

STATEMENT BY JAMES P. HUEY
Former President of the Board of Commissioners
of the Orleans Levee District

UNITED STATES SENATE
Committee on
Homeland Security and Governmental Affairs

Committee Hearing December 15, 2005
“Hurricane Katrina: Who’s In Charge of the New Orleans Levees?”

My name is James P. Huey and I am the former President of the Board of Commissioners of the Orleans Levee District, having served as the Board’s President from June of 1996 until October, 2005.

I appreciate the opportunity this committee has afforded me to testify here today. I want to take this opportunity to thank your staff and the delegation investigating this very important segment of the flood control system. They have conducted themselves in a very professional manner and have been sensitive and courteous in gathering the information and facts that will be crucial to this committee in identifying any weakness and/or problems that may have contributed to the disaster that Hurricane Katrina created for the City of New Orleans and the surrounding Parishes.

I completely understand the importance of providing this information in a

truthful and factual manner, so that this committee will have the best information possible. This is the only way to assure that our community will be provided with the appropriate flood control system to protect their property and lives.

In order for our community to rebuild and recover from this catastrophic event our people must have the confidence that the proper solutions will be formulated and that the errors identified are corrected. This can only be accomplished if we all tell the truth and provide the facts regardless of our personal and/or self interest. It is with this spirit and understanding that I will testify today.

I appear before this Committee with a sense of the deepest sadness in the wake of the greatest natural catastrophe in American history - Hurricane Katrina. Hurricane Katrina virtually destroyed the great City of New Orleans, where I was raised, grew up and have made my home since boyhood. This Hurricane affected me personally - I have been displaced from my home and witnessed catastrophic destruction to the city that is my home. This Hurricane also resulted in my resignation as President of the Board in late October under criticism primarily for actions taken by me immediately after the storm. I am not here to defend those actions or take up this Committee's valuable time

debating those issues, because they do not concern the important issue and enormous challenge being addressed by this Committee - understanding how the recent catastrophe caused by the flooding of the City of New Orleans can be avoided in the future.

I also do not appear here as an advocate for any particular cause or view point; the issues are of such gravity and stretch beyond the realm of personal or partisan interest. I hope, therefore, that you will receive what I say as solely the expression of a concerned citizen with one purpose in mind - to assist you in your awesome responsibility of formulating policies for the flood protection of one of the greatest cities in our country. And it is at the level of the Congress of the United States that these issues need to be debated and policy decisions made, because flood protection for the City of New Orleans and the Lake Pontchartrain vicinity has been the product of national legislation since enactment of the Flood Contract Act of 1965.

In your letter to me dated on December 7, 2005, you stated that the focus of this hearing would be on the roles and responsibilities of the federal, state and local government entities for the design, construction, operation and maintenance, and inspection of the levees, and the preparation for, and response to, levee emergencies in metropolitan New Orleans. You also

stated in this letter that I would be asked to testify concerning my experiences as President of the Orleans Levee Board, particularly with respect to the Orleans Levee District's operation and maintenance procedures and policies, inspection of the levees, and also the financial resources available and used to meet the Levee District's primary mission of protecting the lives and property of the citizens of Orleans Parish by constructing, operating and maintaining the levees within the District's jurisdiction. I will do my very best to share with you my understanding of these matters and my experience as a Commissioner and as President of the Orleans Levee Board on how these matters were addressed and dealt with by the Orleans Levee Board and District.

The flood walls and levees that failed during the impact of Hurricane Katrina on the City of New Orleans were constructed by the USCAE as part of the Lake Pontchartrain and Vicinity High Level Plan. When I was appointed to the Levee Board as a Commissioner in 1992, the Board was actively pursuing the commencement of the construction of parallel protection for the London Avenue, Orleans Avenue and 17th Street canals. The role and responsibilities of the Orleans Levee District for this project was to act as local sponsor and as such provide certain assurances for this project to the Corps in

consideration of the Corps constructing the project. These assurances by the Board, as local sponsor, were set forth in a number of agreements between the Board and the United States of America, by and through the Corps of Engineers, dating back to July of 1966. The responsibilities and obligations of the Board, as the authorized local governmental body to enter into these agreements under Louisiana law, were set forth in detail in these agreements.

These obligations of the Board as local sponsor, referred to as “assurances” in these agreements, consisted of the following:

- To provide all lands, easements, and rights-of-ways, including borrow and spoil disposal areas necessary for construction, operation and maintenance of the project;
- To accomplish all necessary alterations and relocations to roads, railroads, pipelines, cables, wharves, drainage structures, and other facilities required for the construction of the project;
- To hold and save the United States free from damages due to the construction works;
- To provide 30 percent of the cost for the project through cash contributions in a lump sum, or in installments paid at least annually, in proportion to the federal appropriation for the project,

in accordance with the construction schedules as required by the Chief of Engineers of the USACE; or, as a substitute for any part of the cash contribution, to accomplish, in accordance with approved construction schedules, items of work of equivalent value as determined by the Chief of Engineers;

- To provide all interior drainage and pumping plants required for reclamation and development of the protected areas;
- To maintain and operate after completion of a project all features of the project in accordance with regulations prescribed by the Corps;
- To acquire adequate easements or other interest in land to prevent encroachment on existing ponding areas, unless substitute storage capacity or equivalent pumping capacity is provided promptly; and,
- To comply with all applicable provisions of federal law relating to the project, including the Flood Control Act, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and the Civil Rights Act of 1964.

In connection with the local cost share for these project, including the

flood walls for parallel protection on the London Avenue and 17th Street canals, the Levee District was authorized to identify and select engineering consultant firms to participate in the work on the parallel protection plan and provide services in accordance with the requirements of the Corps. The payments made by the Levee District to these consultants were an “in kind” contribution and credit on the 30% local sponsor contribution. The Levee District did secure the services of engineering firms for the design phases of these projects and their work was subject to the review and approval of the Corps. After the Corps approved the engineering work for the projects, the Corps then entered into contracts for the construction of the projects with local contractors.

These were the responsibilities and duties of the Orleans Levee District in connection with the design and construction of the flood walls on the outfall canals that failed as a result of the impact of Hurricane Katrina. As set forth in the assurances, after these projects were completed, the Orleans Levee District’s personnel maintained and inspected these projects consisting of 27.8 miles of Inner levees and flood walls in the city of New Orleans. In addition, the District maintained and inspected some 73.4 miles of Frontline levees on Lake Pontchartrain, and 27.5 miles of Mississippi River levees and

flood walls protecting the citizens of the City of New Orleans. In total, the District maintains and inspects a total of some 128 miles of levees, including 203 floodgates and 102 valves. As required under the assurances, the operation and maintenance of these levees is in accordance with the regulations prescribed by the USACE.

During my tenure as a Commissioner on the Orleans Levee Board, I can tell you that we worked closely with the Corps' district office in New Orleans and had an open and solid working relationship with the Corps. Prior to my election as President of the Board, I served as the Chairman of the Board's Engineering Committee, and as such I was personally familiar with the parallel protection plan authorized and constructed by the Corps. This Committee met monthly and a Corps representative updated the District on the status of the work at each monthly committee meeting. Also, after my election as President, Corps representatives each month attended committee meetings of the Board and briefed the committees on the status of projects as well as future projects necessary to complete the Lake Pontchartrain and Vicinity Hurricane Protection Plan. I can also inform you that to my knowledge there were no complaints by the Corps about the inspection and maintenance of the flood protection system by the Orleans Levee District. In addition, the recent

reports that the system was only inspected bi-annually and only in a cursory manner by Levee District and Corps representatives are inaccurate and unfounded. As will be discussed by the Executive Director of the District, inspection of the flood control system was a daily function of the operations and maintenance departments of the Levee District. The Executive Director of the Levee District, Mr. Max L. Hearn, well knows the procedures followed since he served as the Director of Operations and Maintenance until his promotion to Executive Director in 1997. The maintenance and inspection of the levee system was also conducted under the supervision of the Orleans Levee District's Engineering Department. The District has a Chief Engineer, Assistant Chief Engineer and staff that report to the Board each month at committee and board meetings. Furthermore, while I was President over the past 9 years, I was available on a daily basis to discuss any needs or concerns of the Levee District's staff, especially any related to flood control.

In sum, after serving for 13 years on the Orleans Levee Board, I can earnestly tell you that it was my understanding that the primary responsibility for design and construction of the flood protection system for the City of New Orleans rested with the USACE. The Orleans Levee District did not unilaterally initiate flood control projects, which were subject to the direction

and control of the USACE. I do not say this to in any way cast blame for the recent catastrophe on the Corps. I say this because this is how things were, this was the reality when I was appointed and throughout my tenure on the Board. There are good reasons why this was the case. The scope and cost of these projects is far beyond the financial capability of local governmental agencies. Simply put, flood protection is a national obligation beyond the capacity of state and local governments. The local governmental entities have obligations as reflected in the assurances to be provided for the projects; and, the Orleans Levee District provided these assurances for completion of these projects by the Corps. After completion of these projects by the Corps, the Orleans Levee District operated, maintained and inspected these flood protection projects in accordance with the regulations of the Corps.

During the time I served on the Board, the Levee District also had a Legal Department that attended to all of the legal questions confronted by the District, including the Board's obligations under federal and state laws relating to flood control. While a member of the Board, I cannot recall one instance when we were advised either by our in-house counsel or through outside complaints brought to our attention that the Board was not fulfilling its legal obligations regarding any aspect of the operation, maintenance or inspection

of the flood control system that protected the lives and property of the citizens of the City of New Orleans.

I appreciate the opportunity to make this statement and will do my best to answer any of your questions.