

Recent Accomplishments

Plaquemines Parish Denies Permit For Landfill Expansion: On September 21, 2011, the Plaquemines Parish Council rejected Industrial Pipe Inc.'s request for a coastal use permit to expand its Oakville landfill. The New Orleans Times Picayune noted the day after the Council's action that this landfill "has been profiled around the nation as an example of environmental racism, as the dump was allowed to open in a majority-black neighborhood without proper permits or controls, according to court documents." (http://www.nola.com/politics/index.ssf/2011/09/plaquemines_parish_council_rej.html) TELC represented the Oakville Community Action Group and others before the Council. (104-027)

EPA Grants Petition for Objection to Refinery Air Permit: On September 21, 2011, EPA Administrator Lisa P. Jackson issued an order objecting to a Clean Air Act operating permit that the Louisiana Department of Environmental Quality (LDEQ) issued to Murphy Oil USA, Inc. for its Meraux Refinery in St. Bernard Parish, Louisiana. EPA found that LDEQ failed in response to comments to show that the record contained sufficient information to justify the permit's estimates of air emissions that will result from the permitted changes to the refinery. EPA explained that it could not find necessary information in the record to support these estimates. EPA noted allegations in the petition that LDEQ based emission estimates on illegible calculations and references to personal phone conversations. (161-006)

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 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. TELC represented the Gulf Restoration Network in the lawsuit. (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 wetlands destruction: On February 22, 2011, the U.S. District Court for the Southern District of Mississippi granted TELC's client, Gulf Restoration Network, summary judgment that Hancock County Development, LLC violated the Clean Water Act when constructing a residential and commercial development near Bay St. Louis. The company violated the Act by discharging storm water to area streams without a state discharge permit and by destroying wetlands without a permit from the U.S. Army Corps of Engineers. The Court also found that the Gulf Restoration Network has standing to prosecute the lawsuit. *Gulf Restoration Network v. Hancock County Development, LLC*, 08-cv-00186 (S.D. Miss. 2011) (772 F. Supp.2d 761) (157-019)

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)

Selected Historical Accomplishments

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)

EPA objects to landfill air permit: 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. (101-093.3)

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. (101-121.2)

Bill to cripple Louisiana clinics defeated: On May 19, 2010, the Louisiana Senate Commerce, Consumer Protection, and International Affairs Committee killed Senate Bill 549. Senator Robert Adley, R-Benton, introduced the bill at the Louisiana Chemical Association's (LCA's) behest to try to force Tulane University to shut down TELC in return for continued state funding. Tulane and Loyola Universities, students, clients, alumni, and clinical faculty from all the state's law schools worked—with help from the Clinical Legal Education Association, the Society of American Law Teachers, the American Association of Law Schools, the Louisiana State Bar Association, the ABA, and many others—to publicize clinics' roles in legal education and expanding access to the legal system. At the May 19 hearing, Tulane University President Scott Cowen testified that if Tulane were to shut down its clinics to preserve state funding under Bill 549, "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. That does not happen in America.” On May 24, 2010, *New Orleans CityBusiness* editorialized: “By attempting to snuff [TELC’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.”

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. (167-001.1)

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. (126-018.1, 126-018.3).

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.” (101-094.1)

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. (135-001).

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) (161-003)

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) (157-019).

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. (126-016, 126-016.1, 126-016.3, 126-116.2A)

Mercury contamination case settled: On July 2, 2009, TELC settled a case seeking cleanup of mercury contamination in the Monroe Gas Field in Union, Ouachita, and Morehouse parishes, Louisiana. The mercury—a neurotoxin—leaked from manometers that measure pressure in gas pipelines. The defendant, EnerVest Operating, L.L.C., owned more than 400 mercury manometers in the area, each containing up to eight pounds of mercury. Many of these meters leaked, some leaving visible accumulations of mercury on the ground. The Louisiana Department of Health and Hospitals has issued fish consumption advisories for “unacceptable levels” of mercury detected in freshwater fish species in the area. After TELC filed the lawsuit, EnerVest entered into a voluntary cleanup agreement with the Louisiana Department of Environmental Quality, setting a cleanup standard of 2.3 parts per million (ppm). The stipulated judgment in this case reduces the average cleanup standard at each meter site to 1.5 ppm and to 1 ppm for sites located within 100 feet of a perennial stream or a tower designed to elevate a meter in a flood-prone area. EnerVest has also removed its mercury meters from the Monroe Gas Field. TELC represented the Gulf Restoration Network, Louisiana Audubon Council, Louisiana Environmental Action Network, and Sierra Club in this case. (101-092)

Wetland permit for landfill expansion revoked: In *Oakville Community Action Group v. Plaquemines Parish Council*, No 2008-CA-1286 (La. App. 4th Cir., Feb. 18, 2009), the Court of Appeals “revoke[d] the coastal use permit that the [Plaquemines Parish] Council issued” for expansion of the Industrial Pipe landfill into coastal wetlands. (104-014)

Clean Water Act enforcement case settled: TELC settled *Save Our Wetlands v. Terrebonne Levee and Conservation District*, No, 08-2159 (E.D. La., Settled Feb. 11, 2009). The District had constructed a reach of the Morganza-to-the-Gulf Levee Project based on a U.S. Army Corps of Engineers’ “Environmental Assessment,” but without a Clean Water Act permit. The consent decree makes the mitigation provisions of the Environmental Assessment enforceable in federal court. (163-001)

Asbestos burn experiment halted: On behalf of Concerned Citizens Around Murphy, TELC and Public Justice provided a *Notice of Intent to Sue* to EPA and others alleging that EPA's proposed experimental asbestos burn in St. Bernard Parish would violate the Clean Air Act. (June 3, 2008). In response, EPA agreed to drop plans to burn regulated asbestos containing material during the experiment. (161-004)

Refinery lawsuit settled: On behalf of its clients, TELC negotiated a settlement of *St. Bernard Citizens For Environmental Quality and Louisiana Bucket Brigade v. Chalmette Refining, LLC*, No. 04-0398 (Eastern District of Louisiana, June 30, 2008) During the course of that lawsuit, the Court found the defendant liable for more than 2600 Clean Air Act violations. (151-001)

Cypress wetlands protected: TELC appeared as amicus in a case that rejected a U.S. Army Corps of Engineers' exemption for a cypress harvesting operation in wetlands from the Clean Water Act's permitting system because the Corps failed to show that the tree harvesting operation qualified under the Act's "on-going silviculture" exception. *Ogeechee-Canoochee Riverkeeper, Inc. v. U.S. Army Corps of Engineers*, 559 F.Supp.2d 1336 (S.D. Ga. May 27, 2008) (126-015)

Zoning decision vacated: In *Gertown Neighborhood Watch v. Board of Zoning Adjustments*, No. 07-14825 (New Orleans Civil Dist Ct.), TELC's clients appealed a New Orleans Board of Zoning Adjustment decision that granted a zoning variance for reopening of a bar associated with stabbings, shootings, vandalism, drugs, and prostitution in a lower-income New Orleans neighborhood. The City stipulated to an April 2, 2008 judgment vacating the variance. (160-001)

Rollback of Clean Air Act protections defeated: On behalf of the Louisiana Environmental Action Network, TELC worked with a coalition of public-interest law groups and state governments to defeat a 2004 EPA attempt to roll back CAA protections for residents in areas where air quality violates health protection standards for ozone pollution, such as Louisiana's five-parish Baton Rouge area. The court invoked the Act's anti-backsliding provisions to overturn the rollback. *S. Coast Air Quality Mgmt. Dist. v. EPA*, 472 F.3d 882 (D.C. Cir. 2006), clarified on denial of reh'g, 489 F.3d 1245 (D.C. Cir. 2007), *cert. denied* 552 U.S. 1140 (Jan. 14, 2008). (101-078)

Hurricane-debris management improved: On August 9, 2006, TELC's clients filed a challenge to LDEQ orders that—in response to large volumes of debris from Hurricanes Katrina and Rita—expanded the types of wastes disposed of in unlined construction and demolition debris landfills and waived Clean Water Act requirements. Over the course of the litigation and negotiations, LDEQ took several positive steps, requiring owners and operators of the landfills to apply for Clean Water Act permits (on December 14, 2006), withdrawing authorization for these landfills to accept household hazardous waste (on January 19, 2007), and reducing the number of landfills to which the emergency orders applied (progressively after January 19, 2009). The court dismissed the case on jurisdictional grounds on September 5, 2007. (101-095)

Outstanding Natural Resource Waters protected: On behalf of the Louisiana Environmental Action Network (LEAN) and an individual, TELC appealed a LDEQ general water permit for discharges from Light Commercial Facilities (19th Jud. Dist., No. 546678, Aug. 25, 2006) that allowed discharges to outstanding natural resource waters. On September 18, 2007, LDEQ agreed to a voluntary remand for removal of the authorization to discharge to outstanding natural resource waters from the permit. Similarly, on September 19, 2006, TELC filed comments for the Gulf Restoration Network and LEAN objecting to a draft permit for a portable treatment unit that would allow discharges to *all* waters of the state. LDEQ responded on February 26, 2007 by agreeing to prohibit discharges to outstanding natural resource waters. (101-056, 157-002)

Landfill permit vacated: In re: *Waste Management of Louisiana, LLC, Woodside Landfill Air Permitting Decisions*, No. 529640 (La. App. 1st Cir., Aug. 22, 2007), the court vacated a Clean Air Act permit for the Woodside landfill where LDEQ had purported to waive "prevention of significant deterioration" review. During the course of the litigation, the landfill's owner and operator admitted that "the Court of Appeal's vacating of Woodside Landfill's entire Title V operating permit will effectively result in . . . shutdown of

landfill operations” and that “LDEQ will be required to reconsider all portions of the Title V permit.” (101-093)

Mercury emissions eliminated from Louisiana chlor-alkali plants: Both chlor-alkali plants in Louisiana have now converted from “mercury-cell” technology to production processes that do not release mercury. TELC petitioned LDEQ on April 13, 2005, to reopen a permit for PPG Industries’ chlor-alkali plant in Lake Charles to examine conversion to a mercury-free process. On August 4, 2005, PPG announced it would switch to “membrane cell” technology to eliminate use of mercury in the Lake Charles plant. Also, beginning on April 7, 2005, TELC participated in an LDEQ enforcement action about Pioneer Companies, Inc.’s St. Gabriel plant, pushing Pioneer for a shift to non-mercury emitting processes. Pioneer announced that it would convert its St. Gabriel plant to a mercury-free process on January 30, 2007. TELC represented a broad coalition of clients on these matters and worked in conjunction with other organizations pressing for elimination of mercury in Louisiana’s chlor-alkali plants. (101-061, 101-081)

U.S. Army Corps’ wetlands cumulative impacts and mitigation analyses rejected: The Fifth Circuit upheld a challenge by three concerned citizens to the U.S. Army Corps of Engineers’ approval of a proposed subdivision in St. Tammany Parish that would destroy 39.5 acres of forested wetlands based on a finding of “no significant impact.” The Fifth Circuit rejected the Corps’ finding because the Corps failed “to articulate how the mitigation measures will render the adverse effects insignificant and to consider the cumulative effects of the project, area urbanization, and permits issued to third parties.” 477 F.3d 225, 227 (5th Cir. Jan. 24, 2007) (110-004)

Agency to comply with Endangered Species Act: TELC represented Sierra Club as amicus in an Endangered Species Act case in which the court ordered the U.S. Department of Interior to designate critical habitat for protection of the Louisiana Black Bear. *Schoeffler et al v. Kempthorn*, No. 6:05-cv-01573 (W.D. La. June 26, 2007). (126-013)

Industrial Canal project enjoined pending NEPA compliance: On October 6, 2006, the court in *Holy Cross Neighborhood Association, Louisiana Environmental Action Network, and Gulf Restoration Network v. U.S. Army Corps of Engineers*, 455 F. Supp.2d 532 (E.D. La.), enjoined the Corps of Engineers’ plan to dredge contaminated sediments from the Industrial Canal in New Orleans and to dispose of them in the Mississippi River and adjacent wetlands. (112-002)

Unpermitted landfill closed: In *Waste Management of Louisiana v. City of New Orleans*, No. 06-11056 (Civil Dist. Court), TELC intervened on behalf of Citizens for a Strong New Orleans East and others to support a City of New Orleans cease and desist order that shut down the Chef Menteur landfill—located between a lower-income Vietnamese-American community in East New Orleans and Bayou Sauvage National Wildlife Refuge. The court denied the landfill operator’s motion for a temporary restraining order on August 15, 2006. (101-099)

50-Year landfill contract vacated: In *George Washington, Concerned Citizens of St. Helena Parish and Louisiana Environmental Action Network v. St. Helena Parish Police Jury*, No. 18370 (21st Jud. Dist., June 7, 2005), the court set aside a 50-year contract for a landfill in St. Helena Parish as beyond the powers of the police jury and for violations of Louisiana’s Open Meetings Law. (101-077)

Sewage sludge dumping stopped: On behalf of St. James Citizens for Jobs and the Environment, Louisiana Environmental Action Network, and an individual, TELC, on November 23, 2004, served FTM and Associates, Inc. and LDEQ with a notice of intent to file a citizen suit about FTM’s spraying of sewage sludge from Kenner on agricultural fields (near residences) in St. James Parish. One week later, LDEQ announced that FTM and Associates, Inc. would stop spreading the sludge by December 31, 2004. (107-014)

Environmental Analysis required before destruction of wetlands: On March 5, 2004, the 19th Judicial District court ordered LDEQ “to prepare an environmental analysis in compliance with . . . La. Const. Art. IX § 1” before issuing a CWA § 401 water quality certification for destruction of 39.5 acres of wetlands in St. Tammany Parish. Judgment *O’Reilly v. Louisiana Department of Environmental Quality*, No. 509564

(19th Jud. Dist. Mar. 5, 2004). Applying LDEQ's constitutional duty as public trustee to water quality certifications provides the state with additional information and authority to slow destruction of Louisiana's wetlands. (110-001)

Clean Water Act implementation improved: The Clinic filed a petition in October 2001 on behalf of the Louisiana Environmental Action Network and other community groups asking EPA to withdraw Louisiana's authority to administer the Clean Water Act discharge-permitting program. After an investigation, EPA responded with a February 14, 2003 demand letter to LDEQ, citing "serious concerns" with the program and announcing a significant increase in federal oversight. In May 2004, EPA announced that LDEQ had met the performance measure requirements. (101-044)

Inter-pollutant air emission trading scheme withdrawn: In *Louisiana Environmental Action Network v. EPA*, No. 02-60991 (5th Cir.), LEAN appealed EPA's approval of a Louisiana scheme to trade reductions in oxides of nitrogen (NOx) emissions for increased emission of volatile organic compounds (VOCs). EPA asked the Court to vacate that approval after TELC filed its opening brief. The court vacated the inter-pollutant trading scheme on November 20, 2003. (101-040)

Kisatchie Forest wild horses saved: In *Coalition for Louisiana Animal Advocates v. U.S. Department of Agriculture*, No. 01-31361 (5th Cir.), the parties entered into a Partial Settlement Agreement on July 25, 2002 that required the U.S. Army to refrain from roundup and removal of the Kisatchie horses until completing an Environmental Impact Statement or Environmental Assessment (EA) under the National Environmental Policy Act. After preparing an EA, the Army decided on June 9, 2010, to attempt sterilization of the horses over a "longer period of time," to return them to Army land, and to allow them "to roam free" rather than to remove them. (137-001)

Stormwater violations abated: After receiving TELC's notice of intent to sue about stormwater violations at a New Orleans dairy, the facility's owner provided a June 14, 2001 letter identifying corrective action taken in response to the notice and inviting TELC's clients to inspect the facility. (138-001)

Air Emission Credit Bank illegalities exposed: From 1994 until 2000, LDEQ ran a "bank" for trading "emission reduction credits" that violated the Clean Air Act. The Act prohibits allowing emission increases in exchange for offsets that are "otherwise required by this chapter." In response to a LEAN petition to EPA, EPA determined in a December 22, 2000, Order that LDEQ had been allowing offsets based on reductions that the law already required, and based on reductions from levels above baseline limits set by the state. In a related action, EPA reported to a federal court on Oct. 6, 2000 that "it is difficult to access data documenting the amount of valid CAA offset credits" and "there are insufficiencies in the banking database." Joint Motion for Partial Voluntary Remand at 4, Oct. 6, 2000, *Louisiana Environmental Action Network v. EPA*, No. 99-60570 (5th Cir. Oct. 6, 2000) (101-004)

Public's Right to Challenge Permits Vindicated: TELC obtained a court ruling that the 30-day period for a citizen's appeal of a Louisiana Department of Environmental Quality permit begins to run only after the citizen receives lawful notice that LDEQ issued the permit. LDEQ's position had been that the public's right to appeal expired 30 days after notice to the applicant. *In the Matter of Natural Resources Recovery, Inc.*, 98-2917 (La. App. 1 Cir. 2/18/2000), 752 So.2d 369. (105-001)

Cameron Parish Habitat Preserved: TELC obtained an injunction preventing enforcement of a Cameron Parish Police Jury "grass and weeds" ordinance against the Baton Rouge Audubon Society for a project to restore protective chenier habitat for migratory songbirds and butterflies on 21 lots in the Little Florida Subdivision. *Baton Rouge Audubon Society v. Sandifer*, 97-464 (La.App. 3 Cir. 10/29/97), 702 So.2d 997.

Shintech construction permit vetoed: On September 10, 1997, EPA issued an objection to an LDEQ permit to Shintech Inc. for a polyvinyl chloride ("PVC") production plant in a predominately African-American and lower income community in St. James Parish. EPA's veto was a response to a petition that TELC and Greenpeace filed on May 22, 1997, on behalf of the St. James Citizens for Jobs and the Environment, Louisiana Environmental Action Network and others. Shintech abandoned its plans to build

in that location. A cable-television movie called "Taking Back Our Town" tells the story of this case. (Lifetime Television broadcast, Dec. 10, 2001) (107-002)