natural Resource Waters protected:*** On behalf of the Louisiana Environmental Action Network (LEAN) and an individual, TELC appealed a LDEQ general water permit for discharges from Light Commercial Facilities (19th Jud. Dist., No. 546678, Aug. 25, 2006) that allowed discharges to outstanding natural resource waters. On September 18, 2007, LDEQ agreed to a voluntary remand for removal the authorization to discharge to outstanding natural resource waters from the permit. Similarly, on September 19, 2006, TELC filed comments for the Gulf Restoration Network and LEAN objecting to a draft permit for a portable treatment unit that would allow discharges to *all* waters of the state. LDEQ responded on February 26, 2007 by agreeing to prohibit discharges to outstanding natural resource waters.

**Liquefied natural gas terminal dropped:** *Gulf Restoration Network, Sierra Club—Delta Chapter and Louisiana Charter Boats Association v. U.S. Department of Transportation*, No. 05-60321 (5th Cir., April 15, 2005) (Appealing the Department of Transportation’s approval of Shell Gas & Power’s application for its Gulf Landing offshore liquefied natural gas (LNG) terminal in the Gulf of Mexico) Although the Fifth Circuit denied our clients’ petition for review in June 2006, subsequent to the Clinic filing this lawsuit, Louisiana Governor Blanco announced her opposition to future use of “open loop” technology. Additionally, Shell Oil Company announced it would not pursue the Gulf Landing project.

**Dredging project enjoined:** *Holy Cross Neighborhood Association, Louisiana Environmental Action Network, and Gulf Restoration Network v. U.S. Army Corps of Engineers*, No. 03-0370 (Eastern District of Louisiana, February 6, 2003) (Seeking abatement of the Corps’ plans to dredge and dispose of contaminated sediments from the Inner Harbor Navigational Canal without first determining the nature and extent of contamination.) On October 6, 2006, the court enjoined the project until the Corps conducts adequate analyses under the National Environmental Policy Act.



Downtown New Orleans viewed from Holy Cross Neighborhood

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## ENDANGERED WETLANDS INITIATIVE

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Wetland loss in coastal Louisiana has reached catastrophic proportions, with current losses of 25-35 square miles per year. The disappearance of Louisiana's wetlands threatens the productivity of its coastal ecosystems, the economic viability of its industries, and the safety of its residents. The Endangered Wetlands Initiative uses client-directed administrative comments, litigation, and outreach to enhance citizen efforts to protect and restore wetlands from harmful projects and to empower citizens to effectively participate in wetlands regulation and enforcement. On behalf of its clients, the Clinic worked on the following matters within its Endangered Wetlands Initiative during the 2006 - 2008 academic years:



***U.S. Army Corps' wetlands cumulative impacts and mitigation analyses rejected:*** The Fifth Circuit upheld a challenge by three concerned citizens to the U.S. Army Corps of Engineers' approval of a proposed subdivision in St. Tammany Parish that would destroy 39.5 acres of forested wetlands based on a finding of "no significant impact." The Fifth Circuit rejected the Corps' finding because the Corps failed "to articulate how the mitigation measures will render the adverse effects insignificant and to consider the cumulative effects of the project, area urbanization, and permits issued to third parties." 477 F.3d 225, 227 (5th Cir. Jan. 24, 2007)

***Black Bear habitat protected:*** *Amicus Curie Brief on Behalf of Sierra Club in Schoeffler et al v. Kempthorn* (No. 6:05-cv-01573, Western District of Louisiana, September 6, 2005; brief filed August 11, 2006) (Supporting Plaintiffs' efforts to compel the Secretary of the Interior to designate critical habitat, including valuable wetlands, for the Louisiana Black Bear) Protecting Louisiana Black Bear habitat concurrently protects valuable wetlands. The court issued a favorable judgment on June 26, 2007.

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## COMMUNITY PRESERVATION INITIATIVE

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The Community Preservation Initiative, on behalf of environmental and community groups, helps Louisiana residents defend their communities and environment against damage from poorly planned development. At issue are land use decisions, environmental justice, historic preservation, hazardous waste disposal, and sprawl that threaten the historic value, cultural fabric, and environmental integrity of communities. The Clinic's current Community Preservation docket includes cases that (1) strive to empower citizens to gain greater control over decision-making in their community and (2) seek to preserve the unique character of Louisiana communities. On behalf of citizens and community organizations, the Clinic represented communities in the following matters during the 2006 - 2008 academic years:



Industrial Pipe Landfill abutting a playground and homes  
in Oakville, Plaquemines Parish, LA

**Zoning decision vacated:** In *Gertown Neighborhood Watch v. Board of Zoning Adjustments*, No. 07-14825 (New Orleans Civil Dist Ct.), TELC's clients appealed a New Orleans Board of Zoning Adjustment decision that granted a zoning variance for reopening of a bar associated with stabbings, shootings, vandalism, drugs, and prostitution in a lower-income New Orleans neighborhood. The City stipulated to an April 2, 2008 judgment vacating the variance.

**Denial of Solid Waste Permit Upheld:** *In re: Tree Enterprises*, No. 536676 (19th Judicial District, September 23, 2005) (Appealing a Division of Administrative Law hearing officer's remand to LDEQ of that agency's denial of a permit to a solid waste facility that LDEQ concluded "may result in the fallout of ash to neighboring properties, causing an excessive and unnecessary nuisance") The District Court vacated the Administrative Law Judge's order on June 27, 2007, reinstating LDEQ's denial of the permit application.

**Unpermitted landfill closed:** *In Waste Management of Louisiana v. City of New Orleans*, No. 06-11056 (Civil Dist. Court), TELC intervened on behalf of Citizens for a Strong New Orleans East and others to support a City of New Orleans cease and desist order that shut down the Chef Menteur landfill—located between a lower-income Vietnamese-American community in East New Orleans and Bayou Sauvage National Wildlife Refuge. The court denied the landfill operator's motion for a temporary restraining order on August 15, 2006.



Alligator Bayou

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## 2006-2008 DOCKET

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*Oakville Community Action Group v. Plaquemines Parish Council*, No 50-697 (La. 25<sup>th</sup> JDC, Sept. 9, 2008) (Order granting Oakville's motion for appeal of decision denying Oakville's petition challenging coastal use permit decision to La. 4th Circuit Court of Appeal) (104-011)

*Holy Cross Neighborhood Association et al. v. U.S. Army Corps of Engineers*, No. 08-30758 (5th Cir., August 27, 2008; appeal docketed July 30, 2008) (U.S. Army Corps appeal of attorney fee award to TELC dismissed) (112-002.2)

*Atchafalaya Basinkeeper and Louisiana Environmental Action Network v. David Fruge, in his official capacity as Interim Director of the Atchafalaya Basin Program, and Sandra Thompson-Decoteau*, No. 6:08-1155 (W.D. La., Aug. 8, 2008) (Citizen suit against Atchafalaya Basin Program for failure to comply with Clean Water Act Section 404 permit when dredging Bayou Postillion) (155-003)

*Concerned Citizens of Assumption Parish, Paincourtville Volunteer Fire Department, Louisiana Environmental Action Network, Andrea Williams, and O'Neil Couvillion v. Louisiana Department of Environmental Quality* (19<sup>th</sup> Jud. Dist. No. 569,424, Aug. 4, 2008) (Challenging LDEQ's issuance of solid waste permit to Belle Company to construct and operate a landfill in Assumption Parish) (111-004.2)

*Louisiana Environmental Action Network, et al., v. Louisiana Department of Environmental Quality*, No. 560,711 (19<sup>th</sup> Jud. Dist., July 28, 2008) (Won favorable ruling from judge denying Waste Management exception, which argued environmental plaintiffs did not have right to challenge DEQ issuance of water quality certifications regarding waste disposal in the Chef Menteur landfill following Hurricane Katrina) (101-103)

*Alliance for Affordable Energy et al. v. Louisiana Public Service Commission*, (19<sup>th</sup> Jud. Dist., No. 568378, June 30, 2008) (appealing the Commission's approval of an Entergy Louisiana, LLC's plan to repower the Little Gypsy power plant, Unit 3, in Montz, Louisiana, to burn coal and petroleum coke, fuels that will increase emissions of global warming gases) (126-116.1)



(l-r): J. Marve, Adam Babich, Mary Nagle

*Gulf Restoration Network v. Hancock County Development, LLC and Joshua Ladner*, No. 1:08-cv-00186-LG-RHW (S.D. Miss., May 8, 2008) (Citizen suit against developers for failure to obtain a Clean Water Act Section 404 permit before filling wetlands for planned development on 700 acres near Stennis, Mississippi) (157-019)

*Save Our Wetlands v. Terrebonne Levee and Conservation District*, No, 08-2159 (E.D. La., April 29, 2008) (Citizen suit against levee district for failure to obtain a Clean Water Act Section 404 permit before filling wetlands to build Reach J1 of the Morganza-to-the-Gulf Levee Project) (163-001)

*In re: Louisiana Department of Environmental Quality Permitting Decision: Permit for Louisiana Generating, LLC Big Cajun I Power Plant Air Permitting Decisions* (19th Jud. Dist., March 19, 2008) (Appealing decision granting Title V and related air permits, which petitioners Sierra Club, Louisiana Environmental Action Network, the Alliance for Affordable Energy, and Mr. O’Neil Couvillion allege violate provisions of the Clean Air Act and Louisiana air regulations) (126-014)

*In re: Louisiana Department of Environmental Quality Permitting Decision: Guste Island Wetland Assimilation Project*, No.563932 (19 Jud. Dist., Feb. 8, 2008) (Challenging a LDEQ Clean Water Act permit, alleging excessive allowable discharges of nitrogen, ammonia, phosphorus, biochemical oxygen demanding-substances (BOD), and total suspended solids (TSS) into the Lower Tchefuncte River system) (157-014)

*Louisiana Environmental Action Network, Citizens for a Strong New Orleans East, and the Green Zone Task Force v. Louisiana Department of Environmental Quality*, No. 559,256 (19th Jud. Dist., Sept. 14, 2007) (Appeal of LDEQ decision approving Waste Management’s plan to “close” Chef Menteur landfill by leaving waste in place without adequate monitoring) (101-111)

*In re: Louisiana Department of Environmental Quality Permitting Decision: Permit for Water Discharges from West Baton Rouge Westport Waste Water Facility (AI 43915)*, No. 558298 (19th Jud. Dist., Aug. 17, 2007) (Appealing permit renewal for publicly owned treatment works and alleging that the permit allows unlawful degradation of impaired waters and that LDEQ failed to respond to significant public comments) (157-010.1)

*Pioneer Americas*, No. 2007-1712-EQ, La. Division of Administrative Law (June 21, 2007) (Intervention on behalf of Louisiana Environmental Action Network and O’Neil Couvillion in an administrative hearing in which Pioneer Americas is challenging an LDEQ enforcement action regarding unlawful emissions of mercury) (101-110.1)

*Gulf Restoration Network, Louisiana Audubon Council, Louisiana Environmental Action Network, and Sierra Club v. EnerVest Operating, L.L.C.*, No. 07-817 (W.D. La., May 9, 2007) (Seeking cleanup of hazardous waste released from more than 600 sites of leaking mercury meters in Union, Ouachita, and Morehouse parishes) (101-092)

*In re: Louisiana Department of Environmental Quality Permitting Decision: LPDES Permit to Vanguard SynFuels (AI 3133)*, No. 551,238, Section 26 (19th Jud. Dist., April 5, 2007) (Intervention on behalf of Louisiana Environmental Action Network and Mr. Howard Charrier for judicial review of water permit for discharge of wastewater into an Outstanding Natural Resource Water) (101-109)



(l-r): Corinne Van Dalen, Erica Rancilio, and Jill Witkowski

*In re: Arkansas Department of Environmental Quality Decision: Joint El Dorado Pipeline* (Arkansas Pollution Control & Ecology Commission, March 29, 2007) (Challenging on behalf of Louisiana Environmental Action Network ADEQ's issuance of a NPDES permit for a joint pipeline for four industrial polluters to discharge into the Ouachita River in Arkansas, which flows into Louisiana) (101-105)

*Louisiana Environmental Action Network v. Louisiana Department of Environmental Quality*, No. 543,232 (19th Jud. Dist., July 31, 2006; intervention filed Oct. 12, 2006) (A consolidation of two cases: one (No. 545,758) filed by Waste Management against LDEQ (to prevent the agency from withdrawing its emergency authorization for the Chef Menteur landfill, and one (No. 543,232) filed by Louisiana Environmental Action Network and Citizens for a Strong New Orleans East against LDEQ to challenge LDEQ's authority to issue an emergency authorization for the landfill to operate without a permit) (101-096)

*Oakville Community Action Group v. Plaquemines Parish Council*, No. 50-697 (25<sup>th</sup> Jud. Dist., Dec. 15, 2003) (Challenging a decision by the Plaquemines Parish Council to approve Industrial Pipe, Inc.'s coastal use permit application) (104-011)

*Bogue Lusa Water Works, et al. v. Louisiana Department of Environmental Quality*, No. 474-677 (19th Jud. Dist., Nov. 20, 2000) (Seeking remand of LDEQ's approval of a Clean Air Act permit to construct a ground-water cooled merchant power plant in Bogalusa, Washington Parish, Louisiana) In February 2001, the Court remanded the permit decision to LDEQ, but retained jurisdiction over the case. LDEQ reaffirmed its permit decision in May 2002 and the appeal is pending (125-001)

*In re: Application Of Entergy Louisiana, LLC For Approval To Repower Little Gypsy*, No. U-30192 (La. Public Service Commission, July 27, 2007) (Phase II) (Intervention on behalf of a coalition of clients to convince the LPSC to disapprove Entergy's proposal to recover costs on construction work in progress on repowering its Montz, Louisiana facility to burn coal and petroleum coke) (126-016.2) **Hearing suspended** April 24, 2008

*St. Bernard Citizens For Environmental Quality and Louisiana Bucket Brigade v. Chalmette Refining, LLC*, No. 04-0398 (E.D. La., Feb. 12, 2004) (Citizen suit seeking civil penalties and an injunction against 1) excessive oil refinery emissions due to equipment breakdowns; 2) violations of permit limits for benzene; 3) violations of performance standards for flares; and 4) reporting violations, under the Clean Air Act and the Emergency Planning and Community Right to Know Act) (151-001) **Settled** June 30, 2008 (348 F.Supp.2d 765; 399 F.Supp.2d 726; 354 F.Supp.2d 697; 500 F.Supp.2d 592)

*Opposition to Petition for Writ of Certiorari, In Re Waste Management of Louisiana, L.L.C., Woodside Landfill Air Permitting Decision*, No. 2007-C-2419 (Sup. Ct. La., Jan. 2, 2008) (Opposing review of a Louisiana First Circuit decision vacating a Clean Air Act permit for the Woodside Landfill where the permit did not implement the Act's provisions for preventing significant deterioration of air quality) (101-093.1) **Favorable ruling** June 18, 2008

*Natural Resources Defense Council and Louisiana Environmental Action Network v. EPA*, No. 07-1053 (D.C. Cir., Feb. 20, 2007) (Challenging EPA's decision not to strengthen technology-based air emission standards for the Synthetic Organic Chemical Manufacturing Industry) (101-102) **Adverse judgment** June 6, 2008



Student attorneys meet with Save Our Neighborhoods

*Safeland Storage, LLC v. Carl Monica; Elixia Henderson and Save Our Neighborhoods* (4th Jud. Dist., April 23, 2008) (Defending a community organization, and two of its members in a “SLAPP Suit” (Strategic Lawsuit Against Public Participation) that Louisiana. Safeland brought against them, alleging defamation and interference with contractual relations for statements at a public permits hearing (156-004) **Settled** June 3, 2008

*Ogeechee-Canochee Riverkeeper v. U.S. Army Corps of Engineers et al.*, No.

606CV102 (S.D. Ga., Nov. 13, 2006) (Amicus Curie, on behalf of Sierra Club, Louisiana Environmental Action Network, Gulf Restoration Network, Lake Pontchartrain Basin Foundation, Lower Mississippi Riverkeeper, Atchafalaya Riverkeeper, and Surfrider Foundation) (Supporting the Riverkeeper’s efforts to invalidate a Clean Water Act permit exemption the Corps granted Cypress Lake, Inc. for a cypress logging project in Georgia) (Jan. 15, 2008) (126-013) **Favorable judgment** May 27, 2008

*In re: Southeastern Louisiana Water & Sewer Association*, No. 2008-3361, (Division of Administrative Law, April 22, 2008) (Intervening on behalf of Gulf Restoration Network, Louisiana Environmental Action Network, Hazel Sinclair, Loretto O’Reilly, Jr. and Kelly Fitzmaurice to participate in an administrative hearing in which SELA is challenging a Louisiana Department of Wildlife and Fisheries’ denial of its Scenic Rivers permit application for the Terra Bella Waste Water Treatment Plant for discharging into the Timber Branch and the Tchefuncte River) (110-005) **Intervention denied** May 12, 2008

*Louisiana Environmental Action Network v. U.S. Army Corps of Engineers*, No. 06-9147 (E.D. La., Oct. 27, 2006) (Seeking to enjoin the Corps to investigate and, as necessary, abate risks posed by contaminated sediments spread in the Vista Park neighborhood due to the failure of the Corps’ levees during Hurricane Katrina) (101-089) **Adverse judgment** April 16, 2008

*Gertown Neighborhood Watch v. Board of Zoning Adjustments*, No. 07-14825 (New Orleans Civil Dist Ct., Nov. 14, 2007) (Seeking review of a New Orleans Board of Zoning Adjustment decision granting a zoning variance for reopening of a bar associated with stabbings, shootings, vandalism, drugs, and prostitution in a lower-income New Orleans neighborhood) (160-001) **Favorable stipulated judgment** April 2, 2008

*In Re Belle Co., LLC, Type I & II Solid Waste Landfill Proceedings Under La. Env’tl. Quality Act*, No. 2008-C-229 (Sup. Ct. La., Jan. 28, 2008) (Seeking certiorari review of a Louisiana First Circuit decision requiring LDEQ to issue a solid waste permit on a record the agency considered inadequate) (111-004.1) **Adverse ruling** March 24, 2008

*In re: Application Of Entergy Louisiana, LLC For Approval To Repower Little Gypsy*, No. U-30192 (La. Public Service Commission, July 27, 2007) (Phase I) (Intervention on behalf of a coalition of clients to convince the LPSC to disapprove Entergy's proposal to burn coal and petroleum coke at its Montz, Louisiana facility) **Adverse decision** March 19, 2008, on appeal

*In re: Belle Co., LLC, Type I & II Solid Waste Landfill Proceedings under the Louisiana Environmental Quality Act*, No. 2006-CA-1077 (La. App. 1st Cir., April 19, 2006) (Belle Co.'s appeal of the district court's dismissal of its Petition for Writ of Mandamus to require LDEQ to issue it a solid waste permit) (111-004) **Adverse judgment** Dec. 28, 2007 (978 So.2d 977)

*Louisiana Environmental Action Network v. Jefferson Parish*, No. 06-4769 (E.D. La., Aug. 25, 2006) (Clean Water Act citizen suit against Jefferson Parish for violations of its water discharge permit at its Marrero, Louisiana waste water treatment plant. Jefferson Parish had been exceeding since 2002, and continued to exceed, discharge limits set in its permit for biological oxygen demand, total suspended solids and fecal coliform) (101-091) **Dismissed** Dec. 12, 2007

*Louisiana Environmental Action Network and Sierra Club v. McDaniel*, No. 06-4161 (E.D. La., Aug. 9, 2006) (Seeking enforcement of the Supremacy Clause of the U.S. Constitution to invalidate LDEQ "emergency orders" that purport to waive federal health and environmental standards) (101-095) **Adverse judgment** Sept. 5, 2007



Fishing on Red River near Shreveport

*In re: Louisiana Department of Environmental Quality Permitting Decision: General Permit for Water Discharges from Light Commercial Facilities (AI 84683)*, No. 546678 (19th Jud. Dist., Aug. 25, 2006) (Appeal of final decision approving general permit for Light Commercial Facilities on the basis that the permit allows discharges of pollutants into Outstanding Natural Resource Waters and that LDEQ has not done sufficient analysis of environmental impacts) (101-056) **Settled** Sept. 18, 2007

*In re: Waste Management of Louisiana, LLC, Woodside Landfill Air Permitting Decisions*, No. 529640 (La. App. 1st Cir., Feb. 16, 2006) (Challenging the district court's affirmation of LDEQ's issuance of an exemption from the obligation to obtain Clean Air Act "prevention of significant deterioration" review for a landfill gas collection and control system and issuance of a Part 70 permit for that system and for a bioremediation area) (101-093) **Favorable judgment** Aug. 22, 2007

*Holy Cross Neighborhood Association, Louisiana Environmental Action Network, and Gulf Restoration Network v. U.S. Army Corps of Engineers*, No. 03-0370 (E.D. La., Feb. 6, 2003) (Seeking abatement under the Resource Conservation and Recovery Act of the Corps' plans to dredge contaminated sediments in the Inner Harbor Navigational Canal and seeking a supplemental environmental impact statement under the National Environmental Policy Act

to analyze the effects of dredging and disposal of dredged sediments) (112-002) **Favorable judgment** Oct. 6, 2006 (455 F. Supp.2d 532) **Appeal dismissed** July 30, 2007

*In re: Tree Enterprises*, No. 536676 (19th Jud. Dist., Sept. 23, 2005) (Appealing a Division of Administrative Law hearing officer's remand to LDEQ of that agency's denial of a permit to a solid waste facility that LDEQ concluded "may result in the fallout of ash to neighboring properties, causing an excessive and unnecessary nuisance") (101-086) Tree Enterprises withdrew its application for a permit on April 9, 2007. **Favorable judgment** June 27, 2007

*Schoeffler et al v. Kempthorn*, No. 6:05-cv-01573 (W.D. La. Sept. 6, 2005) (Amicus Curie on Behalf of Sierra Club (filed Aug. 11, 2006) supporting plaintiffs' efforts to compel the Secretary of the Interior to designate critical habitat for the Louisiana Black Bear) (126-013) **Favorable judgment** June 26, 2007

*Loretto O'Reilly and Kelly Fitzmaurice v. U.S. Army Corps of Engineers*, No. 06-10788 (E.D. La., Dec. 5, 2006) (Challenging the Corps' approval of a proposed subdivision ("Terra Bella") that would destroy 65 acres of wetlands in St. Tammany Parish along the Tchefuncte River without considering cumulative impacts of the project, without analyzing alternatives, and without showing that sufficient mitigation will occur) (110-005) **Settled** May 14, 2007

*Industrial Pipe, Inc., No. 2006-3156-EQ, Division of Administrative Law* (Sept. 5, 2006) (Intervention on behalf of Oakville Community Action Group, Louisiana Environmental Action Network, and Anne Marie Higgins to participate in an administrative hearing in which Industrial Pipe is challenging a Louisiana Department of Environmental Quality Compliance Order and Notice of Potential Penalty) (104-016) **LDEQ and Industrial Pipe Settled** March 9, 2007

*Loretto O'Reilly, Hazel Sinclair and Kelly Fitzmaurice v. U.S. Army Corps of Engineers*, No. 04-31026, 5<sup>th</sup> Cir., Oct. 21, 2004) (Defending the district court's finding that the Corps erred in approving a proposed subdivision ("Timber Branch II") that would destroy 85 acres of forest, of which 39.5 acres are wetlands, in St. Tammany Parish, without preparing an Environmental Impact Statement) (110-004) **Favorable judgment** Jan. 21, 2007 (477 F.3d 225)

*Louisiana Environmental Action Network v. U.S. Environmental Protection Agency and Michael O. Leavitt*, No. 04-1206 (D.C. Cir., June 29, 2004) (consolidated with *South Coast Air Quality Management District v. EPA*) (Challenging EPA's plan to roll back Clean Air Act protections for areas that fail to comply with the health protection standard for ozone pollution) (101-078) **Favorable judgment** Dec. 22, 2006 (472 F.3d 882) (cert. denied Jan. 14, 2008 (128 S.Ct. 1065))

*Oakville Community Action Group and Louisiana Environmental Action Network v. Industrial Pipe, Inc.*, No. 05-30462 (5<sup>th</sup> Cir., April 28, 2005) (Appealing the district court's decision to dismiss a citizen enforcement suit against Industrial Pipe for failing to comply with federal and state solid waste regulations) (104-012) **Adverse judgment** Dec. 13, 2006

*St. Bernard Citizens for Environmental Quality and Louisiana Bucket Brigade v. Louisiana Department of Environmental Quality*, No. 542707 (19th Jud. Dist., April 24, 2006) (Appealing a Louisiana Department of Environmental Quality settlement with Chalmette Refining, LLC) (151-005) **Adverse judgment** Dec. 11, 2006

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## **SPEAKING ENGAGEMENTS AND COMMUNITY OUTREACH**

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- September 2006 through September 2008 – Hosted approximately 15 gatherings of the Wetlands Strategy Group, a group of individuals and grassroots organizations working on wetland issues. The group discussed legal and non-legal strategies for approaching several current challenges to Louisiana wetlands.
- September 2006 through September 2008 – Participated in meetings of the McKnight Foundation-funded Mississippi Water Quality Collaborative held in Chicago, New Orleans, Nashville, Minneapolis, Louisville, and Madison. The Collaborative seeks to improve water quality in the Mississippi River watershed through a combination of legal actions, policy changes, public outreach, and education.
- September 2006 through September 2008 – Three staff members joined Loyola University’s Institute for Environmental Communications over the Fall 2006 and Fall 2007 semesters. The Institute holds a semester-long discussion forum on environmental issues, how different stakeholders perceive them, and how to improve communication among stakeholders on these issues.
- September 26, 2006 – Facilitated a meeting between client Gulf Restoration Network (GRN), Mississippi Department of Environmental Quality, and local counsel to discuss concerns with Mississippi’s Triennial Review of water quality standards.
- October 13, 2006 – Participated in symposium, “Hurricane Katrina: Reshaping the Legal Landscape of the Gulf South” hosted by Tulane Law School. The symposium brought legal scholars from around the country to discuss the legal ramifications of Katrina on urban planning, civil rights, and environmental law.
- October 28, 2006 & September 15, 2007 – Took part in the Louisiana Environmental Action Network’s annual People’s Conference held in Baton Rouge. The conference brings together community leaders, scientists, and others to discuss the numerous environmental challenges facing the state.
- November 6, 2006 – Staff of the Louisiana Environmental Action Network (LEAN) and the Clinic toured the Jefferson Parish Wastewater Treatment Plant in Marrero, Louisiana to observe upgrades and equipment recently installed by Jefferson Parish to improve the plant’s performance and bring it into compliance with its Clean Water Act water discharge permit.
- January 10, 2007 – Participated in a strategy meeting with Mary Queen of Vietnam Church leaders and others involved in the campaign for environmental justice for this community, and for finding solutions to the debris management problems of post-Katrina New Orleans.
- January 10, 2007 – Facilitated a meeting between Save Our Neighborhoods and St. John the Baptist Parish council members to discuss the cumulative health and environmental effects of industrial growth in the parish, and the parish’s role in addressing citizens’ concerns associated with these.
- January 23, 2007 – Made a presentation to the St. John the Baptist Parish council regarding the environmental, health and other community impacts of the Marathon refinery expansion.
- February 1, 2007 – Brought together group to discuss forming a broader coalition to request a National Academy of Sciences study of the “leaky levee” concept proposed by the U.S. Army Corps of Engineers for certain hurricane protection projects. The environmental impacts of such levees, at the scale proposed in Louisiana, have not been scientifically studied or documented.
- February 2, 2007 – Brought together Citizens for a Strong New Orleans East with student attorneys from Columbia Law School Clinic to discuss how that clinic may help the community in their quest for a permanent, clean closure of the Chef Menteur landfill.
- February 5, 2007 – Facilitated a meeting between Atchafalaya Basinkeeper and the U.S. Army Corps of Engineers’ Regulatory Enforcement office to discuss problems with unsustainable cypress logging in the Atchafalaya Basin.
- February 8 & May 14, 2007 – Participated in a site visit of the Hammond wastewater assimilation project with clients (Sierra Club, GRN, and Lake Pontchartrain Basin Foundation). The project is an example of the use of treated sewage to rehabilitate wetlands. However, our clients have raised several design concerns with the LDEQ.

- February 12, 2007 – Hosted a meeting of the Wetlands Strategy Group, the Council on Environmental Quality, and the Army Corps of Engineers to discuss the Corps' proposal for an expedited review process under the National Environmental Policy Act for certain hurricane protection projects.
- February 13, 2007 – Participated in an "Environmental Justice Listening Session" hosted by the LDEQ. The session brought together community leaders from around the state, LDEQ, and EPA to attempt to improve the dialogue on environmental justice issues between these groups and agencies.
- February 26, 2007 – Helped facilitate a field hearing of the Senate Environment and Public Works Committee. One of the purposes of the hearing was to investigate the handling of hurricane debris by the state and federal governments, and the illegal dumping of waste in New Orleans East.
- March 7, 2007 – Facilitated meeting with GRN, LEAN, LDEQ, and an expert from the McKnight Collaborative to discuss the state's lacking anti-degradation implementation policy. The Clinic continues to work with LDEQ to assist them in revising their regulations to comply with Clean Water Act requirements.
- March 9-10, 2007 – Presented at the 12<sup>th</sup> Annual Tulane Environmental Law and Policy Conference on the topic of wetlands assimilation regulations. The conference brings together a diverse group of stakeholders from academia, the local community, NGOs, government agencies, industry, and others to discuss current environmental topics.
- March 14, 15, & 20, 2007 and March 6, 2008 – Met with groups of students from Marquette, Notre Dame, and Antioch University New England to discuss environmental justice in Louisiana, the situation in New Orleans post-Katrina, and the Clinic's cases related to these.
- April 4, & May 7, 2007 – Supported the Clients at Army Corps scoping meetings for the Inner Harbor Navigation Canal project. The Corps sought public input on factors to consider in preparing a supplemental Environmental Impact Statement for the project to expand the locks in the Holy Cross neighborhood.
- April 13, 2007 – Clinic Director Adam Babich spoke on the topic of environmental justice at the American Association of Law Libraries' Southeastern Chapter Annual Meeting, Baton Rouge, LA.
- May 10, 2007 – Donated 30 copies of *Citizen's Guide to Environmental Protection* to a LEAN member for organizing environmental justice communities near Monroe, LA.
- May 17, 2007 – Clinic attorney Jill Witkowski spoke at a conference on *Key Environmental Issues in U.S. EPA Region 4* sponsored by the ABA Section of Environment, Energy, and Natural Resources. Ms. Witkowski participated in a panel entitled "In Deep Water—Issues Surrounding Permitting of Offshore LNG Facilities." Her talk, "LNG in Deep Water—Stakeholders' Concerns," highlighted issues the Clinic addressed when representing GRN, Sierra Club-Delta Chapter and Louisiana Charter Boats Association in their 5<sup>th</sup> Circuit challenge to the U.S. Department of Transportation's issuance of a deepwater port license to Shell Oil.
- June 7, 2007 – Supported clients (Lower Mississippi Water Keeper, Atchafalaya Basinkeeper, and Barataria Bayoukeeper) at a press conference regarding preservation of cypress trees.
- June 11, 2007 – Met with official, Yoshinori Tanaka, of Japan's Ministry of the Environment who was taking part in an overseas study program. Answered Mr. Tanaka's research questions on the role of citizen and NGO involvement in environmental litigation.
- June 19, 2007 – Supported client Concerned Citizens Around Murphy at LDEQ hearing on air permit for Murphy Oil refinery. Also supported the client in address to St. Bernard Parish Council.
- July 19, 2007 – Met with University of Oxford student, Vanessa Ulmer, to provide information for her MSc thesis on environmental justice.
- July 20, 2007 – Met with Louisiana Environmental Justice Community Organizations Committee (LEJCOC), Residents for Air Neutralization, the EPA Office of Environmental Justice, and LDEQ Community and Industry Relations to plan support for LEJCOC's implementation of their Environmental Justice Collaborative Problem-Solving Program grant from EPA.
- July 30, 2007 – Provided copies of the *Clinic's Citizen's Guide to Environmental Protection* to Residents for Air Neutralization, the EPA Office of Environmental Justice, and the LDEQ Office of Community and Industry Relations.

- August 27, 2007 — Supported clients, GRN and LEAN, at a meeting with Louisiana Department of Environmental Quality to pursue a model anti-degradation policy pursuant to the Clean Water Act.
- August 28, 2007 — Supported client Louisiana Bucket Brigade by training how to monitor compliance with a consent decree.
- September 11, 2007 — Supported clients by testifying at a joint meeting of the Louisiana House Committee on the Environment and the Senate Committee on Environmental Quality on a proper closure plan for the Chef Menteur landfill.
- September 28, 2007 — Supported clients Green Zone Task Force and Mary Queen of Vietnam Church leaders in a meeting with developers proposing a landfill in New Orleans East.
- September 29, 2007 — Clinic director, Adam Babich addressed a joint Georgetown University and Loyola University class on law and policy in the wake of Hurricane Katrina.
- October 16, 2007 — Supported a neighborhood association in Marrero, LA in the group's efforts to curb nuisance issues and enforce a storm water pollution prevention plan.
- November 10, 2007 — Supported client Concerned Citizens Around Murphy by attending a fundraiser for landscaping and beautification in the oil-spill buyout neighborhood.
- November 15, 2007 — Facilitated discussion between the Wetlands Strategy Group and the technical team of a New Orleans Sewage & Water Board proposal to build the largest wetlands assimilation project near Bayou Bienvenue.
- December 11, 2007 — Supported clients by attending a press conference on discrimination in the Army Corps' hurricane protection projects as well as attending the Army Corps' environmental justice meeting.
- January 8, 16, & 22, 2008 — Supported client Green Zone Task Force by meeting with the developer of a proposed waste transfer station.
- January 28, 2008 — Supported community partner Louisiana Environmental Justice Community Organization Coalition by meeting with the newly appointed undersecretary of the LDEQ.
- January 29, 2008 — Supported client Save Our Neighborhoods by attending and testifying at a meeting petitioned by the community for the St. John Parish Council to reconsider buffer requirements for a proposed petroleum tank farm.
- February 23, 2008 — Hosted community partner Louisiana Environmental Justice Community Organization Coalition event attended by EPA Environmental Justice Department, EPA Region 6, LDEQ Deputy Secretary and representatives from communities throughout the state. Community Outreach Director, Mike Murphy, delivered a presentation on how to participate in the Clean Air Act permit process.
- March 10-11, 2008 — Hosted a meeting of the Wetlands Strategy Group, and the Council on Environmental Quality (CEQ) to review the Army Corps of Engineers use of an expedited review process under the National Environmental Policy Act for certain hurricane protection projects. Facilitated a meeting of environmental justice advocates with CEQ and attended a meeting with the Army Corps reviewing the efficacy of the alternative NEPA process.
- March 18, 2008 — Clinic staff met with environmental justice law students from Howard University to discuss the Clinic's experiences with cases involving St. Bernard Citizens for Environmental Quality and Save Our Neighborhoods.
- April 17, 2008 — Facilitated clients' participation in public hearing held in Vicksburg, MS for EPA to receive comments on a proposed veto of the Army Corps' Yazoo Pumps project.
- May 6, 2008 — Facilitated a meeting among clients, partners, and Louisiana Wildlife and Fisheries staff regarding protection of scenic rivers.
- May 28, 2008 — Facilitated meeting between the Wetlands Strategy Group and representatives of the Army Corps' Regulatory Branch.

- June 9, 2008 — Met with Mr. Andrea Cairola, Assistant Program Specialist, UNESCO Paris. Mr. Cairola is researching democratic freedom of expression and public records requests with respect to environmental issues in the U.S.
- June 12, 2008 — Attended (and recruited clients and partners to attend) the LDEQ EnviroSchool for Communities—a series of training sessions designed to educate communities and encourage meaningful participation in the regulatory process. The goal is for communities to become informed participants and skilled on how to access and utilize informational resources for effective communication and dialogue with stakeholders.
- June 16, 2008 — Deputy Director Jill Witkowski addressed the Jewish Council for Public Affairs' joint community relations mission. JCPA brought African American and Jewish leaders from around the country to New Orleans to learn more about race, poverty, and climate change and how these forces intersected when hurricanes Katrina and Rita hit. Ms. Witkowski spoke about environmental justice issues in New Orleans after Katrina, specifically focusing on landfill issues facing communities in New Orleans East and Oakville and suggesting ways to promote environmental justice in New Orleans.
- July 9, 2008 — Met with clients in Independence, LA. Toured the wastewater facility with clients and the technician responsible for bringing the facility into compliance.
- July 10, 2008 — Presented “Community Participation in Clean Air Act Permitting” at the Louisiana Environmental Justice Community Organizations Coalition training workshop hosted by Residents for Air Neutralization in Shreveport, LA.
- August 4, 2008 — Assisted Bayou Rebirth, a wetlands education and restoration group, in obtaining non-profit status.
- August 4, 2008 — Supported Oakville Community Action Group in meeting with Army Corps regarding the hurricane levee alignment and asserted that the community deserves increased consideration for its historic significance.
- August 11-12, 2008 — Supported Lower-Mid City Residents and Businesses at public scoping meeting as well as at stakeholders meeting for the proposed VA hospital regarding an alternative site that would not require the destruction of nearly 200 homes in a historic district.
- August 19 & 20, 2008 — Met with leader of Community Strength (Vacherie, LA) and well as members of the Welcome and Lemannville communities regarding community preservation in light of petroleum tank farms proposed adjacent to their residents.



Bayou Bienvenue

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**Tulane Environmental Law Clinic**