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COMMITTEES:

ENVIRONMENT AND PUBLIC WORKS

COMMERCE SCIENCE AND TRANSPORTATION

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## United States Senate

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May 15, 2008

**VIA FACSIMILE AND U.S. MAIL**  
**IMMEDIATE ATTENTION REQUESTED**

RECEIVED

MAY 15 2008

Mr Timothy P Doody, President  
SE Louisiana Flood Protection Authority-East  
6512 Spanish Fort Blvd.  
New Orleans, LA 70124-4322

Southeast Louisiana  
Flood Protection Authority - East

Dear Mr Doody:

We are writing to you regarding the upcoming discussion and possible vote by the Flood Protection Authority regarding the tree and fence removal proposal along the 17<sup>th</sup> Street Canal. As you are aware, the 17<sup>th</sup> Street Canal Coalition has been in contact with our offices regarding developments along the canal.

Although residents have expressed numerous questions and concerns, their concerns over the effective loss of use of their property with no compensation is the topic that we hear about most often. In order to address this compensation issue, Representative Nick Lorusso introduced HB 1219 in the regular session of the Louisiana Legislature. It is our understanding that the bill has gained strong support within the legislature and has also gained a great deal of support from many others. New Orleans City Council President Arnold Fielkow traveled to Baton Rouge on Monday to support the bill, which was reported favorably out of committee. It is expected to be brought before the full House soon.

We value your service and share the commitment of you and your fellow board members to continue to upgrade our protection system against storms such as Hurricane Katrina. However, as we move forward, we believe it is imperative that we consider the rights of those who stand to lose real property. Given the fact that the Legislature is weighing in on this issue, we ask that you consider either delaying your vote or clarifying that no work is to begin until the Legislature has had a chance to act on this issue.

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Mr. Tim Doody

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We appreciate the responsibility and demands that your service requires. Please know that we wish to continue our strong working relationship and we ask that you please keep us informed of ways that we may be helpful to you and your fellow board members.

Sincerely,

A handwritten signature in dark ink, appearing to read "David Vitter". The signature is fluid and cursive, with the first name "David" and last name "Vitter" clearly distinguishable.

David Vitter  
United States Senator

A handwritten signature in dark ink, appearing to read "Steve". The signature is cursive and stylized, with a large initial "S" and a clear "teve" following.

Steve Scalise  
Member of Congress

cc: Southeast Louisiana Flood Protection Authority East Board Members

United States Senate  
WASHINGTON, DC 20510-1804

May 13, 2008

Colonel Alvin Lee  
District Commander  
U.S. Army Corps of Engineers, New Orleans District  
P.O. Box 60267  
New Orleans, Louisiana 70160

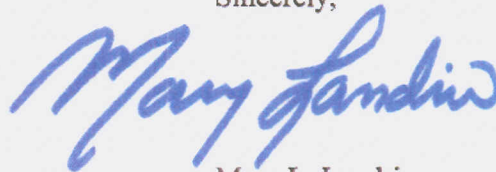
Dear Colonel Lee:

Recently, I was contacted by Danté Maraldo of the 17<sup>th</sup> Street Canal Coalition. In his letter, which I have enclosed, Mr. Maraldo points out that the Corps of Engineers is attempting to expropriate land along the canal without compensating homeowners.

Obviously, this report is concerning. I understand that the safety of the levees is the primary objective of the Corps of Engineers, however, citizens who have already suffered so much should not be divested of their land without compensation. I would appreciate it if you would, at your earliest convenience, look over Mr. Maraldo's letter and copy me on the response. I would also appreciate a copy of your plan for tree and fence removal along the 17<sup>th</sup> Street Canal, an estimate of how many homes and yards will be affected by this plan, and what, if any, compensation will be offered.

With kindest regards, I am,

Sincerely,



Mary L. Landrieu  
United States Senator

MLL:rbw

## LOUISIANA HOUSE OF REPRESENTATIVES

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Appropriations  
Vice Chairman, Health and Welfare  
Labor and Industrial Relations

**JOHN F. LaBRUZZO**  
State Representative ~ District 81

Dear Members of the Southeast Louisiana Flood Protection Authority-East Board:

It has been brought to my attention by concerned residents and colleagues that the Corps is attempting to take homeowners' lands without just compensation. Any time that the land of individual property owners is being taken from them I am greatly concerned. First, I am concerned that it is truly a necessity to take that individual's property for the greater good of the public and second that they are given just compensation for their land.

I understand that it is necessary in certain circumstances that the Corps have the ability to appropriate property along riparian lands to address safety concerns. The property along the 17<sup>th</sup> Street Canal and other drainage and outfall canals are not riparian lands and therefore are not subject to the statutes governing appropriations. Therefore, it is my understanding that if it is shown that the property owners' land must be taken by necessity, these property owners must be paid just compensation.

The 2007 legislation drafted by my fellow House Member Nick Lorusso was intended to clarify this notion. I write today in support of the homeowners along the 17<sup>th</sup> Street Canal and similarly situated property owners. Their land may not be appropriated by the Corps. The intent of the legislature is clear that these property owners must be fairly compensated for their lands. I also strongly support Rep. Lorusso's efforts to further amend and clarify that this is indeed the intent of the legislature. Thank you again for your attention to this important matter.

Sincerely,

*John LaBruzzo*  
Representative John LaBruzzo  
District 81



Dear Members of the Southeast Louisiana Flood Protection Authority-East Board:

I will be unable to attend your meeting this afternoon, as we will be handling the State budget in the House of Representatives today. However, I would like to provide you with the history of the legislation directly affecting the proposed "Tree/Fence Remove" project before you today.

Last year, I authored Act 362 (2007) to address the attempted taking of private property along the 17<sup>th</sup> Street Canal without compensation. This Act attempted to clarify Louisiana Revised Statute 19:14, upon which the Corps relied to support its position that compensation was not required for the taking of property along the 17th Street Canal. However, this Act has apparently not served its intended purpose. As a result, I introduced House Bill (HB) 1219 during the current Legislative Session to further clarify the Legislature's intent on this issue. House Bill 1219 is the result of extensive research and meetings with fellow legislators and levee experts statewide. Its intent is to once again clarify Louisiana law to make it perfectly clear that any taking of our citizen's property must be accompanied by just compensation. Earlier this week, HB 1219 was brought before the House Committee on Civil Law and Procedure. The 17<sup>th</sup> Street Canal Coalition and New Orleans City Council President Arnold Fielkow provided strong and compelling testimony in favor of this bill. The Committee was very impressed by the testimony and unanimously passed the bill. I anticipate that House Bill 1219 will be brought before the full House sometime next week, followed by debate in the Senate.

As a resident of the Lake Area in New Orleans, I certainly share in the concern of our citizens for the safety of our flood control system. However, the 17<sup>th</sup> Street Canal Coalition is not attempting to prevent any necessary repairs to our levees. All our citizens are requested is fair and just compensation for their property.

Based upon the foregoing, I respectfully request that the Board deny the pending request for a right of entry and a right of use along the 17<sup>th</sup> Street Canal without compensation. Alternatively, I would respectfully ask the Board to defer ruling on the request for a right of entry and a right of use along the 17<sup>th</sup> Street Canal without compensation until after the current Legislative Session in order to give the entire Legislature the opportunity to discuss and vote on House Bill 1219.

Thank you for your consideration in this matter.

Sincerely,

Nicholas J. Lorusso

**RESOLUTION**

**NO. R-08-260**

**CITY HALL: May 15, 2008**

**BY: COUNCILMEMBERS FIELKOW, MIDURA AND HEDGES MORRELL**

**WHEREAS**, the United States Army Corps of Engineers (the Corps) has requested right of entry and right of use for property along parts of the 17th Street Canal and has already exercised this right along the London Avenue Canal in order to implement its Tree and Fence Removal Program; and

**WHEREAS**, the implementation of the Corps' Tree and Fence Removal Program will result in the loss of property for many residents along the 17th Street Canal which has already been experienced by property owners London Avenue Canal without any compensation; and

**WHEREAS**, the Corps maintains that the residents along the 17th Street Canal and London Avenue Canal are not entitled to any compensation for the right of entry and right of use on their property under Louisiana state law LSA R.S. 19:14 and LSA-R.S. 38:225; and

**WHEREAS**, while the Corps' Tree and Fence Removal Program would actually prohibit the residents from using their own property in any manner at any time, the residents will still retain all obligations to maintain the property, pay taxes on the property, and be liable for the property; and

**WHEREAS**, the residents living along the 17th Street Canal levees of Lakewood South and Lakeview North unanimously united to form the 17th Street Canal Coalition for the purpose of supporting stronger flood protection without the illegal seizure of private property without compensation; and

**WHEREAS**, property owners on Warrington Drive and Pratt Drive, in Filmore Gardens and the Vista Park neighborhoods along the London Avenue Canal levees are also united for the purpose of supporting stronger flood protection without the illegal seizure of private property without compensation; and

**WHEREAS**, 17th Street Canal Coalition has been instrumental in helping to draft and introduce House Bill 1219, sponsored by Representative Nick Lorusso, which clarifies that LSA-R.S. 19:14 requires compensation to residents along drainage canals and outfall canals like the 17th Street Canal and the London Avenue Canal if their property is taken for any type of servitude, right of entry, and/or right of use; and

**WHEREAS**, it is the sense of the Council that every effort should be made to provide fair and just consideration to residents along the 17<sup>th</sup> Street Canal and the London Avenue Canal; now, therefore

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS**, that it supports and encourages the efforts of the 17<sup>th</sup> Street Canal Coalition and property owners along the London Avenue Canal and urges the Louisiana Legislature to adopt HB 1219 which would clarify property owners' rights to fair compensation.

**BE IT FURTHER RESOLVED** that certified copies of this Resolution be sent to all members of the New Orleans delegation to the Louisiana State Legislature and to Southeast Louisiana Flood Protection Authority-East Board's President, Mr. Timothy Doody.

**THE FOREGOING RESOLUTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION THEREOF AND RESULTED AS FOLLOWS:**

**YEAS:**

**NAYS:**

**ABSENT:**

**AND THE RESOLUTION WAS ADOPTED.**