

PULLING FOR  
**JUSTICE** NEW HOPE FOR  
FRONTLINE COMMUNITIES



**Tulane Environmental Law Clinic**  
*Academic Year in Review 2020–2021*

# From the Director

Dear Friends,

The 2020-21 academic year did not bring the return to normal, pre-pandemic life that we had hoped for, but hope prevailed nonetheless. After decades of fighting the uphill battle for environmental protection, many of our clients are embracing a new sense of hope and possibility. In Louisiana, like elsewhere in the nation, the drumbeat for social and environmental justice is growing louder every day. Achieving justice for Louisiana's fenceline communities means changing how our local, state, and regional authorities handle permitting and enforcement. Already, we are seeing positive changes that we did not anticipate a year ago. Our clients are at the center of these changes, leading the way from their living rooms, churches, fishing camps, and other safe gathering spaces.

While the nation is still waking up to environmental injustice, our Clinic has been in this fight for more than 30 years. Through the diligent and careful work of our students and supervising attorneys, we advocate in any forum that brings an opportunity for impact and change - local council meetings, state and federal permitting processes, and, of course, in court. Our Community Engagement & Science-Based Advocacy Program continues to maximize the impact of our legal work, as it helps communities make their voices heard in a way that is effective and backed by data.



These are busy times, and despite the continuing COVID challenges, we are thankful to be active in our clients' many efforts. We are excited to share this past year's accomplishments with you, and we are even more excited to see what 2022 has in store.

With gratitude,

*Lisa W. Jordan*  
Lisa Jordan

“The arc bends toward justice, but it only bends toward justice because *people pull it towards justice.* It does not bend on its own.”

Former U.S. Attorney General Eric Holder, in a 2016 CBS interview, provides context to the often-cited quote, “We shall overcome because the arc of the moral universe is long but it bends toward justice,” from Rev. Dr. Martin Luther King’s Remaining Awake Through a Great Revolution Speech given at the National Cathedral, March 31, 1968.



Photo courtesy of the U.S. EPA

# Student Attorneys

Since 1989, Tulane Environmental Law Clinic has provided free legal representation and community-based outreach to citizens and organizations facing environmental challenges and has graduated more than 800 law students. For many students, the Clinic program is transformative and represents their first professional experience with people who are faced with poverty and systemic discrimination.

The Clinic has helped to train hundreds of lawyers who have gone on to successful careers in the federal government, state agencies, non-profits, and private practice. While not all of our students continue to practice environmental law, they all benefit from their work here ‘in the trenches,’ with a greater understanding of environmental issues and, in particular, a deeper appreciation of the courage and humanity of impoverished people fighting for environmental justice.

**805** Student attorneys  
graduated since 1989



ABOVE: Student Attorneys Bryant Aristy (far left), David Ivy-Taylor (third from left), Bryn Sarner (center left), and Riana Morales (center right) with Supervising Attorney Devin Lowell (second from left) after a meeting with three clients from St. James Parish (far right).

*“The Clinic is a key engine of the environmental justice movement here in Louisiana. Their students and tireless staff roll up their sleeves and get to work, figuring out how to succeed in the face of enormous odds.”*

*Anne Rolfes, Executive Director, Louisiana Bucket Brigade*



# Class of 2020-2021

## Students

### FALL 2020

Rosa Acheson, Mark Allain, Isabel Englehart, Thomas Frederick, Tu Huynh, Blair Johnson, Tasia Kastanek, Ilsa Luther, Courtney McKeen, Anouk Nouet, Kathleen O'Reilly, Lauren Perry, Katie Ricks, Jakob Scheidt, Demi Schilleci, Julie Schwartzwald, Manuel "Diego" Soza, Robert Wear, John Wilbur, Charles "Lee" Wingard

### SPRING 2021

Rosa Acheson, Ryan Anderson, Bryant Aristy, Aislyne Calianos, Anna Carey, Micah Carper, Isabel Englehart, Thomas Frederick, Eleanor Gardner, Haley Gentry, David Ivy-Taylor, Tasia Kastanek, Ilsa Luther, Mikayla Mangle, Courtney McKeen, William Montgomery, Anouk Nouet, Kathleen O'Reilly, Lauren Perry, Katie Ricks, Jakob Scheidt, Manuel Diego Soza, Robert Wear



*To comply with COVID-19 safety protocols, student attorneys were sworn in by Justice Crichton of the Louisiana Supreme Court via Zoom in September 2020.*

# Research Assistants & Interns



Environmental challenges don't follow academic calendars, and many of our cases continue beyond the end of the school year. Summer Research Assistants help to keep cases moving between semesters. Our Research Assistants are typically in their first year of law school at Tulane and, through this experience, gain valuable foundational knowledge of environmental law. On average, half of our Research Assistants subsequently enroll in the Clinic.

## **SUMMER 2021 RESEARCH ASSISTANTS:**

**Ingrid von Kleydorff, Hannah Keller, and Thomas Miller (not pictured)**

**115** research assistants & interns mentored since 2002.



Summer interns assist the Community Engagement Program, providing support for the clinic's educational and capacity-building activities that promote environmental justice. Interns are typically Tulane undergraduates and may receive academic credit for their work, in addition to gaining fundamental skills (e.g., research, communication) that are broadly applicable across different career paths. For some undergraduates, the internship is a deciding factor of whether to pursue law school.

**2020-2021 INTERNS: Sahil Inaganti and Gabriella Werner (not pictured)**

# Recent Work

## Fighting for **HEALTHY ECOSYSTEMS** and **CLEAN AIR, WATER, and SOIL**

Louisiana has among the highest pollution levels in the nation, with 372 facilities that collectively release nearly 150 million pounds of toxic waste into our air, water, or soil each year.<sup>1</sup> Over 100 of these plants are crowded along the Mississippi River between Baton Rouge and New Orleans, in an area known as Cancer Alley.

Research indicates that cancer risk from air pollution disproportionately affects black and low-income residents of Cancer Alley.<sup>2</sup> Ongoing industrialization is exacerbating and perpetuating this injustice, as black and low-income communities continue to be targeted for new petrochemical facilities.

We represent clients from vulnerable communities who are fighting for clean air, water, and soil, as well as organizations working to promote healthy ecosystems. We assist citizens seeking to hold companies accountable for illegal pollution, as well as residents opposing the construction of new, toxic facilities near their homes.

<sup>1</sup>Based on most recent (2018) data from the EPA Toxic Release Inventory. <https://www.epa.gov/trinationalanalysis/where-you-live>

<sup>2</sup>Wesley, Chunrong Jia, and Satish Kedia. 2012. "Uneven Magnitude of Disparities in Cancer Risks from Air Toxics." *International Journal of Environmental Research and Public Health* 9 (12): 4365–85. <https://doi.org/10.3390/ijerph9124365>.

OPPOSITE PAGE: Student Attorneys Rob Wear, Ilsa Luther, and Rosa Acheson, with Supervising Attorney Lauren Godshall, during a visit to the Atchafalaya Basin with their clients to understand the stakes in their legal case.



2020-2021



# Recent Successes

## Corps Agrees to Restart Permitting of Controversial Wetlands Restoration Project

October 1, 2020

We settled a federal lawsuit (filed April 3, 2020) in the Eastern District of Louisiana alleging that the U.S. Army Corps of Engineers had violated the Clean Water Act and National Environmental Policy Act when it permitted a controversial ecological restoration project to address impacts from a petrochemical pipeline canal in Grand Lake (Atchafalaya Basin). The project permitted by the Corps differed significantly from the one the Corps publicly noticed for comment. Thus, the Corps did not provide adequate information about the nature of the restoration project in its public notice. Our clients maintain that this project, which is located in the largest swamp wilderness in the U.S., will cause more ecological destruction and that better alternatives exist. The Corps agreed to restart the permit process with a more informative public notice.

*Clients: Atchafalaya Basinkeeper, Louisiana Crawfish Producers Association - West, and Healthy Gulf*



ABOVE: Student Attorneys Rosa Acheson and Ilsa Luther (far right) tour the Atchafalaya Basin with local fishermen to learn about the threats facing these wetlands, which represent the largest swamp wilderness in the U.S.

## Court Finds LDEQ Ignored Evidence of Environmental Injustice in Permitting Formosa Plastics Mega-Plant

Nov. 18, 2020 and May 12, 2021, 19th Judicial District Court



ABOVE: Sharon Lavigne, Director of RISE St. James (left), shows Tulane student attorneys the sugarcane field in St. James Parish where Formosa Plastics has proposed to build its mega-plant. Back row (left to right): Bryn Sarner, Riana Morales, and Supervising Attorney Devin Lowell. Front row: Bryant Aristy (center) and David Ivy-Taylor (right).

RIGHT: Lisa Jordan (Clinic Director) and Student Attorney Julie Schwartzwald after their successful court hearing.

In a positive step for fenceline communities, a Louisiana state court judge ordered the Louisiana Department of Environmental Quality (LDEQ) to consider more accurate and recent information in its environmental justice analysis of the air permits for the proposed Formosa Plastics plant in St. James Parish (see “Ongoing Work”). The original ruling (Nov. 18) and a subsequent ruling (made on a different legal basis; May 12) were made in response to a motion filed by our Clinic. As expected, LDEQ did not change its decision to permit the plant on remand, and instead issued another deficient environmental justice analysis. We continue to challenge that analysis on behalf of a local resident, who is intervening in support of a lawsuit brought by several groups and filed by Earthjustice. Oral arguments are scheduled for March 14, 2022.



# Recent Successes

## Court Finds Parish Violated Open Meetings Law when it Permitted Hazardous Waste Facility

December 15, 2020

The 32nd Judicial District Court validated the concerns of local residents in Gibson, LA by finding that the Terrebonne Parish Government violated the Louisiana Open Meetings Law when it voted to approve a variance from local regulations for a hazardous waste facility. In addition to finding that the vote was illegal, the Court ordered the Council to provide a more specific description of proposed variances for future meetings. Our lawsuit was originally filed January 28, 2019.

*Clients: Louisiana Environmental Action Network (LEAN), including local residents.*

## EPA Civil Rights Office Resolves Title VI Complaint against Arkansas DEQ

January 8, 2021

EPA's External Civil Rights Compliance Office entered into an Informal Resolution Agreement with the Arkansas Department of Environmental Quality (ADEQ) to resolve a Title VI complaint filed by TELC in 2016 on behalf of our clients. The complaint alleged that ADEQ discriminated against the majority African American residents of West Crossett when it allowed Georgia Pacific to discharge untreated paper mill wastewater to Coffee Creek, which runs through the Crossett community. The new agreement requires ADEQ to address the absence of designated uses for Coffee Creek, to create a stakeholder workgroup that includes a Crossett resident, to work to reduce odors from the facility's wastewater discharge, and to issue an NPDES permit for the G-P facility that conforms with the Clean Water Act.

*Clients: Ouachita Riverkeeper and Louisiana Environmental Action Network, including residents of West Crossett, Arkansas.*

## Residents Stop Controversial Grain Facility from Circumventing Permit Process



ABOVE: Local residents protest the construction of a massive grain terminal in a historic section of St. John the Baptist Parish (May 2021).

May 19, 2021 and August 16, 2021

On behalf of local residents, we asked the Louisiana Department of Natural Resources (LDNR) to require a Coastal Zone permit application and public comment period for the proposed Greenfield grain terminal in Wallace, LA. Local residents strongly oppose this project, which would create industrial structures over 250 ft tall in a historic section of St. John the Baptist Parish, literally casting a shadow over adjacent homes and a local small business. The massive facility would be less than a mile from the Whitney Plantation, a museum focused on the lives of enslaved people, which publicly opposes the project. Our letters raised the issue that a previously published public notice had been withdrawn, in an apparent attempt by the company to evade criticism from the nearby community, which is already overburdened with industrial pollution. After receiving our requests, the LDNR reversed its original position and is requiring Greenfield to apply for a Coastal Use Permit.

*Client: Stop the Wallace Grain Terminal, including local residents.*

# New Lawsuits

## Lawsuit Highlights Injustice from a “Super Polluter” Chemical Plant Built on Historic, Black Town

19th Judicial District Court, filed October 5, 2020

On behalf of Mossville community members, we filed a lawsuit against the Louisiana Department of Environmental Quality (LDEQ), appealing the agency’s decision to allow Sasol Chemicals LLC to increase permitted emissions of harmful air pollutants from its Lake Charles Chemical Complex. In 2020, the Environmental Integrity Project identified Sasol as the #2 “Super Polluter” in the U.S., due to its toxic emissions. The newly-modified permit allows Sasol to further increase these emissions in a community that is already burdened with the top 1% most toxic air in Louisiana. The lawsuit alleges that LDEQ failed to meet its constitutional duty to assess the real and potential adverse impacts of the permit. In particular, LDEQ ignored the impacts to Mossville, a historic, once-thriving Black community that was largely demolished for Sasol’s massive expansion that began in 2014.

*Clients: Individual Mossville community members*



ABOVE: Student Attorneys Anna Carey and Haley Gentry (second and third from right) join Supervising Attorney Devin Lowell (left) and Clinic Director Lisa Jordan (center) to visit with Mossville community members and tour their historic town, which is now overrun by heavy industry.

RIGHT: Student Attorneys Lauren Perry and Diego Soza prepare for a hearing in the Mossville lawsuit.



## Lawsuit Demands Release of Public Records related to Controversial Wetlands Restoration Projects

**Eastern District of Louisiana  
February 12, 2021**

We filed a lawsuit against the U.S. Army Corps of Engineers over the agency's consistent failure to release public records related to controversial wetlands "restoration" projects. Our clients oppose these projects, as primarily benefitting private parties. Hydrological experts predict the projects will result in a dramatic loss of wetlands through sediment build-up, reducing flood protection, destroying fish habitat and threatening the livelihoods of local fishermen.

*Clients: Atchafalaya Basinkeeper, Healthy Gulf, and Louisiana Crawfish Producers Association-West.*



ABOVE: Student Attorney Aislyne Calianos visits the Atchafalaya Basin to see what is at stake in her legal case, which seeks to ensure access to public information about projects that threaten this swamp wilderness.

# New Lawsuits

## Appeal Seeks to Hold the City of New Orleans Accountable to Residents Who Unknowingly Bought Homes on Toxic Landfill



ABOVE: Student Attorney Thomas Frederick (third from left) and Supervising Attorney Lauren Godshall (far left) meet with residents of Gordon Plaza, a residential development that was constructed on toxic land that was later designated as a Superfund site.

Fifth Circuit Court of Appeals, filed May 26, 2021

On behalf of The Residents of Gordon Plaza, Inc., we are appealing a district court's dismissal of our citizen suit against the City of New Orleans. The suit alleges that, as a result of the City's handling and disposal of waste at the former Agriculture Street Landfill, Gordon Plaza residents risk exposure to toxic chemicals that threaten their health, and demands abatement of that risk under the Resource Conservation and Recovery Act. In the 1970s and 1980s, the City promoted the purchase of homes in the Gordon Plaza residential subdivision, knowing it was built on top of the former landfill (which was later designated an EPA Superfund site), but did not inform purchasers of this legacy. The site is contaminated with over 30 vertical feet of landfill waste, and unsuspecting residents of this predominantly Black community were exposed to an unknown soup of toxins for decades.



## Lawsuit Signals Public Frustration with Unbridled Development and Wetlands Destruction in Flood-Prone St. Tammany Parish



ABOVE: Supervising Attorney Devin Lowell (right) swears in Student Attorneys working on the St. Tammany wetlands case (from left to right, Eleanor Gardner, Aislyne Calianos, Ryan Anderson). As required to represent clients in federal court, the students swear to abide by the Louisiana Code of Professional Responsibility and support the Constitution of the United States and of the State of Louisiana.

Eastern District of Louisiana, filed May 27, 2021

On behalf of local, regional, and national groups, we filed a lawsuit against the U.S. Army Corps of Engineers for violating the National Environmental Policy Act and the Clean Water Act when it issued permits to destroy wetlands for development in St. Tammany Parish. Local residents and environmental groups have long expressed concern about the increasing pace of wetlands destruction in this flood-prone area with no study of the cumulative impacts of these losses. Our clients maintain that the Corps issued permits for two new projects (a residential subdivision called Timber Branch II and an extension road) without assessing their impacts in light of past, present, and reasonably foreseeable future wetland fill permitting, particularly the loss of flood-storage capabilities.

*Clients: Healthy Gulf, Coalition for Responsible Zoning, and the Sierra Club.*

# Legal Advocacy

## St. John Residents Condemn EPA's Decision to Stop Monitoring for Cancer-Causing Pollutant

September 4, 2020

Residents of St. John the Baptist Parish were stunned when the Environmental Protection Agency (EPA) announced that it would no longer test their air for chloroprene, an extremely toxic, cancer-causing pollutant. The Denka chemical plant, which was built less than a mile from homes in St. John the Baptist Parish, is the only manufacturer of this deadly chemical in the United States. Because of Denka's emissions of chloroprene and other toxic pollutants, the neighborhood closest to the plant has a higher risk of cancer from air pollution than anywhere else in the nation, about 50 times higher than the national average. Yet, in August 2020, EPA announced that it would no longer regularly collect air samples for chloroprene testing. Instead, EPA planned to install experimental monitors that are not sensitive enough to detect dangerous levels of chloroprene. As a result of this new monitoring approach, EPA has failed to detect spikes in chloroprene and has painted a misleading picture of air quality in this historic, Black community.

*Client: Concerned Citizens of St. John the Baptist Parish*

## St. John Residents ask Human Rights Commission for Protection from Extreme Cancer Risk

May 12, 2021

On behalf of the Concerned Citizens of St. John the Baptist Parish, we asked the Inter-American Commission on Human Rights for emergency measures to address the extreme health risks posed by chloroprene emissions from the Denka chemical plant. Denka is the only facility in the United States that manufactures chloroprene, and the U.S. Environmental Protection Agency (EPA) has failed to create regulations that would protect the community from this rare pollutant. After years of failed attempts to get the EPA or the Louisiana Department of Environmental Quality (LDEQ) to take action, the group is appealing to the Inter-American Commission for help.

The request seeks multiple protective actions, including an order for EPA to reinstate chloroprene monitoring and to address the residents' increased vulnerability to cancer and other adverse health effects (including COVID-19), the relocation of students from the Fifth Ward Elementary School (located just blocks from Denka), and the cessation of facility operations unless and until such protections are in place.

RIGHT: Concerned Citizens of St. John meet with EPA Administrator Regan in November 2021 to discuss the community's extreme health risks from the nearby Denka plant, which was built just blocks away from the Fifth Ward Elementary School.

2020-2021



Photo courtesy of the U.S. EPA

# Legal Advocacy

## Residents Call on Louisiana Governor Edwards and LDEQ to Stop Proposed Formosa Plastics Mega-Plant

November 23, 2020

On behalf of our clients, we requested that Louisiana Governor John Bel Edwards exercise his authority to stop the construction of a massive petrochemical plant in St. James Parish. The plant, proposed by the Taiwan-based company Formosa Plastics, is expected to triple the level of toxic air pollution in some parts of St. James Parish, an area where residents are already overburdened with industrial pollution.

*Clients: RISE St. James and Louisiana Bucket Brigade*

March 5, 2021

On behalf of a local resident, we submitted a new report to the Louisiana Department of Environmental Quality (LDEQ) prepared by the Institute for Energy Economics and Financial Analysis (IEEFA). While local residents have long been concerned about the project's environmental and cultural impacts, the IEEFA report highlighted a new problem - the project is economically unviable. The report authors describe the project as "risky for investors" due to "market oversupply, lower petrochemical prices, strong competition for market share, and restrictive trade policies."



ABOVE: Local residents and RISE St. James members gather at the proposed Formosa Plastics site in St. James Parish to honor the graves of their enslaved ancestors buried there. Photo by L. Kasimu Harris, provided courtesy of the Louisiana Bucket Brigade.

## Fighting for Air Monitoring in Louisiana's Most Heavily Industrialized Communities



ABOVE: Michael Regan, head of the U.S. Environmental Protection Agency (front left) speaks with members of the Mossville community who are seeking equitable relocation after most of their neighborhood was demolished for the expansion of Sasol's chemical plant, visible in the background, which was recently named the #2 Super Polluter in the U.S.

In Louisiana, communities are often told there is “no evidence” to support their concerns about air pollution. In reality, the missing evidence is usually attributable to insufficient monitoring. This is especially true in Mossville, a small, historic Black town that is surrounded by more than a dozen large industrial plants. Most of the homes in Mossville were recently demolished for the expansion of the Sasol chemical plant.

Through multiple avenues, we have been advocating for air monitoring to protect the remaining Mossville residents:

On Oct. 19, we sent a letter to EPA Region 6 exposing LDEQ's failure to operate the fine particulate (PM<sub>2.5</sub>) air monitor nearest Mossville for two months after Hurricane Laura, despite a large chemical fire and excessive flaring (both indicators of elevated PM<sub>2.5</sub> pollution).

On Dec. 14, we asked EPA Region 6 to reject LDEQ's 2020 Annual Air Monitoring Plan, based on the lack of adequate monitoring for Mossville.

On April 21, we asked EPA Region 6 to amend LDEQ's 5-Year Air Monitoring Network Assessment on a similar basis.

On June 3, we asked EPA Region 6 to reject LDEQ's 2021 Annual Air Monitoring Plan on a similar basis.

While LDEQ recently committed to improving monitoring for one pollutant (PM<sub>2.5</sub>), we will continue to advocate for comprehensive air monitoring in Mossville.

# Legal Advocacy

## Groups Oppose Construction of LNG Terminals in Overpolluted Communities

**January 27, 2021**

We worked with the Sierra Club to submit comments to the Louisiana Department of Environmental Quality (LDEQ) opposing the extension of an air permit for the construction of the Driftwood liquefied natural gas (LNG) export terminal in Calcasieu Parish, the most heavily industrialized and polluted parish in Louisiana. The purpose of the permit, known as a Prevention of Significant Deterioration (PSD) permit, is to protect the public from the cumulative impacts of all pollution sources in an area. Yet this PSD permit relies on outdated air quality data in an area with ongoing industrial development.

**July 29, 2021**

On behalf of the Sierra Club, Healthy Gulf, and the Louisiana Environmental Action Network, we submitted comments to LDEQ opposing the third extension of a PSD permit and a Title V air permit renewal for the construction of the Magnolia LNG Terminal in Lake Charles, Louisiana. The objection was based on Magnolia LNG's flawed air quality assessment, evidence that facility emissions would violate national pollution standards (NAAQS), failure to accurately depict the environmental costs of the project, and lack of justification for the extension request.



ABOVE: View of an industrial facility in Calcasieu Parish, near the locations of proposed liquefied natural gas (LNG) terminals. Photo courtesy of Healthy Gulf and Southwings.

## Fishing Community and Environmental Groups Oppose Misguided Wetlands Restoration Project

February 22, 2021

On behalf of our clients, we submitted an expert declaration to the U.S. Army Corps of Engineers attesting to the irreversible, harmful wetland impacts that would result from the Buffalo Cove Element 10 project proposed by the Corps and the Louisiana Coastal Protection and Restoration Authority. The expert found that the proposed project would result in excessive sedimentation that would impede navigability, degrade water quality, and eliminate one of the few remaining deepwater fish habitats in the Atchafalaya Basin, the nation's largest swamp wilderness.

*Clients: Atchafalaya Basinkeeper, Louisiana Crawfish Producers Association - West, Healthy Gulf, and Sierra Club Delta Chapter.*



ABOVE: Student Attorneys tour the Atchafalaya Basin with Jody Meche, President of the Louisiana Crawfish Producers Association - West, to learn about the problems and potential impacts of misguided wetlands restoration efforts in the Basin.

# Legal Advocacy

## Environmental Groups Object to Lowering Water Quality Standards in Mississippi

March 29, 2021

On behalf of our clients, we objected to a proposal by the Mississippi Department of Environmental Quality (MDEQ) to change its water quality standards, as part of a triennial review process. The revised standards would reduce protections for waterbodies, including provisions on variances and creating new use classifications for Modified Fish & Wildlife and Drainage Waters.

*Clients: Healthy Gulf, Pearl Riverkeeper, and Audubon Delta*



ABOVE: Student Attorneys Bryant Aristy (left) and Riana Morales (right) prepare for a deposition in their legal case.



## St. James Parish Residents Demand Stiffer Penalties for Steel Plant that Illegally Polluted their Town for 7 Years

July 20, 2021

On behalf of our clients, we objected to a proposed settlement between Nucor Steel Louisiana LLC and the Louisiana Department of Environmental Quality (LDEQ) related to Nucor's repeated and ongoing emissions violations. The plant, located in the small, historic community of Romeville (St. James Parish), has released illegal amounts of toxic air pollutants every year since it began operating in 2014. The pollutants include hydrogen sulfide and sulfuric acid - also known as battery acid. Despite the obvious harm to nearby residents, the LDEQ fined Nucor less than 23 cents per pound of unpermitted toxic air pollutant. Nucor built its facility less than a mile from people's homes, and there are no monitors to warn residents when dangerous amounts of air pollutants are being emitted from the plant.

*Clients: Inclusive Louisiana (including local residents) and Louisiana Bucket Brigade.*



ABOVE: Student Attorney Caelyn Radziunas testifies before the St. James Parish Council about the inadequacy of the proposed settlement between Nucor Steel and LDEQ. On behalf of local residents, Radziunas asked the council to formally object to the settlement, which fails to protect St. James residents.

# Legal Advocacy

## Fighting for **GOVERNMENT TRANSPARENCY**

The public's right to participate in environmental decision-making is protected by laws that generally prevent government bodies from withholding public information or meeting privately to discuss official business. These are known as "Freedom of Information" and "Open Meetings" laws.

Our Student and Supervising Attorneys work to protect our clients' rights to participate in environmental decision-making at the federal, state, and local levels. Sometimes this means submitting public records requests on behalf of our clients, or suing an agency that is illegally withholding the requested information. Or we may help our clients hold their elected officials accountable for secret decision-making through Open Meetings Lawsuits. By tackling these issues, we help our clients effectively advocate for their interests before governmental decision-makers.

***"It is essential to the maintenance of a democratic society that public business be performed in an open and public manner..."***

*Louisiana Open Meetings Law, La. Rev. Stat. § 42:12.*



ABOVE: Research Assistant Thomas Miller helped our Mossville clients get information about state tax exemptions for the Sasol Chemical Complex.

## Group Demands Release of EPA Documents about Dangerous Levels of Chloroprene - a Rare and Highly Toxic Pollutant

January 7, 2021

On behalf of the Sierra Club, we filed an administrative appeal to the U.S. Environmental Protection Agency (EPA) challenging EPA Region 6's withholding of documents related to chloroprene, a deadly pollutant. Chloroprene is manufactured by only one facility in the U.S., the Denka chemical plant in St. John the Baptist Parish. To help advocate for local residents, the Sierra Club sought to identify the threshold chloroprene concentration that EPA considers to pose an unacceptable risk to human health. Yet, EPA Region 6 withheld this information in response to a Freedom of Information Act (FOIA) request, based on unsupported claims of exemptions to FOIA.

*Client: Sierra Club*



ABOVE: Our client representative, Darryl Malek-Wiley (second from right, Sierra Club), poses with EPA Administrator Michael Regan (far left), Dr. Beverly Wright (second from left, Deep South Center for Environmental Justice), and Flozell Daniels (far right, Foundation for Louisiana). As a Senior Organizing Representative with Sierra Club's Environmental Justice and Community Partnership Program, Malek-Wiley is working to hold EPA Region 6 accountable through our FOIA appeal and many other avenues, including direct engagement with Administrator Regan and EPA Headquarters.

# Legal Advocacy

## Public Records Requests

During the 2020–2021 academic year, we submitted 30 requests for public information on behalf of more than a dozen different environmental/community groups.

### Issues Addressed

Air dispersion modeling	Public notice
Air monitoring & permitting	Self-monitoring by industrial facilities
Archeological studies	Soil contamination
Emissions reporting	Superfund site maintenance
Environmental impact statements	Water quality monitoring
Environmental standards & violations	Wetlands degradation
Government contracts	Wetlands mitigation & restoration
Industry-regulator communication	Wetlands permitting
Permit exemptions	Zoning

While these records should be accessible to anyone, government entities sometimes fail to respond and may even attempt to withhold incriminating information. Often, having an attorney submit the request can facilitate the release of public records.

The importance of accessible public information cannot be overemphasized.  
For many of our clients, **knowledge is power.**



ABOVE: Student Attorneys Lauren Perry, Diego Soza, and Anna Carey meet to celebrate a successful hearing in their Mossville case.

# 2020-2021



ABOVE: Student Attorney Caelyn Radziunas visits with members of Inclusive Louisiana during the holiday season.

LEFT TOP: Student Attorneys Courtney McKeen (center) and William Montgomery (right) meet with their client in the Nucor case.

LEFT BOTTOM: Student Attorney Thomas Frederick visits Gordon Plaza with Supervising Attorney Lauren Godshall.

# Science-Based Advocacy

## Community Engagement & Science-Based Advocacy Program

Our Community Engagement & Science-Based Advocacy Program complements our legal work by providing additional resources to concerned residents and environmental groups. We focus on two main areas: building capacity for communities to advocate for themselves, and empowering communities with scientific or technical information related to their environmental goals. Additionally, program staff provide valuable scientific and technical input into our legal cases.

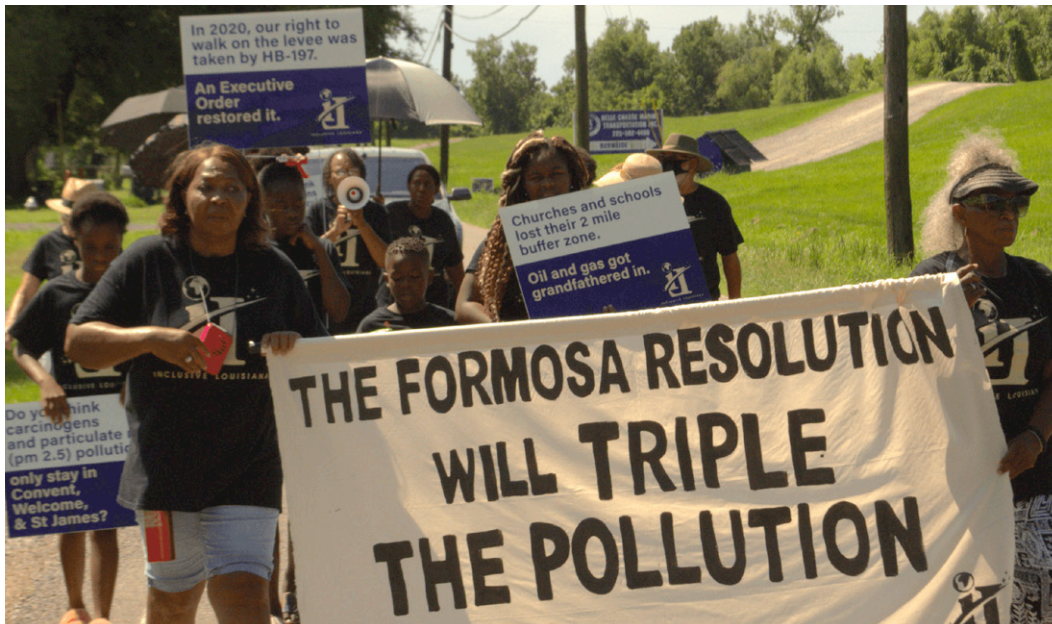
Our capacity-building efforts help communities learn how to: access public information, report environmental problems, comment effectively on environmental permits or policies, and research environmental laws. This information is available in our comprehensive “My Guide to Environmental Protection,” which has also served as a model for environmental non-profits developing their own guides in other states. Electronic copies are available online at <http://www.tulane.edu/~telc/>. Paper copies may be obtained by emailing [TELCoutreach@tulane.edu](mailto:TELCoutreach@tulane.edu) or calling 504-865-5757.



*Photo courtesy of the U.S. EPA*

ABOVE: Dr. Kimberly Terrell (Staff Scientist, left) explains to EPA Administrator Michael Regan (center) the loophole that LDEQ uses to claim that pollution data from its air monitor closest to Mossville cannot be compared to legal limits. Mossville community members (right) are fighting for comprehensive air monitoring in their small, historic town overtaken by heavy industry.

## Exposing Scientific Flaws in LDEQ's Basis for Approving the Formosa Plastics Plant



ABOVE: Residents of St. James Parish march in opposition to the proposed Formosa Plastics mega-plant. The plant, which is expected to triple the level of toxic air pollution in some neighborhoods, was approved by a parish resolution and by LDEQ. Photo courtesy of the Louisiana Bucket Brigade.

March 5, 2021

In collaboration with Dr. Ed Peters (Department Chair, Epidemiology, LSU Health Sciences Center), our staff scientist, Dr. Kimberly Terrell, co-wrote a letter to LDEQ Secretary Chuck Carr Brown detailing the numerous scientific flaws in his agency's approval of the Formosa Plastics Plant proposed for St. James Parish. The letter focused on LDEQ's failure to adhere to basic principles of epidemiology and its misuse of cancer data from the Louisiana Tumor Registry. As the letter described, LDEQ's analysis ignored many key issues: cancer latency, potential confounders, statistical limitations of small sample sizes, non-cancer health risks, and the precautionary principle of public health. The letter also pointed out that LDEQ's analysis was a classic example of an "ecological fallacy," because LDEQ assumed that neighborhoods have normal cancer rates based on data for larger geographic areas.

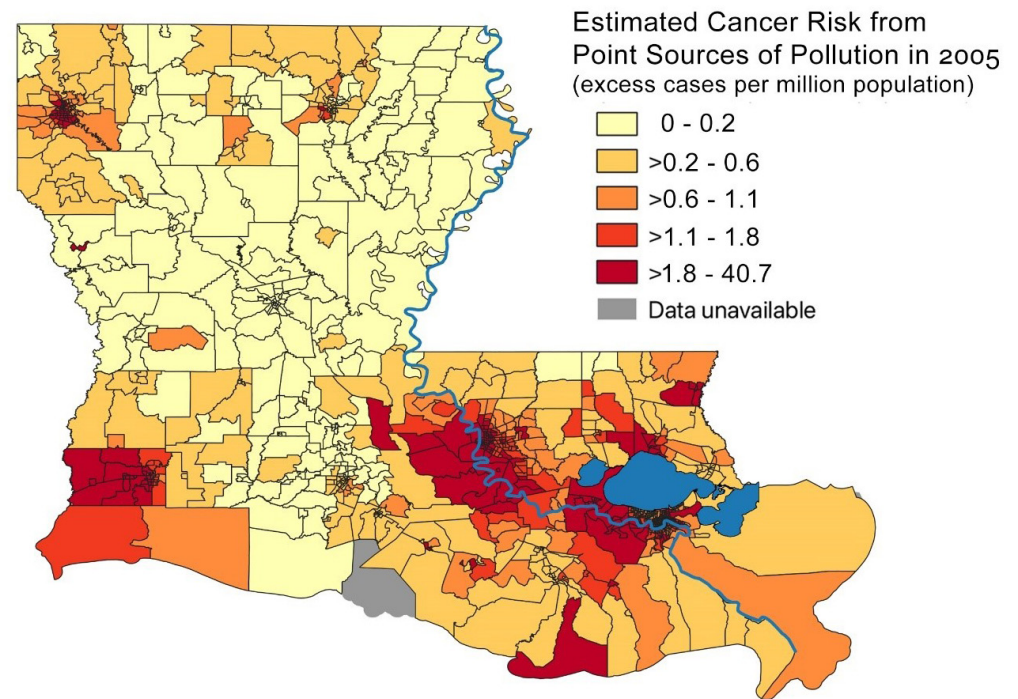
# Science-Based Advocacy

## Research Study: Severe Air Pollution Linked to 85 Cancer Cases per Year in Louisiana

We completed a statewide analysis of toxic air pollution relative to cancer incidence rates, using publicly-available data from the U.S. Environmental Protection Agency (EPA) and the Louisiana Tumor Registry (LTR).

Unlike previous studies, we also accounted for race, poverty, and other factors that are known to be associated with cancer rates. By accounting for these factors, as well as cancer latency (i.e. the time lag between toxic exposure and cancer diagnosis), we were able to detect a clear pattern: communities with more toxic air had higher cancer rates. This pattern was evident among communities that were disproportionately Black or had higher-than-average poverty rates, but not among more white or affluent communities. This difference could be the result of well-established racial or socioeconomic disparities that affect health outcomes, meaning that Black or impoverished communities may be more susceptible to developing cancer from toxic air pollution. Regardless, our study conservatively estimated that severe air pollution is responsible for 85 extra cancer cases per year in Louisiana.

The study was accepted for publication in the peer-reviewed scientific journal, *Environmental Research Letters*. It is scheduled to be published in January 2022.



ABOVE: Cancer risk from toxic air pollution, as estimated by the EPA. By comparing these values with cancer incidence rates from the Louisiana Tumor Registry (and accounting for other factors), our study found that severe air pollution was associated with an extra 85 cancer cases per year across Louisiana.



## Launch of the ERLI Notice Initiative

### January 2021

This past year, TELC's Community Engagement Program launched a new initiative to provide concerned residents and environmental groups with advanced notice of new industrial projects affecting their community. This ERLI Notice initiative enables residents of Louisiana to be informed about environmental issues affecting them. Community and environmental groups can sign up to receive weekly updates that provide information about proposed industrial projects or expansions in their region of interest. By helping communities find out about these projects as early as possible, the initiative enables communities to participate more effectively in environmental decision-making. Fifteen Louisiana-based groups are currently signed up for ERLI Notice.



ABOVE: Our Community Engagement Specialist, Gianna St. Julien (seated, center) attends a town hall event organized by the grassroots group, Stop the Wallace Grain Elevator. Leaders of the group had heard rumors about a massive grain facility proposed for their historic town of Wallace and reached out to the Tulane Environmental Law Clinic for help to stop it. The Clinic later notified the group when a public comment period was announced for the project, enabling these local residents to participate in environmental decision-making affecting their community.

# Clinical Faculty and Staff

Our staff includes four licensed attorneys, two scientists, and an administrative assistant. Our attorneys supervise law students and ensure that our clients receive diligent and zealous representation. Our scientists lead the Clinic's Community Engagement Program and work to empower communities by providing training and technical information related to their environmental goals. Our administrative assistant supports the work of the entire Clinic.



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# Thank You

Our program depends in large part on funding from private grants and donations.  
**We thank our present and past funders for their support. Without them, our work would not be possible.**

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We appreciate the continued support of **Tulane University**, and we thank the many staff and faculty members that facilitate our work, including: Howard Davis, Mark Davis, Chris Dalbom, Patrick Dunne, Andrea Elnems, Tom Gerace, Lori Garrett, Alina Hernandez, Lechice Jackson, Lisa Lamonte, Dean David Meyer, Tim Peterson, Stacy Seicshnaydre, Todd Stamps, and Treb Winegar.

A close-up photograph of two hands shaking. The hand on the left is older, with visible wrinkles and a brown complexion, wearing a grey suit sleeve. The hand on the right is younger, with a darker complexion, wearing a silver metal watch and a dark blue leather bag strap. The background is a blurred outdoor setting with a house and greenery.

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