

NEWS FROM THE DOCKS



ASSOCIATION OF LOUISIANA

Louisiana Ports Deliver

July 2015

Volume 16, No 7

Message from the PAL Office

We hope you all had a wonderful 4th of July. PAL starts July with our monthly meeting in Vidalia. We appreciate the efforts of the Ports of Vidalia, Lake Providence, Ouachita and Madison Parish for hosting this event. We had a great experience there last year and we are looking forward to returning.



On August 6th we are going to visit the Port of Lake Charles. That is always a fun trip too. We hope that a good many of our associate members will take advantage of these opportunities to visit ports around the state and to get to know their staff and operations.

A reminder to associate members...please check to see if your dues have been paid for 2015. If you are concerned just call the PAL office and I will be happy to let you know your membership status.

The 2016 PAL Conference will be held in Acadiana. The host hotel has not yet been selected but we will let you know as soon as rooms are booked. Host ports will be the Ports of Iberia, Morgan City, West St. Mary, Krotz Springs and Abbeville.

Legislative Update

The following is a summary of the final disposition of several bills which are of interest to Ports and the maritime industry, considered during the 2015 Legislative Session:

Port Priority Program--HB 2, the Capital Outlay bill, was signed by Governor Bobby Jindal and is now Act 26. It contains \$19.7 million for the Port Priority Program. There are 23 continuing and new projects in the PPP, with an estimated cost of \$514 million, requiring a balance of \$130.7 million of state funding, with the additional funding provided by port and private funding, supporting 2,963 jobs.

Design – Build authorization for Ports extended the sunset of the program to December 31, 2020, in Senate Bill 66 by Senator Gary Smith. It became Act 156.

Office Multimodal Commerce law (OMC) which was revised by SB 161 by Senator Norby Chabert, became Act 31. The Act consolidates the currently authorized six sections of the Office Multimodal Commerce into four sections—Ports and Waterways, Commercial Trucking, Aviation, Freight and Passenger rail. It provides for the Commissioner of the OMC to be appointed as early as January 12, 2016 by the new governor, and for the OMC operational plan to be presented to the 2016 Legislature and become effective on July 1, 2016.

Transportation Trust Fund--Port Priority, Aviation, Parish Transportation, Drainage and

State Police are funded from 20% of the Transportation Trust Funds as authorized by the La. Constitution. HB 208 by Terry Landry which became Act 380, reduces the \$71 million fiscal year 2015-16 TTF funding for State Police to \$25 million in fiscal year 2016-17, and to \$10 million in subsequent fiscal years. This reduction for State Police funding is replaced with an increase of vehicle registration fees to \$50, provided in Act 110, by Rep.Mack.

This legislative action has the potential to make available additional funding for PPP from the TTF when State Police funding is reduced.

Senator Robert Adley's efforts to provide additional funding for transportation infrastructure included multiple bills which have become law--

Acts 275 and 465 increased by \$100 million to \$950 million the amount of mineral funds available for appropriations before being deposited to the Budget Stabilization Trust Fund, with the increased available amount of \$100 million designated for the Transportation Trust Fund. The law has the potential to provide up to an additional \$7 million for the PPP. In order to secure passage, a provision was included to repeal the law which designated the vehicle sales taxes for the TTF. The law is also dependent on \$80 per barrel oil prices.

Act 473 is a constitutional amendment which creates the Budget and Transportation Stabilization Trust Funds and provides that when the Budget Stabilization Trust Fund reaches \$500 million of mineral funds, the additional mineral revenue of up to \$500 million will flow to the Transportation Stabilization Trust Fund, of which not less than 20% is designated for a DOTD Intermodal Connector program. This provision has the potential to make available appropriations for connector highways to ports.

Port Tax Credits—Representative Katrina Jackson's HB 629 became Act 125, which reduced all tax credits by 28%. The bill has a 3 year sunset.

As a result of this reduction, the maximum Port Infrastructure Tax credits which may be taken at 5% per annum of the total cost, are limited to \$1.8 million per annum for each project, not to exceed \$4.5 million per annum for all projects.

The Import-Export Tax credits are limited \$3.60 per qualified ton, not to exceed \$4.5 million per annum for all recipients.

There remains the requirement and limitation of the credit to "Significant positive economic benefit".

Infrastructure Bank—Act 125 by Representative St. Germain, creates the La. Infrastructure Bank, and Act 471, a constitutional amendment, authorizes the investment of public funds in the Infrastructure Bank. All political subdivisions of the state would be authorized to seek loans for Transportation infrastructure.

Rep. St. Germain's effort to enact an increase to the fuel tax failed to pass the legislature.

Liquidified Natural Gas will now be taxed at a rate equivalent to gasoline under Act 147 by Senator White.

Public Property/Ad Valorem Taxes—Act 470 by Representative Chaney is a constitutional amendment which specifies that the exemption from ad valorem taxes on public property is limited to land or property owned by the state or a political subdivision of the state.

Trade Promotion Authority/ Import-Export Bank—PAL sent letters of endorsement for the TPA for the Pacific nation negotiations to La. Congressional delegation, which has been enacted into law by Congress. Congress has allowed the existing Import-Export Bank law to expire with a promise to consider the reauthorization later this summer.

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Joe Accardo
Executive Director

Corporate Member News

Port of Lake Charles



Of Great Importance - Lake Charles port's role integral, often overlooked

American Press (6/28/15)
by Crystal Stevenson

Despite being out in the open, the Port of Lake Charles often works in the shadows of the public image.

“The Port of Lake Charles is a very integral part of the community here, and actually touches a lot more of the community than maybe the common person recognizes,” said Bill Rase, executive director of the Lake Charles Harbor and Terminal District.



Lake Charles has been a port of call since the early 1800s for sailing vessels navigating the shallow river to pick up cargoes of lumber. Today, the port is the 13th largest in the nation and leases much of its 5,000 square acres of prime real estate to many of the biggest economic players in the region that require deepwater access.



“Once all the LNG facilities are put in place, we’ll probably move into the top 10,” Rase said. “Current industrial sites that have been here for decades rely on the Calcasieu River Ship Channel, and deep-water access makes Southwest Louisiana an ideal location for announced projects.”

He said the announced industrial projects expected to be built in the area have really put Lake Charles on the map.

“With all the capital investments, its driving people to recognize the port around the world. We’ve had people in from Korea, China and so forth, they know where Lake Charles is now. That didn’t happen seven, eight, 10 years ago.”

Rase said the port is divided into two sections: cargo at port-owned facilities and docks and the ship channel, which runs from Calcasieu through Cameron Parish and 32 miles into the Gulf of Mexico.

He said the port plays a vital role in facilitating industrial expansion, meeting transportation needs of the current sites and growing cargohandling capabilities.

“If you take a look at the number of people who are employed along the channel — such as Citgo, Phillips 66, Axiall — the total employment plus the employment that feeds off of those particular companies, you’re talking about a very large piece of the community that is actually tied to the Port of Lake Charles.”

Rase said the port will likely be responsible for 40 percent of the dollar value of the exported products that leaves Lake Charles during the height of the industrial expansion.

“Without this channel, these businesses don’t exist and I think that’s what the community doesn’t recognize,” Rase said. “I think people underestimate what needs to be done and what has to be done in order to do that.”

He said if the channel is not adequately maintained by the U.S. Army Corps of Engineers the port “runs the risk of losing potential projects and damaging the current transportation capabilities, including 7.5 percent of America’s daily energy consumption that comes from facilities along the channel.”

“Basically with economic expansion I always relate it to a threelegged stool,” he said. “The only reason it’s here is that you have a deepwater channel of 40 feet, you have a pipeline system that is second to none, and then you have the ability for natural gas from the fracking process. If you kick any one of those legs out, the other two don’t need to be here.”

He said products made in Lake Charles are exported throughout the country.

“If you follow the pipeline system, we reach New York, Ohio and on and on in product that leaves Lake Charles that gets to those areas,” he said. “When you really look at the overall picture of the port, everybody looks at city docks as the port, well that’s really not the total port.”

He said the port has about 1,000 ships pass through each year. He expects about 2,000 a year at the height of the area’s industrial boom in 2020.

Rase said a study on the depth of the channel has found that the channel is capable of handling that much traffic, but will need to be dredged to meet the federal requirement of 40 feet deep and 400 feet wide.

“We have less than that now so we actually have draft restrictions which costs companies quite a bit of money because they can’t load their vessels to maximum depth,” he said. “We have dredges out there working now but we’ve had this restriction in place since December so each one of these companies will probably lose somewhere close to \$1 million that they could have saved. It’s a big issue around the country. It’s not just here in Lake Charles.”

“If the channel is not wide enough and cannot allow more than one ship to pass, transportation will be significantly slowed and increased

shipping costs will be passed to the clients,” he said.

Rase said the port plans to invest about \$400,000 in infrastructure next year, including a new administrative building. They are also in the process of modernizing a transit ship and have recently added a loop track into the port to handle increased rail traffic expected to come with the opening of a new grain elevator.

Rase said the grain elevator is the first to be built in the Gulf of Mexico in about 50 years and is expected to move about a million tons of grain through the Port of Lake Charles.

He said the port is also opening a short-line railroad on July 1 to help move cargo.

Rase said he understands why residents may feel the announced industrial projects are slow to come to fruition.

“I think what happens is the hype has outrun these projects,” Rase said.

He predicts that by 2017, there will be enough of a population increase in Southwest Louisiana “that you’ll definitely know you’re in a boom.”

He said the term “boom” adequately describes Southwest Louisiana’s good fortune.

“It’s actually a good word. It’s going to be a plus for this area without any destruction of physical property,” he said. “It’s important that the people recognize the boom will bring high-paying, good solid jobs and that is something most areas can’t really claim right now.”

Something he said will also be necessary during the industrial development is worker villages.

“Where they happen will either be here or Texas. Most people say, ‘Well, gee, I’d rather they go to Texas.’ Well, if they go to Texas they’re going to take their money with them,” he said. “They’re going to take their tax revenue, they’re going to take the infrastructure that could be put in place here.

“They have to be in the right place, but they are going to serve a purpose,” he said. “You can’t put 20,000 people in here and build enough hotels and RV parks and condominiums to take care of them because when those 20,000 leave you’re going to have to take care of what’s left behind.

“These villages can come in, can serve their purpose and they can leave,” he said. “Is everybody going to be a good guy? No. But the majority of them will be because they have to keep their jobs.”

He said Pelican Lodge, a worker village set to house 4,000 people, will be built on port property on La. 397 and should be in operation by this time next year. The facility will provide housing, catering/facility management and transportation of workers to and from the various worksites.

Rase said the expected boom may be centered in Calcasieu Parish, but the effect will stretch through all of Southwest Louisiana.

“The port is the region’s largest economic driver,” Rase said. “This whole community has a large interest in what’s going to go on over the next five to 10 years in the development of the community and the port is going to be a big part of that.”

Port of New Orleans



**CN Railway Expands
Gulf Gateway Focus in Signing Supply Chain
Agreement with Port of New Orleans**

PORT NOLA
THE PORT OF NEW ORLEANS

The Port of New Orleans and CN (TSX: CNR) (NYSE: CN) signed a memorandum of understanding (MOU) that will see the parties develop greater supply chain efficiencies aimed at drawing more container traffic through the Port to North American markets.

“We and our Port of New Orleans gateway partners have a mutual interest in ensuring the competitive and efficient movement of container goods through the gateway and growing its market share,” said JJ Ruest, CN’s executive vice president and chief marketing officer. “This MOU will help us advance that agenda.”

“We are pleased to build upon our long-standing relationship with CN,” said Gary LaGrange, Port President and CEO. “This MOU reflects a genuine interest in mutually developing better service that will help us capture greater market share and optimize throughput, with the ultimate

goal of providing the best service possible to our customers.”

The Port of New Orleans has an intermodal rail terminal adjacent to its Napoleon Avenue Container Terminal providing on-dock access for all rail shipments. The new Mississippi River Intermodal Terminal is currently under construction. The US \$25.1-million project, when completed in the first quarter of 2016, will result in a modern, efficient intermodal container transfer terminal located within the container yard, offering on-dock access and improving CN’s link to the terminal and helping grow its container volumes.

The New Orleans Public Belt Railroad, a switching railroad with the primary mission of serving the Port of New Orleans and local industries, and New Orleans Terminal LLC, an operator of the Napoleon Avenue Container Terminal, also signed the CN-Port MOU.

“The New Orleans Public Belt is excited about the efficiency gains the new intermodal terminal will provide,” said New Orleans Public Belt General Manager Jeff Davis. “New Orleans is a natural rail gateway and we look forward to growing business with the CN.”

Ruest concluded: “The expanded Panama Canal is expected to offer greater freight traffic opportunities to the Gulf Coast. The implementation of this service agreement should help the Port of New Orleans take advantage of rising trade between Asia and North America, as well as North and South America.”

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**Port of New Orleans Garners Five 2015
AAPA Communications Awards**

The American Association of Port Authorities (AAPA), the unified and recognized voice of seaports in the Americas, recognized the Port of New Orleans with five communications awards. Winning entrants in AAPA’s 48th annual Communications Awards Program will be recognized at a Nov. 4 awards luncheon in conjunction with AAPA’s [104th Annual Convention and Expo](#) in Miami, which runs Nov. 2-4.

“When port authorities communicate strategically with their many audiences,

including their communities, business leaders and policymakers, they're better able to show their tremendous value as drivers of economic development, environmental enhancement and job creation," said Kurt Nagle, AAPA's president and CEO. "This competition helps our member ports by rewarding effective communications and highlighting best practices and lessons learned."

The 2015 AAPA Communications Awards Program utilized 46 professional public relations practitioners from the Washington, D.C. area who cumulatively spent about 180 hours over a period of two-and-a-half weeks judging the 15 classifications of entries, ranging from advertisements and periodicals to videos and websites.

"The Board of Commissioners is proud to be recognized for our communications efforts within the community and within the industry as a whole," said Gary LaGrange, Port President and CEO. "In the coming years our goal is to enhance our presence within our jurisdiction, the State of Louisiana and all of the regions the Port services on a daily basis. I applaud our communications team for their hard work and dedication."

The Port's winning entries included:
Award of Excellence – Periodicals: [Port Record Magazine](#) – The Official Magazine of the Port of New Orleans.
Award of Excellence – Special Events: [Port of New Orleans Maritime Workforce Summit](#).
Award of Distinction – Special Events: Port of New Orleans French Quarter Fest Booth.
Award of Merit – Advertisements: "Our Connections Run Deep" Ad Campaign.
Award of Merit – Directories: [The Official Directory of the Port of New Orleans](#).

Twin Parish Port Commission

The Town of Delcambre, Louisiana, has been recognized for its efforts in planning for a changing climate.

Members of the Climate Community of Practice (a group of professionals in the Gulf who work together to learn how coastal communities can adapt to sea-level rise, precipitation changes and



other climate-related issues) selected the town as the winner of the 2015 Spirit of Community Award.

The group presents the Spirit of Community Award each year to one of its member communities at its annual meeting. Delcambre was nominated because the community understands its climate vulnerabilities and takes action to make itself more resilient. The award also shows that the town engages community members with climate information and resources.

"The Town of Delcambre has rebounded and recovered after 90 percent of its area was flooded during Hurricane Rita in 2005 and Hurricane Ike in 2008," said Lauren Land, sustainability coordinator at Louisiana Sea Grant.

Delcambre is a small town of about 2,000 people south of Lafayette in south-central Louisiana. "The town has leveraged millions of dollars to rebuild infrastructure to increase the sustainability of a shrimping community that can expect future events of severe storm surge," Land said. "This successful effort launched a series of additional efforts to lead Delcambre toward resilience, including grants to develop a safe harbor for fishing boats, build an elevated grocery store and improve waterfront business resilience."



Delcambre Port Director Wendell Verret, third from left, accepts the Spirit of Community Award on behalf of the Town of Delcambre during the Gulf of Mexico Climate Outreach Community of Practice annual meeting in St. Petersburg, Fla. Other members of the Climate Community of Practice from Louisiana congratulating the town include Nicole Love of The Nature Conservancy, left, Jennifer Gerbasi from Terrebonne Parish Planning and Zoning, Lauren Land and Dianne Lindstedt of Louisiana Sea Grant, Henri Boulet of Louisiana 1 Coalition, and Jim Wilkins, Melissa Daigle and Katie Lea of Louisiana Sea Grant.

An effort to help mom-and-pop shrimp boats in Delcambre stay in business through direct sales has proven successful as the town tries to help those businesses become economically resilient. The website delcambredirectseafood.com offers profiles of local fishermen, what they catch and where and when they will be selling their catch, and post-hurricane infrastructure projects give them places to do business.

Delcambre also is working with its waterfront business owners, mainly seafood processors, to evaluate storm surge models, understand flood insurance issues and learn about hazard mitigation techniques for business owners and their businesses, Land said.

Delcambre Port Director Wendell Verret was presented with the Spirit of Community Award in May at the annual meeting in St. Petersburg, Fla.

“I’ve been to two Climate Community of Practice conferences,” Verret said. “What’s come through is how -- from Texas to Louisiana, Mississippi, Alabama, all the way down to the Florida Keys, and all points in between and along the coast -- it’s the same issue. It’s the same risk. Seeing the effort to try to make those areas more resilient, it means a lot to us to be recognized for what we accomplished and what we are trying to accomplish.”

“...it means a lot to us to be recognized for what we accomplished and what we are trying to accomplish.” - Wendell Verret

The Delcambre Port Commission and the Town of Delcambre work together closely to implement plans for the community that were developed after a number of charrettes, community meetings and assistance from university architectural and business schools. The Gulf of Mexico Climate Outreach Community of Practice is made up of more than 400 education, outreach and extension professionals, as well as community leaders and planners, whose work includes contributing to the resilience of coastal communities. The award has special meaning because recipients must be nominated by their colleagues and voting is open to all members of the Climate Outreach Community of Practice in the entire Gulf of Mexico.

For more information about the [Climate Outreach Community of Practice](#).

For more about Delcambre Direct Seafood, check out its [website](#) or [Facebook](#) of South Louisiana



First Bauxite Announces Proposed \$200 Million Bauxite Processing Investment In Louisiana

Manufacturing facility in St. John the Baptist Parish would result in more than 200 new direct and indirect jobs; finished product to be used in the oil and gas drilling industry

Gov. Bobby Jindal and President and CEO Alan Roughead of First Bauxite Corp. of Canada announced the company plans to invest \$200 million to develop a bauxite processing plant on the Mississippi River in St. John the Baptist Parish. The project would create 100 new direct jobs ranging from entry level to skilled trade and professional management positions at an average annual salary of \$70,000, plus benefits.

Louisiana Economic Development estimates the project would result in an additional 117 new indirect jobs, for a total of more than 200 jobs in the River Parishes and the Southeast Louisiana region. At peak building activity, the company estimates the project would generate 150 construction jobs.



Based in Toronto, First Bauxite has concluded a feasibility study calling for the company to mine bauxite – an alumina-based ore – from Guyana, on the northern coast of South America, and ship it to Louisiana. There, the company would use the bauxite to manufacture ceramic proppants for the oil and gas industry. Proppants are sands

or manufactured ceramic materials added to an industrial fluid to keep a hydraulic fracture open – during or following the fracking process.

Gov. Jindal said, “This exciting project by First Bauxite Corp. of Canada demonstrates the breadth of foreign direct investment opportunities here in Louisiana. With world-class transportation facilities and industrial sites, along with abundant energy resources and outstanding workforce talent, Louisiana has become an ideal location for major investments by both foreign and domestic companies. These factors have combined to attract this impressive project to St. John the Baptist Parish and the kind of high-quality jobs we’ve worked so hard to create for Louisiana families.”

First Bauxite plans to build the plant on a 30-acre tract at the Globalplex Intermodal Terminal, which is owned and operated by the Port of South Louisiana in Reserve.

“Completion of our feasibility study is a significant milestone in the development of our bauxite industrial minerals project,” Roughead said. “The proposed facility will be located in a region offering competitive infrastructure, energy, labor and market access. We are very grateful for the assistance provided by LED, the Port of South Louisiana and the local authorities and business community.”

LED began discussing the potential project with the company in March 2014. To secure the project, the state offered a competitive incentive package that includes a performance-based grant of \$950,000 to offset the costs of infrastructure improvements, and First Bauxite would receive the comprehensive solutions of LED FastStart®, the top-ranked state workforce development program in the nation. The company also is expected to utilize the state’s Quality Jobs and Industrial Tax Exemption programs.

In the third quarter of 2015, First Bauxite plans to initiate discussions with third parties to develop strategic initiatives to finance the project. If financing for the project is secured, the planned construction period is 27 months, followed by an estimated three-year production ramp-up.

“It is a great time to be in St. John the Baptist Parish and we are extremely pleased that First Bauxite Corp. is preparing to make its \$200 million investment along our industrial corridor,” St. John the Baptist Parish President

Natalie Robottom said. “A project of this magnitude creates new quality jobs for our residents, increases opportunities for local business owners and enhances economic development of the parish. St. John relies heavily on industrial support and collaboration and this investment improves the parish’s overall competitiveness. We look forward to working with representatives of First Bauxite to bring this project to fruition.”

“The Port of South Louisiana is very pleased that First Bauxite has chosen to construct its planned new bauxite plant at the port’s Globalplex Terminal in Reserve,” said Port of South Louisiana Executive Director Paul Aucoin. “We look forward to working with them and making this project a huge success. We are particularly happy about the 100 new good-paying jobs that will come with the project.”

“Greater New Orleans Inc. is pleased to welcome First Bauxite Corp. to the region,” said GNO Inc. President and CEO Michael Hecht. “First Bauxite’s plan to invest in a bauxite-processing plant reaffirms that Louisiana’s combination of business climate, logistics and local support make it a top location for industrial projects. We look forward to working with First Bauxite Corp. to ensure their success.”

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Monsanto Announces Potential \$1 Billion Expansion In Louisiana

Manufacturing project in St. Charles Parish would result in more than 500 new direct and indirect jobs

The Port of South Louisiana is pleased that Monsanto, which is located in the port district, has announced their decision to potentially invest \$1 billion in an expansion of its plant in Luling, Louisiana. “This expansion illustrates, once again, the vitality of industries located within the Port of South Louisiana,” said Paul Aucoin, Port of South Louisiana’s Executive Director. “We welcome the potential of 95 new direct jobs [with an average salary of \$76,000 per year plus benefits]. It would be a great win for the residents of the River Region.”

If the expansion proceeds as planned, it would be the second expansion project for Monsanto’s St. Charles Parish plant within the last five years. In 2010, the site completed a \$196 million

expansion which added 26 new direct jobs (and 166 indirect jobs). Within the same time span, Air Products and Hexion established production facilities within Monsanto to supply raw materials for its operations.

Monsanto's potential expansion will support its Roundup Ready® Xtend Crop System, predicted to be a vital element in helping farmers produce hardier harvests in the efforts to meet global food demand.

Associate Member News



RIVER CONSULTING®

River Consulting Strengthens Team With New Senior Civil Engineer

River Consulting is pleased to announce its recent hire of Will Evans, Jr., P.E., who joins the River Consulting team as a Senior Civil Engineer out of the New Orleans office. Evans will provide engineering and project management, leveraging his experience in civil site design and marine and dock projects to strengthen River Consulting's position along the Gulf Coast region.

Evans brings more than 18 years of experience in project management and engineering design across various industries including power, oil and gas, pipeline, food and marine and dock. He has managed small to large projects through all phases. His expertise is in design team management, scope preparation, budget, scheduling, client management, coordination of permits and sub-consultant oversight. "We're excited to have Will join our team. His experience and skills will be tremendous assets as we continue to serve our clients across a wide range of industries," stated Bob Klare, director of operations in the New Orleans office. Evans obtained a degree in Civil Engineering from the University of New Orleans and is a registered P.E. in the state of Louisiana; as well as a member of both the Ports Association of Louisiana and American Society of Civil Engineers.

River Consulting is a leading mid-major A/E to global energy, food, process and industrial

clients, delivering multidiscipline engineering and project management solutions for major capital projects and facility and process expansions. As part of the Houston Interests family of companies, River Consulting along with its sister companies provides solutions for clients worldwide. Through combined and diverse expertise, the Houston Interests group brings more than three decades of global experience to a vast array of industries, delivering flexibility for all phases of a project. The firm's office locations include Columbus, Oh; New Orleans, La.; Pittsburgh, Pa; and Tulsa, Ok. River Consulting is recognized nationally by Engineering News-Record as a Top 500 design firm. Visit riverconsulting.com for more information.

Legal News



Criminal Liability For Maritime

Accidents

On June 26, 2015, the captain of a boat pushing a barge was sentenced to six months in prison for a negligent explosion that killed a deckhand and caused hundreds of thousands of gallons of a petroleum byproduct to spill into the Chicago Sanitary and Ship Canal in 2005.

The sentencing came a year after Dennis M. Egan, 36, of Topeka in west central Illinois, and the company that owned the barge had been convicted in federal court in Chicago. In a rare criminal conviction for a workplace fatality, U.S. District Judge James Zagel found both defendants guilty of one count of negligent manslaughter of a seaman and one count of negligently discharging oil pollution to a navigable waterway.

Judge Zagel also sentenced Egan Marine Corp. to three years of supervised release and ordered it to pay restitution of \$5.3 million to cover the cost of the spill.

Egan was piloting a tugboat pushing a barge on the canal when the barge exploded, killing Alexander Oliva, 29, sinking the barge and

spilling 600,000 gallons of concentrated slurry oil, a petroleum byproduct.

Zagel found that Egan illegally ordered Oliva, of Oak Lawn, to use a small propane torch to heat a frozen discharge pump moments before the barge was to be unloaded. It was traveling to the Ameropan Oil facility in Chicago from the ExxonMobil plant near Joliet. The use of an open flame on a loaded barge was in violation of U.S. Coast Guard regulations and safe industry practice, prosecutors said.

Criminal prosecutions for maritime negligence, especially when the act results in pollution, have been on the rise since the 1989 grounding of the Exxon Valdez. (Witness the ongoing BP spill litigation.) Since the Exxon Valdez incident, in addition to typical civil liability exposure that flows from any maritime accident, if an event results in pollution there will likely be a criminal investigation. Individuals such as crew members, corporate officers of the company that owns or operates the vessel or the company itself may be charged.

There are two categories of statutes imposing criminal liability arising from ship collisions and groundings. First, if there is pollution incidental to a maritime accident, criminal liability for violation of state and federal environmental statutes may be imposed. Second, regardless of whether there is pollution, state and federal general criminal statutes imposing criminal liability for damage to property, personal injury and loss of life will come into play.

Crew members responsible for navigation of the vessel are first in line. But the corporation may be charged as it is vicariously responsible for the actions of its employees. Corporate officers may be held criminally liable under environmental statutes merely because of their position of responsibility in the company regardless of their actual knowledge or participation in any criminal conduct. Corporate officers may be held criminally liable depending on their actual knowledge of the facts and whether they committed acts contributing to the accident. The environmental statutes are written so that it is not always necessary for prosecutors to prove criminal intent as is the case in traditional criminal prosecutions.

This rise in criminal prosecutions also has an effect on civil litigation as in every major

maritime accident where there is an oil spill, there will also be a deluge of civil cases against the shipowner based on negligence joined with claims for punitive damages based on willful or reckless conduct. Findings of criminal conduct may be introduced into civil proceedings in support of punitive damage claims. This causes a serious problem for the shipowners since most policies of marine insurance do not cover punitive damage claims. For an in-depth analysis see Thomas Russo's excellent article, "Criminal Liability in Maritime Accidents", DRI Admiralty and Maritime Law: Selected Topics, pp. 43-56, 1999.



BY WILTON E. BLAND, PARTNER

MOULEDOUX, BLAND, LEGRAND & BRACKETT.

America's Wetlands



America's Wetland Foundation Honors Coastal Champions at "Toast to the Coast"

At its "Toast to the Coast" event on June 1 at LSU Tiger Stadium, the [America's WETLAND Foundation](#) honored three true champions of coastal restoration: *Diana Pinckley* (posthumously) as one of the tireless leaders of the Women of the Storm; *Ted Falgout* who sits on the Governor's Coastal Commission and is a longtime advocate for landowner participation in restoration, and *André Moreau* who anchors the news on WAFB-TV in Baton Rouge and has done countless in-depth stories on coastal issues through the years.

The Foundation regularly recognizes those who work to build public understanding and support for restoration. The newest recipients join a long list of past honorees that includes governors, U.S. Senators and representatives of state

and local government, along with journalists, scientists and leading citizens dedicated to coastal restoration.

Ted Falgout has worked to make Louisiana's Port Fourchon one of the nation's most significant energy assets. Falgout continues to bring common sense ideas to the table on the *Governor's Coastal Commission*. Falgout has seen up close and personal the ravages of erosion and saltwater intrusion as he traveled Highway 1 daily to the port and saw the changing landscape and the miles of wetlands lost in a very short period of time. America's WETLAND Foundation presents this honor knowing Falgout will continue the good fight to

save coastal Louisiana and will remain a vocal advocate for private landowner participation in restoration.

MARK YOUR CALENDARS

July 9, 2015 PAL Monthly Meeting, 10am, Vidalia, LA

August 6, 2015 PAL Monthly Meeting, 1AM, Lake Charles, LA



Ted Falgout receives the Lifetime Achievement Award from Foundation Managing Director Val Marmillion.

