

Office of Environmental Assessment Remediation Services Division

*Annual Legislative Report
for Fiscal Year 2005-06*



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Executive Summary

The Remediation Services Division (RSD) under the Office of Environmental Assessment prepared this report to give a brief overview of the division's activities for FY 2005-06. This report also functions to submit the site lists as required by La.R.S. 30:2226.H.

FY 2005-06 was dominated by response to Hurricanes Katrina and Rita. RSD activities were primarily in response to areas impacted by Hurricane Katrina and initially involved reconnaissance inspections of underground storage tank (UST) sites, active remediation sites and major facilities (Tier 2 facilities). Initial inspection activities were followed by extensive soil and sediment sampling to assess conditions in the flood impacted areas to support local governments' needs to alert the public to potential health effects in the impacted areas.

During FY 2005-06, the division completed 224 site cleanups (see Appendix A). These completed sites included UST sites, groundwater sites, solid waste sites, hazardous waste sites, and Voluntary Remediation Program (VRP) sites (see Figure 1 on page 11). As of June 30, 2006, there were 154 confirmed hazardous substance sites needing cleanup action and 436 sites awaiting assessments which are referred to as potential sites (see Appendix D). RSD also continues to add sites to the VRP. An updated list of VRP sites is located in Appendix E of this report.

RSD continues to find innovative ways to enhance and improve the site remediation process. RSD supported the department's pilot program to allow public access to public records in the department's Electronic Document Management System (EDMS) through the internet. In addition, RSD has revised its public web page, using input from a focus group, to expand content and simplify public access to information.

Remediation Services Division

**Remediation Services Program Updates and Site Activities
FY 2005-06**

Hurricane Response Activities

Assessment of Underground Storage Tanks and Facilities

The Office of Environmental Assessment/Remediation Services Division was delegated response efforts for areas impacted by Hurricane Katrina. Response for Hurricane Rita was primarily handled by the Office of Environmental Compliance/Surveillance Division. Hurricane Katrina response by RSD included reconnaissance inspections of UST sites, active remediation sites, and Tier 2 facilities in the parishes that were affected by Hurricane Katrina. Tier 2 facilities are facilities covered by The Emergency Planning and Community Right to Know Act.

Reconnaissance teams began inspections on September 20, 2005. These inspections were conducted to determine the extent of flood and wind damage to UST systems and to locate any immediate environmental hazards. In addition to registered UST sites, the teams inspected active remediation sites and Tier 2 facilities. By October 17, 2005, 583 registered UST sites, 233 active RSD sites, and 245 Tier 2 facilities were inspected in Jefferson, Orleans, Plaquemines, St. Bernard, and St. Tammany Parishes. Of the 1,061 inspections, 104 UST sites in the southeast region were determined to have sustained significant wind and flood damage.

In addition to the reconnaissance inspections, the Office of Environmental Assessment provided members of the UST community in the area affected by Hurricane Katrina with information to assist them in safely bringing their UST systems back on line. A copy of the Emergency Declaration and a Plan for Evaluating Underground Storage Tank Sites Impacted by Hurricane Katrina (Plan) was sent to UST owners/operators on September 19, 2005. The Plan was designed to assist in the speedy return of UST facilities to normal operation.

In the fiscal year beginning July 1, 2006, all UST facilities in eleven hurricane-impacted parishes that sustained damage will be re-inspected. Results of these inspections will determine the number of facilities to be assessed using the FY 2006-07 Gulf of Mexico

Hurricane Supplemental Funding for the Leaking Underground Storage Tank (LUST) Trust Fund Program.

Soil and Sediment Sampling of Hurricane Flood Impacted Areas

After Hurricane Katrina came ashore on the Louisiana Gulf Coast, the Environmental Protection Agency (EPA) and its federal and state partners conducted a comprehensive investigation to characterize any potential environmental effects to the parishes that were flooded by up to ten feet of water from Lake Pontchartrain and the Mississippi River Gulf Outlet. RSD has been involved since early September 2005 assisting EPA and its partners in the collection of approximately 1,800 sediment and soil samples in Jefferson, Orleans, Plaquemines, and St. Bernard Parishes in four discrete phases. Most of these samples were analyzed for over 200 metals and organic chemicals.

As each phase of the four-phase sampling was completed, the results were compared to conservative health-based screening levels for residential exposure developed by EPA and the Louisiana Department of Environmental Quality (LDEQ). Summaries and general assessments of the data were developed by EPA and LDEQ with input from the Centers for Disease Control (CDC), the Agency for Toxic Substances and Disease Registry (ATSDR), the Louisiana Department of Health and Hospitals (LDHH), and the Federal Emergency Management Agency (FEMA). More detailed information on the post-Katrina soil/sediment testing by area may be obtained at

<http://www.epa.gov/katrina/testresults/index.html#data>.

The sample results indicate that, in general, the sediments left behind by the flooding from Katrina are not expected to cause adverse health impacts to individuals returning to New Orleans. A few localized areas were re-assessed due to elevated levels of arsenic, lead, benzo(a)pyrene, and diesel and oil range organic petroleum chemicals. The results of these re-assessments indicated that: 1) the highest concentrations of arsenic were likely associated with herbicides used at or near golf courses; 2) benzo(a)pyrene was found in a small section of the Agriculture Street Landfill Superfund site and will be addressed as the Housing Authority of New Orleans finalizes its plans for badly damaged town homes in the area; 3) the concentrations of diesel and oil range organic chemicals are diminishing and

will be monitored over time to ensure that these concentrations continue to decrease; and, 4) the elevated levels of lead detected in 57 of 147 composite samples collected by EPA from areas where lead was previously detected in Phase 1 of the four-phase sampling effort predate the hurricane. The lead results from the EPA samples are comparable to the historical concentrations of lead in soil in New Orleans found in studies conducted by local university researchers before Katrina. The primary source of lead appears to be lead-based paints historically used in and on the older buildings in the city.

This work provides an extensive picture of the conditions in the flood impacted areas, and served as the basis for a series of recommendations and advisories provided local governments. For a more detailed discussion of the four-phase approach used for the sediment and soil sampling activities following Katrina refer to

<http://www.epa.gov/katrina/testresults/sediments/summary.html>.

Use of Dedicated State Remediation Funds

Hazardous Waste Site Cleanup Fund (HWSCF)

For FY 2005-06, LDEQ paid a total of \$1,177,489.56 from the HWSCF to EPA Region 6 as state match for EPA-lead Superfund site work at four sites (American Creosote, Delatte Metals, Mallard Bay Landing Bulk Plant, and Central Wood Preserving). At three of the EPA-funded sites - Delatte Metals, Mallard Bay Landing Bulk Plant, and Central Wood Preserving - remediation work has been completed. At the American Creosote site, a long-term remediation process is continuing. State match payments are invoiced by EPA each year and paid in accordance with Superfund State Contracts, which require 10% match of all remediation expenses funded by the EPA Superfund program.

Future state match payments will also be required for additional remediation work that is being considered for the Marion Pressure Treating site, pending the availability of federal funding.

In addition to the Superfund State Contract payments, RSD paid a total of \$435,241.71 from the HWSCF to its contractors for continuing Operation and Maintenance (O & M) work at three Superfund sites (Bayou Bonfouca, Delatte Metals, and Madisonville Wood Preserving). The State is responsible for funding and implementing O & M at these sites until determined to be no longer necessary through five-year reviews. In future years, the State will be responsible for O & M at additional Superfund sites, as remedial work is completed.

Also during FY 2005-06, RSD completed its groundwater monitoring work at the Old Inger Oil Refinery Superfund site (a state-lead EPA-funded site). Data from this monitoring work was used to determine that no further work is needed to remediate the shallow groundwater at the Old Inger site (see Appendix B).

As of the end of FY 2005-06 there were 154 confirmed inactive and abandoned sites in RSD's site universe. RSD identified sites with no financially viable responsible parties that may be eligible for remediation with government funding from the EPA Superfund (if they

qualify) or the State HWSCF. Priority ranking of these sites is based on risk to human health and the environment, on the availability of funding sources from financially viable responsible parties, and other relevant factors. Beyond the 154 confirmed sites, there were 436 potential sites needing initial evaluation as of the end of FY 2005-06.

During FY 2005-06, LDEQ continued utilizing contracts for coring services, monitoring well installation and sampling, data validation, analytical services and remediation services. The HWSCF provides limited funding for these contracts, and is used for the high priority investigation and remediation work for RSD confirmed sites.

Abandoned Underground Storage Tank (UST) Trust Fund

Revenue for the Abandoned UST Trust Fund is derived from interest earned by the Motor Fuels UST Trust Fund, as mandated by La. R.S. 30:2195 F, and is to be used for the closure of abandoned motor fuel USTs and assessment and remediation of property contaminated by abandoned motor fuel USTs. RSD utilizes an identification and ranking process which addresses specific eligibility requirements, and is based on a numerical ranking system for quantifying risk to public health and the environment. More than 500 known leaking UST sites have been screened, with 23 sites identified as candidates for the abandoned UST program. These 23 sites have been prioritized based on their numerical ranking and will be addressed in response to the level of risk posed to public health and the environment. The HWSCF is being studied as a potential funding source for work at these sites.

Concurrent with abandoned UST site identification, eligibility determination, and ranking, RSD is working with LDEQ's Office of Management and Finance (OMF) and the Division of Administration's Offices of State Purchasing and Contractual Review to develop and maintain two UST services contracts. One contract is a professional services contract for UST site investigation used to determine the nature and extent of subsurface contamination and to identify appropriate remedial technologies. The second contract is a general services contract for UST remediation services, including tank removal and site remediation. Two separate contracts are required because of the differences in the types of expertise required to complete these activities.

To date, Abandoned UST Trust Funds have been used to address a high priority abandoned UST site in Louisiana, Burt's Chevron, in Ruston. An initial contract was implemented to determine the extent of contamination, conduct a risk evaluation, and provide interim corrective action. Results and data produced from the first contract were studied for development of a complete site cleanup contract which was awarded during FY 2005-06. Work under this contract will be completed under a pay-for-performance structure with stipulation that payment is contingent upon completion of pre-determined percentages of cleanup. The other abandoned UST sites will be addressed based on funding availability and prioritization.

Louisiana Motor Fuels Underground Storage Tank Trust Fund

The Motor Fuels UST Trust Fund is administered by LDEQ Office of Management and Finance. In accordance with the UST regulations (LAC 33:XI.101 et seq), UST owners or operators who are eligible participants in the Motor Fuels UST Trust Fund program may receive payment or reimbursement of costs for assessment, investigative or remediation work that is necessary to mitigate releases from UST systems into the environment. A detailed financial report is prepared and submitted annually to the legislature by LDEQ regarding use of this fund. Oversight of the work performed and paid with monies from this fund is conducted by RSD site team leaders.

In recent years, a UST Corrective Action High Cost Panel was formed by LDEQ to review and evaluate UST site cleanup plans, to ensure cost effective use of the Motor Fuels UST Trust Fund. In January 2005 the UST Corrective Action High Cost Panel was renamed the Remediation Oversight Group. In FY 2005-06 the Remediation Oversight Group reviewed all major Corrective Action Plans and found an estimated \$4,375,280 in cost savings for the Motor Fuels UST Trust Fund.

LDEQ continued its efforts to utilize limited State funding for site remediation at UST sites, seeking innovation and improvement where possible in the management of available State funds.

Supplemental Funding for the Leaking Underground Storage Tanks (LUST) Trust Fund Program

LDEQ submitted a proposal and received from EPA Region 6 approximately \$6 million for assessment and initial corrective action needed at UST sites as a result of Hurricanes Katrina and Rita. As of the close of FY 2005-06, RSD had begun preparing the cooperative agreement application for award of these federal funds. Plans for use of these funds include a site assessment contract for immediate evaluation of the hurricane-impacted UST sites.

Site Remediation Activities

During FY 2005-06, RSD completed 224 site cleanups (Appendix A) and concluded that No Further Action (NFA) is needed based on the current conditions and the intended uses of the properties. However, changes in land use (i.e. industrial to residential) or construction of enclosed structures could trigger the need for additional action at an NFA site due to changes in levels of risk.

This report contains two site summaries of recently completed RSD site remediation efforts in Appendix B. This year RSD sites highlighted are North Boulevard and Old Inger Superfund Site.

RSD's site universe consists of many different types of sites, all of which are remediated according to specified regulations. The UST sites are cleaned up according to the Risk Evaluation and Corrective Action Program (RECAP) regulations. The solid waste sites universe includes sites from the former Solid Waste Division and new sites identified by RSD as solid waste. These sites are remediated using the Solid Waste Regulations. The groundwater sites fall under the general authority of the Environmental Quality Act and the Notification Regulations. Confirmed sites are sites from the former Inactive and Abandoned Sites Division and are remediated under the Comprehensive Environmental Response, Compensation, Liability Act (CERCLA) or the Environmental Quality Act and in accordance with the Inactive and Abandoned Sites Regulations. The hazardous waste sites are the sites remediated under the Resource Conservation and Recovery Act (RCRA). The VRP sites follow the VRP Regulations. These various types of sites are listed in Appendix C, D, and E.

All of the major site remedial activities are conducted by LDEQ under a single remediation process administered by RSD and the Environmental Technology Division (ETD). This process which includes site identification, investigation and cleanup tasks is outlined in detailed Standard Operating Procedures (SOPs). Site work is prioritized based on risk to human health and the environment, availability of funding sources, and other relevant factors.

RSD and ETD site process groups effectively operate under shared SOPs to ensure efficient use of available resources. Staff duties in RSD and ETD site process groups include serving as a team leader and/or team support on projects involving remediation of soil and/or groundwater. The project team leader is the single point of contact for the regulated community and the general public, and is the person accountable for the progress and completion of assigned site work.

A statewide map of completed sites by parish and a list of the sites by parish are included in Appendix A of this report. Classification of the completed sites list is as follows: 128 UST sites, 1 abandoned UST, 66 solid waste sites, 11 groundwater sites, 3 confirmed sites, 3 hazardous wastes sites, 11 VRP sites, and 1 undetermined site. Figure 1 is a graph depicting the percentage of completed sites by site type.

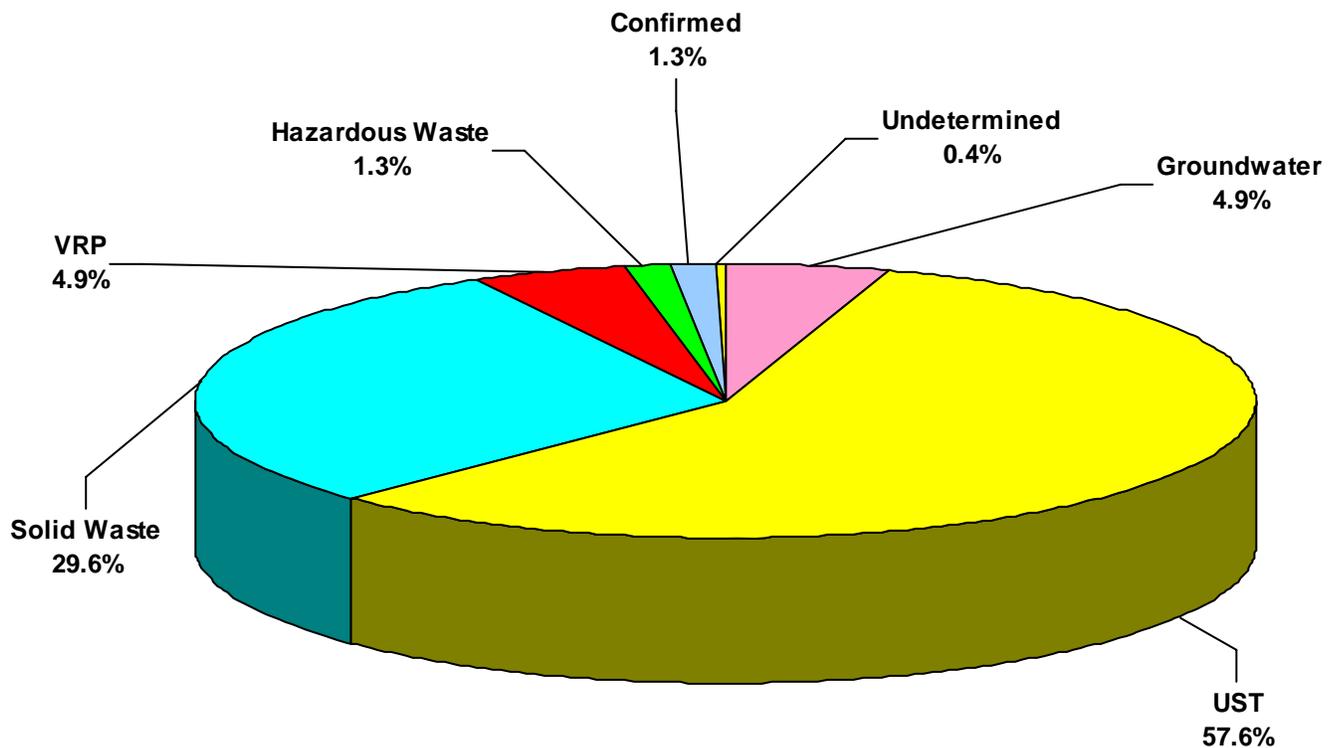


Figure 1: Type of sites completed during FY 2005-06

Voluntary Remediation and Brownfields Programs

Louisiana Voluntary Remediation Program

The VRP received Voluntary Remedial Investigation or Voluntary Remediation Applications for 24 properties during this fiscal year which increased participation to 76 properties by the end of the fiscal year (Appendix E). Total participation in this program increased by more than forty percent compared to the previous fiscal year.

The applicants for sites completing the VRP receive a Certificate of Completion (COC). The COC provides the applicant with a release of liability for future cleanup of historical contamination at the site. This release of liability also flows to future owners of the property. Nine properties completed VRP remediation and received COC during the fiscal year, which doubled the total cumulative number of properties which have completed the VRP to 18 by the end of the fiscal year. Two additional VRP sites were completed and issued a NFA determination.

Brownfields Activities

Numerous brownfields outreach activities were conducted during the fiscal year. RSD sponsored and conducted the South Louisiana Regional Portfields Project Peer Exchange Workshop on behalf of EPA, the National Oceanic & Atmospheric Administration (NOAA), the New Orleans Regional Planning Commission, and the five participating Louisiana deep water ports. Over 100 interested persons attended this workshop in May 2006. This peer exchange provided a forum for the five ports to present their highest priority Brownfields and environmental issues and to learn what federal and state resources might be available to address these issues. The South Louisiana Portfields Project is only the fourth Portfields project sponsored by NOAA nationwide.

Two "Brownfields Breakfasts" were conducted to promote Brownfields redevelopment awareness and teach Brownfields grant writing in Hammond and Lafayette. RSD also sponsored its Louisiana Brownfields Grantees Workshop in Kenner in June 2006 where

all of the local Louisiana brownfields programs met with LDEQ, EPA, and other parties to hear about and discuss current brownfields issues.

Targeted Brownfields Assessments

RSD executed a federally funded contract to perform Targeted Brownfield Assessments (TBA) for eligible properties that are not privately owned. Under this contract, RSD can through contractors perform Phase I (literature review of site history for potential areas of concern) and Phase II (onsite investigatory sampling of areas of potential concern) environmental site assessments, as well as RECAP investigations to delineate areas of concern on eligible properties. RSD uses a process for determining eligibility and prioritizing applications for the TBA program.

Nine properties have been selected for TBA work. The selected properties with their current status as of June 30, 2006 are listed below:

Targeted Brownfield Assessment Site	Site Investigation	Status
Moran Galvanizing, Shreveport	Phase II/RECAP	Active
L & M Traffic, Lake Charles	Phase I Environmental Site Assessment	Complete
Mansfield Road Street, Shreveport	Phase II/RECAP	Active
U.S. Post Office, Gretna	Phase I Environmental Site Assessment	Active
4-H Club Road Property, Denham Springs	Phase I Environmental Site Assessment	Active
153 Road Camp Road Site, Ruston	Phase I Environmental Site Assessment	Active
Juban Lumber, Baton Rouge	Phase II/RECAP	Active
Shreveport Creosoting Site- W.M. Barnett Property, Shreveport	Phase II/RECAP	Active
Former Auto Store, Maringouin	Phase I Environmental Site Assessment	Active

Other Remediation Program Activities

Ready for Reuse

Ready for Reuse is a key component of the EPA's National Land Revitalization Initiative. The U.S. EPA Region 6 in Dallas developed the concept. The goal of this initiative is to make land revitalization and reuse a fundamental element of all EPA and State cleanup programs (e.g., RCRA, Superfund, Brownfields, USTs, voluntary cleanups, etc.) to help foster economic development, and return previously contaminated or abandoned properties back to productive use.

This is not intended to be a clean-closure approach; rather, it encourages cleanups that will quickly support protective redevelopment opportunities. As part of this effort, a regulatory "certification" is provided that will be an affirmatory determination that the site is considered acceptable for its designated reuse. The Ready for Reuse determination verifies that the environmental conditions on a property are protective of human health and the environment based on its current use and anticipated future use as a commercial/industrial operation.

Louisiana's Participation in the Ready for Reuse Program

LDEQ has committed to utilize the land use revitalization program Ready for Reuse, together with the existing Brownfields and VRPs to help promote redevelopment opportunities at facilities and sites throughout the state. These include operating facilities as well as facilities that are not in full use, where there is development or redevelopment potential, and where reuse or development of these sites is slowed due to concerns about RCRA requirements.

LDEQ began participation with EPA in the Ready for Reuse program in July 2003. During FY 2005-06, there were a number of facilities participating in Ready for Reuse as follows:

- Amax Metals - Braithwaite
- CS Metals - Convent
- Pearl River Polymers (Polychemie, Inc.) - Pearl River
- Chemtura (formerly Crompton) - Gretna

- Chemtura - Harahan
- Syngenta (Block G-6 and Block F-7) - St. Gabriel
- Marathon Refinery - Garyville
- Shell Chemical - Taft

RCRA Corrective Action Program

As part of its commitments under the Performance Partnership Grant with EPA, LDEQ currently measures RCRA Corrective Action progress to meet programmatic objectives from the Government Performance Results Act of 1993 (GPRA). This Act was mandated by the U. S. Congress and requires federal agencies such as EPA to develop measures for tracking environmental results. The environmental objectives are referred to as Environmental Indicators (EIs) and carry corrective action codes that are entered by states into EPA's RCRAInfo database. RCRA Corrective Action tracking is performed at those facilities included in a Baseline List of Facilities developed by EPA, with input from LDEQ. The baseline initially included 40 facilities for the 2005 Initiative and was expanded to include 47 facilities for the current 2008 Initiative.

For FY 2005-06, LDEQ reported RCRA Corrective Action progress to EPA for four EIs (also known as events). The first two of these indicators began with the 2005 Initiative, and are also used to report progress in accordance with LDEQ's Operational Plan. The second two indicators, added for the 2008 Initiative, were used for the first time by LDEQ in FY 2005-06. The last item describes other corrective action activities tracked at RCRA facilities for grant commitment purposes.

(1) Current Human Exposures Under Control (RCRA Info Code CA725)

This is the event by which LDEQ formally makes the determination that human exposures to contamination are under control for the entire facility.

EPA's goal for Louisiana for 2008 is to have 95% of facilities with a positive determination for this indicator. LDEQ's completion of this determination at two facilities for FY 2005-06 (ConocoPhillips Lake Charles Refinery and GATX Terminals Corp.) brought LDEQ's total to 44 of 47 facilities, or 94%.

(2) Migration of Contaminated Groundwater Under Control (RCRA Info Code CA750)

This is the event by which LDEQ formally makes the determination that the migration of contaminated groundwater is under control for the entire facility.

EPA's goal for Louisiana for 2008 is to have 80% of facilities with a positive determination for this indicator. LDEQ's completion of this determination at two facilities for FY 2005-06 (ConocoPhillips Lake Charles Refinery and GATX Terminals Corp.) brought LDEQ's total to 41 of 47 facilities, or 87%. Therefore, LDEQ has already exceeded EPA's goal for 2008.

(3) Remedy Selection Decision – Facility Wide (RCRA Info Code CA 400) (new for FY 2005-06)

This is the event when LDEQ formally selects a remedy designed to meet the RCRA corrective action long-term goals of protection of human health and the environment for the entire facility. CA 400 also applies when NFA is required because stabilization measures have been implemented or because site characterization demonstrates that corrective action goals have been achieved. If remedies are selected on a unit by unit basis (e.g., Solid Waste Management Units, or SWMUs), the facility-wide determination is made when the remedy is selected for the last unit.

EPA's goal for Louisiana for 2008 is to have 25% of facilities with a remedy selected for the entire facility. LDEQ's completion of this indicator at four facilities (Dixie Metals Corp., PPG No. 5 Incinerator, MeadWestvaco South Carolina LLC – Specialty Chemicals Division, and CECOS International Inc.) exceeded the FY 2006 goal of three facilities, and brought LDEQ's total to four of 47 facilities, or 8%.

(4) Remedy Construction Completed – Facility Wide (RCRA Info Code CA 550) (new for FY 2005-06)

This is the event by which LDEQ acknowledges in writing that the RCRA facility has completed construction of a remedy that was designed to achieve long-term protection of human health and the environment. CA 550 requires that the remedy is functioning as designed, whether or not final cleanup goals or other requirements have been achieved. CA 550 applies when construction is complete or documentation of no physical construction of a remedy is needed. If corrective action occurs on a unit by unit basis (e.g., Solid Waste Management Units, or SWMUs), the facility-wide determination is made when remedy construction is completed for the last unit.

EPA's goal for Louisiana for 2008 is to have 20% of facilities with a remedy selected for the entire facility. By completing this indicator at three facilities (PPG No. 5 Incinerator, MeadWestvaco South Carolina LLC – Specialty Chemicals Division, and CECOS International Inc.), LDEQ met its goal and brought LDEQ's total to three of 47 facilities, or 6%.

(5) Other Unit Level Corrective Action Activities

Other unit level (SWMUS, AOCs, etc.) corrective action events tracked by LDEQ to meet grant commitment goals include risk assessments (clean-up standards approved) (CA 204), approval of corrective measures studies (CA 350), determinations of NFA (CA 375), selection of remedies and remedy completed/construction completed at the unit level (CA 400 and CA 550), implementation and completion of stabilization measures (CA 600 and CA 650), and facility-wide termination of corrective action (CA 999). These events are grouped by EPA for the purposes of setting goals.

Louisiana exceeded its corrective action goals for FY 2005-06 at the Baseline facilities. The other unit level accomplishments include Risk Assessments (clean-up standards approved) for nine Corrective Action (CA) units, approval of Corrective Measures Studies (CA 350) for five CA Units, Petitions for NFA (CA 375) approved for seven CA Units, Remedy Selection Imposed (CA 400) for six units, Certification of Remedy Construction Complete/Construction Completion (CA

550) at 13 CA Units, Stabilization Measures Completed (CA 650) at one CA Unit, and Stabilization Measures Completed (CA 650) at four units. Additionally, a determination that the Corrective Action Process is terminated for the entire facility (CA 999) was made for PPG No. 5 Incinerator.

Remediation Services Division Regulatory Activities

Real Estate Transactions Pending Regulations

The FY 2003-04 annual report provided information regarding the increased workload for RSD created due to the trend of banks and other lending institutions requiring American Society for Testing and Materials (ASTM) Phase I and/or Phase II investigations prior to lending money for real estate transactions. In the 2006 regular session, the legislature addressed this issue by enacting La. R.S. 30:2011(D)(25). This statute provides authorization for LDEQ to promulgate rules and regulations providing for reviews of environmental conditions of a specified tract of immovable property, including but not limited to requests for NFA letters. The statute specifically requires that the requestor pay a minimum fee not to exceed \$1,500 prior to conducting the review. LDEQ anticipates promulgation of these new rules during FY 2006-07.

New Corbello Regulations and Status of Interventions

The Louisiana state legislature, by enacting Acts 2003, No. 1166, §1 (later amended by Acts 2006, No. 312, §1), codified Louisiana Revised Statute 30:2015.1. The purpose of this statute, herein referred to as the “Corbello statute,” was to address a Louisiana Supreme Court decision that awarded \$33 million in damages to a private party for possible groundwater contamination that threatened a public drinking aquifer. (*G. Corbello, et al. v. Iowa Production, et al.*, 850 So.2d. 686 (La. 2/25/03)). This section will briefly discuss the Corbello case, the Corbello statute, and how the statute relates to LDEQ.

In the Corbello case, mineral lessors sued an oil company for breach of a contractual obligation to “reasonably restore property” to its original, pre-lease condition. During the course of the lease, lessees had deposited salt water on the property that threatened groundwater and damaged the property. The Supreme Court ruled that the private landowners have no duty to seek relief from the administrative agency prior to filing suit against the oil company and that the potential injury to the aquifer and local drinking water was not so speculative as to restrict the lessors’ right of recovery for costs associated with restoring the property to its pre-lease condition. The fact that the groundwater that was

allegedly threatened is the property of the state, rather than of the landowner, did “not prevent plaintiffs from collecting damages for cleanup of the groundwater.” (*Id.* at 699).

One concern that arose out of this case was that private parties could recover for public injuries and there was no way to ensure that the private party used the court-awarded funds for remediation of the site. Courts in other jurisdictions, such as in Mississippi, have held that groundwater contamination is a purely public injury. This concern was the basis for the enactment of La. R.S. 30:2015.1.

How does this statute affect LDEQ? The legislature made a legislative finding that the Constitution of Louisiana, Article IX, Section 1, mandates that “the natural resources of the state, including water, are to be protected, conserved, and replenished insofar as possible and consistent with the health, safety, and welfare of the people.” (Emphasis added) The mechanisms of this statute, as it relates to LDEQ, are as follows:

- When any plaintiff files an action that includes a claim to recover damages for the evaluation and remediation of any contamination or pollution that is alleged to impact or threaten usable groundwater, plaintiff shall provide written notice via certified mail to LDEQ and LDEQ shall have the right to intervene in such litigation or action. This shall not diminish the authority of LDEQ to take action independently.
- If a party admits responsibility or the court determines that contamination of usable groundwater exists and it poses a threat to the public health and that evaluation or remediation is required to protect the usable groundwater, the court shall appoint an expert to develop a plan for evaluation or remediation of the contamination. The court may consider a plan submitted by the plaintiff. The court shall order LDEQ to respond to any plan submitted within 60 days from the date of submission.
- After a hearing or trial on the merits, the court shall adopt the most feasible plan that is consistent with health, safety, and welfare of the people. No plan shall be adopted without the court having provided LDEQ an opportunity to respond.
- The estimated cost to implement the plan for evaluation and remediation of contamination shall be paid into the court registry. The court shall ensure that the monies are spent on the evaluation and remediation of groundwater, and

the court retains jurisdiction and may require the deposit of additional funds into the registry.

- If LDEQ is a party, provides witnesses or evidence, or otherwise contributes to the determination of responsibility for evaluation or remediation, LDEQ is entitled to recover costs and reasonable attorney fees.

Currently, there are 25 cases that involve the allegation of possible contamination or pollution of usable groundwater. Of those, LDEQ has intervened in four. These four cases are: (1) *Del Dean and Paul Ronald Dale David v. Velsicol Chemical Corporation, et al.* - Plaintiffs allege well water is contaminated by arsenic, heptachlor and heptachlor epoxide from the defendant manufacturers' products. Plaintiffs allege contamination to Cow Island/Chicot Aquifer; (2) *JoAnn Grant Johnson and Annette B. Lewis v. Georgia Pacific Corp. et al.* - Plaintiffs allege that wells and/or units situated on or near their individual properties were contaminated by railroad maintenance activities conducted by defendants and their predecessors-in-interest; (3) *Nancy Blanchard and Park Plantation, LLC v. Linder Oil Co., A Partnership, Tortuga Operating Co., and Blanchard 1986 Ltd., A Limited Partnership* - Plaintiffs allege contamination of soils and subsurface of plaintiffs' property due to improper storage, discharge, leakage and disposal of hazardous, toxic and harmful pollutants and contaminants from the production of oil and gas on plaintiffs' property without plaintiffs' authorization; (4) *Rebecca L. Grisham, et al. v. TE Products Pipeline Company, Limited Partnership* - Plaintiffs allege contamination of groundwater due to toxic products leaking from defendant's pipeline.

RSD is the division within LDEQ that is responsible for the determination of the need for interventions and is currently handling the four cases noted above.

Remediation Services Division Improvement Projects

LDEQ Website Updates

In FY 2005-06, LDEQ launched an improved website. The new website included new graphic designs, site architecture, organization, and improved usability. A research study was conducted to evaluate the LDEQ website before the redesign took place.

The research study involved focus groups of key website visitors. The target audiences included: environmental consultants, the general public, educators, industry representatives, elected officials, members of the media, professional web designers and internal LDEQ users. Each group was involved in a five day online interview in which a mediator requested feedback regarding what they liked and disliked about the current LDEQ website. They were also asked for recommendations regarding what they would like to see on the new LDEQ website. The results of the focus group study allowed LDEQ to set priorities for the redesign of the site. The goal for the redesign was to use the feedback of the research study to create the improved website.

The results of the research study encouraged the following website improvements:

- Re-organized the structure and categorization of the content.
- Changed the presentation of the content so that content can be accessed by the public through general links of land, air, and water or by navigation using LDEQ division organization.
- Made navigation through the site an easy process. Added navigation buttons and expandable menus.
- Changed font coloring to make the site easier to read.
- Made efficient use of space on the page.
- Implemented better search features.

The research study results also prompted the restructuring of the Web Content Team. LDEQ now has web content managers representing each division. The web content managers have been trained to make changes to the web pages for their respective

divisions. This restructuring supports better customer service. Individuals familiar with the content are able to make the changes required in a timely manner.

RSD reorganized its content in order to improve usability. RSD has added an alphabetical listing of all topics related to the division's services.

The LDEQ Web Content Team will continue to add to and improve the website to improve its usability and expand its content.