



Louisiana Environmental Justice Voices

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Louisiana Environmental Justice Project

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TOWARDS A WIN INCH BY INCH

by Pam Dashiell

The Army Corps of Engineers' (Corps) plans to replace the Inner Harbor Lock in New Orleans' Holy Cross/Lower Ninth Ward communities mandates removing toxic sediment from the area and storing it elsewhere. The Tulane Environmental Law Clinic (TELC), on behalf of the Holy Cross Neighborhood Association, Gulf Restoration Network (GRN) and Louisiana Environmental Action Network (LEAN), has filed a lawsuit under the Resource Conservation and Recovery Act (RCRA) and the National Environmental Policy Act (NEPA).

In the replacement of the Inner Harbor Lock, the Army Corps of Engineers must dredge the sediment from the seabed and deposit it somewhere. The problem is that this sediment is toxic, and must be treated as such. The TELC has taken up this case as a NEPA violation, claiming that the Corps failed to do the necessary research before implementing this project.

UPDATE

On November 12, 2004, Judge Eldon E. Fallon ordered the Corps to stay dredging until July 2005, at the earliest. When environmental testing is complete and the results are in, Judge Fallon will rule. At first, the Corps asserted that their plan had been approved by the Lake Pontchartrain Basin Foundation (LPBF). However, a letter from LPBF to the judge swiftly corrected the Corps' misstatement.

On February 8, 2005, the Times-Picayune's Mark Schleifstein reported that the Corps' funding for the Industrial Canal project in 2006 was at \$0. Years of hard work and support by our friends, Taxpayers for Common Sense, National Wildlife Federation, Sierra Club, LEAN, GRN, Dr. Barry Kohl and Neil Armingeon, ACORN, LPBF and others, together with the advocacy by the TELC and the determination of the people of Holy Cross and the Lower Ninth Ward are paying off. Although we anticipate that the project's local sponsor and operator will fight hard to preserve their own interests, our community is prepared to continue to defend our wonderful neighborhoods and neighbors from the Corps' poisonous encroachment.

CHALMETTE CITIZENS PERMITTED TO SUE CORPORATION

Chalmette citizens won big on Friday, February 4th, when a federal judge acknowledged that Chalmette Refining LLC violated the Clean Air Act and that two concerned environmental groups may sue the refinery to enforce the law. After a year of litigation, both the St. Bernard Citizens for Environmental Quality (SBCEQ) and the Louisiana Bucket Brigade were vindicated for their right to sue the refinery, which is jointly owned by ExxonMobil Corp and Petroleos de Venezuela.

U.S. District Judge Sarah S. Vance found the refinery in breach of the Clean Air Act in 34 incidents and ruled that there was no verification that the plant had made changes to become compliant with the federal law.

SBCEQ President Kenneth Ford said he is "very well satisfied" with the ruling, comparing it to the initial step on the moon. "The first step is a big one," Ford told the New Orleans Times-Picayune ("Suit against Chalmette Refining gets OK" 2/10/05).

(See *Ruling* page 2)

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Ruling (cont from page 1)

Bruce Hammatt, an official with the Louisiana Department of Environmental Quality, said he was not surprised by the decision. "They were report (by the company) as violations," Hammatt said in the Times-Picayune article. "I'm not sure where that leaves us ... We all agree they were violations."

Adam Babich, head of the Tulane Environmental Law Clinic, said the judgment is crucial since it opens the door for the court to determine an appropriate fine.

"On a scale from one to 10, it's a nine," Babich said in the Times-Picayune. "Holding someone responsible for the pollution is big."

The corporation could be ordered to pay up to \$27,500 per day for each violation.

FAREWELL, EDITOR

After serving six months as Program Assistant to the Louisiana Environmental Justice Project, Mara Cohen has moved on. Cohen thanks you for helping to start the La. EJ Voices Newsletter and reminds you to continue to send your heartfelt articles and writing to Darryl Malek-Wiley. Submit your articles to darryl.malek-wiley@sierraclub.org by Monday **March 7th** to be published in our next issue.

Upcoming Events

Join the Sierra Club for Lunch!

As always you are welcome to join the Sierra Club– Baton Rouge for our brown bag lunches, on the second Tuesday of each month. The next lunch will be on **March 8th**. Please RSVP to broffice@louisiana.sierraclub.org or 225-925-8650.

Environmental 2005 Conference

The Tulane Law School will host the 10th Annual Tulane Environmental Conference, "Environment 2005: Law, Science and the Public Interest," on Friday and Saturday, April 1st and 2nd in New Orleans. The conference combines academic, practical and popular perspectives on current issues. This year's topics include Agriculture and the Environment, Energy Law and Policy, and The Urban Environment. Register by March 11th for the early bird rate. For more information, visit <http://www.law.tulane.edu/enlaw/>.

WEBSITE OF THE MONTH

In his book *Diamond: A Struggle for Environmental Justice in Louisiana's Chemical Corridor*, Steve Lerner addresses the fight for clean air in the community of Diamond, Louisiana, which was sandwiched between two Shell factories. The Rockridge Institute, a non-profit educational institution, features a review of this book at:

<http://www.rockridgeinstitute.org/research/rosen/diamond>