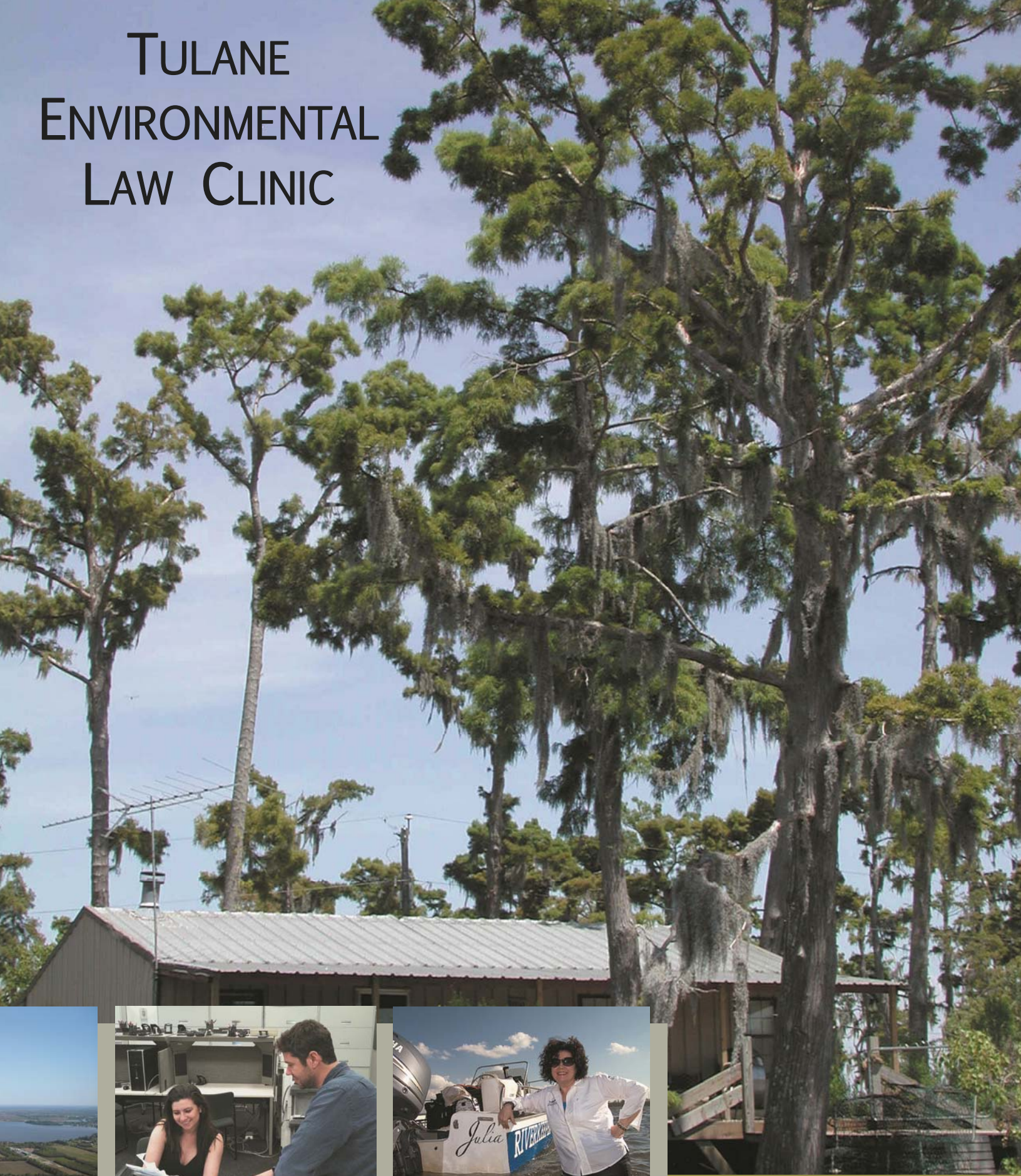


TULANE ENVIRONMENTAL LAW CLINIC



2010
ANNUAL REPORT

A Good Year

Dear Colleagues:

It is difficult to pin down what makes a good year at the Environmental Law Clinic. In many ways, they are all good years: each brings a new group of student-attorneys and a fresh jolt of energy and enthusiasm. We began this last academic year half-reeling from 2009-10's combination of the Deepwater Horizon disaster, a legislative attempt to destroy the clinic, and the loss of Pam Dashiell—a TELC client and Lower Ninth Ward activist who could keep a positive vibe going without a hint of denial, despite years of battling the odds. But we ended the year with the thrill of student-attorney arguments the day before graduation in the Industrial Canal case—a case, by the way, that was dear to Pam Dashiell's heart. So we will celebrate our victories, mourn our losses, and continue to marvel at the steady stream of talented student-attorneys who—if only for a couple of semesters—help ordinary Louisiana residents struggle to preserve this state's unique legacy.

The 2010-11 academic year handed us a remarkable clinic—hard-working and committed. When I tried to thank two student attorneys for an effort and accumulation of hours worked that seemed above and beyond any reasonable expectation for a three-credit class, they corrected me: It was their case, and it was for them to thank me for helping. This kind of attitude makes great lawyers.

We also brought home some significant victories. On September 9, the Court ruled on the Industrial Canal case, enjoining the Corps' \$1.3 billion dredging and lock replacement project for the second time because of the Corps' violations of the National Environmental Policy Act and the Clean Water Act. In late August 2011, a federal court in Mississippi entered a consent judgment to resolve a Clean Water Act citizen suit about destruction of wetlands near Bay St. Louis, Mississippi. The defendant agreed to donate a portion of the disturbed property to a land trust which will preserve the wetlands at issue for the long term—shielding at least some of the property at issue from the risk of an Army Corps “after-the-fact” permit down the road. In another settlement, a Louisiana company agreed to stop all discharges of process wastewater to the Mississippi River, opting to transport the waste to an off-site treatment facility. And in a Clean Air Act settlement, an oil refinery agreed to monitor ambient air in a Chalmette, Louisiana neighborhood, in addition to taking steps to reduce flaring of sulfur dioxide and other gasses.

Of course, we had setbacks along the way. But even when our student attorneys do not prevail on a particular case, they provide a public service. The mere fact that our client base has a realistic prospect of receiving legal help is a game-changer. Ordinary people become much more difficult to ignore when they have access to the court system.

Very truly yours,



Adam Babich

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/ or 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.
(through January '11)

Karla Raettig, Esq.

James M. Hecker, Esq.

Ronald Simon, Esq.

Professor Jane L. Johnson



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 2010-2011 academic year:

- Alliance for Affordable Energy
- Atchafalaya Basinkeeper
- Bogue Lusa Water Works
- Center for Biological Diversity
- Citizens Against Widening the Industrial Canal
- Community Strength
- Concerned Citizens Around Murphy
- Concerned Citizens of Livingston
- Environmental Defense Fund
- Gulf Restoration Network



- Holy Cross Neighborhood Association
- Lake Pontchartrain Basin Foundation
- League of Women Voters of New Orleans
- Little Tchefuncte River Association
- Louisiana Audubon Council
- Louisiana Crawfish Producers Association - West
- Louisiana Environmental Justice Community Organizations Coalition
- Louisiana Audubon Council
- Louisiana Bayoukeeper
- Louisiana Environmental Action Network
- Lower Mississippi Riverkeeper



- Mary Queen of Viet Nam Community Development Corporation
- National Wildlife Federation
- Oakville Community Action Group
- Ouachita Riverkeeper



- Orleans Audubon Society
- Paincourtville Volunteer Fire Department
- The People's Advocate of Southwest Louisiana



- Residents for Air Neutralization



- Restore Explicit Symmetry to Our Ravaged Earth
- Sierra Club

- Vietnamese American Young Leaders Association of New Orleans

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.

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 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.



Each year, the Clinic trains up to 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 '10 STUDENT ATTORNEYS

Kallin Brooks
 Thomas Davis
 Brian Dollar
 Natasha Floyd
 Rebecca Fromer
 Margaret Glass
 Alayne Gobeille
 Roman Griffith
 Carrol Hand
 Brandon Harrell
 Amber Johnson
 Sung Kim
 Rebecca Lasoski
 Melissa Lovett
 Erin McCarthy
 Maeve McCarthy
 Norman Messer
 Orjanel Pointer
 Anupama Prasad
 Thomas Sharp
 Allison Ship
 Meghan Smith
 Brandon Sousa
 Endre Szalay
 Peter Walbridge
 Roger Yamada



SPRING '11 STUDENT ATTORNEYS

Kallin Brooks
Thomas Davis
Rebecca Fromer
Alayne Gobeille
Roman Griffith
Carrol Hand
Matthew Langenberg
Rebecca Lasoski
Jeremy Liem
Erin McCarthy
Maeve McCarthy
Norman Messer
Anupama Prasad
Sara Safriet
Thomas Sharp
Allison Shipp

Brandon Sousa
Endre Szalay
Peter Walbridge
Roy Wygant
Roger Yamada



SUMMER RESEARCH ASSISTANTS

Amanda Desselles
James Hou
Jessica Kersey
Kara McQueen-Borden
Emily Russell
Matthew Stone

STUDENT WORKER

Anna Young





Fall 2010

Spring 2011



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

Industrial Canal Lock Replacement Project Enjoined: On September 9, 2011, the U.S. District Court for the Eastern District of Louisiana enjoined the U.S. Army Corps of Engineers from continuing the \$1.3 billion Industrial Canal Lock Replacement Project until the Corps complies with the National Environmental Policy Act and the Clean Water Act. The Court granted summary judgment that the Army Corps violated the National Environmental Policy Act and the Clean Water Act by selecting a “deep-draft” plan for the project without analyzing the impact that closing the Mississippi River Gulf Outlet has on the need for a deep-draft canal. The Court noted: “On its face this seems to be the proverbial bridge to nowhere; namely, constructing a deep-draft lock which will never be used by deep-draft traffic.” TELC represented the Holy Cross Neighborhood association, Gulf Restoration Network, Louisiana Environmental Action Network, Sierra Club, and Citizens Against Widening the Industrial Canal in the lawsuit. (2011 WL 4015694) (112-004.1)

Wetlands Destruction Case Settled: On August 23, 2011, the U.S. District Court for the Southern District of Mississippi entered a consent judgment to govern resolution of a Clean Water Act citizen suit about destruction of nearly 700 acres of wetlands and unpermitted stormwater discharges near Bay St. Louis, Mississippi. Hancock County Development, LLC, the defendant, agreed to **1)** donate a portion of the disturbed property to a land trust, **2)** fund wetlands restoration on the donated property, and **3)** pay \$95,000 in civil penalties to the U.S. government. Earlier in the year, the same court found that TELC’s client, the Gulf Restoration Network, had standing to prosecute the lawsuit. *Gulf Restoration Network v. Hancock County Development, LLC*, 08-cv-00186 (S.D. Miss. 2011) (2011 WL 719586) (157-019)

Clean Water Act enforcement case settled: On April 15, 2011, the U.S. District Court for the Eastern District of Louisiana entered a consent judgment that resolved a Clean Water Act enforcement case. The consent judgment prohibits Sun Drilling Products Corporation from discharging process wastewater, instead requiring disposal of this effluent at a permitted treatment facility. The decree also requires Sun Drilling to re-engineer and re-grade its site to control stormwater discharges and imposes limited enhanced stormwater monitoring requirements to confirm the success of control measures. In addition, Sun Drilling agreed to make a donation to Woodlands Conservancy in Plaquemines Parish for its coastal forest restoration project. TELC represented the Louisiana Environmental Action Network in this citizen enforcement action. (101-120)

Oil refinery case settled: On March 18, 2011, the U.S. District Court for the Eastern District of Louisiana granted a joint motion to dismiss a Clean Air Act citizen suit in light of a settlement embodied in a February 16, 2011 Consent Decree in *U.S. v. Murphy Oil*, No. 10-cv-00563 (W.D. Wisc.). The settlement resulted from the participation of TELC’s Client, Concerned Citizens Around Murphy, in Global Consent Decree negotiations with EPA, Murphy, the Louisiana Department of Environmental Quality, and the State of Wisconsin. The resulting consent decree includes Murphy’s commitment to construct and operate an ambient air monitoring station adjacent to the Meraux Refinery. (161-003)

Company held liable for 1,600 Clean Water Act violations: On December 2, 2010, the U.S. District Court for the Eastern District of Louisiana held Sun Drilling Products Corporation liable for more than 1,600 violations of the Clean Water Act, including discharges of ethylbenzene, a “toxic pollutant,” only a quarter mile above a source of Plaquemines Parish’s drinking water. The Court also upheld the Louisiana Environmental Action Network’s standing to sue about the violations. (2010 WL 5055900) The Court also denied the Defendant’s Motion for Reconsider on January 6, 2011 (2011 WL 52529). Earlier, the Court had rejected the defendant’s argument that a state administrative process barred LEAN’s lawsuit, *Louisiana Environmental Action Network v. Sun Drilling Products Corp.*, 716 F. Supp. 2d 476 (E.D. La. 2010). (101-120)

Oil and gas exploration and production waste disposal well permit vacated: On September 9, 2010, a Louisiana district court vacated and remanded a Department of Natural Resources, Office of Conservation permit for a Class II (E&P Waste) injection disposal well in Gueydan, Louisiana because the agency failed to perform the constitutionally required environmental analysis, known as the “IT Questions.” TELC filed the action on behalf of Jan Bernhardt, Charlene Jannise, and Wilma Subra. (168-001)



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 2010-11 academic year:



Lawsuits & Administrative Adjudications

Concerned Citizens Around Murphy v. Jackson, No. 2:10-cv-04444 (E.D. La. Dec. 1, 2010) (Seeking an injunction to require EPA to respond to Plaintiff's petition to EPA asking the agency to object to an air permit for Murphy Oil USA's Meraux Refinery because the permit fails to require pollution controls mandated by the Clean Air Act) (161-006.1) (dismissed after settlement Sept. 6, 2011)



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 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)

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)

Comments, Notices, and Administrative Petitions

Comments on EPA Proposed Approval of Louisiana Clean Air Act Plan Revision on behalf of the Louisiana Environmental Action Network (Alleging that because Louisiana has failed to review or update its fee schedule for Clean Air Act permits for more than 15 years, EPA cannot lawfully conclude that the state has provided “necessary assurances” that it has adequate personnel and funding to carry out its responsibilities under the Act) (101-126) (May 18, 2011)

Petition to EPA on behalf of the Louisiana Environmental Action Network and Sierra Club (Seeking EPA's objection to Clean Air Act permits that the Louisiana Department of Environmental Quality (LDEQ) issued to a proposed Nucor Steel facility based on allegations that **1**) LDEQ failed to permit the facility as one major source in violation of Clean Air Act requirements, **2**) LDEQ failed to impose mandatory emission limits for hazardous air pollutants and for fine particulates, and **3**) the permits fall short of best available control technology standards for control of greenhouse gas emissions) (101-115.1) (May 3, 2011)

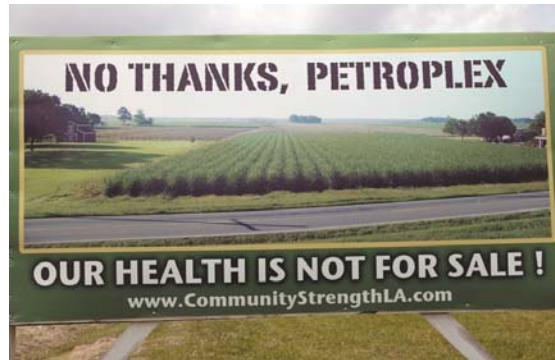
Petition to EPA on behalf of Louisiana Environmental Action Network and Sierra Club (Seeking an EPA objection to a Title V Clean Air Act permit that Louisiana Department of Environmental Quality issued to Noranda Alumina, LLC for its plant modifications and alleging that the permit fails to **1**) incorporate applicable requirements under the Act's Prevention of Significant Deterioration program, **2**) include emission limits for fine particulates, and **3**) include standards to control hazardous air pollutant emissions from the plant's boilers) (101-124.1) (Mar. 28, 2011)

Notice of Intent to Sue to EPA on behalf of Louisiana Environmental Action Network, Concerned Citizens of Livingston Parish, Inc., and others (Providing notice of intent to enforce EPA's non-discretionary duty to respond to a petition for an EPA objection to the Louisiana Department of Environmental Quality's response to EPA's prior objections to the Woodside Landfill Clean Air Act permit) (101-093.3) (Feb. 25, 2011)

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 iron production facility for failure to require Prevention of Significant Deterioration review for greenhouse gas emissions from the pig iron processing unit, failure to require maximum available control technology standards for the unit's boilers, and failure comply with public trustee requirements regarding the facility's mercury and benzene emissions) (101-115) (Jan. 3, 2011)

Petition and Notice of Intent to Sue to EPA on behalf of Louisiana Environmental Action Network, Concerned Citizens of Livingston Parish, Inc., H. Wayne Breaud, and O'neil Couvillion (Providing notice of intent to enforce non-discretionary duty to revoke and revise a Clean Air Act permit for the Woodside Landfill that EPA objected to on May 27, 2010 and, in the alternative, asking EPA to reject as unlawful the Louisiana Department of Environmental Quality's response to EPA's May 27, 2010, objections to the Woodside Landfill Clean Air Act permit) (101-093.3) (Dec. 8, 2010)

Petition to EPA on behalf of Community Strength and Louisiana Environmental Action Network (Asking EPA to exercise its Clean Air Act enforcement authority to prevent Petroplex International from violating the Act's Prevention of Significant Deterioration preconstruction requirements at a proposed petroleum storage and transfer facility in Vacherie, Louisiana) (101-121) (Oct. 13, 2010)



Comments on behalf of Louisiana Environmental Action Network (Objecting to aspects of EPA's proposed rule to implement Clean Air Act anti-backsliding provisions in areas that failed to timely comply with the former 1-Hour Ozone standard. EPA's proposal would allow Louisiana to roll back air-pollution controls in the Baton Rouge area without complying with the ozone standard that EPA determined is necessary to protect public health) (101-100.5) (Sept. 23, 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 Noranda (formerly Kaiser) alumina processing facility in Gramercy, Louisiana due to failure to require best achievable control technology for nitrogen dioxide emissions, failure to consider the facility's fine particulate (PM_{2.5}) emissions, and failure to require a determination that hazardous air pollutants from the facility's boilers will be controlled according to the maximum achievable control technology standards of the Clean Air Act (101-124) (Sept. 23, 2010)



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 2010–11 academic year:



Lawsuits & Administrative Adjudications

Louisiana Environmental Action Network v. City of Baton Rouge and Parish of East Baton Rouge, No. 11-30549 (5th Cir. June 27, 2011) (Appeal of dismissal of a citizen suit 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) (101-117.1)

In re: Louisiana Department of Environmental Quality Permitting Decision: LPDES Permit to Vanguard SynFuels, (La. 1st Cir., June 2, 2011) (Appealing denial of 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) (101-109.1)

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) (dismissed Aug. 3, 2011)

ENSCO Offshore Company v. Salazar, No. 11- 30491 (5th Cir. May. 23, 2011) (Appeal on behalf of Sierra Club and Center for Biological Diversity of summary judgment order requiring the U.S. Bureau of Ocean Energy Management, Regulation and Enforcement to make decisions about permits for deepwater oil wells in the Gulf of Mexico within 30 days) (126-019.4)

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)

Comments, Notices, and Administrative Petitions

Comments on behalf of the Gulf Restoration Network to the Mississippi Department of Environmental Quality on Draft Nitrogen and Phosphorus TMDL for the Pearl River, Jackson Segment (opposing TMDL due to faulty science and drastic increase in Jackson POTW wasteload allocation) (157-041) (July 20, 2011)



Comments on behalf of Save Lake Peigneur, Inc., and Mr. Roger Stelly to the Louisiana Department of Environmental Quality on Jefferson Island Storage & Hub's application for a water quality certification on its dredge and fill activities in Lake Peigneur (opposing application to construct support structures for a proposed creation and operation of a natural gas storage well in a salt dome due to potential effect of sediment on water quality of Lake Peigneur) (172-001.2) (June 20, 2011)

Comments on behalf of the Gulf Restoration Network to the Mississippi Department of Environmental Quality on its 2011 Triennial Review of Mississippi's Water Quality Standards (opposing MDEQ's attempt to lower the Dissolved Oxygen criterion for the Escatawpa River and recommending changes to other aspects of the water quality standards) (157-040) (June 14, 2011)

Notice of Intent to Sue the South Beauregard Water District on behalf of RESTORE (alleging that the Water District in Beauregard Parish, Louisiana, has failed to perform required tests for drinking water contaminants under the Safe Drinking Water Act and has filed legally inadequate reports about drinking water quality) (170-001) (May 19, 2011)

Comments on EPA Proposed Disapproval of Louisiana's 2008 Clean Water Act 303(d) List on behalf of the Gulf Restoration Network and the Louisiana Environmental Action Network (Supporting EPA's listing of three nearshore segments of the Gulf of Mexico for Dissolved Oxygen and objecting to EPA's failure to disapprove 99 delistings and failure to list the Gulf and the Mississippi/Atchafalaya for nutrients) (157-023) (May 13, 2011)



Center for Biological Diversity v. Salazar, No. 10-60417 (5th 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)

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 2010–11 academic year:



Lawsuits & Administrative Adjudications

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) (2011 WL 719586, 2011 WL 482520, 2009 WL 3841728, 2009 WL 259617) (157-019) (Settled Aug. 23, 2011)



Atchafalaya Basinkeeper v. Sandra Thompson-Decoteau, No. 11-30471 (5th Cir., May 23, 2011) (Appeal of trial court dismissal of citizen suit against Atchafalaya Basin Program for failure to comply with a Clean Water Act Section 404 permit when dredging Bayou Postillion) (155-003.1)

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)



Comments, Notices, and Administrative Petitions

Comments on behalf of Save Lake Peigneur, Inc., and Mr. Roger Stelly to the U.S. Army Corps of Engineers on Jefferson Island Storage & Hub's application for a Clean Water Act Section 404 Permit and Section 10 Rivers and Harbors Act permit for dredge and fill activities in Lake Peigneur (opposing application due to potential effects on waterbottom and aquatic life and requesting EIS on entire natural gas storage well project) (172-001.1) (June 20, 2011)



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 2010–11 academic year:



Lawsuits & Administrative Adjudications

Oakville Community Action Group & Louisiana Environmental Action Network v. Industrial Pipe, Inc. and Riverside Recycling & Disposal, L.L.C., No. 2:11-cv-00100 (E.D. La. Jan. 18, 2011) (Resource Conservation and Recovery Act citizen enforcement suit seeking compliance with solid waste safety requirements and state prohibition on disposal of Regulated Asbestos Containing Materials) (104-025) (Settled Aug. 2, 2011)

Louisiana Crawfish Producers Association – West, Atchafalaya Basinkeeper, and Louisiana Environmental Action Network v. U.S. Army Corps of Engineers, et al., No. 11-cv-461 (W.D. La., March 22, 2011) (Alleging that the U.S. Army Corps of Engineers violated the Endangered Species Act and the National Environmental Policy Act when it issued after-the-fact permits for a project that altered over 600 acres of swamp in Louisiana black bear critical habitat in the Atchafalaya Basin without consulting the U.S. Fish & Wildlife Service) (155-004)

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) (Favorable judgment Sept. 13, 2011)

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)

Comments, Notices, and Administrative Petitions

Notice of Intent to Sue Waste Management Inc. on behalf of the Mary Queen of Viet Nam Community Development Corporation, the Vietnamese American Young Leaders Association of New Orleans, the Louisiana Environmental Action Network, and the Sierra Club. (Providing notice of intent to enforce EPA's solid waste criteria at Waste Management's Chef Menteur Landfill and alleging that the landfill is an "open dump" under the Resource Conservation and Recovery Act because it lacks a system to monitor leachate and to protect ground and surface water from releases of leachate) (101-099.1) (May 10, 2011)

Comments on behalf of Residents for Air Neutralization, Louisiana Environmental Justice Community Organizations Coalition, and others on a Settlement Agreement for Clean Air Act Notices of Violations at Calumet Specialty Products (Commenting on a Louisiana Department of Environmental Quality settlement agreement and requesting monitoring of ambient air in the community, tighter "release of liability" language, and provisions for keeping community members informed) (171-001) (Mar. 2, 2011)

Comments on behalf of Jan Bertrand, et al. on Toce Energy, LLC's application to permit an injection well in Gueydan Canal Field, Vermilion Parish for disposal of oil and gas exploration and production waste (Expressing residents' concerns about plans to pipe dangerous waste more than two thousand feet across rice and crawfish farms and water supply canals to an injection well) (168-001.2) (Feb. 3, 2011)

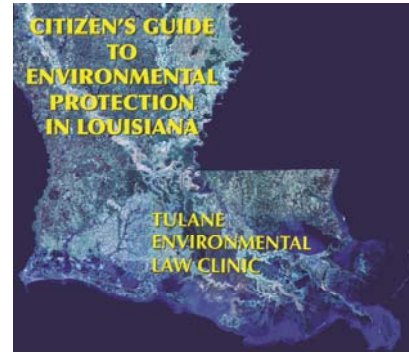
Complaint for an EPA investigation into Title VI violations (Requesting an investigation of environmental justice issues related to renewal of a hazardous waste corrective action permit to PPG Industries, Inc. in Calcasieu Parish on behalf of Restore Explicit Symmetry to Our Ravaged Earth (RESTORE) and the People's Advocate of Southwest Louisiana) (170-002) (Dec. 14, 2011)

Notice of Intent to File Endangered Species Act Citizen Suit against U.S. Army Corps of Engineers on behalf of Atchafalaya Basinkeeper, Louisiana Crawfish Producers Association - West and the Louisiana Environmental Action Network (Providing notice of intent to enforce consultation provisions of Endangered Species Act requiring the Corps to consult with the U.S. Fish & Wildlife Service on the effect of its permit allowing a private landowner to dredge and fill wetlands which are in designated critical habitat for the Louisiana black bear) (155-004) (Dec. 9, 2010)

Comments on behalf of Louisiana Environmental Action Network, Concerned Citizens of Livingston Parish, Inc., H. Wayne Breaud, and O'neil Couvillion to the Louisiana Department of Environmental Quality (Objecting to an operator's proposal to allow experimental leachate recirculation trenching and spraying operations at the Woodside Landfill, which is located less than one mile from a client's residence in Walker, Louisiana) (101-093.6) (Sept. 29, 2010)

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)

- November 2010 through August 2011 –The clinic-produced video documentary, “*Citizen’s Guide to Environmental Protection in Louisiana*” aired three times per week on a New Orleans cable access TV channel.
- August 2010 through August 2011 – Consulted with Richard Misrach (photographer), Scape (landscape architects), and Aperture (publisher) on “*Petrochemical America*” a two-volume print and essay revisualization of Cancer Alley and how petrochemicals have transformed the physical form and the social dynamics of southern Louisiana.
- July 25, 2011 – Met with undergraduate student interns of the Louisiana Bucket Brigade to discuss environmental law and environmental justice issues in Louisiana.
- July 20-21, 2011 – Participated in a meeting of the McKnight Foundation-funded Mississippi River Collaborative held in Chicago, IL. 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 18, 2011 – Supported clients by attending the Louisiana Energy Day forum regarding energy demand challenges and the diversity of sources of energy to meet those demands.
- June 23, 2011 – Clinic Director Adam Babich presented *Environmental Regulation of Air, Water, and Waste* to The Public Law Center International Legislative Drafting Institute.
- October 2010 – June 2011– Participated in six monthly meetings of Horizon Initiative New Orleans discussing stormwater management strategies.
- June 20, 2011 – Supported clients by attending the meeting regarding Deepwater Horizon Resource Damage Assessment Early Restoration sponsored by the Louisiana Office of Coastal Protection and Restoration.
- June 16, 2011 – Supported clients by attending the Plasma Arc Technology Community Forum. The forum alerted residents of a renewed proposal for an incinerator that employs unproven and polluting technology.
- June 12, 2011 – Presented to the New Orleans Group of the Delta Chapter of the Sierra Club regarding the history of the Clinic and how it operates, as well as showed segments of the video *Citizens Guide to Environmental Protection in Louisiana*.
- May 31, 2011 – Met with Olivier Roger Jean-Louis CACHARD, recent past dean of the School of Law, Economic Sciences and Management, University of Nancy, France as part of his participation in the Department of State’s International Visitor Leadership Program and answered Mr. Cachard’s questions regarding the operation of an environmental law clinic and its roles in the governmental, legal, and environmental communities.



- May 28, 2011 – Clinic Director Adam Babich spoke as a panelist on the topic *Teaching Environmental Justice* at the Rocky Mountain Mineral Law Foundation Natural Resources Law Teachers Institute in Stevenson, WA.
- May 17, 2011 – Supported clients by attending the state legislature’s Senate Environmental Committee hearing on threats to the Chicot Aquifer.
- May 11, 2011 – Supported clients by attending the Environmental Justice Interagency Working Group listening session.
- May 10, 2011 – Supported clients by attending a presentation regarding community benefit agreements sponsored by the Urban Land Institute’s CrossReach Initiative and The Public Law Center.
- April 16, 2011 – Clinic Director Adam Babich spoke as a panelist at *The Role of Litigation*, an Environmental Law Institute Skills Workshop in Public Interest Environmental Law in Washington, D.C. The event provided young public interest lawyers with guidance about case selection, standing, strategic choices, and environmental litigation.
- March 29, 2011 – Facilitated a panel presentation titled “Science of the Spill.”
- March 29, 2011 – Hosted a Wetlands Strategy Group meeting to discuss legal and non-legal strategies for approaching several current challenges to Louisiana wetlands.
- March 29, 2011 – Led a tour of environmental justice points of interest around the New Orleans region for attendees of the annual gathering of the Central Conference of American Rabbis.
- March 3, 2011 – Supported clients at a 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.
- February 22, 2011 – Supported clients at a meeting of the Citizens Against Widening the Industrial Canal.
- February 22, 2011 – Donated 10 copies of *Citizen’s Guide to Environmental Protection in Louisiana* to the newly-established Sabine Riverkeeper.
- February 10, 2011 – Discussed outreach to environmental justice communities and how to increase access to Toxic Release Inventory tools with Shelley Fudge of EPA’s Office of



Environmental Information.

- November 11-13, 2010 – Participated in a workshop hosted by OMB Watch titled “*The Environmental Information Initiative.*” The workshop sought to develop an agenda for increasing information access and public participation in policy making around environmental issues.
- November 8, 2010 – Supported clients and participated in a review of the Louisiana Department of Natural Resources’ policies on natural gas hydraulic fracturing as part of a program implemented by the State Review of Oil & Natural Gas Environmental Regulations.
- November 2, 2010 – Clinic-produced half-hour video entitled “*Citizens Guide to Environmental Protection in Louisiana*” begins thrice weekly airing on New Orleans cable access television.
- November 1, 2010 – Supported clients at a 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.
- October 16, 2010 – Clinic Director, Adam Babich, presented as a panelist at the Student National Medical Association Advocacy & Equity Tour Town Hall Meeting in New Orleans.
- October 13-15, 2010 – Supported clients by attending Green Matters conference.
- October 4, 2010 – Supported clients by attending the Hammond Wastewater Assimilation Project Workshop hosted by the Lake Pontchartrain Basin Foundation.
- October 1, 2010 – Clinic Director, Adam Babich, presented as a part of a panel discussion about Environmental Ethics at the ABA Section of Environment, Energy, and Resources 2010 Annual Meeting in New Orleans.



Alan Green, President of Oakville Community Action Group, stands beside a cypress tree on his property.

The Clinic thanks the following people and organizations for their present and past support:

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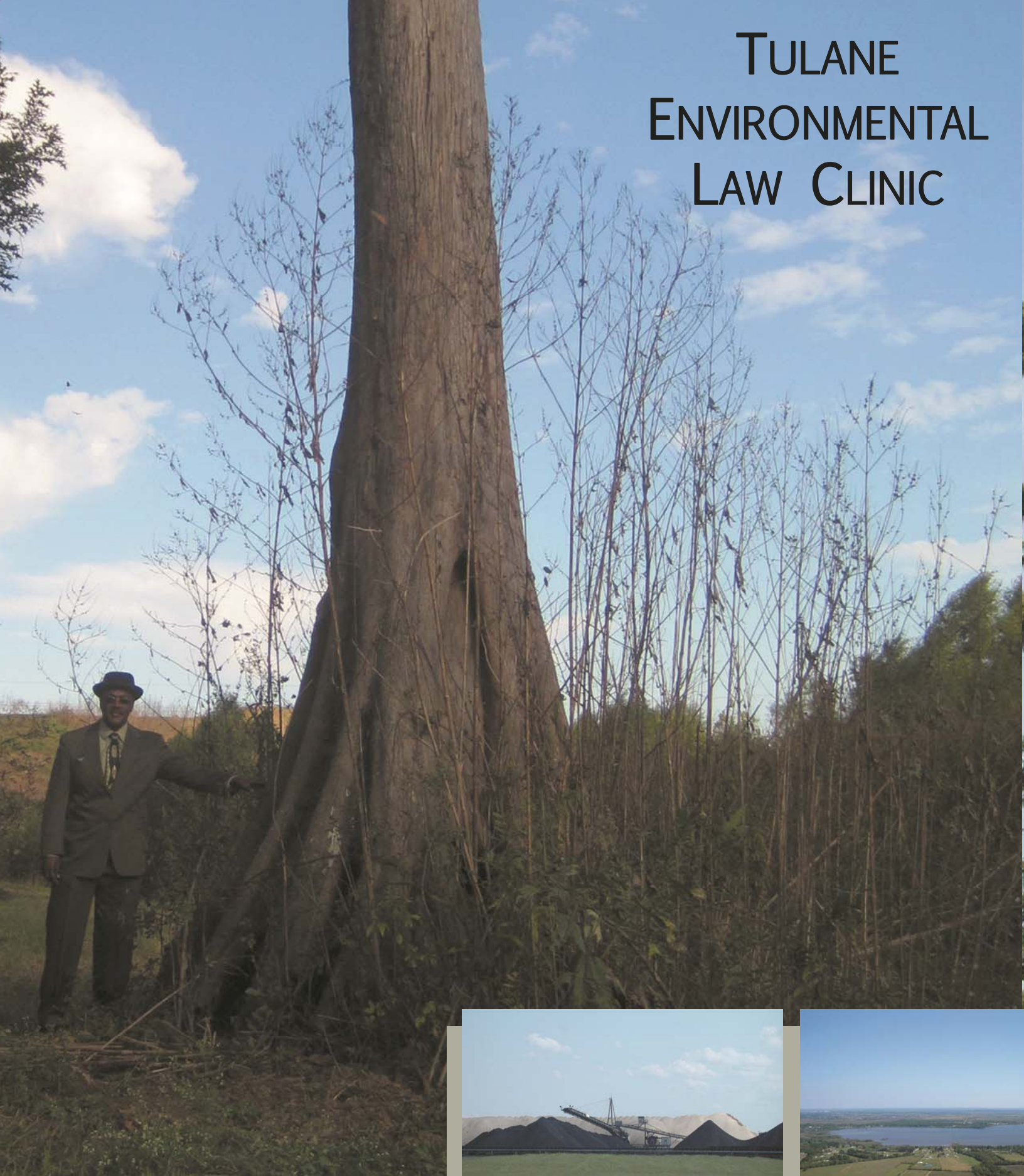
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