Section II
Supplemental Environmental Project

CONSENT DECREE SECTION XXI, PARAGRAPHS 73 – 77. SUPPLEMENTAL ENVIRONMENTAL PROJECT

Paragraph 73: Requires the Board to conduct the SEP and lists the goals of the SEP as follows:

1. To secure significant water quality improvement and public health protection in the Lincoln Beach area;
2. To provide public access to the project area for educational, recreational, and environmental purposes;
3. To restore, enhance, and create wetlands and a vegetative upland buffer in a wave protected area;
4. To mitigate and limit the effects of runoff and erosion in the beach area;
5. To make this area both swimmable and fishable in the future.

Paragraph 74: Requires the Board to spend no less than $2 million on the SEP for the purpose of improving water quality. This paragraph also requires that the Board sponsor a public information program to educate the public about the benefits of the SEP.

Work Accomplished:

- The Sewerage & Water Board has satisfied its obligation to contribute $200,000 towards development of the water quality predictive model.

- In a previous quarter, the Environmental Affairs Division of the Sewerage & Water Board was nominated for and won the Bureau of Governmental Research's Excellence in Government Keller Award for its work on the Lincoln Beach SEP. This award is recognition by the business community of public employees for exceptional performance of complex projects within limited time frame with limited resources. This award provided an excellent opportunity to educate the public and the business community of the merits and benefits of the SEP.

- In a previous quarter, the Lincoln Beach SEP was the subject of a paper presented by Dr. M. Poirrier at the Gulf Estuarine Society / 6th Annual Basics of the Basin Symposium on May 16-17, 2002 in New Orleans.

- The Sewerage and Water Board submitted a final report on the SEP to The U.S.E.P.A. and Department of Justice that included an accounting of $2,004,883.11 expended on the SEP. This satisfied the Sewerage and Water Board's obligation to spend at least $2 million on the SEP.

- The Sewerage and Water Board held a dedication and reception at the Lincoln Beach SEP site to commemorate the completion of the project. This ceremony was well attended by members of the local community, elected officials and the media.

- A Wetlands Interpretive Guide and a Nature Trail Guide were developed as a part of the SEP and made available to the public at the site dedication. These environmental educational materials will be used for environmental education visits to the site and will also be made available on the Internet for future use.

- The University of New Orleans, Biology Department under Dr. Michael Poirrier will continue to utilize the SAV areas of the SEP for research purposes. They are also pursuing grant-funded opportunities through the NOAA and other agencies to further enhance the SEP project site.

- Staff of the Sewerage and Water Board met with members of the League of Women Voters, the Lake Pontchartrain Basin Foundation, the Orleans Audubon Society and the Louisiana Environmental Action Network, co-interveners, to explain completion of the SEP.

- Mrs. Mary Lee Orr, Louisiana Environmental Action Network and co-intervener, introduced Sewerage and Water Board staff to Louisiana Department of Agriculture, Urban Forester, Paul Orr. We discussed the possibility of creating a legal entity, such as a 501c(3) non-profit organization to help protect and preserve the SEP.

- A site visit to the SEP was conducted with Urban Foresters, Tom Campbell and Paul Orr from the Louisiana Department of Agriculture to explore the potential for additional environmental education uses for the SEP site.

- The Sewerage and Water Board's Environmental Affairs Division worked with the Lake Pontchartrain Basin Foundation, Mayor's Office of Environmental Affairs, the Young Leadership Council, the University of New Orleans, Tulane University and a number of other organizations to create the **Committee to Improve Pontchartrain Beach (CIPB).** This committee is tasked, in part, to bring about the same successes realized at Lincoln Beach. The ultimate purpose of the committee is to return Pontchartrain Beach to swimming and fishing. The CIPB is initiating a public awareness/information gathering process to insure that the public is involved in future/expanded public use of the beach.

- A series of public meetings was conducted by the **Committee to Improve Pontchartrain Beach (CIPB)** to determine the public's interest in development of various components of Pontchartrain Beach. Although not a requirement of the Consent Decree, this work is seen as a natural progression of beach improvement in the New Orleans area and Lake Pontchartrain Basin that was initiated by the Lincoln Beach SEP.

- The Sewerage and Water Board of New Orleans and the City of New Orleans' Mayor's Office of Environmental Affairs was awarded a $220,000 grant under the Pontchartrain Restoration Program (the Vitter Bill) to continue development of a floatables removal technology. Floatables continue to be a problem at Lincoln Beach and elsewhere in the lake. This technology will help to remove floatable material like plastic bottles, bags and other floating debris that washes up on area beaches. The technology is also hoped to prove useful in other locations with a similar floating debris problem. $20,000 of the grant will be used for public information on litter control and the problem of floatable debris in Lake Pontchartrain (See Appendix B).

- The staff of the Sewerage and Water Board's, Environmental Affairs Division continued to work with the staff of the University of New Orleans, Research and Technology Center to refine certain details of the Pontchartrain Restoration Program grant to control floatables in Lake Pontchartrain. The UNO R&T Center is the grant administrator for this project.

- The Lake Pontchartrain Basin Foundation, University of New Orleans, Orleans Levee District, Louisiana State University Agriculture Department, Mayor's Office of Environmental Affairs, Sewerage and Water Board of New Orleans and other interested agencies have formed the **Bayou St. John Committee** to help in the bayou's restoration as a scenic water body.

- The **Bayou St. John Committee** drafted a **Bayou St. John Environmental Management Report** that will be used as guidance in conducting a series public hearings beginning in August 2005 on the use and management of the bayou. This is important to the SEP because the bayou is the historical portage from the Mississippi river to Lake Pontchartrain and management agreements reached on use of the bayou will affect Lake Pontchartrain and the SEP site.

- On June 17th, a member of EPA Region VI staff toured the SEP site along with staff from the S&WB Environmental Affairs Division, the University of New Orleans' Biology Department and the SEP consultant engineer.

Paragraph 75: Requires the Board to complete the SEP in accordance with the milestones listed in Exhibit 6, as well as submit a SEP Completion Report.

Exhibit 6 Milestones:

Site Assessment Plan must be submitted within thirty (30) days of Lodging (May 28,1998).

Work Accomplished:

- This requirement was fulfilled in a previous quarter.

Design Plan for Landscaping and Engineering Components must be submitted no later than six (6) months after lodging of the Consent Decree: (October 28, 1998).

Work Accomplished:

- This requirement was fulfilled in a previous quarter.

Implementation of the Design Plan

The Board shall implement the Design Plan and confirm the implementation in a progress report within 20 months of the date of the lodging of the consent decree. (May 2, 2000). (The original date for this task to be completed was December 27, 1999. However, due to the *force majuere* request submitted by the Sewerage & Water Board to the U.S.E.P.A. and the U.S. Department of Justice, an extension of 126 days was granted to implement the Design Plan).

Work Accomplished:

- This requirement was fulfilled in a previous quarter.

Progress Reviews and Monitoring Reports

The first progress review shall be conducted thirty (30) days after the completion of the implementation of the Design Plan. (June 1, 2000).

A Monitoring Report shall be submitted to the EPA for review, with a copy to LPBF, no later than thirty (30) days after completion of each of the required Progress Reviews as prescribed above.

Work Accomplished:

- This requirement was fulfilled in a previous quarter.

The second progress review shall be conducted at the end of the sixth (6th) month after the first review but not later than the end of the seventh (7th) month after completion of the Design Plan.

Work Accomplished:

- This requirement was fulfilled in a previous quarter.

The third progress review shall be conducted at the end of the twelfth (12th) month after completion of the implementation of the Design Plan.

Work Accomplished:

- The third progress review was conducted in May 2001 as required by Exhibit 6, in a previous quarter.

A Monitoring Report shall be submitted to the EPA for review no later than thirty (30) days after completion of each required Progress Review.

Work Accomplished:

- The third Progress Review Monitoring Report was submitted to the EPA as required by Exhibit 6, in a previous quarter.

All subsequent progress reviews shall be conducted at twelve (12) month intervals until the completion of the SEP.

Work Accomplished:

- The fourth Progress Review was conducted in May 2002 as required by Exhibit 6.

A Monitoring Report shall be submitted to the EPA for review no later than thirty (30) days after completion of each required Progress Review.

Work Accomplished:

- The fourth Progress Review Monitoring Report was submitted to the EPA as required by Exhibit 6 on May 30, 2002, in the previous quarter.

All subsequent progress reviews shall be conducted at twelve (12) month intervals until the completion of the SEP.

Work Accomplished:

- The final Progress Review was conducted in May 2003 as required by Exhibit 6.

A Monitoring Report shall be submitted to the EPA for review no later than thirty (30) days after completion of each required Progress Review.

Work Accomplished:

- The Final Progress Review Monitoring Report was submitted to the EPA as required by Exhibit 6 on April 28, 2003.

Monitoring of the SAV and wetland areas

Monitoring of the SAV and wetland areas shall occur on no less than a monthly basis. The Monitoring Plan shall include criteria upon which to determine the success of the SEP.

Work Accomplished:

- The Sewerage and Water Board in concert with researchers from the University of New Orleans (UNO) and City Wide Testing and Inspection (CWTI), under our contract with Burk-Kleinpeter, Inc. (BKI) continued to monitor the project site through the 2nd Quarter of 2003 as required by Exhibit 6 of the consent decree.

- In a previous quarter, Dr. Poirrier of UNO reported that Atlas Demolition, a company doing work for the Orleans Levee District under a FEMA financed project to remove pilings from the Lake left from demolished camps after Hurricane Georges', trespassed on and caused damage to the SEP project area.

- A damage report was prepared by UNO and BKI to detail the extent of damages to the SEP site. The contractor and OLD were previously ordered to cease all activity on and vacate the SEP site.

- The plant materials replanted in the previous quarter and some trees on the site were identified as being a part of the damaged area.

- A replanting plan for the damaged vegetation was prepared by UNO. Replanting of some of the damaged plant material occurred in June 2002.

- Additional plantings were done during August and September 2002.

- Tropical Storm Isidore caused wind and high water damage to the site. A study has been initiated to determine the extent of these damages and the time and cost necessary to correct the problem.

- On October 3rd, 2002, Hurricane Lilli produced heavy rain, wind and high tides in the SEP area. This resulted in damage to the site, above and beyond that caused by T.S. Isidore. Most damage was due to floatable debris from camps destroyed by Hurricane Georges' in 1998 being washed up and deposited atop plant material and submersed aquatic vegetation within the SEP site.

- Burk-Kleinpeter, Inc. initiated a comprehensive survey of damage caused by both storms at the request of the Sewerage and Water

Board. The report had not been completed as of the end of the 4th Quarter.

- The damage assessment report was completed and submitted to the Sewerage and Water Board for its review.

- Remediation of storm damage recommended in the damage assessment report was begun in the 1st Quarter of 2003. This included removal of two large propane tanks that floated up on the site.

- Storm damage remediation was completed in the 2nd Quarter of 2003.

- Although no longer required by the Consent Decree, the University of New Orleans (UNO) Biology Department under the direction of Dr. M. Poirrier continued to conduct monitoring of the SAV project.

- The site was visited twice in 2006 since Hurricanes Katrina and Rita to assess storm damage. The SEP component received minimal damage. However, the sand beach migrated due to the storm surge and upland arboretum areas saw significant damage to trees. It is recommended that a comprehensive post-storm assessment be conducted.

Submersed Aquatic Vegetation and SAV Site Surveys

Monitoring of the SAV and wetland areas shall occur on not less than a monthly basis.

Work Accomplished

- The University of New Orleans (UNO) Biology Department under the direction of Dr. M. Poirrier and City Wide Testing and Inspection (CWTI) continued to conduct visual surveys of the SAV and protective fencing that has been placed in the SAV areas.

- The University of New Orleans (UNO) Biology Department under the direction of Dr. M. Poirrier will continue research in the SAV areas.

Although no longer required under the SEP, the University of New Orleans (UNO) Biology Department under the direction of Dr. M. Poirrier, continues to utilize the SAV areas for research. They are continuing to monitor plant growth as part of this research effort.

Dr. Poirrier is seeking grant funding from other sources to allow this work to continue.

Due to hurricane devastation to the University of New Orleans campus and the displacement of faculty and researchers, this work has been temporarily postponed.

Water Quality Predictive Model

Work Accomplished:

- The University of New Orleans Biology Department and the LPBF have completed collecting water quality data at the Lincoln Beach site for development of the Predictive Water Quality Model.

- Tulane University School of Public Health, the Louisiana Department of Health and Hospitals, the Sewerage and Water Board of New Orleans and the LPBF completed the Water Quality Predictive Model on December 29, 2000.

- The Water Quality Predictive Model, which the Sewerage & Water Board has helped to develop, utilizes real time data collected by instrumentation. The monitoring station has been relocated to another south shore site. However, the Lincoln Beach site is now a part of the Lake Pontchartrain Basin Foundation's weekly water quality report for Lake Pontchartrain. The data is available online at their website, http://saveourlake.org/waterdata/current.html.

Paragraph 76: Contains certification by the Board that it is not required to perform the SEP by any regulation, agreement, grant, or as injunctive relief and that it has not nor will it receive credit for the SEP.

Paragraph 77: Requires the Board to enter into an agreement with the Levee Board, the state and any other necessary parties to secure access and assure that no action is taken inconsistent with the goals of the SEP.

Work Accomplished:

- The City of New Orleans continued work under Phase One of the Master Plan for Lincoln Beach. This work involves the identification and removal of hazardous materials, such as asbestos and PCB's, from the Lincoln Beach core site. Also included in this phase is the demolition of existing buildings that are not retained in the design plan due to their deteriorated condition. The City is currently removing hazardous materials identified at various locations around the site.

- The City of New Orleans refurbished the pedestrian access tunnel pumping station at Lincoln Beach. This allows for ready access to the site through the tunnel with out the need to manually pump the tunnel out, as had been the situation up until this work.

- In a previous quarter, the City of New Orleans and the Sewerage and Water Board of New Orleans entered into a Cooperative Endeavor Agreement to re-open the Lincoln Beach site to public access and use. The Cooperative Endeavor Agreement was developed to insure use consistent with the SEP goals. The agreement also provides the Sewerage and Water Board permission to access the site for purposes of fulfilling its obligations to the SEP as described in the consent decree.

- The ownership of the Lincoln Beach property was officially transferred from the Orleans Levee District to the City of New Orleans at a ceremony conducted at Saints Simon and Peters Church hosted by All Congregations Together (ACT) a community action group that has been instrumental in working hard to return the Lincoln Beach site to community use for recreation. This goal is consistent with the objectives of the SEP.

- The S&WB maintains a right of entry permit with the Orleans Levee Board to access the site for any work required in implementing the SEP. This permit is required by the Orleans Levee Board to cross the Hurricane Protection Levee for entrance of equipment and personnel into the SEP site.

- The City of New Orleans now maintains the right-of-entry to the Lincoln Beach property as the property owner. The City continued to make progress during the 2nd Quarter of 2004 under Phase One of the Lincoln Beach Master Plan. Demolition of un-needed structures on the property commenced.

- The City of New Orleans under a contract let by its New Orleans Building Corporation, a non-profit entity responsible to administer surplus city property on behalf of the city, continued demolition of structures on the Lincoln Beach site as part of the Lincoln Beach Master Plan.

- The City of New Orleans under a contract let by its New Orleans Building Corporation completed demolition of abandoned buildings and swimming pools that will not be used as part of the Lincoln Beach recreation site.

- Due to the continued response and recovery of the city from the catastrophic hurricane damage the city has been unable to do any work at the site.

The Consent Decree requirements for completion of the Supplemental Environmental Project (SEP) were completed during the second quarter of 2003. The Department of Justice "confirmed" the SEP completion report in a March 11, 2008 letter from Arnold Rosenthal to Henry Diamond, which stated: "[t]he Consent Decree does not provide that the United States approve your completion report for the SEP. That said, the United States finds your report satisfactory and, as we've said before, is very pleased that the project was a success."