

**United States Senate Committee on
the Environment & Public Works**

Written Testimony by
Reverend Vien The Nguyen
Pastor of the Mary Queen of Viet Nam Church
Representative of Citizens for a Strong New Orleans East
26 February 2007

Ms. Chairman and members of the committee, thank you for the opportunity to submit this written testimony on Hurricane Katrina debris removal and related matters. My name is Reverend Vien The Nguyen, pastor of the Mary Queen of Viet Nam Church in New Orleans East. I am also speaking on behalf of the Citizens for a Strong New Orleans East (CSNOE), a coalition that includes thirty-two local homeowner associations originally established to respond to the dumping of Katrina debris in New Orleans East. Henceforth, the Vietnamese-American community in New Orleans East, the Mary Queen of Viet Nam Church, and the Citizens for a Strong New Orleans East will be referred to collectively as the community.

I. Background

Taking root after the fall of South Viet Nam in 1975, the Vietnamese community in New Orleans East centers on the Mary Queen of Viet Nam Church in an area known as Village de L'Est. Given that more than 60% of Vietnamese Americans in New Orleans pre-Katrina were Catholic, the Catholic churches serving them have long been the center of these communities and their activities. This is evident in Village de L'Est where, before Katrina, over 90% of more than four thousand Vietnamese Americans residing within a one-mile radius were Catholic.

After Hurricane Katrina, the Mary Queen of Viet Nam Church became the center of return and recovery from which supplies and food were distributed to all families. Red Cross provided daily hot lunches on the church grounds, and medical mobile units provided healthcare to returnees. FEMA, Catholic Charities and other entities also used the church grounds to provide their services.¹ The church became the main source for information, job postings, and temporary shelter for returnees while they rebuilt their homes. In addition, the church provided shelter for and coordinated more than 1000 volunteers from across the country to help with the post-Katrina cleanup of New Orleans East and parts of St. Bernard Parish. The church was also the center of the region-wide coalition Citizens for a Strong New Orleans East.

The church engaged in political intervention and advocacy. As a result, the community was able to successfully oppose the Bring New Orleans Back Commission's proposal to convert most of New Orleans East into green space. Furthermore, the church and FEMA reached an

agreement to house 199 trailers on church grounds for free, and the church asked residents to sign a petition to request that Entergy reinstate electricity in Village de L'Est. By the first weekend of November 2005, electricity, water and sewer services had returned. By that time, the number of returnees attending Sunday Mass had reached 1,600. At present, 84%-89% of Vietnamese American residents have returned, and 85% of Vietnamese-owned businesses have reopened.² The Vietnamese-American community was the first community in New Orleans to unveil its comprehensive Development Plan on February 3, 2006. This plan has since been fully incorporated into the New Orleans East Development Plan. It has also been integrated into the Unified New Orleans Plan.

II. Environmental Threats

In the midst of a bustling recovery and unbeknownst to the community, the Chef Menteur Landfill was created. This landfill is located in wetlands approximately 1.2 miles from the edge of the community (Exhibit A). It is separated from the Bayou Sauvage National Wildlife Refuge, the largest urban wildlife refuge in the continental United States, by the 80-foot wide Maxent Canal (Exhibit B, picture E). This canal is directly connected to the Maxent Lagoon that runs through the heart of Village de L'Est. When Katrina waters breached the levee along the Intra-coastal waterway, it completely flooded the area. The area remained inundated for two months.

After flooding the landfill area and Bayou Sauvage National Wildlife Refuge, the water was unable to overtop the Chef Menteur Highway ridge. Instead, it traveled up the Maxent Canal into the Maxent Lagoon, flooding Village de L'Est. Vietnamese-American residents have been fishing from the Maxent Canal and use the water from it to water their gardens. The vegetables from these gardens have been a source of food for families as well as the entire community: residents sell their surplus produce at the weekly farmer's market established in the neighborhood over thirty years ago.

Despite the fact that the community was already bustling with returnees and recovery work, residents learned about the establishment of the Chef Menteur landfill through the local newspaper, the *Times Picayune*. At the time, the community was told that the debris consisted of construction and demolition materials (C & D). It was later on that the Louisiana Environmental Action Network (LEAN) and the Sierra Club informed residents that the LDEQ had changed the definition of C & D to include household furniture, treated wood, asbestos-containing materials, and drywall wallboards.³ Research indicates that when gypsum from drywall boards comes in contact with water, it creates hydrogen sulfide in the process of deteriorating. Moreover, treated wood can produce arsenic when mixed with water.⁴ Research conducted by Dr. Paul Kemp has shown that the soil surrounding the Chef Menteur landfill is permeable – groundwater can seep up, mix with the waste, and potentially migrate off-site.⁵

The community worked through their city council representative, Cynthia Willard-Lewis, to arrange a meeting with LDEQ and the representatives of Waste Management Incorporation (WMI). In these meetings, the community implored whether it was necessary to deposit

debris at 16600 Chef Menteur Highway. They then requested the following protective measures:

- A. The facility be equipped with a synthetic liner and a system be established to monitor leachate;
- B. A process to be established to segregate debris in order to identify recyclable and reusable materials;
- C. Serious efforts to be made for reducing the waste stream so that what is deposited at the landfill would be minor and benign C & D debris;
- D. The footprint and profile of the waste pile be reduced to minimize the environmental, social, and health impacts on the community.

The community's requests were dismissed. Both LDEQ and WMI continued to insist that it was necessary to deposit debris at the site, and that it was unnecessary to recycle or fear adverse effects due to the C & D designation. Because residents had already witnessed the removal of debris from their neighborhoods without efforts to segregate materials, residents refused to accept LDEQ and WMI's assurances. Temporarily suspending its recovery efforts, the Vietnamese American community came together with the Citizens for a Strong New Orleans East and LEAN to request an injunctive relief against the United States Army Corps of Engineers' authorization for WMI to work on the designated landfill at the United States Federal Court.⁶ The court ruled against the community, stating that it had not proved irreparable damage.

After filing a lawsuit in the U.S. Federal Court, we brought our case to the New Orleans City Council. The City Council unanimously decided to call on Mayor Ray Nagin of New Orleans to withdraw his Executive Order, which had suspended zoning ordinances and permitted the Chef Menteur dumpsite.⁷ With this resolution, we approached Mayor Nagin and the Director of Environmental Justice of the Environmental Protection Agency – Region 6, the Environmental Justice officer of the Department of Justice, and the Southern Christian Leadership Conference. The Mayor agreed to suspend dumping at the site for 72 hours to allow experts from the city's Sanitation Department, WMI, and the community to test the waste pile. He promised to withdraw the Executive Order should toxic materials be found there.

After engaging in negotiations with Waste Management to access the site, community experts¹ and representatives were allowed to walk on the surface of the waste pile and take photographs. However, they were not allowed to touch any of the materials, as supervised

¹ The community experts present at this preliminary investigation included Dr. John Pardue, the Director of the Louisiana Water Resources Research Institute and Professor at the Department of Civil and Environmental Engineering, Louisiana State University; Dr. Paul Templet, former Director of LDEQ and Professor at the Department of the Coast and Environmental Studies, Schools of Coast and Environment, Louisiana State University; and Wilma A. Subra, a microbiologist and chemist, and President of the Subra Company, Inc.

by the Director of New Orleans Department of Sanitation, LDEQ and WMI employees. Although WMI employees reported they had combed the surface of the waste pile and placed a layer of dirt over the waste, community experts and representatives found medical waste, carpets, bedding materials, electronic equipment, treated wood, a full bottle of copy machine toner, a full bottle of automotive oil, paint cans that were either full or partially filled, and other unidentifiable liquid containers. In early May 2006, New Orleans was experiencing one of its worst droughts in a century but a constant flow of dark and filmy water was found at the bottom of the waste pile (Exhibit B, picture C). This water flowed into a trench leading to a pump that constantly discharged water to two earthen holding tanks, which later discharged into the Maxent Canal.

Returning to the negotiating table, WMI and LDEQ required community experts to provide a written protocol within 72 hours. The experts complied. Their protocol demanded a true characterization of the waste pile, which involved digging a 50ftx18ftx3ft trench, cataloguing the materials found, and dividing the materials equally between different teams of experts for independent testing. As an alternative to testing, WMI suggested taking an enclosed bus ride to observe two designated curbside debris removal sites and following the debris truck to observe its dumping at the landfill. Community members were not allowed to ride on the bus and filming was not permitted. LDEQ signed on to WMI's testing protocol. Community experts refused to participate. The issue became deadlocked.

The community then brought its case to the Louisiana State Senate during a hearing by the Senate Environmental Committee in which a resolution calling for a true characterization and testing of the waste pile was approved. The resolution was forwarded to the Louisiana State House of Representatives Environmental Committee for a vote on whether the matter would be brought to the full floor. The Environmental Committee of the Louisiana House of Representatives voted to defer the matter to another time. It was the final pending item in the legislative session.

New Orleans Senators and Representatives then introduced a resolution calling for a true testing of the Chef Menteur Highway landfill. With more than 500 phone calls placed by community members, the resolution passed unanimously in both the Louisiana State Senate and House of Representatives.⁸

The community and WMI agreed to mediation performed by the Environmental Justice of EPA Region 6 and the representative of the Whitehouse Initiative for Asian American and Pacific Islander Affairs. At the mediation, WMI refused to conduct meaningful testing and true characterization of the waste pile, even after the EPA offered to provide funding and have the testing conducted by independent experts. As of today, neither a meaningful testing nor a true characterization of the waste pile has been completed.

After mediation failed, the community asked Mayor Nagin not to renew his Executive Order set to expire midnight on Monday, August 14, 2006. Mayor Nagin indicated that he would not renew the order. In response to the Mayor's decision, and with much hesitation, LDEQ withdrew the authorization granted to WMI to operate the site. WMI later filed a lawsuit against LDEQ in Louisiana State Court. The hearing took place on Friday, August 11,

2006.⁹ At the hearing, LDEQ submitted a letter from the New Orleans City Attorney written on behalf of the Mayor indicating that the Mayor would not object if LDEQ were to continue its authorization. Using this letter as local clearance, LDEQ reversed its initial decision and declared that it would not terminate the authorization granted to WMI. On Saturday, August 12, 2006, Mayor Nagin publicly announced that he would not extend the Executive Order beyond the six month period and would instead issue a cease-and-desist order at midnight on Monday, August 14, 2006. WMI insisted that it would continue operating the site while seeking an injunctive relief against the Mayor's decision. In order to prevent WMI from continuing to dump, community members engaged in direct action by blocking the entrance to the landfill on the morning of August 15, 2006. On that same morning, a federal judge in the U.S. District Court ruled against WMI's injunctive relief plea. The 16600 Chef Menteur Highway landfill had been closed since that day.

III. Conclusion

During our struggle against the Chef Menteur Highway landfill, the community has learned populations throughout the region are dealing with the same issues with Hurricane Katrina debris. These materials legally forbidden from being dumped directly into the ground were allowed to be so according to LDEQ's expanded definition of C & D debris. Furthermore, landfills have usually been created near minority communities which neither have the organization, the voice, nor the resources to fight for their rights to an equal, healthy environment. The Industrial Pipe Landfill in Oakville, Louisiana is a blatant example of this environmental injustice. The waste pile at this landfill is only fifty feet away from the edge of an historic African American community (Exhibit B, picture I). Flocks of seagulls constantly hover over the waste pile and fire has broken out more than once even though it supposedly only contains inert matters² (Exhibit B, picture K). The forty-foot waste pile has occasionally collapsed and fallen into Oakville residents' backyards. The community has been fighting against this landfill for seventeen years to no avail. After Katrina, the Industrial Pipe Landfill took in storm debris which included rotten freezers and refrigerators (Exhibit B, picture J). Now, a horrible stench fills the air. Industrial Pipe's latest violation documents a fish kill of 5,000 by an illegal discharge of water. LDEQ has given no opportunity for a public hearing on the settlement of this issue (Exhibit F).

LDEQ's database reports that there are over 200 illegal dumpsites throughout the state. In addition to three major landfills in New Orleans East, there are also twenty-three illegal dumpsites and thirteen illegal automobile junkyards – all in the middle of the wetlands and many within sight of the official Old Gentilly Landfill (Exhibit B, picture A). The majority of these wastes documented range from commercial, household, and C&D waste. One illegal dumpsite, an old composting facility, has been burning for more than a year (Exhibit C). Throughout this 7,000 acre area of New Orleans East, landowners are rarely found onsite. The state agency thus at its best issues compliance orders and civil actions, but often

²The latest fire burned for days after Katrina. 11 Apr 2006. Growing Landfill Fuels Feud in Plaquemines Community; Residents Cry Foul; Dump Defends Moves," [Times-Picayune](#)

has to reinvestigate and turn in another compliance order if the landowner has been evicted or has passed away.

Although the Army Corps of Engineers has confirmed wetland violations and have taken recent actions to cease-and-desist operations, dumping still continues (Exhibit D). Just this past August, a hauling truck of CERES, a major contractor for debris removal under the Corps of Engineers, was found at an illegal dumpsite (Exhibit E). Before and after Katrina, the lack of enforcement by state agencies, local entities and the lack of a comprehensive solid waste management policy which strongly focuses on recycling, reusing, and reducing before dumping into landfills; and the absence of meaningful venues for community participation have all contributed to the grave environmental problems Louisiana has been facing and that hurricanes Katrina and Rita brought to the surface today.

Hurricanes Katrina and Rita were natural catastrophes which wreaked a lot of unavoidable havocs. They become tragedies when people create additional avoidable harms to their communities and the environment. We believe that the U.S. Congress, beginning with the United States Senate Committee on Environmental & Public Works, can assist in reversing some of the avoidable harm caused.

IV. Recommendations

With the above issues in mind, the community requests the following recommendations to move forward in disaster planning and to protect the quality of life for all residents in Louisiana:

Recommendation 1: Citizens of Louisiana request the establishment of and participation in a multi-stakeholder committee which will include environmental experts and community leaders. The committee will also act as a Federal Advisory Committee to address problems brought forth in today's hearing on disaster debris issues. It will also identify solutions towards creating a comprehensive waste management plan that includes regional based planning for flood-prone communities and a plan that promotes recycling, reusing and reducing technologies.

Recommendation 2: Citizens of Louisiana request that the Senate ask the EPA and the Army Corps of Engineers' Inspector Generals for a federal investigation into and evaluation of federal and federally-related responses to debris removal and emergency siting issues of enhanced construction & demolition debris landfills. The Inspector General should also evaluate full compliance of the related laws regarding debris removal and disposal activities such as the Resource Conservation Recovery Act (RCRA), Clean Water Act (CWA) and protection of the wetlands. A multi-stakeholder committee should be established to review and evaluate this environmental compliance.

Recommendation 3: Citizens of Louisiana request that the Senate ask the EPA and the Army Corps of Engineers' Inspector Generals for a federal investigation into and evaluation of federal and federally-related responses to debris removal activities in illegal dumpsite operations that may violate the RCRA Act, CWA, protection of wetlands or other federal laws. It is our belief that contractors hired by the Army Corps of Engineers may have hauled debris to illegal

dumpsites. A multi-stakeholder committee should be established to review and evaluate this environmental compliance.

Recommendation 4: We request support from the EPA or USACE to work with the state to investigate the contents of illegal dumpsites, to help state agencies enforce and identify methods for remediation, and to prosecute, to the fullest extent under the law, parties responsible for illegal dumpsite operations, particularly those in New Orleans East.

Recommendation 5: Citizens of Louisiana request Congress to do whatever is necessary to reimburse debris removal activities that focus first on reducing, recycling and reusing technologies. For example, Congress shall look into the reimbursement of deconstruction as a viable activity, and the reuse of clean wood.

Recommendation 6: Citizens of Louisiana request the full closure and cleanup of waste deposited in the Chef Menteur landfill, any of its environmental releases, and its contaminated soil and waters.

These recommendations are supported by the following organizations: All Congregations Together (ACT) of New Orleans, Louisiana Interfaith Together, Oakville Community Action Group, PICO National Network, National Alliance of Vietnamese American Service Agencies, MQVN CDC, the Louisiana Environmental Action Network (LEAN), the Sierra Club and National CAPACD.

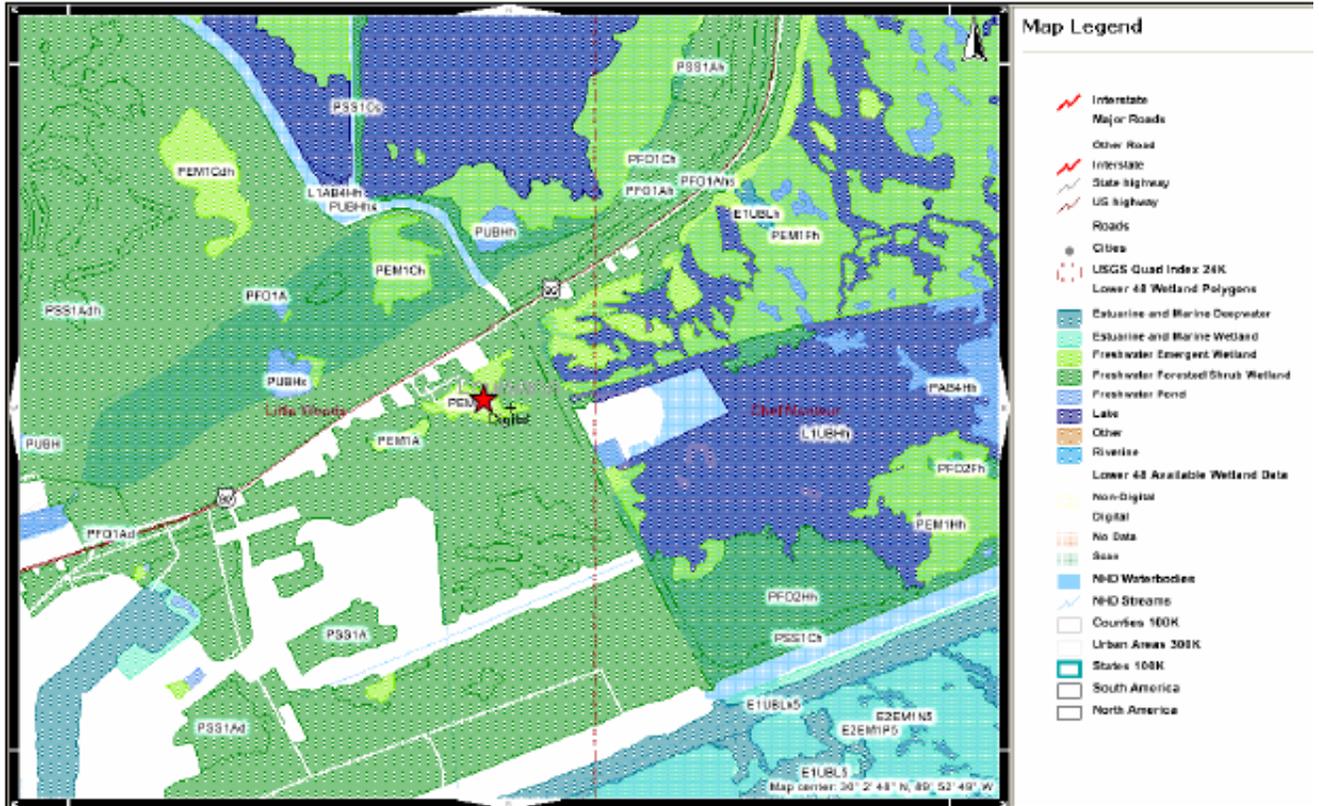
Thank you Senator Boxer, Senator Vitter, Senator Landrieu and distinguished members of the Committee. The community looks forward to working with all of you to create a safe and healthy Louisiana.

References

1. Cotton, Deborah. 26 Jan 2006 From the Ground Up: "We are already back": Vietnamese Church forges Ahead to Rebuild New Orleans East. Katrina Help Center. Obtained November 2006 from the World Wide Web: <http://www.thebeehive.org/Templates/HurricaneKatrina/Level3NoFrills.aspx?PageId=1.5369.6532.6843>
2. LaRose, Greg. 02 Oct 2006 Asian businesses drive eastern N.O. recovery. New Orleans CityBusiness.
3. Louisiana Department of Environmental Quality. April 2006. Justification for Utilization of Chef Menteur C&D Disposal Facility for the Disposal of Hurricane-Generated debris Facility. p. 7-8
4. Pardue, John. "Anticipating environmental problems facing hurricane debris landfills in New Orleans East". Louisiana Water Resources Research Institute, Louisiana State University. Obtained July 2006 from the World Wide Web: http://lwrrri.lsu.edu/downloads/white_paper2006/white%20paper.final.draft2.pdf
5. Kemp, G. Paul. "Geological Analysis of Chef Menteur Landfill Site, Orleans Parish, Louisiana. School of Coast & the Environment.
6. Louisiana Environmental Action Network vs. US. Army Corps of Engineers. U.S. District Court. Apr 2006. No. 06-2020.
7. Nagin, Ray. 14 Feb 2006. Executive Order CRN-06-03
8. Duplessis, Ann. Senate Concurrent Resolution 138
9. Waste Management of Louisiana, LLC vs. LDEQ. 19th Judicial Court District Court. Parish of East Baton Rouge

Exhibit A

Wetlands in the Vicinity of the Landfill (marked by red star)⁹⁵



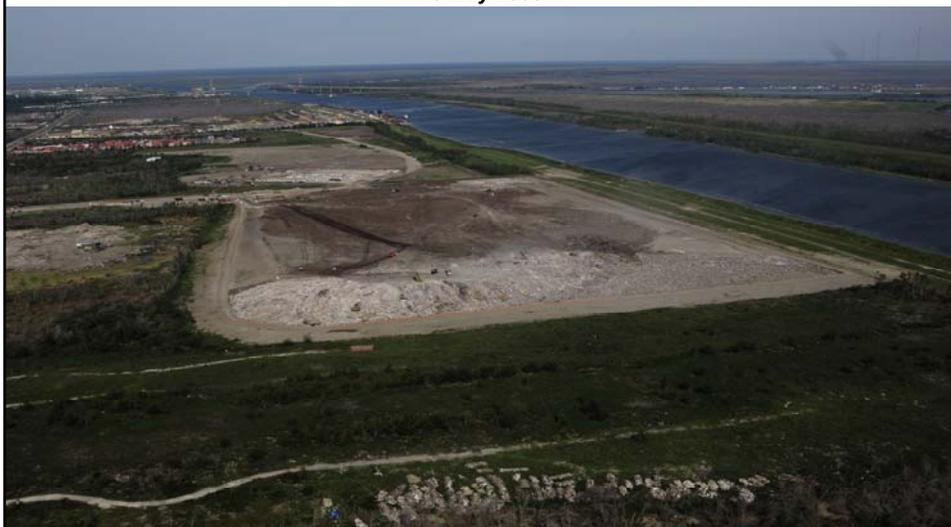
Source: Environmental Impact Analysis, Safe and Effective Waste Disposal in New Orleans, Jun 2006, pg. 23

Exhibit B

Photos of Katrina Debris Landfills & Illegal Landfill Problems

Father Vien testimony
For Senate Environment and Public Works field hearing
26 February 2007
Edited by Darryl Malek-Wiley
Regional Representative, Environmental Justice Organizer
Sierra Club, New Orleans

Picture A
**Old Gentilly Landfill looking towards the
East**
15 May 2006



Picture B

Old Gentilly landfill showing impact on cypress swamp
and additional landfills *16 February 2007*



Picture C

Black water mixing with enhanced Construction &
Demolition debris *taken 16 May 2006*



Picture D

16600 Chef Menteur Hwy Waste Management Dump
(looking toward southeast Bayou Sauvage National
Wildlife Refuge) *taken 15 May 2006*



Picture E

Chef Landfill with the Vietnamese community in background past
water tower *taken 16 Feb 2007*



Picture F

Illegal dumping in wetlands west of Old Gentilly Landfill

15 May 2006



Picture G

Illegal dump location in New Orleans East

taken 16 February 2007



Picture H
Illegal dump location in New Orleans East
taken 16 Feb 2007



Picture I
Industrial Pipe Landfill next to Oakville Community, Plaquemines
Parish *15 May 2006*



Picture J
Industrial Pipe Landfill stack of “white goods”
Oakville Community, Plaquemines Parish *taken 15*
May 2006



Picture K
Industrial Pipe Landfill next to Oakville Community,
Plaquemines Parish *taken 22 February 2007*



Exhibit C

Excerpts from LDEQ Field Interview Form Illegal dumpsite burning, 1-29-07

Nu-Earth Organics Site
11440 Almonaster Ave.
New Orleans, LA.

On 01/29/2007 I conducted a visual inspection of the site to view site conditions and status. The following AREAS OF CONCERN were found at the time of this inspection:

- (1) Area of Concern- Inspection found that there is open burning of the stable bedding type waste taking place on the subject property. The open burning of regulated solid waste in the form of stable bedding waste is an Area of Concern in accordance with LAC 33:VII.315.Q.
- (2) Area of Concern-Inspection found that regulated solid waste in the form of household type garbage has been deposited on the site without a permit or other authorization from the Department. The deposit of regulated solid waste at a location not permitted or authorized to receive such waste is an Area of Concern in accordance with LAC 33:VII.315.E.
- (3) Area of Concern-Inspection found exposed previously deposited regulated solid waste in the form of construction and demolition type debris on the subject property. The previously placed earthen cover/cap has been disturbed and/or removed. Failure to maintain the integrity of the earthen cover that was placed over previously deposited construction and demolition type debris is an Area of Concern in accordance with LAC 33:VII.315.A.
- (4) Area of Concern- Inspection found that leachate produced from storm water that has come in contact with the stable bedding type waste stockpiled on the property was being discharged to the Almonaster roadside drainage ditch. The discharge of contaminated storm water from the site without a permit or other authorization from the Department is an Area of Concern in accordance with LAC 33:IX.501.D.

No further comment offered.
mds

LDEQ Inspector findings:

- (1) Open burning, New Orleans Fire Department has continually extinguished fires due to the composting material.
- (2) Regulated solid waste found
- (3) C&D debris found and earthen cover is disturbed.
- (4) Leachate produced from contact with waste and storm water that has been discharged to the Almonaster drainage ditch.

Exhibit D

USACE Cease and Desist Order



DEPARTMENT OF THE ARMY
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 80287
NEW ORLEANS, LOUISIANA 70160-0287

AC
Sek

REPLY TO
ATTENTION OF:

MAY 9 2006

Operations Division
Surveillance and Enforcement Section

SUBJECT: Violation No. MVN-2006-1483-SU

AI # 28107

Mr. Charles Hampton
Hamp's Enterprises
1319 Newton Street
New Orleans, Louisiana 70114

Dear Mr. Hampton:

On April 11, 2006, we observed and photographed the unauthorized deposition of fill material in wetlands relative to your Construction and Demolition debris landfill operation. This work was performed on property located on and south of Almonaster Blvd. in Section 43, Township 12 South, Range 12 East, Orleans Parish, Louisiana.

The work described above has been determined to be in a wetland, a water of the United States, and is subject to Department of the Army (DA) regulatory authority. This work constitutes a violation of Section 301 of the Clean Water Act (CWA). This letter is an official notice of violation.

You are directed not to perform or allow any further unauthorized work at this site until proper authorization has been granted. Failure to abide by this Cease and Desist Order will result in appropriate legal action.

You are further advised that violations of the CWA may subject you to administrative and/or judicial action. Legal action could result in a fine and/or a court order to restore the site to preproject conditions.

A DA permit application cannot be accepted until we determine an appropriate course of action to resolve this violation. To assist us in our evaluation, you are requested to submit a letter of comments explaining why you failed to obtain a DA permit prior to conducting this unauthorized work. Your comments should be submitted to the Chief, Surveillance and Enforcement Section, at the above address.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

If we do not receive a written response from you within 20 days after the receipt of this letter, we will proceed with appropriate action for resolution of the legal issues based on the information in our files.

Should there be any questions concerning these matters, please contact Mr. Rob Heffner at (504) 862-2274.

Sincerely,

A handwritten signature in black ink, appearing to read 'RW', written over a horizontal line.

Richard P. Wagenaar
Colonel, U.S. Army
District Commander

Copies Furnished:

Ms. Donna Mullins (6WQ-EM)
Federal Activities Branch
Environmental Protection Agency
1445 Ross Avenue
Dallas, Texas 75202-2733

Administrator
La. Dept. of Natural Resources
Coastal Management Division
Post Office Box 44487, Capitol Station
Baton Rouge, Louisiana 70804

Exhibit E

Excerpts from LDEQ Solid Waste Inspection Report on Unauthorized Grant Avenue Dump

FACILITY DESCRIPTION

Grant Avenue runs between Old Gentilly Boulevard and Almonaster Avenue in New Orleans. Approximately half way between Old Gentilly Boulevard and Almonaster Avenue, at or near 3866 Grant Avenue, there is an unauthorized dump site. The approximate GPS coordinates for this site are 89° 57'0"N, 30°0'46"W.

At this time, the owner of this property is ambiguous. The equipment operator at the site, Mr. Scott Hancock, stated Mr. Ron Torley of Jackson, MS, owns the property. Mr. Torley's telephone number is 601-454-2737. I was unable to make contact with Mr. Torley. Mr. Hancock's business cards indicate that he is employed by Chisholm Trail Construction. Chisholm Trail Construction, Inc. is registered with the Oklahoma Secretary of State's office.

AREAS EVALUATED

Inspectors conducted a physical site assessment.

SUMMARY OF OBSERVATIONS

- The site is an active dump site. At the time of the inspection, there were numerous loads of office and school furniture, such as children's desks, filing cabinets, etc. observed disposed of on the ground. Several bags of municipal waste were also observed disposed of on the ground.
- There is an empty CERES trailer, license plate (Texas) 960 01Z, parked in the dump yard.
- On 8/18/06, inspectors witnessed a dump truck, operated by Dalton's Trucking, dumping construction and demolition debris at this site. The truck driver provided contact information for Mr. Scott Hancock, the equipment operator. At the time of the inspection, there were no facility representatives present.

Facility Name: Grant Avenue Unauthorized Dump

City: New Orleans

Parish: Orleans

AI: 142713

Photographer: Magness, D.

Date: 8/17 &
18/2006

Reason: Incident 90052

Other ID #: LAU004728



Photo #: 3 of 7 Time: 1:35 PM

Description: This CERES trailer was in the dump yard.

*CERES is one of the main contractors for debris removal awarded by the U.S. Army Corp of Engineers.

Exhibit F

Excerpts from LDEQ Compliance Order & Correspondence on Industrial Pipe Fish Kill

LDEQ Compliance Order sent to Industrial Pipe

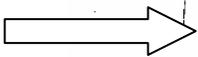
FINDINGS OF FACT

I.

The Respondent owns and/or operates a Construction/Demolition Debris and Woodwaste Landfill located at 11266 La. Hwy. 23 in Belle Chasse, Plaquemines Parish, Louisiana. The Respondent was granted coverage under Louisiana Pollutant Discharge Elimination System (LPDES) general permit LAG780000 on January 9, 2004, and specifically was assigned permit number LAG780013. This permit expires on August 31, 2006. LPDES general permit LAG780013 authorizes the Respondent to discharge certain quantities and qualities of contact stormwater via an unnamed ditch into Hero Canal, waters of the state.

An inspection conducted by the Department on or about March 16, 2006, in response to a citizen's complaint, revealed that the Respondent caused or allowed an unauthorized discharge of fire suppression water from a location not authorized in LPDES general permit LAG780013. Specifically, the following violations were observed during the inspection:

- A. Water used to extinguish a fire of trees and other land clearing debris was discharging/flowing into an unnamed perimeter ditch, thence into Hero Canal, waters of the state. The water that was discharging from the Respondent's facility into the ditch, thence into Hero Canal was black and cloudy in appearance with a very strong septic and burned odor. Hydrolab readings taken of the discharge at the time of the



III.

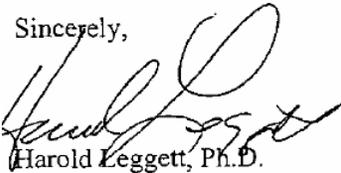
Respondent did cause or allow an adverse impact to aquatic biota in Hero Canal, waters of the state, as a result of the above-referenced unauthorized discharge. Specifically, observations during the course of the March 16, 2006, inspection revealed approximately five thousand three hundred and seventy (5,370) dead and/or dying fish and other crustaceans in Hero Canal the public boat launch off Walker Road (approximately 3.5 miles from the discharge location). This destruction of aquatic biota is in violation of LPDES general permit LAG780013

Correspondence with Oakville Community Action Group, LDEQ settles case without public comment.

4) **Request for a Public Hearing**

The Department acknowledges your clients' request that a public hearing be held regarding the above-referenced settlement agreement pursuant to La.R.S. 30:2050.7. Please understand that although the Department is required to invite and receive public comment before signing a settlement proposal, granting a public hearing is discretionary. The Department finds that all issues relating to CONOPP WE-CN-06-0173 have been settled in principle, and the settlement amount of \$19,300.00 is fair and adequate. Therefore, we regret to inform you that your clients' request for a public hearing is denied.

Sincerely,



Harold Leggett, Ph.D.
Assistant Secretary
Office of Environmental Compliance