

ELR

NEWS & ANALYSIS

Recovering From Katrina and Rita: Environmental Governance Lessons Learned and Applied

Editors' Summary: The devastation and toll in human life and suffering from Hurricanes Katrina and Rita are still revealing themselves. Some believe much of this was preventable, and that steps must be taken today to ensure that the recovery from these disasters leaves the Gulf Coast and its residents with greater economic, social, and environmental security. On October 17, 2005, ELI invited members and friends who had a front seat to the events leading up to this disaster, and who will play a key role in the recovery, to share their thoughts and experiences. Below is a transcript of that event. The discussion considered what lessons we can learn about environmental governance and how we can apply those lessons moving forward. They also considered land use and planning post-Katrina and post-Rita; how recovery should work across federal, state, local, private, and nonprofit organizations; and how meaningful public participation can be designed when affected citizens are spread across the country. The panelists suggested energetic, heartfelt, and intelligent approaches to rebuilding the Gulf Coast in a sensible, environmentally sound manner.

Scott Schang: On today's panel, we're really very lucky and appreciative to have folks who come from down South to be with us today and talk about the lessons we can learn from Katrina and Rita and how we can move forward. I'll run through quickly the names of the folks who are here and give a little background sketch for them. And then we'll have presentations from folks. Then we'll have time for discussion and talk about what their perspectives are.

We're going to start off with Chuck Barlow, who's at present the Assistant General Counsel for Environment at Entergy Corporation, which is [a] national utility company based in New Orleans. Prior to accepting this position, Chuck acted as General Counsel of the Mississippi Department of Environmental Quality from 1996 to 2003. Before that he was associated with the Jackson Office at Phelps Dunbar, where he practiced environmental law and general litigation. And before that, Chuck clerked for the former Chief Judge Chuck—Charles Clark of the United States Court of Appeals for the Fifth Circuit.

After that we'll hear from Dave Evans. Dave is the still somewhat new director of [the U.S. Environmental Protection Agency's] (EPA's) Wetlands Division in the Office of Water. He's been with EPA since 1983 with previous positions in the Superfund, oil spills, and wastewater treatment programs, as well as time as a Clean Water Act Budget Analyst.

Next we'll hear from Vernice Miller-Travis. Vernice is Executive Director of Groundwork USA. As a former program officer of the Ford Foundation, she launched their environmental justice portfolio here in the United States. She

served as the Director of the Environmental Justice Initiative of the Natural Resources Defense Council in 1993 until 1999. She was also on the NEJAC, the National Environmental Justice Advisory Council, in 1996 until 2001. She's a leading figure in the national environmental justice movement and is co-founder of the West Harlem Environmental Action in New York City.

Then we'll hear from Steve Levine, who's a partner in the Litigation Group in the Baton Rouge office of Phelps Dunbar. His practice consists of environmental counseling and litigation. He routinely interacts with the Environmental Protection Agency and the state [Department of Environmental Quality] in matters relating to litigation, permitting, compliance orders, and penalty orders in various areas of Louisiana.

Last, and certainly not least, we have Oliver Houck. Oliver, as well as being an author of an ELI publication, is a professor of law at Tulane University, where he directs its environmental law program. He started his career with three years in the U.S. Army and then was an Assistant U.S. Attorney here in Washington [D.C.] and then General Counsel for the National Wildlife Federation. And he joined Tulane's faculty in 1991. With that, we'll have Chuck kick us off with a power point.

Chuck Barlow: Sure. Well, thank you for the opportunity. Many important things have happened recently that we're going to talk about today, not the least of which was Virginia's victory over Florida State this weekend. I just wanted to mention that. And the fact that my daughter's soc-

cer team had a horrible, horrible showing at a tournament in Memphis this weekend. And as I was trying to think about this topic and I couldn't get soccer off my mind, and I wondered why, and I finally, as I tried to do, I twined them both together. My daughter is a goalkeeper. She's on a team that doesn't do very well. And I'm seeing two things happen as I look at that. I'm seeing this group of young women—they're 12, okay—so every day's a new day. But I see this group of young women becoming the type of friends that will last forever and that will go through a lot of fires together because they're going through fires for their little souls right now. And I like that. The other thing that I'm seeing—I'm seeing my daughter, much to my pleasure, become a pretty darn good goalkeeper. And I'm wondering why, when she's on a team that doesn't do very well. And it finally struck me, well, you know, she gets a lot of practice stopping shots. She's in a situation where she has either got to respond or quit. Well, that's where we are on [the] Mississippi Gulf Coast, Louisiana Gulf Coast, [and] . . . part of the Texas Gulf Coast. That's where we are. That's where my company Entergy has been as a corporation. So, . . . I'm going to sort of lay some groundwork [and] run very quickly through sort of what we've been through, and then, I think, these slides will be available afterwards, so I'm not going to spend much time on them.

[Slide: A disclaimer notice]¹ This just says that you're not supposed to buy or sell stock based on anything that I say. [laughter] This is also sort of where we've been—something that Brutus—you know, in the South we say: "Well, how'd that go?" Well, for Brutus it didn't go very well. But anyway, something he said: "It's a tide in the affairs of man. You either take it at the flood or you don't." And that's what we're trying to do. We're trying to take it at the flood in a good way even though the flood was a very bad thing for us.

Who is Entergy? We're a big electric company that a lot of people outside the South don't know much about. It's Entergy with a "t." Thirty thousand megawatts, 2.6 million utility customers, there in the mid-South. We own four nuclear plants in the South and four nuclear plants in the Northeast that are wholesale marketers. So, that makes us the second largest nuclear generator in the United States—a \$9 billion company, 14,000 employees, many of which now have had to be relocated.

[Slide: Map of Entergy's utility service territory] This is just to give you an idea of our utility service territory. New Orleans, obviously, down at the bottom of this page and running up through Mississippi, Louisiana, and as you go over to the left, you see that stretch almost to Houston. Now I'm going to talk a little bit about Rita because three weeks after we had Katrina hit on just about the Mississippi/Louisiana border, you had Katrina [sic] hit on just Sabine Pass, which is almost exactly by the Louisiana/Texas border, which is also our service territory, so we lived through both. When Katrina hit, here's what happened to us. [Slide: August 29, 2005, data] We had 1.1 million customers out of service at the peak.

Now, . . . let me put that in perspective. Prior to Katrina, the largest outage we had had at one time was 270,000. And that was earlier this year, [a] tropical storm. It was at that

time Cindy. So, you're talking about an order of magnitude of 4 that we went up to 1.1 million customers out of service at the peak. And you see a tremendous amount of stuff that was blown down—transmission lines, distribution feeders. We had 15 of our fossil plants ("fossil" in my industry meaning primarily natural gas or coal; most of ours are natural gas, very little coal in our portfolio) . . . out of service. We had to shut down one of our nuclear plants just as a precaution under [Nuclear Regulatory Commission] regulations just because it's so close to the Coast, Waterford III. So, we had to shut that down for just a little while. So that was August 29th. About a week later, we had been able to bring back up nine of the fossil units. We still had two of our nuclear plants down in that area that had never had to shut down, and we were about ready to bring Waterford III back up, the other nuclear. And we were making good progress. We had restored power to most of the energy resources in the area. You'll remember that—well, you may not remember, but—there was a tremendous gas shortage in the Southeast at that time. It was very, very hard to find gasoline. So, we were able to get most of the refineries back online within that first week. We were able to get the hospitals back online except for the ones that were flooded. And most of the other . . . major facilities in the central business district of New Orleans. So, we were able to get most of that back online within about a week. Of course, much of New Orleans and much of the residential area surrounding New Orleans was still flooded and could not accept power.

[Slide: September 10, 2005, data] This just gives you a snapshot. . . . The peak load in southeast Louisiana on September 9 was 2,614 megawatts, which is 48% of our normal load at that time of the year. So that tells you how many people were displaced, how many people could not accept power even if we could get it back to them. . . . The demand was 48% of what is normal. And on September 10, we received permission to restart Waterford, which helped stabilize the grid even more. By September 19th—this is 10, 11 days after the hurricane hit—we had restored electrical service to 874,000 of the 1.1 million customers. A funny thing about Katrina—every storm is different. The way Katrina hit our service territory (and we do not serve the Gulf Coast of Mississippi—that's Mississippi Power, a southern company, which also did a wonderful job trying to get their folks back online), . . . we were able to get power back to a lot of people quickly unless they were flooded or just could not accept power. It was not that way with Rita.

This is 10 days later. [Slide: September 19, 2005, data] We had all the Mississippi customers online who could take service. [Slide: Estimated Entergy Restoration Costs] Estimated costs—and this really makes me swallow hard—\$750 million to \$1.1 billion. And one of the biggest problems for us financially was that . . . our smallest utility company, which is Entergy New Orleans, took about \$450 million of that. And because of that, and coupled with the fact that we no longer had a customer base, there was nobody in New Orleans to accept power or to pay for power. We filed a voluntary Chapter 11 petition just for Entergy New Orleans. And I don't know all the ins and outs of that, but I know that one large reason was so that this utility company could actually borrow money from the parent corporation, which is what has happened so that we could continue the restoration work in New Orleans. And that, of course, that Chapter 11 case continues. And we had to move our cor-

1. The entirety of Chuck Barlow's Powerpoint presentation is available on the Environmental Law Institute website at <http://www2.eli.org/associates/pdf/seminars/10.17.05dc/Barlow.pdf> (last visited Dec. 8, 2005).

porate headquarters, which were in New Orleans, temporarily to Clinton, Mississippi. Clinton is a suburb about 10 miles west of Jackson. We are sitting now where Bernie Ebbers used to sit. We are, not financially, but physically. The MCI Headquarters was in Clinton, Mississippi, . . . because he went to college in Clinton and liked it a lot so that's where he came back and built his world headquarters. Well, it was largely empty so we were able to [use it], and our nuclear headquarters is in Jackson, so it made sense for us.

[Slide: Entergy Electric customers out of service] This is just a chart to show you . . . Katrina—this does not count Rita. But with Katrina you see that 1.1 million [were] out of service, and you just see that previously the record had been Cindy with 270,000. And it gives the day-by-day progress of getting people back online. Of course, we get a tremendous amount of help from people with whom we have mutual aid agreements with—we had electric operators in from all over the country. [Slides: Hurricane Katrina outage maps] The red is—in Louisiana—this is the red out of service as of September 2d, and this is about a week later. So you can just sort of go back and forth and see the extent that we were talking about. This is New Orleans. The blank space you see to the top if you're not familiar with New Orleans—that's Lake Pontchartrain. And the squiggle line down here at the bottom is the Mississippi River, and you can see how it turns so that at one point the west bank is actually to the east of [the] east bank, which makes things really confusing to tell people [how] to get somewhere in New Orleans when the sun rises over the west bank. But that's, New Orleans was all out. And this was about a week later. We were able to get at least that. And most of the red that you see is most of the part that was severely flooded from Lake Pontchartrain.

[Slide: Hurricane Rita data] Then came Rita three weeks later, which hit another part of our service territory, which is called Entergy Gulf States in the Beaumont, Port Arthur, and over toward the Houston area. This became our second largest outage at one time—788,000 people out of service at one time, 20,000 poles down in one service subsection. . . . For us there was much more infrastructure damage, actually, out of Rita for my company, . . . and severe transmission constraints within that area. A lot of big transmission lines down going into Houston had to have some rolling blackouts north of Houston. This is just an update. We were in about a week to two. Well, in about three weeks we were able to get everybody back online, but, again, it was a big job, and we had a lot of help from the crews that came from other companies to us. It's really been a story of a corporation acting like a family, like that little soccer team I was talking about, going through some real tough times and depending that you got to . . . lean on each other and help each other.

[Slide: Power of Hope logo] Restoring hope to customers, we created a fund. We started with a million dollars. It's up to about 3.6 now. This is money that's going to go directly as grants to our customers to try to get them back on their feet. [Slide: Operation Restore Hope logo] We had to do the same type of thing for our employees because we had to relocate about 1,400 employees who work normally in downtown New Orleans. And a lot of them have gone to Jackson. A lot of them have gone to Houston. Some of them have gone to Little Rock and other places. Some of them went to Beaumont and then had to turn around and leave again for Rita. But we have a store where they can actually come and get

basic supplies for free in their relocated positions. And all the stuff's been donated primarily by employees.

[Slide: Quote from Marketplace Radio, NPR] This is just a quote from Marketplace Radio and I just like this because, to me, if we're going to deal with corporations as we always have in this country, then corporations have to take a lot of responsibility for their people. And I like working at Entergy because we try to do that. [The quote says:] "Created a vast safety net for its displaced employees, found them housing, rented them cars, set their children up in local schools. This is more than good corporate citizenship." It really has come together like a family and I hope it continues to do that.

[Slide: Picture of New Orleans at night] This is the only picture I'm going to show you from New Orleans because I know you've been inundated with them. This is a picture actually taken on September 6th, . . . about seven days after Katrina hit. We planted the flag back on top of the Entergy building. We turned on the lights to [the] extent that we could. That's a picture taken from across the river, obviously, and you see a lot of dark spots but you do see more light than you would have thought, just trying to give some hope to the people who were still there working and trying to live in the city.

[Slide: Editorial cartoon] And [here is] an editorial cartoon from the *Jackson Clarion Ledger*, which meant a lot to us when it came out during that first week of the storm because that's what the company felt like. And I guarantee you when you've been out of power for even a few days and you see the trucks coming down the street, you do feel like they're the Marines coming to give you some help. So that just lays a little groundwork for what everybody is going to say.

Dave Evans: Proceed?

Scott Schang: Please.

Dave Evans: Well, I think there are others on the panel that have more of a first hand account, so I'm going to try and go quickly through my remarks and not shortchange them. As Scott mentioned, I've been with EPA about 20 years, but at the end of August I had all of six weeks in the position I'm in now and that I'm here speaking to you about. So, what I want to reflect on is what I have come to learn and what I see as kind of the path ahead.

Prior to the hurricanes, I had gotten a little bit of involvement and briefings and so on about the coastal Louisiana environment. And it was in the context of proposals for fairly extensive logging of the Cypress Tupelo swamps. And as many people know, that pretty much covered the whole south Louisiana area historically but had been logged off a couple of times. When it was last logged off—I think the early 1900s—some areas reverted to open water over time. Others re-grew as Cypress but are not terribly healthy. I questioned whether it would come back if you cut it again. And the dryer areas that haven't had salt water intrusion, there are healthy forests and so on. But anyway, that was what I was kind of drawn into [the] Louisiana environment about. We were looking hard at what's the proper balance of environmental protection, recognizing economic development and all that, and trying to consider what's the regulatory policy framework for making a good decision there.

Well, all of a sudden, hurricane hits and it seemed for a minute that, you know, that maybe the worst of the damage wasn't going to happen. And then the levees broke the next day and we all know what happened after that. So, the thought of whether a Cypress forest should be logged kind of drifted away into the background.

But what I have gotten is a real immersion into the historic context of the environmental situation that's there in the Gulf Coast right now, and learned that, as many of us know, 1,900 square miles of coastal wetlands in lower Louisiana have been lost over time. And a statistic that really was a wake-up call, I think, is that we're still losing perhaps 20 square miles a year. But in just one area, the Breton Sound, there was an aerial photo analysis that showed that 30 square miles had been converted either permanently or at least for the time being to open water. And what we've all come to learn and appreciate is the storm surge protection value that coastal wetlands have. The roughness slows down the storm advance. And so, you know, the historic and the continuing conversion of wetlands, especially forested wetlands with all the roughage quotient they provide or a good solid marsh growth, being converted to open water is a really dangerous situation.

What I did not have an awareness of much at all was the work that has occurred over the last 15 years under the CWPPRA [the Coastal Wetlands Planning, Protection, and Restoration Act], aka the Breaux Act,² and its partnership with the state of Louisiana and five federal agencies. Over 150 restoration projects have been planned, and 60-some have already been constructed. And I think one of the things that we really do want to take stock of is what was the impact of those projects. It will be a good test of what are the priorities that lie ahead when we learn what was the value, what was the impact of the projects that have been put in the ground. But [the] other context is that that law was put in place in 1990, so now we're 15 years out from it. It's been funded at about \$50 million a year. It sounded like pretty big money before we heard the kind of price tag that recovery is going to take. But by the late '90s, the agencies involved in the state became painfully aware that that level of investment was kind of a drop in the bucket in terms of what it really will take to reverse the ongoing losses of wetlands. And so there was an effort to take a look-out many years. The 2050 report, if that's a term that people have heard, was just that. It was a comprehensive, long-term look at what it would take and what are the appropriate goals for trying to rebuild the natural buffer capacity of that Gulf Coast environment in the Mississippi Delta.

The projects [in the 2050 report] are founded around three primary principles. There's more to it than that, but three's always the number they tell you to say because you can remember three things at once. And it's to get sediments back into the declining marsh lands and try and rebuild the basis for marsh growth. Pumping of sediments into the marshes is an important part of those restoration plans along with restoring the barrier islands that have been impacted historically. We've probably all seen photographs where some of them were breached right down the middle, and so we know the hurricanes have done further damage there. So, rebuilding the protective front line defense that those barrier islands provide is critical.

And then the other primary principal that's in these restoration proposals and projects is re-introducing freshwater flows into the Delta and areas that have been starved of sediments and freshwater since the Mississippi has been so completely channelized. So, I think what has become clear to me is that there's some tremendously good thinking, good scientific analysis, highly collaborative work that's already been done and that should allow for good decisions to be made fairly quickly for the Louisiana areas. Clearly there's a need to get the best information that can be had through aerial photos and things of that nature, some monitoring to really see how the situation has changed by the hurricanes. But basically, there's a good comprehensive plan as the point of departure for the coastal areas' restoration.

What seems to me the greater challenge is the areas along the coast of Mississippi, perhaps along the Texas border and into Alabama where I don't believe anything of the sort exists in terms of a comprehensive look at what can and should be done to re-strengthen the natural system defenses of these areas to hurricane storm.

A couple of additional remarks. There's no way around the need for a high level of public, capital-intensive projects to try and really reverse the ongoing declines and hopefully, in time, turn the corner and see a net gain of wetlands there. I think without that, it's hard to feel confident that that area could be well protected for future storms. But I think just as important as those public investments is to have a really good linkage with the private sector and its redevelopment that will accompany those really large scale, publicly financed projects. The largest of the private development presents opportunities to build storm protection at the local and regional level that really doesn't require direct public funding. So I think getting out there and making experts in smart growth—if you're familiar with that term—available to some of the local governments that are going to be approving large-scale developments . . . could really leverage the public investment and environmental restoration. And I think, along those lines, it would be really important to look for what are some of the early leverage points. . . . It might be very large subdivision developments. It might be casinos wanting to go in and rebuild. But some of that early redevelopment is going to be the anchor where everything else revolves. If that's done—really incorporating best practices for storm protection and survivability—I think that will significantly complement the public investments that need to be done.

So, from the chair I sit in, the biggest need, I think, is for effective collaboration. It's in place across the federal agencies and with the state of Louisiana and other stakeholders in terms of the lower coastal environment and lower Mississippi Delta area. That same kind of collaboration is needed in the other states that don't have that already. But also to collaborate between the public sector and the private sector in looking at the best way to redevelop that coast. So, one of the prompts, Scott, that I think you offered, is what unique contribution can our organizations make? And I think in terms of the physical work that needs to be done, EPA does not really have a unique contribution. But I think what EPA has done historically in the wetlands arena is really paint a destination or a vision.

The no net loss goal of the early '90s from Bill Reilly. More recently, the . . . ambitious goal for 3 million additional acres [of] new wetlands or protected, enhanced wetlands.

2. 16 U.S.C. §§3951 et seq.

These ideas flowed, I think, first from EPA, and in both cases flowed to the White House. Well, vision has to be articulated at the top. I can't do that. We are talking and hoping that we can encourage our administrator to offer that kind of vision on what needs to be done. But unquestionably, at the conceptual level, the vision needs to involve turning the corner on this continuing loss of wetlands and aquatic resources and identify over time a realistic but ambitious goal to restore and replace some of the historic losses that have occurred. And one of the contexts is that Hurricane Betsy in 1965 was essentially the same scale hurricane that Katrina and Rita were. It did not have the same level of destruction, as destructive as it was, in part because there were a lot more wetlands in place then. So, I think if we keep that in mind, there needs to be a vision that we're aiming for that turns the corner on the continued wetlands losses and sets an ambitious target towards some re-establishment of those that already have been lost.

Scott Schang: Thanks. . . .

Vernice Miller-Travis: Good afternoon. I believe that part of my contribution today is to sort of give the environmental justice perspective about this issue, about the impact, about the history and legacy of how the communities came to be in the particular situation that they're in, which pre-dated Hurricanes Katrina and Rita by centuries, in fact. And so I want to place it in a historical context so folks can understand exactly what the psychological and the social impact of the devastation of the hurricane is and then the rebuilding and the reconstruction and what all is involved in that. I bring you the perspective of the National Black Environmental Justice Network (NBEJN). The National Black Environmental Justice Network is a network of African Americans across the spectrum who work on every aspect of environmental policy, advocacy, public health, academia, law, grass-roots activists, etc. And the purpose of the network was to congeal and to bring together African Americans across the country who had a wide range of expertise to work on environmental issues, particularly as they impact African-American communities, because we felt that the perspective of those communities and the particular environmental harms that they were absorbing across the country was really being left out of the environmental policy and advocacy debate, or certainly being diminished in that debate. And we certainly felt before, and we certainly feel now, that if ever there was a time to have a broader understanding of what environment and environmental policy and environmental advocacy means, certainly now is the time.

I read an article that someone sent me . . . from some progressive magazine that said that the environmental justice community has been telling anyone who would listen for the last 15 years that what happened in New Orleans and the Gulf Coast was going to happen. And on some levels, you know, you feel like, well, finally, somebody is listening to what it is we've had to say. On the other hand, you sort of feel like we could have saved a lot of lives. We could have saved a lot of communities. We could have saved a lot of natural areas if we had simply thought more broadly and more progressively about environmental policy. And so that is the context that the National Black Environmental Justice Network brings to this set of issues. And I want to tell you that I and the other members of the National Black Environmental

Justice Network take absolutely no pleasure in the fact that we predicted this and that we were right. And we predicted it 15 years ago. We predicted it 10 years ago. And we didn't just talk about it, we wrote about it. One thing I sort of love about many of the members of the National Black Environmental Justice Network—Dr. Robert Bulliet in particular—this is a pretty prolific group of folk. They write a lot. I don't know who's reading this stuff—certainly it's not EPA. But we write about these issues and we try to get them grounded in history. So, let me say something about the history.

You've probably heard or maybe you've read in many of the things that have been written that one of the things they say about Louisiana is that its population is the most stable and centered of any population of any group of people in the United States, meaning that they don't migrate a lot. People from Louisiana don't move very far. They move in and around Louisiana maybe, but they tend to stay in Louisiana. Their communities are intact, that is African-American communities, Cajun communities, other kinds of communities, Native American communities that have been there since time immemorial. The Choctaw Nation is based in Mississippi and Louisiana and they didn't go on the Trail of Tears. They've been there since before the first Europeans came to these shores. But they tend to be a very stable population of people. The African-American community even more so than most. Many of the African-American communities across Louisiana in particular, but also across the Gulf Region, were established just after the passage and the signing of the Emancipation Proclamation. And many of those communities walked off the plantations where they had been slaves and established communities right next to the places where they had been slaves because there was no market for their labor elsewhere. And they continued to do what they had done as slaves, which was pick cotton and shear sugar cane. Sugar cane and cotton were the dominant industry, the dominant force of the economy in the Gulf Coast Region but particularly in the state of Louisiana. And it remained so until industrialization and mechanization began to take hold in Louisiana, which was actually much later in Louisiana than it was in many other parts of the country.

In about 1995, the United Church of Christ Commission for Racial Justice and the National Urban League held a series of hearings with the U.S. Civil Rights Commission in the Chemical Corridor of Louisiana, which we refer to as Cancer Alley, the part of Louisiana between New Orleans and Baton Rouge, which has an abundance—an overabundance—of petrochemical and chemical facilities. And the title of the report that we wrote from that conference, from that set of hearings, was *From Plantations to Plants*.³ And it talked about the transition from the agricultural economy in Louisiana to the petrochemical and chemical economy that now is the dominant sector across the state, with tourism—pockets of tourists—in other places. But the dominant industry and economic force in the state of Louisiana, as we well know, is chemical and petrochemical plants. It talks about the fact that many of the plantations that existed, particularly along the Mississippi Greenway—the part of Louisiana and the part of Mississippi that flow along the Mississippi River—a lot of those plantations were held intact by

3. UNITED CHURCH OF CHRIST COMMISSION FOR RACIAL JUSTICE & NATIONAL URBAN LEAGUE, *FROM PLANTATIONS TO PLANTS* (1993).

the descendants of the families who once owned those plantations and who once owned hundreds and hundreds and thousands of slaves. And over time, it became more profitable not to continue to hold onto the wonderful . . . antebellum mansions . . . Many of us, if you've been down there, you've taken the wonderful tour and you see the wonderful houses. Many of them still have standing slave shacks. And I encourage you to go and see them because many of them are still there, so you can [see] how current and recent this part of the history of the state of Louisiana still is. Many of the descendants of the folks who owned those plantations eventually sold that land to petrochemical and chemical manufacturers because that's where the profit was. The bottom had dropped out of their agricultural economy. There was really no economy, there was no market for the sugar cane, and cotton certainly had been mechanized and produced in other ways. And so what had been a very agricultural economy became a very industrial economy. And it seemed like it happened overnight, but it really took about a 30- or 40-year period to happen.

What is often lost in the understanding of that is that in the midst of these facilities—and there are hundreds and hundreds of them—are small, rural, African-American communities that have been in the same geographic location on the same land since 1865, and some before that. And in this context I want to lift up one other community, a place called Tremé in New Orleans, a place that we hope one day will come back. Tremé was the first established free-colored community in the state of Louisiana. It was established before slavery was formally ended with the Emancipation Proclamation. It was established by those who had bought their way through manumission out of slavery and began to establish a community of free blacks (or free coloreds as they were known and are still known in Louisiana). Tremé is a community that has a tremendous amount of history, history that predates the founding of the United States of America as a country. It is an extraordinary place, a place of rich historical and cultural legacy, but a very poor place. And it is consistent with what the history has been of development of African-American communities in the Gulf Region and in Louisiana in particular. The notion that that community would not come back and would not continue to be in existence is of enormous psycho-social impact to not just African Americans in Louisiana, but African Americans across the country. Because we can look to this community to say that we had a history and a legacy of coming through slavery by our own actions, not by the actions of Abraham Lincoln, but by working our way through the horrible institution of slavery. And so it stands as a legacy of the strength and endurance of African Americans in the United States. Tremé is a very poor place today. Well, today it's mostly under water and under sludge, but it is a place that most African Americans in New Orleans look to as the centerpiece of the African-American community in the Gulf Region and in New Orleans.

So, I thought it was important that you understand how long African Americans have lived in this place. Before most of us knew there was a Louisiana, before the Louisiana Purchase, there were these communities. And they existed there and they helped to build that part of the country and to establish that legacy. It was also part of that community that helped to build the levees that are there today. The levees that did not get breached through Katrina and through Rita

were levees that were built by African Americans under duress at gunpoint after the 1927 hurricane—the 1928 floods. This is a really interesting story documented very thoroughly in the book *Rising Tide* by John Berry.⁴ I sincerely suggest that if you haven't read the book that you read it to really get a very good, contextual history of what is going on now.

So, here we are today in a place where communities are living cheek to jowl with petrochemical and chemical facilities. This is a very big struggle and a very big issue for the environmental justice community. Many of you who know any of the work that we've done, we have talked about, almost since our inception 24 years ago, about Cancer Alley, about this place, [is] because we felt that if, as a nation, we could begin to extrapolate this issue of how we use land unwisely, how we allow development to happen in the midst of, around, and next to human habitability, that we wreak all kinds of environmental dangers and potentials and certainly public health impacts. And that really has been the cornerstone of the African-American perspective on environmental justice: that there is a relationship between land use, a relationship between segregation, a relationship between the way African Americans and other people of color and other poor people have been forced to live in certain places. . . . I will just tell you my own personal perspective. I will not spend any more time debating whether the people were there first or the plants came first, whether the people moved to the places where the petrochemical and chemical facilities were because the land was cheaper and the housing was cheaper or whether the people were there first. And the reason that I started with the historical context is to help you to understand that before there was an industrial revolution in the United States, before there was industrialization, before there was mechanization, before there was chemical manufacturing, there were African-American communities existing, thriving, growing, and providing a huge component of what is the legacy of the people of Louisiana and the Gulf Coast. Long before industrial development, those people were there.

So those people were there in those places, but those communities were never safe; they never had any integrity and their property rights were never very respected. So, there were always lots of battles around who owned the land, how the land could be taken for tax foreclosures, tax sales, all kinds of unethical deals were done to begin to pull that land away from the African-American families and communities who held it. That is how a lot of the petrochemical and chemical facilities came to be where they are. If you travel through the area, you will notice that there are all these communities. And people always wonder: why do people live there? You know, why do they live right next to a petrochemical facility? I mean, surely they must understand that's not healthy. That's true—it's not healthy. And it was not their choice to be in those places, but there they are.

So, we have this situation. And we have talked about it for a very long time. We've talked to EPA about it. Our first conversations with EPA were with Administrator Reilly in 1989 when we began to talk about EPA policy and lack of enforcement—equal enforcement and protection of the law. . . . We've been talking to EPA for a very long time about equal enforcement of the law and so we sort of get to a current mo-

4. JOHN M. BERRY, *RISING TIDE* (1997).

ment in this current conversation. I think a lot of people[’s] . . . perspective about environmental justice is that environmental justice is sort of the affirmative action argument within the realm of environmental protection, and nothing could be further from the truth. African Americans, other people of color, [and] poor folk who have comprised the environmental justice community have never once called for the creation of new law, of new environmental protections because we didn’t think we needed new law or new environmental protections. What we needed was vigorous and equal enforcement of existing law for all people regardless of income, regardless of race, regardless of socio-economic status, regardless of all the things that make people “other” in this society. We felt that if we could just get to parity, if we could see the Clean Air Act⁵ fully and vigorously enforced by the Louisiana Department of Environmental Quality (first of all, most everyone in the environmental community would be jumping for joy because that would be a historic moment if the Louisiana Department of Environmental Quality actually thought its role was to enforce existing federal environmental law). So that was the argument for us. We want equal protection under the law. We don’t want special protection. We don’t want additional protections. We don’t want amendments. We want the Clean Air Act to be vigorously enforced for those communities that live adjacent to petrochemical facilities. We want the Clean Water Act⁶ to be vigorously enforced for those communities that live upstream and downstream from industrial facilities, PVC plants—some of the largest polyvinyl chloride manufacturing plants in the nation are in Lake Charles, Louisiana, in a place called Mossville. Maybe you saw some of those pictures after Hurricane Rita when Lake Charles was one giant lake. The whole city of Lake Charles was under water including the massive polyvinyl chloride plants and the many other chemical manufacturing plants in Lake Charles, Louisiana. Beaumont, Texas, Port Arthur, Texas—all places that you heard (and maybe some of you for the first time heard them talked about) as Hurricane Rita came ashore after Hurricane Katrina. Those places are equally as vulnerable because they’re saturated with chemical and petrochemical facilities and they have historic African-American communities that live adjacent to these facilities.

So, when we talk about sort of going forward for the environmental justice community and for the National Black Environmental Justice Network in a sad and devastating way, we sort of see this as an opportunity to perhaps put back on the table the notion of environmental justice, the notion of thinking innovatively about industrial policy, thinking really about a zero pollution output economy, something that Dr. Beverly Wright, [Founding Director of the Deep South Center for Environmental Justice at Dillard University], has been talking about for a number of years in the work and advocacy that she’s been engaged in with communities down there . . . In fact, she was supposed to have her next conference next month in New Orleans on clean production, on really focusing on trying to transition the industrial economy in Louisiana and in the Gulf Coast Region to a clean production economy. Now, it seems like, you know, that’s a fairly far-fetched notion. Well, it’s not far-fetched in western Europe. It’s not far-fetched in Australia. It’s not far-fetched in

Japan. It’s only far-fetched in the United States where we cannot seem to extrapolate those who write legislation and pass legislation at the state, local, and federal level and those who are part of the petrochemical and chemical manufacturing industry through the relationship between money and governance and electability. So, that has always been a really big issue for us—campaign finance reform. Because until you can separate policymaking from who makes it possible for who gets to Washington or who gets to Baton Rouge to make the policy, it’s a really, really hard row to hoe for those who are living in the circumstance to try and match the money and the resources that the chemical manufacturing industry has forwarded.

I’ll give you one example. In I think it was 1999. The National Environmental Justice Advisory Council of . . . EPA had a meeting focused on public health issues in Atlanta, and . . . Charles Lee was one of the persons facilitating this meeting. And we had been having a really hard time with the Louisiana Department of Environmental Quality and the Louisiana State Department of Health around the issue of the dioxin output from the PVC plants in Mossville, Louisiana. We had been talking to them back and forth for years. EPA Region Six was very engaged in this. Headquarters was very engaged in this. And we just could not get the state of Louisiana to move. So, we had this big hearing. We must have had about 150 people in the room. And two subcommittees of this FACA [Federal Advisory Committee Act] committee presided over this, and we invited people from the Louisiana Chemical Association to participate. We invited folks from the Louisiana State Department of Health and Louisiana [Department of Environmental Quality (DEQ)]. And I’ll never forget one particular exchange between, I think he was the Deputy Director of the Louisiana Department of Health. He had on a uniform with the epaulets so you know he was a real public health official for the state of Louisiana. He sat all the way across the room from myself and Dr. Marinell Payton, who at the time was from the Harvard School of Medicine And a question was asked. There had been a report—a very small sample had been done, blood samples had been taken from a small sample of people who lived in Mossville, Louisiana, right in the midst of the polyvinyl chloride plants. The results of the blood tests were that many of them had showed elevated levels of dioxin in their blood. But it was a really, really small sample, not enough to be statistically significant. However, there were these human beings who had elevated levels of dioxin in their blood. And so a question was asked of the Louisiana State Department of Health Official if he felt he had a moral obligation as a physician to act in a circumstance where we could now see that there [were] elevated levels of dioxin in the blood of some small sample of residents in Mossville, Louisiana? And he responded, with a completely straight face, that first of all, the state of Louisiana Department of Health did not believe or believe definitively that dioxin was a carcinogen. And so, you know, after we sort of sat there and wrapped our heads around that, we really didn’t know what to say because when a public health official says something to you like that in a conversation with the federal government, you sort of don’t know where to go from there. So Dr. Payton, who was also a physician, turned to me and asked me if I would take over the chairing of the meeting (we were co-chairing the session). You should know that Marinell is a brilliant physician and scien-

5. 42 U.S.C. §§7401-7671q, ELR STAT. CAA §§101-618.

6. 33 U.S.C. §§1251-1387, ELR STAT. FWPCA §§101-607.

tist and a severe asthmatic, and because she's a severe asthmatic, she works really hard to keep her temper in check so that it doesn't trigger her asthma. So I didn't know what to say and I said, "well, of course, Marinell, I'll chair the meeting." And then she said to this guy, this Louisiana Department of Health guy, she said, "so I just want to know, is it the same Hippocratic oath in the state of Louisiana as it is in the state of Massachusetts? Did you take the same oath that I took? Because in Massachusetts, if we encountered a situation where we saw residents of the state of Massachusetts who were showing elevated levels of dioxin in their blood, we wouldn't, in Massachusetts, be debating whether or not dioxin was a carcinogen. We would be trying to figure out what the source was and to stop the exposure." And he just looked blankly back at her. So, I tell you that to tell you what the state of play is in Louisiana, pre-any hurricanes, pre-any natural disasters. This is what the conversation is. And this is from the Louisiana Department of Health.

So . . . to say that it's an uphill battle is to put it mildly. But there are a number of things that folks are recommending, and so I want to just quickly go through with you what the perspective of the National Black Environmental Justice Network is. And this is [a] resolution that we developed, mostly driven by our colleagues in the state of Louisiana and the Gulf Coast, and it says the following:

The National Black Environmental Justice Network was founded in New Orleans, Louisiana, in December 1999 in response to a state of emergency in Black America. New Orleans was selected as the ideal location to launch NBEJN since the city of New Orleans, Louisiana, and the chemical corridor encompassing the area up to Baton Rouge are under siege due to wide ranging environmental and economic assaults. These assaults are costing Black lives. NBEJN values as sacred every human life regardless of race, ethnicity, religion, or socio-economic status. We view the tragedy of Hurricane Katrina and its aftermath as a unique opportunity to shape the conversation and dialogue about rebuilding the Gulf Coast region including Gulf Coast states and greater New Orleans in ways that provide environmental and economic justice for the entire affected population. Whereas race and class intersected with the Katrina disaster in ways that compound the impacts on Black communities and issues of race and class will affect environmental clean-up and restoration, public and environmental health, regional equity, community development, and economic recovery.

Whereas NBEJN is committed to alleviating and remedying the impacts of Hurricane Katrina on Black families in particular, environmental, public health, and economic consequences of the storm and its aftermath on the health and well-being of survivors.

Whereas the NBEJN post-hurricane focus centers on research, policy development and educational advocacy, communications and media, outreach and networking in the areas of environmental justice, economic justice, environmental health, protection of public health, regional equity, sustainable development, cultural preservation, climate justice, homeland insecurity, and emergency responses.

Whereas NBEJN and its members will monitor hearings and investigate investigations convened by Congress, state legislatures and governmental agencies about Hur-

ricane Katrina to ensure that the environmental and economic justice aspects of the disaster are prominent.

Whereas there are urgent needs in hundreds of Black communities throughout the Gulf Coast Region in terms of moving forward on environmental cleanup, habitability, restoration, and rebuilding those areas devastated or destroyed by the hurricanes and the Lake Pontchartrain Levy breaches.

Whereas workers safety and health and public safety and public security are essential.

Whereas concern about homeland insecurity among African American communities predates Hurricane Katrina and these communities are uniquely affected due to their close proximity to petrochemical and chemical plants and other environmentally harmful facilities.⁷

Let me say a word about this. We began talking about homeland insecurity immediately after 9/11. And what we meant by the term "homeland insecurity" is that so many communities of color and low-income communities live adjacent to or next to facilities that would [be] prime targets for terrorist attacks or any other kinds of industrial accidents that the people who live next to these facilities are directly in harm's way. And what you hear the Department of Homeland Security talking about and what they have been talking about since 9/11 is the physical integrity of the facilities, whether or not one can get access to the facilities. And if you saw *Prime Time* on Thursday night, . . . they had college students and college interns just walking right into nuclear facilities and other chemical and petrochemical facilities with absolutely no impediment whatsoever. They could walk right in and access things. So that's what they're concerned about—whether or not folk could gain access and entry into these facilities. But what they're not focused on at all are what happens when you have an industrial accident or a natural disaster or, God forbid, a terrorist-driven disaster at these facilities. What would happen to the people who live next to or adjacent to these facilities? And I'm talking about people who live adjacent to chemical weapons stockpiles. You wouldn't believe how many communities in this country live adjacent to and on top of chemical weapons stockpiles. And it sounds like an extraordinary circumstance, but it's actually quite routine.

So, when we talk about homeland insecurity, we talk about being able to have evacuation plans long before these hurricane struck. There was much discussion in many of these communities about how would people be able to be evacuated out of harm's way safely. The policy, the official policy for the Louisiana Department of Environmental Quality, is a policy called "Shelter in Place." Should there be an industrial accident, people are to go into their homes, close their windows tightly, close their doors, turn off their air conditioners, and stay put until such time as they are told it's safe to come out of their homes. Now, I've told you how old some of these communities are. Some of the housing structure in some of these communities is almost as old as some of these communities. They're clapboard wooden

7. NATIONAL BLACK ENVIRONMENTAL JUSTICE NETWORK, RESOLUTION ON ENVIRONMENTAL AND ECONOMIC JUSTICE IN THE GULF COAST REGION: ENVIRONMENTAL CLEANUP, RESTORATION, AND REBUILDING SUSTAINABLE COMMUNITIES POST-HURRICANE KATRINA AND BEYOND (2005), available at www2.eli.org/associates/pdf/seminars/10.17.05dc/nbejn.resolution.pdf.

houses. [A] shotgun house would be a step up for the kind of physical structures that most people live in. There is no integrity and there is no security to be found by going inside your home. So, this notion of homeland insecurity is a huge, huge, huge pre-existing problem for communities of color and low-income communities.

We believe that all local, state, and regional emergency preparedness plants must be designed to address the needs of people with low incomes who don't have resources to evacuate themselves and their families in the event of natural and other disasters.

This, too, is a long-standing, pre-existing issue: very limited public transportation to begin with, lack of access to cars, and lack of safe evacuation routes. I have traveled the evacuation route with EPA staff from EPA Region Six trying to get out of Mossville, Louisiana, where the petrochemical plants and the PVC plants are. And there is no safe way to get out. You have to cross train tracks where trains are stored that are storing chemicals. It's a loophole in the federal railroad legislation that EPA itself cannot figure out how to get around. So, all people can do is back up into the railroad tracks where the railroad cars are already stored with chemicals. Extraordinary pre-existing problems.

What do we do going forward? There's three pages here, and Vivian [Buckingham, ELI Staff Attorney], maybe . . . I could leave this with you and we could get copies for folks. Going forward, there's got to be a sense of sustainable development. And I know that we in the environmental community want to debate this term to death ad nauseum. But sustainable development in an environmental justice context talks about a better industrial policy, green development, regional equity, justice, and equity, ensuring that all federal, state, and local laws are equally and vigorously enforced for all people, that public health protections and environmental protections are a fundamental part of any land use and rebuilding plan going forward, that we not expedite and do away with, through environmental waivers, environmental protections. These communities were already vulnerable to begin with. They're more vulnerable now that we're talking about environmental waivers, massive environmental waivers (and I think you all know what's on the table about that). So, we think that this is the moment in time that, again, through an extraordinary, extraordinary act of God—though certainly pushed by extraordinary stupidity on the part of human beings in governance all along the way (and there's federal, local, and state responsibility to go around—pick one and anybody has some responsibility and didn't do their job to protect these communities). But going forward, we cannot continue to have the kind of industrial and land use policy that we have based in segregation, rooted in racism, that keeps some people in desperate, unequal, and poor situations and unhealthy situations, that we can't go forward like this. So, we're going to come back and revisit this situation time and time and time again. Of course, I'm sure someone has already talked about the climate change aspects of this and those broader aspects. There's a whole climate justice conversation that centers around New Orleans and other low-lying places in the Gulf Region. There are so many aspects to this issue that the environmental justice community has talked about for so long, but we really do feel like there is a glimmer of an opportunity to change the conversation and to make justice and equality a part of our rebuilding process going forward. Thank you.

Scott Schang: Thanks, Vernice. Steven.

Steve Levine: I'm a lawyer in Baton Rouge. I'm a businessman. I try cases and provide regulatory counseling in environmental law to a variety of people. And there are some materials that I didn't have enough copies of—a collection of some of the things that have come out of state and federal government since Katrina and Rita that you may find useful. And if any of you would like a copy and don't have it, just let me know. I'll be happy to have my secretary e-mail something to you.⁸

A lot [of] times when a visitor comes to speak, one of the things they say is "I'm happy to be here." And I'm not happy to be here.

Vernice Miller-Travis: You know that's right.

Steve Levine: I am not happy to be here. Now, why is that exactly? It's not because of any of you. I'm happy to see all of you. I'm not happy to be here because I shouldn't have to be here. And I want to give you a little perspective on my background because this situation is personal to me. It's personal to me because, in a way similar to but then again not similar to what happened on November 22d of 1963 or what happened on September 11th of 2001, something really big happened. And everybody knows about it. But where I live and for 200 miles on either side of where I live, you can't get away from it. It's changed the place I live in probably, certainly, for the rest of my life, and probably forever. Now, it may turn out that some of those changes may end up bringing some good. We've heard that expressed here. But this is personal for me. And oddly enough, the perspective I bring to it, I would just invite you to consider it because maybe it will provide some fodder for thought from you. And really, I'm actually a lot more interested in hearing about what you all have to say than what . . . I'm going to come out with here since I already know what I'm going to say.

I was born in [Washington,] D.C. I got a pretty decent public school education in Montgomery County[, Maryland]. I went to the University of Maryland and got a bachelor's degree in Conservation and Resource Development. And I went to [Louisiana State University (LSU)] in 1975 and got a master's degree in Fisheries and Biology, graduated in 1977. I got a job in the fall of '77 at the Center for Wetland Resources at LSU as a research associate. And my salary, which . . . was \$7,500 a year, was paid for out of funds from a grant from the [U.S. Army] Corps of Engineers. Why? Because in 1977, the Corps of Engineers was preparing an environmental impact statement to justify its hurricane protection plan for New Orleans, which was a highly capital-intensive, mechanically structured plan to protect New Orleans from hurricanes. Why? Because it was known then that what happened a month ago not [only] could happen, but was going to happen. It was known then. Now maybe it wasn't known that a near miss—which is what Katrina was, folks, a near miss—could do what it did. But I'm here to tell you that when I was 22 and didn't know anything about anything—not that I necessarily do now—but when I

8. *Government Responses to Katrina and Rita*, a compilation of government documents relating to the hurricanes' aftermath, is available on the Environmental Law Institute website at <http://www2.eli.org/associates/pdf/seminars/10.17.05dc/GovernmentalResponses.pdf> (last visited Dec. 8, 2005).

was 22 I was making a living studying the fish in Lake Pontchartrain as part of a bureaucratic administrative exercise required by federal law because of the level of understanding that had been reached to a detail of which you all probably don't want to know the detail to which this understanding had been reached about what would happen in New Orleans if the right or the wrong storm hit. So, the reason that I'm not happy to be here is because I was asked to come here to speak about governance. And as some author of some column in the *New York Times Magazine* said a couple of weeks ago, the primary responsibility of government is to protect the citizens, all of them—white, black, ones with cars, ones without cars, ones that read newspapers, ones that don't, ones that are smart, ones that aren't, ones that are stubborn. Everybody has an equal right to be protected against a Category 4 hurricane. And it didn't happen. It didn't happen despite the fact that there was absolutely no debate of any kind about the effect of a hurricane upon this part of the coast. And about the effect of wetlands loss exacerbating that.

Now, that sure matters to me. But it's not just New Orleans. If you picked up the Tampa newspaper last week, you might have seen a really interesting article that surveyed what would happen to Tampa if a hurricane like Katrina hit Tampa. You could extend the same scenario, of course, to Houston, Mobile, Miami, Jacksonville, Charleston, Savannah, you name it. So, this is real. It's here to stay. Unfortunately, the National Weather Service seems to have been spending our tax dollars wisely because they sure got the predictions right this year, folks. And this is supposed to be just the first year of many.

So, I feel as though having gone through the background that I brought to this picture that I would give you just some observations on governance from a lawyer's perspective. All over the state of Louisiana, I've tried environmental cases—sometimes representing plaintiffs, sometimes representing defendants. They're all different. They're always different. But the one thing that is in common is that nobody just about out there—whether it's a judge, jury, many of the people in my own firm, sometimes myself—none of us have a very good understanding of science. None of us has an overarching understanding of the fact—and it is a fact. If you ever needed to have proof, we have it now: places where we live have to have a real decent fit with the environmental risks that are offered by those places. And . . . the job of government is to make sure that the citizens are protected by ensuring that that fit exists. Now what does that mean now? Everybody has just been covered up with verbiage and pictures. I thought about bringing some really dramatic pictures. I've got one that some idiot took of the storm surge as it was approaching New Orleans. And it makes you feel like you're at the gates of Mordor only with water. I mean, it's some[thing] bad. But I figured you all had seen enough pictures.

Instead, I think, the message that I wanted to invite you all to consider was how do we get to the point where something is really done about putting the knowledge that exists to work and ensuring that there's a fit between where we live and how we live, and making sure that people who have the right to be protected are not expected to live their lives not really understanding where they're living and what could happen to them where they're living. . . . This is a bit of a digression, but I do a lot of groundwater cases, and most peo-

ple, unless they grew up on a farm, think that an aquifer is an underground lake or river. They don't really have an understanding of even the rudiments of geology. And so trying to prove facts and to try a case and do that sort of thing is—you know—you want to reach people at the right level. You don't want to talk down to them, you don't want to talk up to them. You want to talk to them. So, as I thought about this and I thought about it a lot and talked about it with a lot of people, heard all kinds of opinions, I think that there's a fundamental need for a very serious increase in the level and the quality of the scientific education that our citizens receive. And I'm not here to tell you how to do that or how to fund it or any of that sort of thing. And maybe it's just useless words in the wind. But I think that that needs to happen. I furthermore think that it's pretty clear based on . . . what happened in Houston after Katrina.

I think, well, let me give a little background. It's probably axiomatic for me to note human beings have suffered very badly in the places where these storms have hit. And they've suffered regardless of the color of their skin, their income level. It doesn't matter. People have suffered. Some of them have suffered inconvenience. Some of them have suffered the ultimate. And many of them are suffering now. And it seems to me that one of the things that ought to happen—this is just a personal observation—I think there needs to be, I don't know if you would call it a holiday, [but] there needs to be a day of recognition and respect for the people who were hurt and damaged by these storms and to recognize the people who did incredible things to respond to those needs and are doing those things now. And you would not believe some of the things that people have done on behalf of other people. And I think that that day needs to be an excuse to have an annual hurricane awareness day and an annual hurricane drill day. I can tell by looking around that some of you people in this room probably spent some time with your heads under your desks in the 1950s and '60s during our atomic bomb drills. Well, we all know what good that would have done. [laughter] I would, I guess, respectfully submit that just like you might not really want to have your heart surgeon use you as his guinea pig, or if you're working on your car if you all work on cars, you know, you might rather not do something complicated on your own car the first time. It might be good to not have to try to evacuate a major metropolitan area when there's actually a Category 5 storm two days away. It might be nice to try out the communications and to make sure that the spheres of governmental influence are meshing and their gears are meshing instead of clashing. And I think that having a day like that would serve a very admirable purpose. So that's really what I would like to say to you folks. I know it's probably kind of without structure.

I'll close just by mentioning one thing. I was struggling a little bit with trying to express why it's important to rebuild New Orleans. And I will tell you all candidly. I don't love New Orleans. I had opportunities to live in New Orleans and I live in Baton Rouge. I don't love New Orleans, okay, I'll be very candid with you. And there's a lot of reasons why I don't love New Orleans, and you don't need to hear about them because you don't care about them. But here's why New Orleans needs to be rebuilt. Louisiana is a poor state. New Orleans is the economic engine of Louisiana. That ought to be enough in and of itself. But there's more. New Orleans is one of maybe two places in the United States that

combine genuine economic importance with genuine social and cultural importance. On the plane up here I read Chapter 1 of Bob Dylan's autobiography.⁹ And I was pretty surprised by how good a book this was. And I'm not going to read it to you, but I will cite you authority from pages 180 and 181 where, if you get the book or if you want to look at it, he's got a couple of paragraphs about his views about New Orleans. Why do I mention that? Because New Orleans is one of only a couple of places in this country that combine the core heartbeat of this country in terms of its culture and its art along with economics. And it's also a place where real people live. So, governance to me—and, again, I suffered inconvenience—I had a couple of tree limbs fall down and my roof leaked. . . . Lots of people needed a whole lot more protection from the government than I got. And so the thing that bothers me and the reason that I'm not glad to be here is because we have known about this problem for decades and nothing's been done about it. Thank you all for your kind attention.

Oliver Houck: Well, I'm last. That may be the best thing I can say to those of you sitting patiently here in the room. My name is Oliver Houck. I teach at Tulane University. I've lived in New Orleans for the last 26 years. I love New Orleans. I would live nowhere else. I've had lots of chances to live elsewhere. I've never accepted them. I'm going back. I'm very familiar with the real Louisiana that you describe. My school represents many African-American communities and other minorities up and down the river, often against the clients of Phelps Dunbar in Baton Rouge, and that's as it should be.

But I'm here today to talk about a different aspect of that, which is that Katrina/Rita exploded some myths and some games we've been playing down there in Louisiana. And now they're on the table, and they can't be ignored. We have been deluding ourselves throughout the Gulf Coast Region in major, major ways. If there's one message of every environmental scientist, every coastal manager, every environmentalist of any stripe down there for the past 30 years, it's been step development back from the beach, just a little bit. Get it off the beach. Beaches are for people. Get the buildings back. And stop destroying the marshes. Just stop destroying them. Of course that didn't happen. Neither happened. All the money ran the other way. All the money is still running the other way. Read the Pelican Bill.¹⁰

So, what I wanted to talk about is the cover story. As the money runs in the other way, we have these fictitious programs. We have programs that don't work but that we rely on. Katrina has two stories, right? The Gulf Coast and then New Orleans. If you focus on the Gulf Coast, what you see is this smash, this very smashing hit. What did we have to anticipate and protect ourselves against that? We had the Coastal Zone Management Act [(CZMA)]¹¹ in which we live in the happy illusion that with tiny amounts of federal money, voluntary state programs and standardless requirements, states are going to somehow going to voluntarily tell the casinos not to build on the beach, tell the condos not to locate on the beach. Have any of you been by that beach?

We're talking about a road that is routed right along the beach. You can reach out and touch the water. It's not any higher than the water. The beach is flat, maybe 20 yards wide. And that's where the buildings are. And they're that way for hundreds of miles, all the way across Pensacola, all the way into Florida. That's what Ivan took out. That's what Betsy took out. That's what Isabelle took out, then Katrina, then Rita. Do we think that's the end of the storms? I mean, we're living in this fantasy land that the CZMA is going to deal with this. And what the CZMA produced was, in Mississippi alone, approved coastal management plans that led to these elephantine buildings on the beach, the casinos in the water. Do you know where they are today? They're up to a quarter of a mile inland and they're in pieces. They look like beached whales that then got blown up with grenades. And they're all over the place.

So the CZMA just isn't up to the job. And we rely instead on something called the National Flood Insurance Program. It is supposed to ensure that these structures in the flood zone will be flood proof. How? They'll be elevated. Buildings on stilts. Building on piers. They'll be made of cement block and they'll have storm windows and the rest. Well, you know where the storm windows are? You know where the bricks are? You have to walk considerably inland. It picked up entire school buildings and moved them inland. Better yet, consider Cameron, Louisiana, and Holly Beach. Really nice communities. Coastal communities. Built up on stilts. [Federal Emergency Management Agency] standards all the way. All flood-insured. Did you see the picture of Holly Beach post-Rita in the [*Washington Post*]? It looked like Hiroshima. The only thing left is the stilts. You can't find the roofs. You can't find the bricks. You can't find the kids' toys. You can't find anything. They're way inland or out to sea. And we haven't begun to talk about the bodies.

So, we've had these two programs that simply weren't designed to meet what happened. And we've known this for years. Enviro's have been saying for a very long time, what's good for hurricane protection is good for natural resource protection. They go hand in hand. You can't break them up. Let me give you one statistic that shocked me. The first year that the National Flood Insurance Program started losing money was in the late '90s. The first year it hit a billion dollars in losses was 2002. In 2004, the year of Ivan, it hit 15 billion. Katrina/Rita are at 30 billion and rising. Total national loss is 152 billion and rising. And it's primarily on the coast.

So we have two failed games. We've loved these games. Who wouldn't? We all get the flood insurance. We build our second homes down there. We get insured. We get paid for losing them. Then we build them back. And these are some rather wealthy Americans doing that, right? And the coastal zone management fails as well. But we can't manage this thing. And I don't think we can insure against it either. I think we ought to do something different. And I'm happy to talk with you about that. But that's the first question I want to raise in your mind. This kind of a disaster calls for a very different kind of response.

The second thing I want to talk with you about is about what happened in New Orleans because that blew up two other myths, one of which is structures are the way to protect ourselves. We build the levees and then we build right at ground level behind them. You ought to see the photos. Just outside of the 17th Street Canal people are building on slab and they flood when it rains. So the take homes on structures

9. BOB DYLAN, *CHRONICLES: VOLUME ONE* 180-81 (2005).

10. Louisiana Katrina Reconstruction Bill, S. 1765 and S. 1766, 109th Cong. (2005) (the "Pelican Bill").

11. 16 U.S.C. §§1451-1465, ELR STAT. CZMA §§302-319.

seem to me so obvious. And they've been the conclusions of the flood insurance program, they've been the conclusion of federal commissions and studies for 20 years: structures not only don't work, they induce people into thinking they work. And so everybody moves in behind them and hey, we're safe! Guess what the current hurricane protection plan is for south Louisiana? A huge Maginot Line-like levee across it. Anyone see disaster coming?

The other game we've been playing in Louisiana is what I would call destroy and restore. It's the idea that you can eat up your wetlands and then go re-make them later. And that's a primary game in Louisiana. The Mississippi Delta below the city of New Orleans (and Bill Futrell knows this as well as I or better. . . . In Bill's time down there, 50 miles of unbroken grass—a linear, horizontal levy to the Gulf). One mile of marsh knocks down storm surge about three inches. You can do the math. We have ripped up that marsh in a way that we couldn't have done worse if we had malice. Oil and gas canals—10,000 miles of access canals through that marsh—aided and abetted and worsened by the navigation canals like the Mississippi River Gulf Outlet, which environmentalists have been trying to get closed for 25 years. And we can't get our delegation to do it. You know what you're paying for every ship that travels that boondoggle in maintenance costs alone? \$17,500 per ship passing. It's that unused. It's that costly. You know what the destruction of MRGO [the Mississippi River Gulf Outlet] has been? 26,000 acres of cypress hardwood and marsh. That's more than all the freshwater diversion projects have produced in the state of Louisiana. I mean, if you cost out the coastal restoration program, you're in the high four figures for marsh created—in some cases the five figures. And we're still permitting oil and gas canals, although they can get to their deposits another way. [Sen.] Mary Landrieu has more bills in for enlarging canals—the Houma Canal, the Morgan City Canal, the New Iberia Canal. When the Corps comes in and reports an unfavorable benefit/cost ratio, she says, go back and expand the benefits. That's in the bill.

So the mindset in Louisiana is, hey, we can get paid both ways. First we can get paid by projects that destroy the coast, and then we can go to the federal government and they'll pay us to restore it. Which is why I call it destroy and restore. That was the game prior to Katrina, and if you look at the Pelican Bill, that's what the Pelican Bill is about as well. It's a quarter of a trillion dollars, much of which is spent on navigation canals expansions, levees, pumps—all the marsh destroying things you can imagine. And the other part of the Bill gets the feds to pay for restoring the marshes we're destroying. Can't catch your tail that way. It's too expensive, and the man-made marshes don't work that well. The photos post-Katrina show that the marsh created by Canaervon, the big diversion below New Orleans. Imagine a new carpet of grass made by the Canaervon project, and now it's gone. Eighty percent of what was built by Canaervon is either gone now or going to be gone in about two or three years. Take home: when we destroy marsh, that's certain. Restoration is a very uncertain game. Ergo, destroy and restore is a losing proposition.

So, the other myth of south Louisiana is that we can have these, you know, we can eat these wetlands. Now, after these devastating storms, at least there's the possibility that somebody will understand it and respond to it. That's the upside. Maybe. But probably not. Can you really in your wildest

imagination think of Mississippi stepping development back from the beach? I mean, think about that.

So, I have to say that although these disasters have imposed a sense of urgency and a new kind of realism about the games being played down there, games of the magnitude that will dwarf what we try to do with coastal restoration, unless we stop these games or at least address them we're cooked.

But what you see coming out of [U.S.] Congress now, and what you see coming out of the Administration, is the "all systems go" offense, right? The federal money is for private development—go do it. We're going to bankroll you. The question is: *where* are you going to build, right? All of a sudden the federal government disappears from that decision.

And the other sad kind of reaction in Washington is the idea that the environmentalists are the enemy. And so you see in the Pelican Bill and the Barton Bill¹² whose very first instinct is kill the environmental lawyers. So, public meetings requirements are waived, the sunshine laws are waived, ditto the Freedom of Information Act,¹³ the National Environmental Policy Act,¹⁴ the Clean Water Act. They list them. They cite them. So what are they about? Although I'd like to share your optimism that these disasters have brought a sort of a new awareness, but you know the last place that new awareness is going to take place is in the United States Congress. Where I think it really exists is in the countryside. When I migrated north following the storms I talked to people in small towns and they seemed to know what has been going on. And they say, this is nuts. Developing right on the beach is nuts. So maybe that's the hope. Maybe you can give me more hope.

I think that these are the very large environmental questions before us. I'm happy to talk with you about them in a Q & A. But these are the ones I wanted to raise. Thank you.

Scott Schang: Before we turn to Q & A, we have several more experts sitting in the room. I do want to recognize one—Bill Futrell who is a former President of ELI and a native Louisianan. Bill, I don't know if you have anything you want to add or just participate in Q & A?

Bill Futrell: Well, were you working with Woody Gagliano, Sherman Gagliano, who was then the prophet of this?

Steve Levine: I took his course in 1976. I worked for him in the summer of 1981. He had a cover on *Time* or *Newsweek* back in the '80s about wetlands loss.

Oliver Houck: I like and respect Woody. He sounded the alarm early on, [and] it's very hard to find an independent voice in Louisiana. It's hard to find somebody who doesn't have another interest that affects the outlook. And that is true for Woody, and equally for many who are in academia but are funded by the state and private industry.

Steve Levine: [Professor] Houck, with Woody and with a lot of people like this, you have to balance what have they done to bring and disseminate knowledge against how do they make their living. And it's sort of a tough question.

12. Gasoline for America's Security Act of 2005, H.R. 3893, 112th Cong. (2005).

13. 5 U.S.C. §552.

14. 42 U.S.C. §§4321-4370d, ELR STAT. NEPA §§2-209.

Vernice Miller-Travis: And just as one example, and I think the experience of Tulane Law School and Tulane University is real clear here, in a huge environmental justice battle in Convent, Louisiana, the Environmental Law Clinic of Tulane Law School represented Saint James Citizens for Jobs in the Environment and Louisiana Environmental Action Network against a Japanese subsidiary, Shintech, that wanted to build the largest polyvinyl chloride manufacturing plant in the world in Convent, Louisiana—[a] small, rural community, [with a] population overwhelmingly African American but not exclusively African American. Tulane's Environmental Law Clinic, their law students—10 law students, 1 supervising attorney, and 1 director of the clinic—did yeomen's work in defending this community and trying to get EPA not to give [the] Title 5 . . . Clean Air Act permit for this facility to go forward. They did such a good job that the state of Louisiana Legislature came together to rescind the tax exempt status of Tulane University because they defended these people. And now there's a fundamentally different process in the state of Louisiana for how state funded institutions can provide technical assistance and legal expertise to indigent people in Louisiana because of this one case. So when he mentions the relationship between industry and government and governance, no place else in the United States have we ever seen a circumstance where the state legislature has come after one of the highest ranked and most respected institutions in the state of Louisiana because they represented indigent, poor, black people to keep a polyvinyl plant from coming to beat them. So when I mention the issue of campaign finance reform, the place where it would have the most impact would be the state of Louisiana. And it's the place where it probably will never happen is the state of Louisiana.

Scott Schang: Yeah. Go ahead, please.

Audience member: There's been a debate about a federal czar. You see in Mississippi the government seeming to pick up responsibility and holding a forum and doing a lot of things. You don't hear a lot about Mississippi, but there's been a lot of discussion about a federal czar for the Gulf Coast and for recovery. . . . And I'm wondering what your reaction is to that issue, not necessarily whether we should have a czar or not, but we're going to have a lot of money and it's going to require a lot of inspectors general to monitor the spending of that money. How should this be organized?

Steve Levine: I can take some of it, I guess. I wrote a brief memorandum that went to DEQ and to the offices of Senators Landrieu and David Vitter [(R-La.)] that, in just a couple of pages, attempted to provide a couple of words in the face of this second inundation, which is one of words that happened after the storm. My suggestion at the time was, . . . as much as people would think this would be unwieldy, there needed to be a task force/committee structure that would allow for work to be done, watch dogs to be watching, reports to be made, and stakeholders to have their stake, much the way that Louisiana tried to tackle groundwater conservation a couple years ago with an advisory task force and a commission. I heard back from someone I know who works in Senator Landrieu's office that the thought of establishing another bureaucratic entity was not really receiving a whole

lot of positive response at that point but that no one was putting forward any other ideas. And I'm sure that Professor Houck has got quite a bit to say on the subject because he's been watching this for longer than me.

Oliver Houck: Anybody else want to take a piece of that? Let me say that I think you need to divide the job into at least two parts. One is the immediate response. It's almost like a hazardous waste site. You have a kind of an immediate response action you need. And that's the waste cleanup, the hazardous determinations, the immediate reconstruction of existing levees. And that ought to go forward on an expedited basis. That doesn't need a czar. That just needs to go through the normal processes fast. And expedited processes are available under every available law be they the Clean Water Act [or] NEPA.

Steve Levine: It's in that book right there.

Oliver Houck: Sure. You can expedite the remedial response actions so you can get things stabilized to the point that people can make move-back decisions, people can be secure in [that] they're going to know the levee height and the water height. The decisions that scare me are the ones that go beyond. As you know, Landrieu's bill set up a mechanism for rolling projects forward without public review, without environmental review, without compliance with the stated laws. And that, to me, is a disaster. One can hope it doesn't fly. I think the reason that bill will not fly is because they also loaded it down with so many pet projects that Congress will balk. But . . . I agree with Steve that for this to be accepted long term there has to be a lot of buy-in, and there has to be a lot of stakeholder, and there has to be a lot of outside talent. The best ideas on flood protection exist in Europe. The amount of expertise that's going to be necessary to pull off the protection of New Orleans in the future far exceeds the capacity of the U.S. Army Corps of Engineers, which is a very competent agency. But it's also the agency that built the existing levees and pronounced them fine and those are the ones that blew. So, I don't think that "let's do the same only more of it" is a good answer.

So, I'd want to see us bifurcate the "what-now" with the future decisions, which really are what? What can we protect, right? Are we going to build a wall from Tampa, Florida, over to Corpus Christi?

Steve Levine: You're absolutely right. Because the cleanup is just the same as any other environmental situation, just a whole lot more of it. But it's the "what do we do after that?" part that is the hard part.

Oliver Houck: Right. And that involves people decisions, maybe people moving decisions, maybe buy-out decisions. I, for one, think it's loco to rely on the CZMA and the NFIP to constrain the same kind of development going back in the same places on the beaches of Mississippi, Alabama, Florida, and Texas and Louisiana. That just won't work. We know it won't work. So this management authority we set up needs to have on its agenda not only the structural [work], and not only the marsh restoration, it's got to have the people management function as well. It's got to have "what are we going to do with people?" on its agenda. And I would just throw at you the possibility that it would be a heck of a lot

cheaper for us to buy land rights back from the beach an eighth of a mile along the entire coast than it ever will be to pay for the continuing losses in those areas or to try to protect them structurally. And if we can get that debate surfaced, if that can be the scope of the debate, not how deep we should dig the Houma navigation canal or how high the Morgan City levee, but what are the relative costs—it's like energy conservation versus production—if we can get it raised in that magnitude, I think we have a chance for [a] fair outcome. And you know what? I think the American people would buy it. They don't want to pay for this non-sense anymore.

Chuck Barlow: Professor [Houck], let me add something. I completely agree with that part of your statement. I think that we've got to—and this can be so much words in the wind—but I think we've got to keep pushing, just like environmental justice has been doing for decades, as a lot of environmentalists have been doing for decades. We've got to keep pushing basic environmental protection as a part of our overall culture instead of as a separate little thing that we talk about and put up on the shelf. Let me tell you . . . what has happened a little bit in Mississippi. And it has nothing to do with environmental impacts, but the casinos that had already [been] allowed to be built in the water. Well, the state legislature said a decade ago, "you've got to build them in the water." Well, what does that do to your wetlands? Okay. And I was at [Mississippi Department of Environmental Quality] (MDEQ) at the time and all of a sudden here we have hoisted on MDEQ a legislative mandate that these things have to be in the water when we otherwise want to tell them, "Get the hell out of the water!"

Vernice Miller-Travis: Well, what was the rationale for them going in the water?

Chuck Barlow: Because the people in the state wanted to limit the places that gaming could happen. It's a moral question.

Oliver Houck: For years riverboat gambling was, you know, the image was a boat. And I remember seeing a perfectly awful movie in Vicksburg, Mississippi, called *The Old South*. You can see it in a small theater and you pay 50 cents and you walk in and the film crackles. And it says, you know, in old Mississippi there were two kinds of cultures. There was the plantation culture. And it shows hoop skirts and, you know, white women and men. And then there was the other culture. And I said, okay, we're getting to slavery. Nope. We got to the riverboat gambler. The other culture was the card shark with his cheroot and he's laying down aces and kings on the felt, you know. So, that image is very, very strong, and I think that's what drove it.

Chuck Barlow: Then you've got this fight going on in the state. . . . The conservative more fundamentalist religious folks are saying "keep them in the water because that limits how many of the casinos you can have." And . . . so you have the environmentalists, . . . and they haven't really spoken up about this because they know what would happen to them, I guess, against the fundamentalists. But you've got the environmentalists and the fundamentalists looking at each other in the eye and say, "we shouldn't be fighting about this, but

we're fighting about where the casinos should go." Can't we just say, they can only be a certain number of feet from the—you know—they've got to be along the coast, but they've got to be a quarter of a mile back from the coast. I mean, it can make sense, but you've just got to push it.

Oliver Houck: [cross-talking] Why do they have to be on the coast at all? [inaudible]

Charles Lee: I'm Charles Lee. I'm with the Environmental Justice Office in EPA now, but in my former lifetime I did a lot of work outside of the government. And I think that I would agree that as far as the issues of environmental justice, Katrina and Rita were really a wake-up call. I mean, it made obvious what everybody knew already. But I really would like to hear from you . . . some ideas about how to address these issues. Because a lot of things are being raised in terms of very key issues, but I don't see something that unifies the social justice kind of effort types of discussions with the environmental types of discussions. And, you know, for what? [We] need to have real open discussion and stakeholder involvement throughout the most displaced communities. There's this issue about trying to get input from the, quote, "environmental justice communities" around. But, they're all over the place. They're dispersed. . . . On the other side . . . are huge plans for redevelopment. There's a 17-member commission, the Rebuilding New Orleans Commission. I mean, the issues that Vernice [spoke of], you know, in terms of those kinds of populations and the vulnerabilities that are so evident now, you know, are not going to get addressed. But I do think this is a great opportunity to unify a lot of things, and I think the only way to really address this issue is to unify this. But I have not heard and I would really like to hear you speak to how that is going to take place. What are the ideas, the vision, you know, the kind of thing, and the mechanisms that can bring the kind of players together that we need to have together.

Oliver Houck: I'll tell you one idea that, Vernice, I've been wanting to talk with you and your constituency about for a while, and that is a [Civilian Conservation Corps] CCC-like approach to the rebuilding of New Orleans.

Vernice Miller-Travis: Excellent suggestion.

Oliver Houck: And turn it into the biggest job corps program in American history in which we undertake to train and skill this low income, chronically unemployed, chronically untrained. And, you know, you don't go to Haliburton. You don't go to these other people. You go to employers who will, as a condition of their contract, skill and capacitate technicians . . . in a great range of things. It could become one of the most sought after training opportunities in the country. I mean, I think that kind of opportunity, which never previously could have been thought of is something that the [environmental justice] community could insist on as . . . their bottom line, you know. A little like the casinos. Remember when they put in the casinos in New Orleans they insisted on local employment? . . .

Vernice Miller-Travis: Well, let me just say that that issue is already on the table. The question will be whether or not in the revisions that come out of Congress in terms of how

we're going to pay for Katrina, whether or not the essential but very small federal program that does exist that's been supporting this idea continues to get funded. And there's a huge question whether [the National Institute of Environmental Health Science's] (NIEHS') minority worker training program will continue to be funded given the new leadership change in NIEHS. But there is an existing program run through the Deep South Center for Environmental Justice formerly at Xavier, formerly at Dillard University, now at Southern University until such time as they can, God help them, go home to Dillard University and continue to exist in New Orleans. But they have for 10 years had a minority worker training program funded by the National Institute of Environmental Health Science and EPA's worker training program out of their Brownfields office that has been training at-risk young people from the age of 16.

Oliver Houck: We're talking 250,000 people.

Vernice Miller-Travis: I understand what you're talking [about], and I just on Thursday had a conversation with AmeriCorps and the Civilian Conservation Corps through Groundwork USA, which I'm the new Executive Director of, to begin to train their people. Because one thing that's happening that people don't know is that there are AmeriCorps volunteers and Civilian Conservation Corps volunteers all over the country. That program does still exist, although it fights like hell every year to get its federal appropriation renewed. . . . Normally what they do is they work on environmental restoration projects. They do cleanups. They do river restorations. They do all kinds of wonderful programs like that. And they are now being shifted to New Orleans to do some of the cleanup at the front end. But they have no technical training. Two weeks ago they were pulling up weeds and creating new safe play space, and now they're in New Orleans doing cleanup. So, we've asked if they could come together with NIEHS and expand that minority worker training program to first address these CCC kids who are already out there, but to also begin to make it available to the at-risk folk and to the chronically unemployed folk to go through that. The question is, though, priority. This is a program that has worked so incredibly successfully at a very small scale. Every year they have to fight like hell to get that small budget line approved with NIEHS.

Oliver Houck: If you allow me the interjection, I think your opportunity is to start something on a scale so much larger than this and you've got a very small window of time to do it. . . . I think this is a new legislative package. We don't just fund the existing programs because two years from now they're impoverished again. We fund something entirely new, and it is a requirement of all reconstruction contractors not just that they hire locally, but that they train, and that we have a supervisory structure for that training. And in return for the federal money that they're going to get for reconstruction, their ticket to the ball game is they are going to retrain.

Dave Evans: So, I think the question is how does that very sound idea get incorporated into the legislative processes? Who are the advocates? Who are the [cross-talking].

Oliver Houck: You get [Senators] Mary [Landrieu] and David [Vitter] to buy off on it.

Vernice Miller-Travis: Mary's buying-off, all right, but she's not buying the enlightened stuff. She's the co-author of the Environmental Waivers Bill. So we have a huge issue here.

Oliver Houck: That's right. But she's also a human being and much more responsive to the African-American community and to women's issues than other people. I think those are very powerful constituencies with her.

Audience member: Yeah, but the community's all to the far winds. . . .

Oliver Houck: Yeah. That's a problem isn't it?

Audience member: And 30,000 people are out of east New Orleans, . . . and those communities on the corridor—as you well know and on the Lower 9th—those were the core Democratic black people who pulled her out of her rounds last.

Oliver Houck: Right, right, right.

Vernice Miller-Travis: And the governor.

Audience member: Right. And so we're talking about at NBEJN taking these field hearings to some key areas where there are quite a few evacuees because people, really, you know, there isn't a mechanism to hear what people need, want to do. Because in order to come back and to do these training programs, you know, . . . there has to be education. The school system has to be addressed, the state housing issues have to be addressed, the testing issues have to be addressed. But we're not quite sure because everybody's all over the place. . . .

Vernice Miller-Travis: It's not just that everybody's all over the place, it's that, as Charles [Lee] has tried to point out, there's some real opportunity here, but . . . I feel . . . there is as much energy pushing back on the issue of some of those communities never coming back. And that's already a part of the conversation. . . . In the context of talking about natural resource protection, in terms of thinking more sustainably about how we rebuild, some of the very places that would then get claimed in that process would be historic African-American communities who do live on the water or who do live on the coast—and let me be clear—unlike Gulf Port and unlike other places that have become huge tourist attractions, casino-driven, along the Gulf. The reason the African-American communities are where they are is because it was the only place that they could live under segregation and under Jim Crow. They're not there because it's the top land. They're not there because it's the most productive land. They're not there because they're in intercoastal waterways. They're there because those were the places that they were forced to live. And they set up shop and they continued to live and make due. I think most of you are familiar with term "bottoms." In almost every southern community in the United States there was always a place called "the bottoms." And "the bottoms" was always where the black people lived. If you wanted to know where the black people

lived, you went to “the bottoms.” Now, what does the bottom mean? It was always the low-lying land. It was the place that always flooded. That’s where the black people always lived. And that’s not an accident. And so in order to think through this and to think prospectively, we have to come to grips with some very unpleasant issues—racism and classism chief among them. And I don’t mean we got to have a conversation that we have ad nauseum until we’re all sick of it and run screaming out of the room. That’s not the kind of conversation I’m talking about. I’m talking about a productive conversation that talks about addressing poverty across racial lines. People in Louisiana are really poor. When you talk about suspending [the] Davis-Bacon [Act]¹⁵ in Louisiana, what the hell does that mean? If you’re not going to pay prevailing wage in Louisiana, you’re going to pay less than prevailing wage, what the hell does that mean? What is that number? . . . Louisiana’s already a “right to work” state. So then people are already working at less than minimum wage. So when we allow that to happen and as a nation, we don’t rise up and say, it’s unconscionable in the United States of America to take that kind of re-direction of federal funds, put them into Louisiana and in the Gulf Coast, and not pay prevailing federal wages. It’s unconscionable. But why didn’t other people speak up? We heard folk from the Gulf Coast mentioning it. But the rest of us just sat there, you know, saying, this is really bad. What are we going to do about it? And so the question is, a lot of issues have been raised, and people are going to have to . . . weigh into this conversation who are not from the Gulf Coast. Not just environmentalists but economists who think about a different kind of economy, industrial scientists who think about a different kind of green industrial policy, civil rights folks who talk about, you know, how can we get to the next level of civil rights protections. But this is the time for a lot of folk to come together, and I want to say that I have seen one thing happen that in all my 20 years of being an environmentalist, I’ve never seen happen. And that is mainstream environmental organizations stepping up and joining forces with environmental justice groups to fight back the environmental waivers, to really think prospectively about productive legislation, to go to [Capitol] Hill together, to share resources, to bring people into a common conversation. This has never happened before in the environmental movement. We’ve been pursuing two tracks, and maybe now that we’ve been slammed with Katrina and Rita we can think about one track.

But Charles [Lee] asked, you know, what do you do? Well, one thing you do is you don’t sweep these issues under the table. There are a lot of poor white people in Louisiana, a lot of poor white people in Louisiana and across the Gulf Coast. Poverty and addressing issues of poverty have got to become a paramount conversation within the environmental arena. We talk about everything under the sun, but we will not talk about poverty and we will not talk about racism as if the issues are not inextricably interlinked. But we are fearful

of having this conversation and we’ve got to move beyond the fear to begin to talk productively and to build a stronger political base. If we get these folks together, you know, there are more of us, I think, progressive folk who represent every stripe than there are of folk who think that we should go back to business as usual. But we have to speak collectively. And it’s been really hard for us to do that.

Charles Lee: There was a commitment that was made, I think, several weeks ago by a group of progressive planners related to the Center for New Urbanism. And I think there was . . . an agreement made with the government of Mississippi that they would go down to provide services either free of charge or almost free of charge.

Vernice Miller-Travis: They’re going to Gulfport.

Charles Lee: In terms of something like that, both groups like that and groups that we all know about in relationship to the idea that Oliver had, there needs to be something. There could be some kind of coming together that then can create on all the positive ideas.

Oliver Houck: I think you could, out of this, create a dynamic CCC. I don’t mean [it] to be a hand-to-mouth starvation program. I mean it’s old wine to train workers and put them to good works but it’s a big new bottle. And you attach that sucker to all these other billions in all the construction bills. I don’t see the opposition to it. This is not like some of the other controversial items in there. I think this is a winner for you. I’m happy to come in behind you, but I’m no standard bearer with this delegation.

Vernice Miller-Travis: I was going to say, [Oliver], you can get out front. I don’t mind.

Oliver Houck: I can’t carry the clout that y’all can.

Audience member: There’s another issue that’s been around for a long time that I didn’t hear come up here but could be an important foundation—the idea of revenue sharing from [the outer continental shelf] (OCS) as a way to fund the restoration. Now, I’ve heard you express some cynicism about the restoration, but I’ve also heard that a trust fund was set up. And the idea is that by recognizing the ecosystem services, you recognize the environment is critical to well-being and so it contributes to this more unified position.

Oliver Houck: My thought is the money’s there right now. Getting new sources of money from OCS revenues or elsewhere is not nearly so much a challenge as channeling it to productive uses. I’m a big fan of restoration. What I’m cynical about is the continuing destroying of the very thing you’re restoring. And nothing illustrates that more clearly than Rita, which came right up MRGO. I mean, that’s where it topped. It came right up MRGO. But as for the oil and gas industry, coastal scientists put Louisiana marsh loss at the feet of the oil and gas industry, from the canals, from the pipelines, and from subsurface extraction, anywhere from 60 to 90%—anywhere from 60 to 90%. Guess who’s not paying a penny?

15. Pub. L. No. 403 (1931). The Davis-Bacon Act requires, among other things, that not less than the locally prevailing wage be paid to workers engaged in federal contract construction. On September 8, 2005, President George W. Bush suspended the Act in order to render more efficient reconstruction and cleanup of Florida and the Gulf Coast in the wake of Hurricane Katrina. See WILLIAM G. WHITTAKER, THE DAVIS-BACON ACT: SUSPENSION, CRS REPORT FOR CONGRESS (Order Code RL33100) (2005), available at http://www.opencrs.com/rpts/RL33100_20050926.pdf (last visited Dec. 8, 2005).

Audience member: The oil and gas industry.

Audience member: And Louisiana's not getting anything from all that wealth that's flowing out?

Oliver Houck: Well, it gets some.

Vernice Miller-Travis: But a lot less than is purported when they bring the new facilities in.

Oliver Houck: Not in federal waters. Not three miles OCS out. They're not. And Senator Landrieu, I think, appropriately has raised the inequity of that because other states get those monies. But those monies are a drop in the bucket to what we're talking about here. . . .

Vernice Miller-Travis: Well, how about a conversation—a real conversation—with the Army Corps of Engineers about environmental protection. Because I don't know what they're doing, but God knows, it's not environmental protection.

Bill Futrell: Well, when Davis was Assistant Secretary and tried to stop the Corps permit for the casinos in Mississippi, Trent Lott went after his wife's job.

Oliver Houck: Yeah. I think the Corps' problem in Louisiana is that they're not their own master. And that's true across the Gulf South.

Chuck Barlow: But let me say that the first 20 casinos that went into the Mississippi Gulf Coast took up less than three acres of wetlands. I understand what you're saying and the political ramifications are difficult for me to stomach. I'm just saying I don't know that the physical impact was what most people would have thought.

Steve Levine: It's also the case that all [of] the beach in Harrison County is man-made.

Chuck Barlow: Is man-made. Yeah, but, true, after Camille. I'm mean that's true.

Vernice Miller-Travis: Well, this was cheering. [laughter]

Scott Schang: Please give a warm round of applause for our panelists. [applause].