

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: KATRINA CANAL BREACHES
CONSOLIDATED LITIGATION

CIVIL ACTION
NUMBER: 05-4182 "K"(2)
JUDGE DUVAL
MAG. WILKINSON

PERTAINS TO: *Robinson*
(No. 06-2268)

**PLAINTIFFS' REQUEST TO TAKE JUDICIAL NOTICE IN SUPPORT
OF MOTION FOR SUMMARY ADJUDICATION**

I

Plaintiffs respectfully request that the Court take judicial notice of the following documents and their contents as, alternatively, legislative facts or adjudicative facts pursuant to F.R.E. 201:

	Title	Plaintiffs' Exhibit No.
1.	House Doc. No. 245, Mississippi River-Gulf Outlet, 82 nd Cong., 1 st Sess. (1951)	2
2.	House Doc. No. 231, Lake Pontchartrain and Vicinity Hurricane Protection Plan, 89 th Cong., 1 st Sess. (1965)	10
3.	February 2, 2007, Order and Reasons Denying United States Motion to Dismiss (Doc. No. 2994)	50
4.	Flood Control Act of 1965, P.L. 89-298, 79 Stat. 1073 (October 27, 1965)	57
5.	Proceedings and Debates of the First Session of the Seventieth Congress, Cong. Rec. vol. 68, part 11 (Flood Control Act of 1928; April 17, 1928)	61

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| 6. | House Doc. No. 272, Annual Report of the Chief of Engineers, 82 nd Cong. 2 nd Sess. (1951) | 62 |
| 7. | Proceedings and Debates of the 89 th Congress, 1 st Session, Cong. Rec. vol. 111, part 22 (Flood Control Act of 1965; Sept. 1, 1965) | 63 |

II

Plaintiffs further respectfully request that the Court take judicial notice of the following documents and their contents pursuant to F.R.E. 201:

Title	Plaintiffs’ Exhibit No.
1. Independent Levee Investigation Team, Investigation of the Performance of the New Orleans Flood Protections Systms in Hurricane Katrina on August 29, 2005, Final Report – July 31, 2006.	3
2. Team Louisiana, The Failure of the New Orleans Levee System During Hurricane Katrina, December 18, 2006	4
3. Excerpts from Transcript of Defendants’ Deposition pursuant F.R.C.P. 30(b)(6) by Walter O. Baummy, Jr.; Alfred Charles Naomi, Nancy Jean Powell; and Keith Joseph O’Cain. November 14-15, 2007	8
4. United States Army Corps of Engineers, Mississippi River-Gulf Outlet, St. Bernard Parish, La.: Bank Erosion, Reconnaissance Report (February, 1988)	9
5. United States Army Corps of Engineers, Integrated Final Report to Congress and Legislative Environmental Impact Statement for Mississippi River-Gulf Outlet Deep-Draft De-authorization Study (November, 2007)	11
6. Defendants United States’ Rebuttal of Plaintiffs’ Sur-Reply in Support of opposition to Defendants’ Motion to Certify (June 22, 2007)	12
7. United States Army Corps of Engineers, Mississippi River-Gulf Outlet: Design Memorandum No. 1-B (September, 1958 – Revised May, 1959)	15

8. United States Army Corps of Engineers, Issue Paper: Mississippi River-Gulf Outlet – Bank Erosion (February 17, 1993) 16
9. United States Army Corps of Engineers, Louisiana Coastal Area: Ecosystem Restoration Study (November, 2004) 18
10. United States Government Accountability Office, Hurricane Protection: Statutory and Regulatory Framework for Levee Maintenance and Emergency Response for the Lake Pontchartrain Project (December 15, 2005) GAO-06-322T 19
11. Interagency Performance Evaluation Task Force, Performance Evaluation of the New Orleans and Southeast Louisiana Hurricane Protection System (Interim Final Report, March 26, 2007) 20
12. Office of the President of the United States, The Federal Response to Hurricane Katrina: Lessons Learned (February, 2006) 21
13. United States House of Representatives, A Failure of Initiative: Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina (February 15, 2006) 22
14. United States Senate Committee on Homeland Security and Governmental Affairs, Hurricane Katrina: A Nation Still Unprepared, S. Rep. 109-322 (2006) 23
15. United States General Accounting Office, Army Corps of Engineers: History of the Lake Pontchartrain and Vicinity Hurricane Protection Project (November 9, 2005) GAO-06-244T 24
16. United States Comptroller General, Cost, Schedule, and Performance Problems of the Lake Pontchartrain and Vicinity, Louisiana, Hurricane Protection Project (August 31, 1976) 25
17. United States Army Corps of Engineers, Decision-Making Chronology for the Lake Pontchartrain & Vicinity Hurricane Protection Project (June, 2007) 26
18. Excerpts from Deposition Transcript of Richard Varuso in *Turner v. Murphy Oil USA, Inc.*, August 22, 2006 27
19. Excerpts from Deposition Transcript of Robert A. Dalrymple in MRGO Consolidated Class Action Litigation, September 18, 2007 28

20.	United States Army Corps of Engineers, Lake Pontchartrain, La. and Vicinity: Chalmette Area Plan, Design Memorandum No. 3: General Design (November 1966)	30
21.	United States Army Corps of Engineers, Disposition Form (November 7, 1969)	32
22.	Exhibit 53 to from Transcript of Defendants’ Deposition pursuant F.R.C.P. 30(b)(6) by Walter O. Baumy, Jr.; Alfred Charles Naomi, Nancy Jean Powell; and Keith Joseph O’Cain. November 14-15, 2007 (Drawing of Lake Pontchartrain, La. and Vicinity: Chalmette Area Plan – Hurricane Protection Levee: First Lift	34
23.	United States Army Corps of Engineers, Lake Pontchartrain, La. and Vicinity Chalmette Area Plan, Design Memorandum No. 3 – General Design Supplement No. 1 – Chalmette Extension (September, 1968)	41
24.	American Society of Civil Engineers, The New Orleans Hurricane Protection System: What Went Wrong and Why (June 4, 2007)	42
25.	United States Office of Management and Budget, Agency Scorecards	43
26.	Excerpts from the Deposition Transcript of Robert Glenn Bea, November 19, 2007	45
27.	Hurricane Protection, Louisiana: Section 905(b) of the Water Resources Development Act of 1986 Analysis (June 28, 2002)	46
28.	May 31, 1979 Correspondence from Carey W. Curlin, United States Department of Interior, Fish and Wildlife Service to Jack A. Stephens, Director-Secretary St. Bernard Parish Planning Commission	51 & 58
29.	Team Louisiana, The Failure of the New Orleans Levee System During Hurricane Katrina, Table 15, December 18, 2006	52
30.	Exhibit 53 to from Transcript of Defendants’ Deposition pursuant F.R.C.P. 30(b)(6) by Walter O. Baumy, Jr.; Alfred Charles Naomi, Nancy Jean Powell; and Keith Joseph O’Cain. November 14-15, 2007 (Drawing of Lake Pontchartrain, La. and Vicinity: Chalmette Area Plan – Hurricane Protection Levee: Second Lift)	54

31. United States Army Corps of Engineers, Engineering and Design: Design and Construction of Levees (March 31, 1978) 55
32. United States Army Corps of Engineers, Engineering and Design: Design and Construction of Levees (April 30, 2000) 56
33. United States Army Corps of Engineers, Geological Investigation of the Mississippi River-Gulf Outlet Channel (February, 1958) 59
34. United States General Accountability Office, Army Corps of Engineers: Lake Pontchartrain and Vicinity Hurricane Protection Project (September 28, 2005) GAO-05-1050T 60
35. United States Army Corps of Engineers, Shore Protection, Planning and Design, Technical Report No. 4 (3d ed. 1966) 65
36. Excerpts from Oral Argument Re: United States Motion to Dismiss Plaintiffs' Complaint (October 27, 2006) 66
37. 1972 Opinion Letter by the Army Corps' General Counsel (quoted in *Environmental Defense Fund, Inc. v. Alexander*, 467 F. Supp. 885, 901 (N. D. Miss. 1979))

Dated: January 11, 2008

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CERTIFICATE OF SERVICE

I, Pierce O'Donnell, hereby certify that on January 11, 2008, I caused to be served **PLAINTIFFS' REQUEST TO TAKE JUDICIAL NOTICE IN SUPPORT OF MOTION FOR SUMMARY ADJUDICATION**, upon Defendants' counsel, Robin D. Smith, Catherine Corlies, Traci Colquette, and Jim McConnon by ECF and email at robin.doyle.smith@usdoj.gov; catherine.corlies@usdoj.gov, traci.colquette@usdoj.gov, and jim.mcconnon@usdoj.gov

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