

# Tulane Environmental Law Clinic



**ANNUAL REPORT 2009-2010**

### Still Standing!

Dear Colleagues:

After two semesters of solid work from its student attorneys, including court victories under the Clean Air Act and Clean Water Act, the Tulane Environmental Law Clinic's 2009-2010 academic year ended with a bang—a legislative attempt to destroy the Clinic. On March 29, 2010, Senator Robert Adley, at the Louisiana Chemical Association's behest, introduced Senate Bill 549 to try to force Tulane University to shut the Clinic down in return for continued state funding. Shortly after the class of 2010 graduated, colleagues were congratulating us for merely surviving. But the upside of a near disaster is that you find out who your friends are, and the outpouring of support from our client base, the legal community, and educators was gratifying.

One headline read, "Senator, Louisiana Chemical Association get no support for bill to limit student law clinics." But the outcome did not feel like a foregone conclusion until the bill died in committee on May 19, 2010. Residents of communities that have relied on the Clinic overflowed the hearing room. A broad roster of witnesses—from the Louisiana State Bar Association President to a fireman from the Paincourtville Volunteer Fire Department—signed up to testify in support of the Clinic at the hearing. Not many got the chance to speak before the committee killed the bill.

A high point was rousing testimony from Tulane University President Scott Cowen, who reaffirmed Tulane's commitment to public-service even in the face of a threatened loss of \$45 million in state funding. He explained that if Tulane were to shut down its clinics to preserve state funding, "we [would] throw under the bus every indigent person in this state ... and say we will not represent you because the money is more important. . . . [T]hat is what America is not about." Emphasizing the unfairness of seeking "to punish or severely limit the rights of individuals and organizations who try to enforce regulations and laws," President Cowen did not mince words: "This bill creates a black eye, a serious black eye, for any industry that supports it. . . . [It is] antithetical to everything that is the foundation of a civil society."

A few days later, the New Orleans CityBusiness paper concurred in an editorial: "By attempting to snuff [the Clinic's] existence, Adley and the LCA were, in effect, thumbing their noses at the law, judicial process and regulation . . . . Lawmakers deserve commendation for helping the bill meet its demise." Two months after that—on July 23, 2010—the Federal Bar Association's New Orleans Chapter honored the Clinic with its Camille F. Gravel Jr. Award for *pro bono* service. A federal judge presented the award and the luncheon speaker, New Orleans Mayor Mitch Landrieu, spoke up for the Clinic. One month to the day after that—on the first day of our new semester—one of the Clinic's 26 student-attorneys argued and won his first case on behalf of real clients. "It was great to see the reaction of the clients," he told the press. "This is the community that they live in."

We are still standing, and still helping our clients make their voices heard.

Very truly yours,



Adam Babich, TELC Director

P.S. Thanks to Louisiana's own cartoonist, Fred Mulhearn, for his kind permission to use the cartoon on the cover of this report!



## OVERVIEW

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



For more information on the Clinic, see [www.tulane.edu/~telc/](http://www.tulane.edu/~telc/) or [http://en.wikipedia.org/wiki/Tulane\\_Environmental\\_Law\\_Clinic](http://en.wikipedia.org/wiki/Tulane_Environmental_Law_Clinic)

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 Maxine Lipeles

Professor Kirsten H. Engel

Michele Merkel, Esq.

Monique C. Harden, Esq.

Karla Raettig, Esq.

James M. Hecker, Esq.

Ronald Simon, Esq.

Professor Jane L. Johnson





## CLIENTS

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 2009 – 2010 academic year:

Alliance for Affordable Energy

Atchafalaya Basinkeeper

Bogue Lusa Water Works

Center for Biological Diversity

Citizens Against Widening the Industrial Canal

Citizens for a Strong New Orleans East

Coalition to Restore Coastal Louisiana

Community Strength



Concerned Citizens Around Murphy

Concerned Citizens of Assumption Parish

Concerned Citizens of Independence



Concerned Citizens of Livingston Parish

Environmental Defense Fund

Green Zone Task Force

Gulf Restoration Network

Holy Cross Neighborhood Association

Lake Pontchartrain Basin Foundation

Louisiana Audubon Council

League of Women Voters of New Orleans

Little Tchefuncte River Association

Louisiana Audubon Council

Louisiana Bayoukeeper

Louisiana Environmental Action Network

Lower Mississippi Riverkeeper



National Wildlife Federation

Oakville Community Action Group



Ouachita Riverkeeper

Orleans Audubon Society

Paincourtville Volunteer Fire Department

St. Bernard Citizens for Environmental Quality

Save Our Wetlands

Sierra Club

**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 (through December 2009)**

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. At the end of 2009, Jill left TELC to join the San Diego Coastkeeper.

**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.

**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.

### **Mike Murphy, Community Outreach Director**

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.



Staff, attorneys, and alumni celebrated at the Clinic's 20<sup>th</sup> Anniversary Reunion.

## STUDENT ATTORNEYS

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 '09 STUDENT ATTORNEYS

Matthew Altaras  
Devin Barnett  
Larae Benbenisty  
Shreya Biswas  
Ernesto Cerimele  
Diana Csank  
Thadeus Culley  
John Gray  
Barry Griffith  
Aaron Heishman  
Margaret Hupp  
Megan Jordan  
Bryn Manning  
Melissa Marsh  
Kevin McDunn  
Matthew Miller  
Blake Mogabgab  
Rebekah Nazarian  
Alexander Owings  
Shreedhar Patel  
Eric Ranchoff  
Casey Scott  
Lindsey Topp  
Jamie Tuchman  
David Tynan  
Aurora Villegas  
Kathryn Yancey  
Andrea Zeiter

### INTERN

Kelly A. Ross





## STUDENT ATTORNEYS

### SPRING '10 STUDENT ATTORNEYS

Diana Csank  
Margaret Glass  
Alayne Gobeille  
Barry Griffith  
Aaron Heishman  
Margaret Hupp  
Megan Jordan  
Matthew Lambert  
Melissa Marsh  
Brian McGarry  
Anne Morris

Rebekah Nazarian  
Alexander Owings  
Shreedhar Patel  
Orjanel Pointer  
Casey Scott  
Meghan Smith  
Roy Sparks  
David Tynan  
Peter Walbridge  
Walewska Watkins



### SUMMER RESEARCH ASSISTANTS

Roman Griffith  
Catherine Phillips  
Lindsey Topp  
Zoe Wilde  
Forest (Chris) Wooten

### INTERN

Emily Orler

## STUDENT ATTORNEYS



Fall 2009

Spring 2010



To see each class photo from the past 20 years of the Clinic at our website, please go to [www.tulane.edu/~telc](http://www.tulane.edu/~telc) and click "Class Pictures" in the left-hand column.



## LEGAL WORK

### RECENT ACCOMPLISHMENTS

**EPA objects to air permit for Woodside Landfill:** On May 27, 2010, EPA granted in part a petition for an objection to an LDEQ Clean Air Act permit for the Woodside Landfill in Livingston Parish. EPA found that LDEQ failed to explain “its conclusions that the permit provides for monitoring sufficient to ensure compliance with all applicable requirements.” EPA ordered LDEQ to explain “why it is not necessary to continuously monitor the composition of the gas entering the flare” to ensure that the flare meets Clean Air Act standards. If current monitoring provisions are not enough to ensure compliance, LDEQ “must add monitoring requirements”. TELC filed the petition on behalf of the Louisiana Environmental Action Network, the Concerned Citizens of Livingston Parish and others.

**SLAPP suit dismissed:** On May 20, 2010, a Louisiana district court dismissed a SLAPP suit (“Strategic Lawsuit Against Public Participation”) against a community group and its members who criticized Petroplex International’s plan to build a petroleum storage facility in St. James Parish. Petroplex voluntarily dismissed its suit after TELC’s clients moved to strike the action under Louisiana’s anti-SLAPP law, La. Code Civ. Proc. art. 971.

**Outstanding natural resource waters protected:** On May 5, 2010, on behalf of the Little Tchefuncte River Association, Gulf Restoration Network, and Matthew Allen, TELC obtained a court judgment that requires the Louisiana Department of Environmental Quality (LDEQ) to consider alternative discharge locations for a private wastewater treatment facility at Penn Mill Lakes Subdivision. Currently the facility discharges into Horse Branch Creek and the Tchefuncte River—streams designated as Outstanding Natural Resource Waters.

**Plans for new coal-burning power plant canceled:** Louisiana Generating canceled plans to build a new 705-MW coal-burning unit at its Big Cajun II Power Plant facility near New Roads, Louisiana. On March 4, 2010, the company asked LDEQ to rescind its Clean Air Act permit for this new unit—and LDEQ officially cancelled the permit on April 28, 2010. Louisiana Generating dropped its plans to build the new coal-fired unit after TELC appealed the plant’s Clean Air Act permit on January 14, 2009, on behalf of Sierra Club, Louisiana Environmental Action Network, the Alliance for Affordable Energy, and Mr. O’Neil Couvillion. TELC also petitioned EPA to veto the permit on behalf of largely the same client group.

**Orleans Parish wetlands preserved:** On April 20, 2010, The City of New Orleans denied a proposed coastal use permit to fill in wetlands adjacent to Bayou Bienvenue and the Mississippi River Gulf Outlet to build an industrial park. TELC submitted comments and argued at the public hearing on behalf of Gulf Restoration Network, Louisiana Environmental Action Network, Sierra Club—Delta Chapter, Coalition to Restore Coastal Louisiana, Environmental Defense Fund, National Wildlife Federation and Mr. O’Neil Couvillion. The City of New Orleans explained that “[t]he decision reflects the national concern for both protection and utilization of important resources. Consideration was given to the potential economic benefits however the potential social and environmental benefits of not authorizing the project outweigh the potential economic benefits.”

**New Orleans sewage treatment compliance schedule established:** On March 23, 2010, Judge Mary Ann Vial Lemmon entered a modified consent decree setting new (post-Hurricane Katrina) schedules for repairing New Orleans’ sewerage pump stations and collection system. *U.S. v. Sewerage and Water Board of New Orleans*, No. 93-cv-3212 (E.D. La.). TELC represented intervenors League of Women Voters of New Orleans, Lake Pontchartrain Basin Foundation, Orleans Audubon Society, and Louisiana Environmental Action Network in the negotiations.

**Oil refinery liable for violating Clean Air Act:** On February 3, 2010, the U.S. District Court for the Eastern District of Louisiana held a St. Bernard Parish oil refinery liable for violating the Clean Air Act. The Court ruled that Murphy Oil USA, Inc. “frequently violated its permits by exceeding emission limitations and continued to violate them after plaintiffs filed suit” and that “Murphy has not shown that it has changed the conditions that led to the violations ....” The court rejected the refinery’s argument that the plaintiff neighborhood group is “too disorganized and informal” to have legal standing to sue to protect member interests. The Court held that “[c]orporate formalities and formal membership structure are not constitutional requirements for associational standing.” *Concerned Citizens Around Murphy v. Murphy Oil USA, Inc.*, No. 08-4986 (E.D. La. Feb. 3, 2010) (686 F. Supp. 2d 663)

**Court rejects expansive reading of the Clean Water Act’s “administrative penalties” bar to citizen enforcement:** On November 16, 2009, the U.S. District Court for the Southern District of Mississippi rejected a developer’s argument that an Army Corps of Engineers’ Notice of Violation protected the developer from citizen enforcement for destroying wetlands in Hancock County, Mississippi. Interpreting the Clean Water Act’s “administrative penalties” section (33 U.S.C. § 1319(g)), the Court first held that even if government administrative enforcement barred a citizen suit for civil penalties, “[a] citizen would still be free to seek injunctive relief.” Next, the court ruled that the Corps’ Notice of Violation did not “commenc[e] a 1319(g) administrative civil penalty action.” The court explained that to institute administrative civil penalty proceedings, the Corps “would have had to implement those procedures set forth in Section 1319(g)(2-5), which includes notice of the proposed civil penalties . . . .” The Corps “did not do so.” The court concluded: “Because no administrative action for civil penalties was ever commenced by the Corps or EPA, the Section 1319(g)(6) bar is inapplicable.” *Gulf Restoration Network v. Hancock County Development, LLC*, 08-cv-00186 (S.D. Miss., Nov. 16, 2009) (2009 WL 3841728).

**Entergy moves to cancel coal-burning power plant project:** On October 27, 2009, Entergy Louisiana, LLC moved to cancel its plan to convert its Little Gypsy power plant in Montz, Louisiana, to a coal and petroleum coke burning facility. Earlier (on May 22, 2009)—following more than 18 months of litigation and administrative proceedings—the Louisiana Public Service Commission (LPSC) had approved “a longer-term suspension” of the project for at least three years. LPSC originally approved the project after phase I of an administrative hearing on March 19, 2008. On behalf of its clients, TELC appealed that decision and also issued a notice of intent to sue Entergy on April 1, 2008, alleging that the project’s construction would violate the Clean Air Act because Entergy had not received government-approved limits for mercury and other hazardous air pollutants. Entergy announced on April 23, 2008, that it would delay construction until it received such limits. Entergy received the limits in a permit modification on February 26, 2009. Meanwhile, however, on February 18, 2009, an LPSC administrative law judge in phase II of the administrative proceedings heard oral argument from a TELC student attorney and others about whether Entergy must show that the project is economically viable. On March 13, 2008, LPSC ordered Entergy to suspend the project pending a review of economic viability. On April 1, 2009, Entergy submitted its review and asked LPSC for the longer-term delay that LPSC approved on May 22. Coal-fired power plants emit large amounts of carbon dioxide—a pollutant strongly associated with global warming. TELC represented the Alliance for Affordable Energy, Louisiana Environmental Action Network, Sierra Club, Gulf Restoration Network, and an individual in these proceedings.



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 is a sample of clean air matters the Clinic worked on during the 2009-10 academic year:



### **Lawsuits & Administrative Adjudications**

*In re: Louisiana Department of Environmental Quality Permitting Decision: Air Permit for Waste Management of Louisiana, L.L.C.'s Woodside Landfill*, No. 574282 (19th Jud. Dist. Intervention filed July 30, 1996) (Challenging LDEQ's issuance of a Clean Air Act permit that petitioners Louisiana Environmental Action Network, Concerned Citizens of Livingston Parish, Mr. Harold Wayne Breaud and Mr. O'Neil Couvillion allege violates provisions of the Clean Air Act and Louisiana air regulations) (101-093.4) Adverse Judgment March 29, 2010 (but permit remanded by EPA May 27, 2010)

*Petroplex International, LLC, et al. v. Calabro*, No. 33693 (23th Jud. Dist., Jan. 13, 2010) (Defending a community organization, its officers, and its members in a "SLAPP Suit" (Strategic Lawsuit Against Public Participation) that alleges defamation and interference with contractual relations for statements at a public permits hearing) (101-121.2) Voluntary Dismissal Motion Filed May 19, 2010 (favorable result)

*Louisiana Environmental Action Network and Concerned Citizens of Livingston Parish v. Jackson*, No. 42:7604 (D.D.C. Oct. 13, 2009) (Seeking to compel EPA to rule on the Plaintiffs' petition for an EPA objection to an LDEQ air permit for Waste Management of Louisiana's Woodside Landfill. The underlying petition alleges that LDEQ's permit 1) fails to require sufficient monitoring to assure that Waste Management complies with the permit's emission limits and 2) fails to impose emission controls that the Clean Air Act requires for new major sources in areas, like Livingston Parish, that have not attained federal health protection standards for ozone pollution.) (101-093.3) Settlement Signed April 28, 2010

*Alliance for Affordable Energy v. Louisiana Public Service Commission (LPSC)*, No. 568378 (19th Jud. Dist., June 30, 2008) (Appealing the LPSC's approval of 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) (126-016.1) Dismissed March 23, 2010 (following LPSC suspension of project and Entergy application to cancel project)

*Sierra Club, Louisiana Environmental Action Network, Alliance for Affordable Energy, and Mr. O'Neil Couvillion v. Louisiana Department of Environmental Quality*, No. 574318 (19th Jud. Dist., Jan. 14, 2009) (Appealing LDEQ's modification of the Big Cajun II power plant's Clean Air Act permit to allow burning of higher sulfur coal, a fuel associated with health impacts and global warming) (126-018.1) Voluntary Dismissal Motion Filed April 27, 2010 (following LDEQ rescission of the permit modification)

*Sierra Club, Alliance for Affordable Energy, Louisiana Environmental Action Network, and O'Neil Couvillion v. Louisiana Department of Environmental Quality*, No. C583878 (19th Jud. Dist. Court, Oct. 23, 2009) (Appealing LDEQ's modification of Louisiana Generating's Clean Air Act permit for the Big Cajun I power plant to allow release of hazardous air pollutants from burning higher sulfur coal and petroleum coke—fuels associated with global warming) (126-014.3)

*Louisiana Environmental Action Network v. Jackson*, No. 09-cv-01333 (D.D.C. July 17, 2009) (Seeking an injunction to require EPA and the Louisiana Department of Environmental Quality to implement Clean Air Act provisions to protect Louisiana residents from dangerous levels of ozone pollution) (101-100)

*Louisiana Environmental Quality Act v. Exxon Mobil Corporation*, No. 578304 (19th Jud. Dist., May 13, 2009) (Alleging that Exxon's Baton Rouge chemical plant discharges toxic air pollutants and other air contaminants without a permit to cover those discharges) (101-055)

*Sierra Club, Louisiana Environmental Action Network, Alliance for Affordable Energy, and Mr. O'Neil Couvillion v. Louisiana Department of Environmental Quality*, No. 576989 (19th Jud. Dist., Apr. 1, 2009) (Appealing LDEQ's modification of Entergy's Clean Air Act permit for the Little Gypsy power plant to allow release of hazardous air pollutants from burning higher sulfur coal and petroleum coke—fuels associated with global warming) (126-016.4)

*Concerned Citizens Around Murphy v. Murphy Oil USA, Inc.*, No. 08-4986 (E.D. La. Nov. 21, 2008) (Seeking civil penalties and injunctive relief for alleged violations of Clean Air Act permit emission limitations at a Meraux, Louisiana oil refinery) (161-003) (686 F. Supp. 2d 663)

*In re: Louisiana Department of Environmental Quality Air Permitting Decision Re: Louisiana Generating, LLC Big Cajun I Power Plant*, No. 564241 (19th Jud. Dist., March 19, 2008) (Appealing Clean Air Act permits allowing the Big Cajun I power plant to burn higher sulfur coal, a fuel associated with global warming) (126-014)

*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)

*Bogue Lusa Water Works 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)





## **Comments, Notices, and Administrative Petitions**

*Notice of Intent to File Clean Air Act Citizen Suit against Nucor Corporation on behalf of Louisiana Environmental Action Network and Sierra Club* (Providing notice of intent to enforce Clean Air Act § 112(g)'s ban on construction pending a government determination that hazardous air pollutants will be controlled according to the maximum achievable control technology at the topgas boiler at Nucor's proposed pig iron plant) (101-115.4) (July 23, 2010)

*Petition to EPA on behalf of the Louisiana Environmental Action Network and Sierra Club* (Seeking an EPA objection to a Title V Clean Air Act permit that the Louisiana Department of Environmental Quality issued to a proposed Nucor Steel pig iron facility and alleging that the permit 1) fails to implement Clean Air Act provisions for control of hazardous air pollutants, 2) fails to require sufficient monitoring of emissions to assure compliance with permit standards, and 3) is based on flawed emission modeling) (101-115.1) (June 25, 2010)

*Comments on behalf of Louisiana Environmental Action Network, Sierra Club, and O'Neil Couvillion to the Louisiana Department of Environmental Quality* (Objecting to proposed air permits for the Nucor Steel pig iron facility due to insufficient public notice, failure to ensure that permit conditions are enforceable, failure to address greenhouse gases, and inaccurate air modeling) (101-115) (April 19, 2010)

*Comments on behalf of Louisiana Environmental Action Network on LDEQ Proposed Clean Air Act § 185 Fee Determination* (Commenting that LDEQ may not relax or terminate federally required elements of a Clean Air Act implementation program) (101-100.4) (Mar. 29, 2010)

*Supplemental Notice of Intent to file Clean Air Act claims against Murphy Oil U.S.A., Inc. on behalf of Concerned Citizens Around Murphy* (Alleging Clean Air Act violations from a fuel oil storage tank at an oil refinery in Meraux, Louisiana, including excess emissions of benzene, cumene, ethylbenzene, naphthalene, PAHs, toluene, xylenes, and n-hexane) (161-003) (Mar. 29, 2010)

*Notice of Intent to file citizen enforcement suit under the Clean Air Act against EPA on behalf of Concerned Citizens Around Murphy* (Alleging that EPA failed to timely respond to the

petition to object to the air permit LDEQ issued to Murphy Oil USA for Meraux Refinery) (161-006) (March 16, 2010)

*Petition on behalf of Concerned Citizens Around Murphy to EPA (Seeking EPA's objection to a Title V Clean Air Act permit that the Louisiana Department of Environmental Quality issued to Murphy Oil USA for a proposed modification to its refinery in Meraux, Louisiana because the agency failed to require support for emissions calculations and emission limits that are practically enforceable) (161-005) (Dec. 10, 2009)*

*Petition on behalf of Sierra Club, Louisiana Environmental Action Network, and Alliance for Affordable Energy to EPA (Seeking EPA's objection to a Title V Clean Air Act permit that the Louisiana Department of Environmental Quality issued to Louisiana Generating, LLC for its proposed 705 MW coal plant (Big Cajun II-Unit 4) in Pointe Coupee Parish because the facility does not have a Clean Air Act preconstruction permit, there are no limits for fine particulate matter, and the permit fails to incorporate emission limits for each hazardous air pollutant that meet maximum achievable control technology standards) (126-018.3) (Aug. 21, 2009)*





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 2009–10 academic year:



### **Lawsuits & Administrative Adjudications**

*ENSCO Offshore Company v. Salazar*, No. 10-cv-01941 (E.D. La. Aug. 23, 2010) Counsel for Intervenor-Defendant Sierra Club in a challenge to the U.S. Department of Interior's revised moratorium on new deepwater oil wells in the Gulf of Mexico) (126-019.2)

*Louisiana Environmental Action Network, Citizens for a Strong New Orleans East, Sierra Club, and Father Van Lukenguyen v. Louisiana Department of Environmental Quality*, No. 2009-CA-2259 (La. App. 1st Cir., Dec. 10, 2009) (Appealing a 19th Judicial District Court's judgment affirming LDEQ's issuance of a water quality certification for the Chef Menteur landfill, an unpermitted landfill located between a Vietnamese-American community in East New Orleans and Bayou Sauvage National Wildlife Refuge (101-103.2) (Adverse Ruling June 25, 2010; application for rehearing July 2, 2010)

*Hornbeck Offshore Services, L.L.C. et al. v. Salazar*, 10-30585 (5th Cir., June 25, 2010) (Appeal of District Court preliminary injunction against enforcement of the U.S. Department of Interior's six-month moratorium on new deepwater oil wells in the Gulf of Mexico) (126-019.1)

*Holy Cross Neighborhood Association, Gulf Restoration Network, Louisiana Environmental Action Network, Citizens Against Widening the Industrial Canal, and Sierra Club v. U.S. Army Corps Of Engineers*, No. 10-cv-1715 (E.D. La., June 10, 2010) (Alleging that the U.S. Army Corps of Engineers' Industrial Canal lock replacement project violates the National Environmental Policy Act and the Clean Water Act because, among other things, the Corps failed to consider reducing disposal of contaminated dredged spoil by about half by implementing a "shallow draft" alternative—even though the Corps assumed there will be "no deep draft benefits associated with the authorized plan over the period of analysis.") (112-004.1)

*Hornbeck Offshore Services, L.L.C. et al. v. Salazar*, 10-cv-01663 (E.D. La., June 7, 2010) (Counsel for Intervenor-Defendant Sierra Club in a challenge by various companies to the U.S. Department of Interior's six-month moratorium on new deepwater oil wells in the Gulf of Mexico) (126-019)



*Center for Biological Diversity v. Salazar*, No. 10-60417 (5<sup>th</sup> Cir., May 27, 2010) (challenging approval by the Department of Interior's Minerals Management Service of 11 plans for offshore drilling in the Gulf of Mexico without the consideration of environmental impacts that the National Environmental Policy Act requires) (169-001)

*Concerned Citizens of Independence v. DoRan Seafood, LLC*, No. 09-cv-2833 (E.D. La., Feb. 19, 2009) (Alleging that DoRan Seafood discharges waste that passes through and interferes with a municipal sewage treatment plant in the Town of Independence, Tangipahoa Parish, Louisiana, causing violations of Clean Water Act standards for discharges into the Tangipahoa River) (162-001) Stipulated Dismissal May 27, 2010 (following installation of a pretreatment system and odor control technology)



*Little Tchefuncte River Association, Gulf Restoration Network, and Matthew Allen v. Louisiana Department of Environmental Quality*, No. 583984 (19<sup>th</sup> Jud. Dist., Oct. 28, 2009) (Appealing LDEQ's decision to reissue a Clean Water Act permit that allows a private wastewater treatment facility at Penn Mill Lakes Subdivision to discharge into Horse Branch Creek and the Tchefuncte River—streams designated as Outstanding Natural Resource Waters—without regard to the availability of alternatives) (167-001.1) Favorable Judgment May 5, 2010

*U.S. v. Sewerage and Water Board Of New Orleans*, No. 93-cv-3212 (E.D. La., Jan. 27, 2010) (Negotiations on behalf of intervenors League of Women Voters of New Orleans, Lake Pontchartrain Basin Foundation, Orleans Audubon Society, and Louisiana Environmental Action Network regarding modifications (post-Hurricane Katrina) to a Clean Water Act consent decree originally entered on June 22, 1998 to improve sewage treatment in Orleans Parish) (135-001). Modified Consent Decree Entered March 23, 2010

*Louisiana Environmental Action Network v. City of Baton Rouge and Parish of East Baton Rouge*, No. 10-cv-187 (M.D. La. Mar. 22, 2010) (Alleging ongoing Clean Water Act violations at three Baton Rouge sewage treatment plants and also alleging that the plants violate interim limits set in a federal consent decree) (101-117)



*In re: Louisiana Department of Environmental Quality Permitting Decision: Permit for Timber Branch Sewage Treatment Facility*, No. 577799 (19th Jud. Dist., April 28, 2009) (Appealing a Clean Water Act permit that allows Southeastern Louisiana Water and Sewer Company to discharge treated sewage into Timber Branch and the Tchefuncte River, which are Outstanding Natural Resource Waters) (110-006.2) Adverse Judgment March 10, 2010

*Louisiana Environmental Action Network, v. Louisiana Department of Environmental Quality*, No. 2009-CA-1244 (La. App. 1st Cir., July 8, 2009) (Appealing a 19th Judicial District Court's judgment affirming LDEQ's issuance of a water discharge permit for the Chef Menteur landfill, an unpermitted landfill located between a Vietnamese-American community in East New Orleans and Bayou Sauvage National Wildlife Refuge (101-111.2) Adverse Judgment Feb. 8, 2010

*Louisiana Environmental Action Network v. Sun Drilling Products Corp.*, No. 09-cv-7389 (E.D. La., Nov. 19, 2009) (Seeking civil penalties and injunctive relief for alleged violations of a Clean Water Act permit at a Belle Chasse, Louisiana drilling mud lubricant manufacturing facility) (101-120)

*Louisiana Environmental Action Network, State Of Louisiana, Save The Ouachita, and Kent Stegall v. Arkansas Pollution Control & Ecology Commission, City Of El Dorado Water Utilities, El Dorado Chemical Company, Lion Oil Company, and Great Lakes Chemical Company*, Nos. 0283-6 (consolidated) (Arkansas Supreme Court, April 28, 2009) (Appealing aspects of an Arkansas Pollution Control & Ecology Commission order regarding a water quality permit for a joint pipeline for four industrial polluters to discharge into the Ouachita River in Arkansas, which flows into Louisiana) (101-105.3)

*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)

*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) (Alleging that a renewed permit for a sewage treatment plant allows unlawful degradation of impaired waters and that LDEQ failed to respond to significant public comments) (157-010.1)

*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)

## **Comments, Notices, and Administrative Petitions**

*Comments on behalf of Gulf Restoration Network and Louisiana Environmental Action Network, jointly with the Environmental Law and Policy Center, to EPA* (Commenting that the May 2010 draft antidegradation implementation procedures that LDEQ submitted to EPA for

technical review violate federal Clean Water Act regulations and policy) (157-024) (July 12, 2010)

*Supplemental Comments on behalf of Gulf Restoration Network, Concerned Citizens of Independence and others* (Requesting that LDEQ assess the assimilative capacity of the Tangipahoa River and the unnamed parish drainage ditch that receive discharges from the Town of Independence sewage treatment plant) (162-002) (June 24, 2010)

*Comments on behalf of Ouachita Riverkeeper to the Arkansas Department of Environmental Quality* (Objecting to reissuance of Georgia-Pacific water discharge permit because ADEQ based permit limits on an incomplete 1984 use attainability analysis instead of a 2007 EPA use attainability analysis that shows greater protections are required under the law.) (166-002) (May 10, 2010)

*Comments on behalf of the Gulf Restoration Network, the Little Tchefuncte River Association, and Mr. Matthew Allen to the Louisiana Department of Environmental Quality* (Opposing biochemical oxygen-demanding substances TMDL for Bayou Cane for failure to provide for any implementation of the TMDL) (157-034) (Mar. 11, 2010)

*Comments on behalf of Louisiana Environmental Action Network, Gulf Restoration Network, and O'Neil Couvillion to the Louisiana Department of Environmental Quality* (Opposing proposed reissuance of a general permit under Clean Water Act § 402 for wastewater discharges from light commercial facilities for failure to provide permit with pollutant limitations, among other things) (101-056.1) (Feb. 18, 2010)

*Notice of Intent to Sue Regarding the Industrial Canal Lock Replacement Project* (Alleging on behalf of the Holy Cross Neighborhood Association and others that the U.S. Army Corps of Engineers' Industrial Canal lock replacement project violates the Clean Water Act and the National Environmental Policy Act (112-004.1) (Jan. 19, 2010)

*Comments on behalf of Gulf Restoration Network, Concerned Citizens of Independence, Agnes Oliphant, Charlie Tate, Curtis Vedros, and Amanda Vedros* (Opposing proposed Clean Water Act § 402 state wastewater discharge permit for Town of Independence POTW for failure to include required effluent limitations and pretreatment conditions for impaired receiving water) (162-002) (Dec. 17, 2009)

*Comments on behalf of Gulf Restoration Network jointly with the Environmental Law and Policy Center to the Mississippi Department of Environmental Quality* (Objecting in part to textual provisions in revised Mississippi Water Quality Standards and Antidegradation Implementation Rules as failing to ensure compliance with the Clean Water Act and in failing to ensure water quality is not degraded) (157-032) (Dec. 1, 2009)

*Comments on behalf of Louisiana Environmental Action Network to the Louisiana Department of Environmental Quality* (Opposing LDEQ's proposal to reissue and modify a wastewater permit to increase discharges from the Elayn Hunt Correctional Center Wastewater Treatment Plant, which has a history of violating permit conditions) (101-123) (Nov. 30, 2009)

*Notice of Intent of the Lower Mississippi Riverkeeper and the Louisiana Environmental Action Network to sue the City of Baton Rouge/Parish of East Baton Rouge for Clean Water Act violations at the North Baton Rouge Wastewater Treatment Plant* (Alleging that the



plant's discharges violate effluent limitations in the plant's permit and also violate interim limits set in a federal consent decree) (101-117) (Nov. 24, 2009)

*Comments on behalf of Gulf Restoration Network and Louisiana Environmental Action Network, jointly with the Environmental Law and Policy Center, to the Louisiana Department of Environmental Quality (Opposing draft antidegradation implementation rules for Louisiana waters as underprotective in ensuring waters remain fishable and swimmable) (157-024) (Oct. 23, 2009)*

*Comments on behalf of Louisiana Environmental Action Network, Community Strength, Ms. Eva White, and Mr. O'Neil Couvillion to the Louisiana Department of Environmental Quality (Opposing proposed Clean Water Act § 402 state wastewater discharge permit based on an incomplete application for Petroplex International, L.L.C. proposed petroleum liquid storage and terminal facility in Vacherie, Louisiana) (101-121.1) (Oct. 16, 2009)*

*Comments on behalf of Gulf Restoration Network, Louisiana Environmental Action Network, and Mr. O'Neil Couvillion to the Louisiana Department of Environmental Quality (Responding to LDEQ's Advanced Notice of Initiation of its Triennial Revision of the Water Quality Standards, LAC 33:IX.Chapter 11 (0907Pot1) and proposing clarifications and regulatory revisions to comply with federal law) (157-007.2) (Sept. 21, 2009)*





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 2009-10 academic year:



### Lawuits & Administrative Adjudications

*Louisiana Environmental Action Network et al. v. Martinez*, No. 2010-CW-1199 (1st Cir. July 2, 2010) (Requesting appellate review of the District Court's failure to issue summary judgment that the Ascension Parish President drained Alligator Bayou and Spanish Lake without legal authority) (101-118)



*Louisiana Environmental Action Network and Mr. O'Neil Couvillion v. Louisiana Department of Environmental Quality*, No. 581665 (19<sup>th</sup> Jud. Dist., Aug. 20, 2009) (Alleging that when LDEQ issued a water quality certification for Nucor Corporation to clear and excavate wetlands in St. James Parish, LDEQ failed to perform an environmental assessment or to determine whether the project would comply with state water quality standards) (101-115.3) Adverse Judgment Dec. 1, 2009



*Louisiana Environmental Action Network and Mr. O'Neil Couvillion v. Tommy Martinez*, No. 93387B (23rd Jud. Dist., July 31, 2009) (Alleging that the Ascension Parish President drained Alligator Bayou and Spanish Lake without legal authority) (101-118)

*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 a Clean Water Act Section 404 permit when dredging Bayou Postillion) (155-003)

*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)

### **Comments, Notices, and Administrative Petitions**

*Comments on behalf of Gulf Restoration Network, Louisiana Environmental Action Network, Sierra Club—Delta Chapter, Coalition to Restore Coastal Louisiana, Environmental Defense Fund, National Wildlife Federation and Mr. O'Neil Couvillion to the Louisiana Department of Natural Resources and the City of New Orleans* (Opposing Newport Environmental Services' proposed coastal use permit to fill in wetlands adjacent to Bayou Bienvenue and the Mississippi River Gulf Outlet to build an industrial park) (101-094.1) (Sep. 4, 2009)



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 2009–10 academic year:

### Lawuits & Administrative Adjudications

*In re Louisiana Department of Environmental Quality Permit Decision re: Harrelson Materials Management, Inc. Type III Construction & Demolition Debris*, No. 585242 (19th Jud. Dist., Dec. 7, 2009) (Alleging—on behalf of Louisiana Environmental Action Network and others—that LDEQ’s issuance of a permit to the Harrelson landfill is illegal because of improper zoning, lack of an adequate environmental assessment, and the agency’s failure to consider the permittee’s poor compliance history, among other things) (101-113.1) Adverse Judgment June 30, 2010

*Louisiana Environmental Action Network and O’Neil Couvillion v. Louisiana Department of Environmental Quality*, No. 587263 19th Jud. Dist., Feb. 5, 2010) (Appealing LDEQ’s issuance of three Administrative Orders modifying solid waste permits for CWI Oaks Landfill, LLC, LaSalle/Grant Parish Landfill, and River Birch Inc. to allow disposal of oil and gas exploration and production waste at those landfills without providing an opportunity for public notice and comment) (101-122) Adverse Judgment June 14, 2010

*Jan Bernhardt, et al. v. James Welch*, No. 587065 (19th Jud. Dist., Feb. 1, 2010) (Alleging that the Department of Natural Resource’s issuance of a permit to drill an injection well for disposal of oil & gas production wastes in the Gueydan Canal Field in Vermillion Parish is illegal because of the agency’s failure to analyze environmental impacts on neighboring agriculture and residences and to consider alternatives) (168-001)

*In re Kennett Stewart*, No. 2009-7154-EQ (La. Div. of Admin. Law, Oct. 16, 2009) (Intervention on behalf of Oakville Community Action Group, Louisiana Environmental Action Network (“LEAN”), and Anne Marie Higgins in Louisiana Department of Environmental Quality enforcement action against landowner for violation of solid waste laws in Belle Chasse, Louisiana (104-023) (Adverse Judgment, Jan. 6, 2010)

*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” the unpermitted Chef Menteur landfill—located between a Vietnamese-American community in East New Orleans and Bayou Sauvage National Wildlife Refuge—by leaving waste in place without adequate monitoring) (101-111)

*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)





## Comments, Notices, and Administrative Petitions

*Notice on behalf of Oakville Community Action Group and Louisiana Environmental Action Network of intent to sue Industrial Pipe, Inc. and Riverside Recycling & Disposal, L.L.C. under the Resource Conservation and Recovery Act (RCRA) (Alleging violations of federal laws that proscribe safe landfill disposal practices and prohibit open dumping and for contributing to waste disposal practices that may endanger health and the environment, and alleging violations of state solid waste laws that prohibit the disposal of asbestos containing materials at the site) (104-025) (July 14, 2010)*

*Notice of Intent to file citizen enforcement suit under the Endangered Species Act against the U.S. Department of Housing and Urban Development and the State of Mississippi on behalf of Gulf Restoration Network and Center for Biological Diversity (Alleging that authorization of the East Central Harrison County Regional Wastewater Treatment Facility will jeopardize the continued existence of the endangered Mississippi gopher frog) (157-027.1) (April 28, 2010)*

*Notice of Intent to file citizen enforcement suit under the Resource Conservation and Recovery Act against Industrial Pipe and Kennett Stewart on behalf of Louisiana Environmental Action Network (Alleging violations of the prohibitions against the open dumping of solid wastes and alleging waste handling, storage, and disposal methods that may present and imminent and substantial endangerment to health and the environment) (104-024) (Mar. 26, 2010)*

*Comments on behalf of Louisiana Environmental Action Network and O'Neil Couvillion to the Louisiana Department of Environmental Quality (Opposing permit modification for CWI White Oaks Landfill, an industrial landfill, that would increase allowed amounts of solid waste to accommodate oil and gas exploration and production wastes and alleging that it is unlawful to dispose of oil and gas exploration and production wastes under the industrial solid waste permit at issue. (101-122.1) (March 15, 2010)*

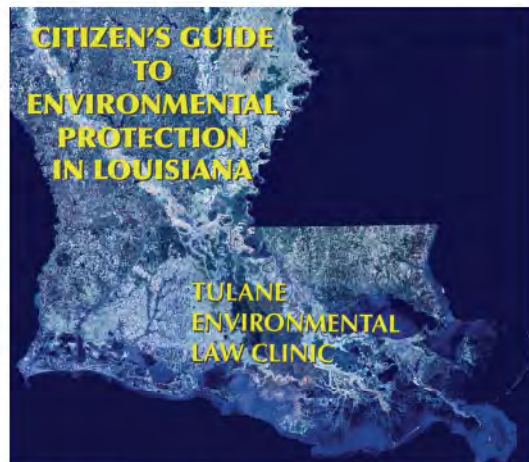
*Objection to Louisiana Department of Environmental Quality Orders on Consent on behalf of Louisiana Environmental Action Network, and Mr. O'Neil Couvillion (Alleging that LDEQ consent orders constitute major permit modifications issued without public notice or an opportunity to comment. The orders allow landfills operated by CWI-White Oaks Landfill LLC; the LaSalle Parish Policy Jury, and River Birch Inc. to accept oil exploration and production wastes.) (101-122) (Nov. 18, 2009)*

*Notice of Gulf Restoration Network's Intent to File Citizen Enforcement Litigation Re: Mississippi Gulf Region Water and Wastewater Plan Projects (Alleging that the U.S. Department of Housing and Urban Development and the Mississippi Development Authority violated the National Environmental Policy Act in approving federal funding of nine projects without regard to indirect and cumulative environmental impacts, and without analysis of the impacts of development that the projects will induce) (157-027) (Sept. 8, 2009)*



The Clinic will miss Pam Dashiell—a client, colleague, and friend—who passed away on December 1, 2009.

- September 15, 2010 — Participated in monthly meetings of Horizon Initiative New Orleans discussing stormwater management strategies and policy barriers to implementing rainwater reuse as a green building technique.
- September 14, 2010 — Supported clients by attending meeting with LDEQ Air Analysis Section to discuss air monitoring in St. Bernard Parish.
- September 11, 2010 — Facilitated meeting for “The Battle of New Orleans,” a collaboration between victims of man-made disasters, such as the BP Oil Spill businesses and individuals from Louisiana and Mississippi, 9/11 responders, Exxon Valdez fisherman, and non-profits.
- August 31-September 2, 2010 — Participated in the meeting of the McKnight Foundation-funded Mississippi River Collaborative held in Minneapolis, MN. The Collaborative seeks to improve water quality in the Mississippi River watershed through a combination of legal actions, policy changes, public outreach, and education.
- August 20, 2010 — Hosted a premier of the clinic-produced video documentary, “Citizen’s Guide to Environmental Protection in Louisiana.”
- August 31-September 2, 2010 — Participated in the meeting of the McKnight Foundation-funded Mississippi River Collaborative held in Minneapolis, MN. The Collaborative seeks to improve water quality in the Mississippi River watershed through a combination of legal actions, policy changes, public outreach, and education.
- July 23, 2010 — Clinic Director, Adam Babich, and Dean of Tulane Law School, David Meyer, accepted the *2010 Camille Gavel Public Service Award* of the New Orleans Chapter of the Federal Bar Association.
- June 18, 2010 — Met with a group of multi-disciplinary students from the University of Wisconsin at Madison to discuss environmental law and environmental justice in Louisiana with a focus on the Lower-9<sup>th</sup> Ward and the Holy Cross neighborhood and the Clinic’s cases related to these issues and places.
- June 11, 2010 — Clinic director Adam Babich appeared on *Healthcare Issues 2010*, a public access cable television program hosted by Christopher Sylvain, to discuss current environmental issues and a recent legislative attack on the Clinic and Tulane University. (<http://healthissues2010.org>)
- June 11, 2010 — Attended meeting of the Holy Cross Neighborhood Association.
- May 21, 2010 — Met with Andrew Winer, Director of External Affairs for National Oceanographic and Atmospheric Administration to discuss outreach to constituents affected by the BP oil spill in the Gulf of Mexico.
- April 17, 2010 — Attended “Earth Day on the Bayou” in the Lower 9<sup>th</sup> Ward, presented by several clients and partners.
- April 15, 2010 — Met with the New Orleans Institute and other Greater New Orleans Foundation grantees to discuss how our community might define resiliency as well as how to communicate it as a positive outgrowth at the fifth anniversary of Hurricane Katrina.





- April 14, 2010 — Attended a presentation of Tulane Center for Public Service interns regarding their work on behalf of the Clinic's clients and partners concerning the inter-relatedness of sustainability, wetlands loss, and energy efficiency.
  - April 10, 2010 — Community Outreach Director, Mike Murphy presented on the Safe Drinking Water Act at Tulane Law School's 15<sup>th</sup> Annual Environmental Law and Policy Summit.
  - April 5, 2010 — Arranged and moderated presentation by Wendel Dufour (U.N.O.) to Louisiana Environmental Justice Coalition of Communities and St. James Citizens and Youth of Hwy 44 and 18. The presentation introduced the topic of planning and zoning so that community members can effectively participate in the St. James Parish master planning process.
- 
- March 27, 2010 — Clinic Director Adam Babich delivered a presentation on the panel "Building an Environmental Case" at the Environmental Law Institute's Public Interest Skills Workshop.
  - March 19, 2010 — Attended an event commemorating the 25<sup>th</sup> anniversary of the Alliance for Affordable Energy.
  - March 16, 2010 — Clinic Director Adam Babich and staff attorney Lisa Jordan provided interviews to filmmaker Lisa Katzman for her documentary *A Tale of Two Cities* regarding environmental degradation caused by Hurricane Katrina.
  - March 5, 2010 — Attended the National Association of Environmental Law Societies annual conference hosted by the Loyola New Orleans College of Law. This conference was titled "Staying Afloat" and dealt with adapting to climate change on the Gulf Coast.
  - February 26, 2010 — Clinic Director Adam Babich met with delegates of China's JiLin Environmental Protection Bureau who are gathering information on citizen participation in environmental protection. The New Orleans Citizen Diplomacy Council arranged this visit as part of the U.S. State Department's [International Visitor Leadership Program](#).
  - February 23, 2010 — Participated in a meeting of Oakville Community Action Group.
  - February 2, 2010 — Participated in a field trip with Greater New Orleans Foundation grantees to United Houma Nation communities.
  - January 27-29, 2010 — Attended the Environmental Protection Agency's National Environmental Justice Advisory Council meeting.
  - January 25-27 2010 — Attended the Environmental Protection Agency's 2010 Conference on Environmental Justice, Air Quality, Goods Movement, and Green Jobs.
  - January 22, 2010 — Supported clients at quarterly meeting between the Army Corps and environmental NGOs to review the suitability of the alternative arrangements to NEPA, which were formed to manage the post-Katrina hurricane protection projects.
  - January 21, 2010 — Attended City Council candidates forum focusing on landfills and illegal dumping as well as other environmental issues in New Orleans East.

- January 9, 2010 — Clinic Director Adam Babich spoke on the topic “Cultivated Values: Developing Law Students into Citizen Lawyers” at the Association of American Law Schools annual meeting.
- December 22, 2009 — Participated in a meeting with Greater New Orleans Foundation grantees to discuss issues involving resiliency and opportunities for collaboration.
- December 18, 2009 — Supported clients by attending Louisiana Environmental Action Network’s holiday celebration.
- December 7, 2009 — Attended a meeting of the Louisiana-Mississippi Eco System (composed of representatives Council on Environmental Quality, Army Corps of Engineers, National Oceanic and Atmospheric Administration, National Marine Fisheries Service) to hear from community members directly affected by coastal land loss.
- December 1, 2009 — Attended a meeting of the Governor’s Advisory Commission on Coastal Protection, Restoration and Conservation held in the Lower 9<sup>th</sup> Ward discussing property rights and sustainable coastal communities.
- November 17-18, 2009 — Attended the EPA’s Brownfields 2009 Conference.
- November 14, 2009 — Facilitated a discussion sponsored by the Alliance for Affordable Energy held at the Tulane Law School regarding renewable energy policy. Energy expert Craig Morris explained how Louisiana can learn from Germany’s use of feed-in tariffs as a way to stimulate the renewable energy market.
- November 8-9, 2009 — Supported clients by attending “The Green Rebuilding of New Orleans” conference sponsored by the Delta Chapter of the Sierra Club.
- November 5, 2009 — Supported clients by attending Army Corps NEPA meeting regarding the levee alignment that concerns the Oakville community.
- November 1, 2009 — Clinic Director Adam Babich published “Illegal Permit? Who Are You Going to Call? Your Local Environmental Law Clinic” in the *Environmental Law Reporter*.
- October 27, 2009 — Presented information at the Going Green Block Party event on the Tulane campus.
- October 26, 2009 — Nominated Cheryl Slavant to serve on the EPA’s National Drinking Water Advisory Council representing the general public and the concerns of small, rural public water systems.
- October 26, 2009 — Donated 15 copies of Citizen’s Guide to Environmental Protection in Louisiana to the Ouachita Riverkeeper who also organizes environmental justice communities in northern Louisiana.
- October 24, 2009 — Supported clients and students from Tulane, Loyola, and Xavier by attending an event to draw awareness to the need to limit global climate change as part of 350.org’s global campaign.
- October 14, 2009 — Participated in a site visit of the Mandeville waste water treatment plant and wetlands assimilation project with clients and partners (Gulf Restoration Network, Tammany Together, and League of Women Voters). The project is an example of the use of treated sewage to rehabilitate wetlands. However, our clients have several design concerns regarding its effectiveness and the policy implications if it is not implemented properly.



- October 8, 2009 — 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 at accessing and utilizing informational resources for effective communication and dialogue with stakeholders. This session involved the emergency response and debris management followed by outreach with clients and partners.
- October 1, 2009 — Met with members of the Alsen Environmental Justice Community Organization to hear about their long-standing pollution and quality of life concerns.
- September 26, 2009 — Supported clients by attending 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.
- September 16-18, 2009 — Participated in the McKnight Foundation-funded Mississippi Water Quality Collaborative held in New Orleans. The Collaborative seeks to improve water quality in the Mississippi River watershed through a combination of legal actions, policy changes, and public outreach and education.
- September 15, 2009 — Facilitated a panel discussion presented by the Sierra Club titled "Green Jobs and Our Climate" held at the Tulane Law School.
- September 9-10, 2009 — Supported community groups Louisiana Environmental Justice Community Organization Coalition and Residents for Air Neutralization for an initial alternative dispute resolution meeting with fenceline refinery Calumet Lubricants in Shreveport.
- August 31, 2009 — Supported clients by attending a meeting with the Army Corps soliciting mitigation ideas due to impacts from hurricane protection projects under an alternate environmental review process.



## FUNDING SOURCES

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Concerned Citizens Coalition

Dallas Environmental Stewards

The Deer Creek Foundation

The Evan Frankel Foundation

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The Greater New Orleans Foundation

Henshaw Associates, Inc.

The Lawrence Foundation

The McKnight Foundation

Michele Merkel & Christopher Peak

The Rockefeller Family Fund

Tulane Law School



# Tulane Environmental Law Clinic



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