

NEWS FROM THE DOCKS



ASSOCIATION OF LOUISIANA

Louisiana Ports Deliver

March 2015

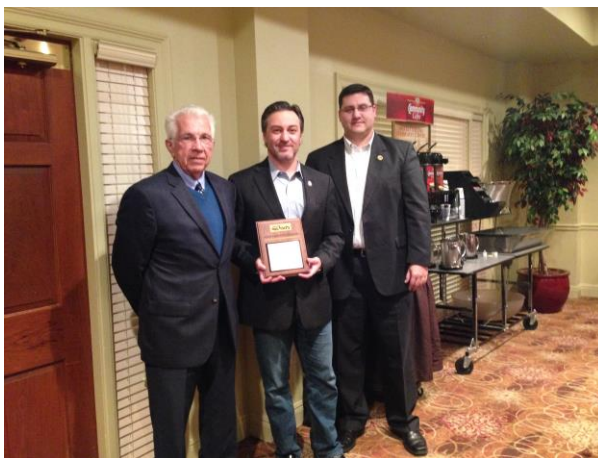
Volume 16, No3

Message from the PAL Office

The time is almost here. Our Annual Conference is less than two weeks away. If you have been considering registering, please do so now. You can go to PAL's website at www.portsoflouisiana.org to register and to see a complete agenda of all of the planned activities.

We are looking forward to seeing you there!

This month Senator Norby Chabert attended PAL's meeting in Baton Rouge. PAL presented him with a plaque expressing our appreciation for his support over the years and particularly for his leadership in creating the Office of Intermodal Commerce. Sen. Chabert discussed the Office of Intermodal Commerce and mentioned organizational issues that will need to be addressed during the coming session.



Joe Accardo, Sen. Norby Chabert, Chett Chaisson

Legislative Update

The following are summaries of issues which may be of interest.

Port Construction and Development Priority Program 2015-16--The DOTD 2015-16 Recommended Program, if approved by the Joint Transportation Committee, will consist of 13 continuing projects and 9 new projects with a total project cost of \$493.4 million, of which \$299.4 million is construction cost, to be funded by \$141.7 million of Port funds, and \$157.7 million of state funds, of which \$32 million of state funds has been previously funded, resulting in a \$125.7 million state unfunded balance.

When completed the Projects will create 1,467 new jobs and preserve 876 existing jobs, and will have projected economic benefits of \$1.669.3 billion, which equates to \$10.50 for each \$1 of state funds invested.

Transportation Infrastructure Funding Task Force—Chaired Jointly by Representative Karen St Germain and Senator Robert Adley--

The Final Report of the committee was adopted at the March 4th meeting of the Task Force. The list of potential funding mechanisms includes:

Public private partnerships; CPI indexing of the current 16 cents fuel excise tax and/or replacing it with an 8% sales tax on all fuels; reviewing local government TTF appropriations and/or allowing local governments to raise revenue; tax incentives for private investments; increased Capital outlay funding; reviewing TTF appropriations for state police; revisiting the vehicle sales tax suspension; an infrastructure bank; excess mineral revenue; reexamining

special fuels tax collections, and expediting road improvement schedules by early cooperation between DOTD and Metropolitan Planning Organizations.

Office of Multimodal Commerce - The summary of the final report of the Multimodal Commerce Advisory Commission recommends:

a. Amendments to Act 719 to consolidate the six divisions of Ports, Waterways, Freight, Passenger Rail Development, Commercial Trucking, and Aviation to four divisions - (1) Ports and Waterways, (2) Commercial Trucking, (3) Aviation, (4) Freight and Passenger Rail, to be directed by an independent Commissioner, appointed by the Governor.

b. OMC should have a separate budget unit, with appropriations in 2015-16 for the Office of Commissioner, who is appointed to a term concurrent with the Governor's term, commencing January 1, 2016, which is in advance of the Office of Multimodal Commerce becoming operational, now scheduled for July 1, 2016. This will allow the Commissioner to participate in planning and drafting legislation for the Office of Multimodal Commerce prior to its becoming operational.

c. The Commission further recommends that the OMC commences operations with a budget in an amount comparable to what is currently available to the operations in DOTD for Ports, Marine, Rail, and Aviation sections.

d. The current employees assigned to Ports, Marine, Aviation and Rail sections as well as a deputy assistant secretary and administrative assistant be transferred to the OMC.

e. The current support services and adequate office facilities be provided by DOTD.

f. The Commission will continue to function in an advisory capacity.

Louisiana Ports Tax Credits--LED continues to finalize the applications for the Ports Import/Export Tax Credits and Ports Infrastructure Tax Credits as reported by Ms. Mandi Mitchell who has been assigned to finalize the requirements for the tax credits after the departure of Paul Sawyer.

The outstanding issue for the Infrastructure Tax credits is the appropriate credit for contract labor utilized in the operations of the infrastructure facility. In the instance of the Import/Export tax credit, LED is consulting with shipping representatives to reach an agreement on an equitable formula for crediting the cost of domestic and international shipping.

Navigation Focus Group (2017 Coastal Master Plan of the Coastal Protection and Restoration Authority) The Navigation Focus Group met on February 5th, to review the CPRA tentatively selected plans for the Calcasieu Ship Channel Salinity Control project and the Lower Breton and Barataria Diversion projects on the lower Mississippi River. As part of its effort to keep everyone involved early on, CPRA is sharing information with all interested parties.

The next phase will focus on basin wide modeling and a final decision will be reached in the Fall of 2015.

Legislative -The "Design-Build contracts, pilot program" (R. S. 34:3523) will sunset on December 31, 2015. Senator Gary Smith has agreed to introduce a bill to extend the sunset provision to December 31, 2020. If a consensus is reached with the engineering and contracting industry, additional amendments may be offered to remove several of the limiting and oversight provisions of the law.

In addition to the "Design Bid Build", and "Design-Build", Ports are allowed to utilize the "Construction Management at Risk" law (CMR)(R.S. 38:2225.2.4) . However, CMR has a \$25 million threshold which would limit its usefulness to many ports. Segments of the Contracting and Engineering industry are considering legislation lowering the threshold during this legislative session. This prospect would be beneficial to PAL members and PAL should support this effort.

Port Priority Program Budget—The ongoing La. Fiscal problems may have an effect on the DOTD capital budget and Transportation Trust Fund. The Transportation Trust Fund and the resulting funds available for the Port Priority Program are impacted by the appropriations for State Police and Parish Road Funds which have increased in recent years. PAL will have to continue to support the efforts of Legislators who support funding for DOTD capital expenditures and the Port Priority Program.

U. S. Bureau of Energy Management---Outer Continental Shelf Oil & Gas Draft Proposed 2017-2022 Leasing Program. PAL has written two letters on February 25th to BOEM supporting the “robust leasing in the Gulf of Mexico ..and future expanded development of the Eastern Gulf of Mexico”.

Congressman Steve Scalise will meet with his Maritime Advisory Group on Friday March 13, 2015 in New Orleans, to discuss the “importance of the maritime industry and state of the Jones Act, implementation of the Water Resources and Development Act and maintenance of waterways”.

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Joe Accardo
Executive Director

Corporate Member News

Greater Lafourche Port Commission

South Lafourche Airport Debuts New Logo, Brand

The Greater Lafourche Port Commission has launched a new logo and brand identity for its South Lafourche Leonard Miller Jr. Airport, complete with a new entryway sign visible from Highway 308 at the front of Airport Road in Galliano.

The new logo and branding are designed to give greater prominence to the Port Commission's airport, which is the fastest-growing airport in the state of Louisiana, and its surrounding industrial park.



"We really wanted to highlight the growth taking place at the airport by coming up with a logo and a brand identity which clearly belongs in the Port Fourchon family but stands on its own. The South Lafourche Airport is a critical link in the transportation chain for Port Fourchon and beyond, and we feel that the new logo shows that very well," said Chett Chiasson, Executive Director of the Greater Lafourche Port Commission.

The airport logo, created by the W. L. Gaiennie Company, prominently features the South Lafourche Airport's identifier code, GAO, as well as a stylized arrow streaking above it through blocks in original port logo colors. The Port Fourchon logo is at the start of the new airport logo, representing the airport's beginnings under GLPC as a service point for port users.

"The logo was designed to give you a definite sense that this airport is taking off and is able to serve as an extension of Port Fourchon into the aviation business, supporting our tenants across the oil and gas industry in the Gulf of Mexico," added Joe Wheeler, Airport Manager.

Since GLPC acquired the South Lafourche Airport in 2001, flight operations have increased from 550 in 2001 to 23,879 in 2014. They are set to double once Chevron's \$30 million Gulf of Mexico Aviation Logistics Center is completely operational by 2016.

The GAO airport complex also includes a 1,200 acre industrial park, which is the site of several airport upgrades in the works including a new terminal building, hangars, runway strengthening, and a connector road linking the airport and industrial park to LA 3235, enhancing its connection to Port



Fourchon and continuing to improve intermodal transportation and commerce in the region.

"The Port Commission takes its mission to foster economic development for the good of the community very seriously, and the incredible growth at the South Lafourche Leonard Miller Jr., Airport is a great example of that commitment to our mission. We hope that people in the community and in the industry see this new logo as a symbol of that growth and possibility," said Port Commission President Perry Gisclair.

Port of New Orleans



Maersk Line Returns Vessel Service to Port of New Orleans- World's Largest Carriers Part of 2M Alliance Offering Two Weekly Services from New Orleans

The arrival of the *Maersk Kotka* Feb 9th to the Napoleon Avenue Container Terminal signaled Maersk Line's return of vessel service to the Port of New Orleans. The weekly Northern European service is teamed with a weekly Mediterranean service through the 2M Alliance Maersk formed with Mediterranean Shipping Company. Maersk and Mediterranean Shipping Company are the largest- and second-largest container carriers in the world.



The 7,400-twenty-foot-equivalent-unit *Maersk Kotka* serves as the largest ship in the seven-vessel service.

"We're thrilled to welcome back Maersk vessels to New Orleans," said Port President and CEO

Gary LaGrange. "For the last three years Maersk has offered service to New Orleans customers through slot charter agreements with various carriers. These new services will bolster Maersk's presence in the Port and offer additional options for customers in our highest volume trade routes."

The new vessels in the Mediterranean-Gulf service are scheduled to begin calling New Orleans on Feb. 15 with the arrival of the 6,200-TEU *MSC Zambia*. These two 2M services are in addition to MSC's Caribbean Gulf Service and Central American Express Service.

Based in Copenhagen, Denmark, Maersk's fleet consists of 580 container vessels worldwide. The 2M Alliance is a 10-year vessel-sharing agreement between the two carriers aimed at increasing efficiencies for shippers. In 2014, the Port reported moving a record 490,526 TEUs through its Napoleon Avenue Container Terminal – an 8.8 percent increase from one year ago.

Former Port of New Orleans Cruise Director Wins AAPA Cruise Award - Robert Jumonville cited for role in New Orleans' cruise industry growth

Former Port of New Orleans Cruise and Tourism Director Robert Jumonville received the 2015 American Association of Port Authorities (AAPA) Cruise Award during the AAPA biennial Cruise Seminar in Fort Lauderdale, Fla.

The AAPA cited Jumonville as being the vision behind the phenomenal growth of the Port of New Orleans' cruise passenger business and its terminal and cruise-related visitor assets. Under Jumonville's watch, the Port of New Orleans invested more than \$75 million in cruise facilities and saw a 1,200-percent rise in passenger throughput. Revenue produced by the Cruise and Tourism Division increased more than 500 percent during his tenure.



In 2014, the Port handled more than 1 million cruise passengers for the first time in its history. Embarkations and disembarkations for the year

totaled 1,014,325, a fourth straight record year for the Port.

“Our cruise industry has experienced meteoric growth under Robert Jumonville’s leadership. This is a well-deserved achievement after 25 years of dedicated service,” said Port of New Orleans President and CEO Gary LaGrange. “The Board of Commissioners, the Port and the community of New Orleans owe a debt of gratitude to Mr. Jumonville for highlighting our great city as an internationally-ranked cruise port.”

Jumonville, who retired in January after 25 years at the Port, oversaw the planning and construction of the Julia Street Cruise Terminal, a consolidation of two terminals into one modern terminal completed in 2011. Jumonville was also instrumental in the design and construction of the Erato Street Cruise Terminal and Parking Garage Complex, the first cruise terminal in the industry to include a parking garage in the same building. Looking forward, Jumonville was also an integral in the planning of the Port’s third cruise ship terminal at Poland Avenue.

Cruise Lines International Association ranked the Port the sixth-largest cruise port in the United States with direct industry expenditures in Louisiana totaling \$406 million, supporting 8,129 jobs and accounting for \$323 million in total income.

“This award is very humbling,” Jumonville said. “It’s been a pleasure and passion to work with the great staff at the Port of New Orleans and with each of the Port’s cruise partners. I take pride in the long-term relationships we’ve established with our cruise lines and tourism industry partners.”

Receiving the AAPA Cruise Award along with Jumonville is René Trépanier, Executive Director of Cruise the Saint Lawrence. The AAPA Cruise Award was established to recognize individuals or organizations whose outstanding work or service has had a positive impact on the relationship between a cruise port and the Western Hemisphere cruise industry.

Don Allee, the port executive who took the helm of the Port’s Cruise and Tourism Division when Jumonville retired, is poised to continue the

upward momentum of the New Orleans cruise industry.

Port of New Orleans cruise terminals currently host four home-ported cruise ships. Carnival Cruise Lines offers a wide variety of itineraries with the 2,052-passenger *Carnival Elation* sailing year-round four- and five-day itineraries from New Orleans and the 3,646-passenger *Carnival Dream* sailing year-round seven-day itineraries to both eastern and western Caribbean destinations. In addition, Norwegian Cruise Line’s 2,340-passenger *Norwegian Dawn* sails seasonal seven-day cruises from November through April and Royal Caribbean’s 2,476-passenger *Serenade of the Seas* sails weekly through April, as well. New Orleans also features river cruise itineraries throughout the year. American Cruise Lines sails its sternwheeler *Queen of the Mississippi* and American Queen Steamboat Co. sails the *American Queen* from New Orleans.

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New American Cruise Lines Riverboat to Homeport in New Orleans- American Eagle is Second Riverboat for American Cruise Lines in New Orleans

With the popularity of Mississippi River cruising growing each year, Guilford, CT-based [American Cruise Lines](#) will soon be introducing its second riverboat to be home-ported in New Orleans. The two new riverboats are the first new ships built specially for the Mississippi River in 20 years. Construction of the 305-foot, 150-passenger *American Eagle* was recently completed at Chesapeake Shipbuilding in Maryland. The new riverboat is now repositioning to New Orleans and is scheduled to arrive later this month. Similar to American Cruise Lines’ *Queen of the Mississippi*, it will offer various eight-day itineraries on the Lower Mississippi River between New Orleans and Memphis.



“American Cruise Lines’ investment in a second riverboat in the Port of New Orleans illustrates the growing demand for classic River cruising,”

said Port President and CEO Gary LaGrange. “American Cruise Lines offers a cruise experience second-to-none on the Lower Mississippi River and we look forward to working with them for many years to come.”

The brand new *American Eagle* will enter service in the spring and feature spacious staterooms. The riverboat will have 84 staterooms, 78 of which feature large, private balconies and will offer all the amenities travelers expect, while maintaining the elegance of classic late 1800s riverboats.

While the *American Eagle* will primarily operate between New Orleans and Memphis, the company has announced a number of unique journeys, including a 22-day complete Mississippi River cruise.

“It’s evident that the style of cruising we’re offering is becoming increasingly popular,” said Timothy Beebe, Vice President, American Cruise Lines. “We are meeting this growth in demand by introducing new vessels like the *American Eagle* and a greater variety of sailing options to provide those interested with the most unique and upscale travel experience available on the Mississippi River.”

Cruise Lines International Association ranked the Port of New Orleans the sixth-largest cruise port in the United States with direct industry expenditures in Louisiana totaling \$406 million, supporting 8,129 jobs and accounting for \$323 million in total income.

Cruise Critic, a leading cruise reviews and information web site, named the Port of New Orleans it’s “Best North American Homeport” as part of its 2014 U.S. Editors’ Picks. Cruise Critic hosts the largest cruise community in the world with more than 3 million people ranging from avid cruise fans to first-time cruisers. Leading cruise publication Porthole Cruise Magazine also named the Port of New Orleans “Friendliest Homeport” for the second year in a row in its 2014 Editor-In-Chief Awards.

To learn more about cruising from New Orleans, visit www.portno.com

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Governor Bobby Jindal and Viking Cruises Chairman Torstein Hagen announce Selection of New Orleans for Launch of Mississippi River Cruise Service -Viking River Cruises project to result in over 780 new direct and indirect jobs in Louisiana

Governor Bobby Jindal and Viking Cruises Chairman Torstein Hagen announced the selection of New Orleans as the homeport for Viking River Cruises’ first North American river cruise itineraries. The Mississippi River cruises will operate from docking facilities near the French Quarter in New Orleans. Viking’s new service will result in the creation of 416 new direct jobs for Louisiana-based operations and vessel crews, with an average salary of \$40,000, plus benefits; and Louisiana Economic Development estimates the project will result in an additional 368 new indirect jobs, for a total of more than 780 new jobs in the Southeast Region of the state.



Photo: Viking Cruises Chairman Torstein Hagen announces the selection of the Port of New Orleans today as the homeport for Viking River Cruises first North American river cruise service. Pictured from left is Port President and CEO Gary LaGrange, Lauren L. Stuart, Louisiana Economic Development; Gov. Bobby Jindal, Port Chairman Greg Rusovich, Stephen Perry, President and CEO of New Orleans Convention and Visitors Bureau; Viking Chairman Torstein Hagen, Rep. Walt Leger, and Michael Hecht, President and CEO of Greater New Orleans Inc.

In January, Governor Jindal and Hagen met at Viking’s operational headquarters in Switzerland to discuss the new itineraries and the impact the project will have on New Orleans and the region. Plans call for the construction of six new vessels over the next three years at an estimated cost of \$90 million to \$100 million per vessel, all of which will be built in U.S. shipyards and crewed by U.S. citizens. The vessels will be owned by Tennenbaum Capital Partners, a Los Angeles-based alternative

investment management firm, and time-chartered to Viking in full compliance with maritime laws. Viking River Cruises customers, traveling to New Orleans from across the U.S., Europe and beyond, will bring new business to hotels, restaurants, museums and other attractions in the city, expanding sales for local merchants. More than 90 percent of sales created by the project will come from out-of-state customers.

Governor Jindal said, "We're proud to welcome Viking River Cruises to New Orleans. This investment will not only bring great new jobs to our state, but it will also showcase Louisiana and the Mississippi River to the rest of the world. Since its launch in 1997, Viking River Cruises has connected its passengers to Europe and Asia's most scenic landscapes and cultural landmarks. With today's announcement, the picturesque Mississippi River and the beauty of New Orleans, Baton Rouge and other great cities of the American South will join the list of the company's journeys as Viking River Cruises launches its first North American cruise. Viking could have chosen another port anywhere in the world, but chose Louisiana because of our state's outstanding business climate, workforce and port infrastructure."

With the launch of cruise operations on the Mississippi River in late 2017 two boats will be deployed per year, for a total of six new boats in the first three years. Cruises will take passengers on a journey along the Mississippi River from New Orleans to itinerary stops in St. James, East Baton Rouge and West Feliciana parishes; continuing upriver to Memphis, Tennessee; St. Louis; or St. Paul, Minnesota, depending on the season. The specialty-built riverboats will have a full complement of luxury amenities and host up to 300 passengers at approximately one-tenth the size of oceangoing cruise vessels. Viking's cruises are renowned for their locally oriented educational and entertainment programs.

"The Viking team is very proud to partner with the State of Louisiana, and we are grateful for the support of Governor Jindal," Hagen said. "We are excited about the prospect of bringing modern river-cruising to the Mississippi, a river that has been traveled by explorers for centuries. We know our passengers will enjoy the rich history, culture and cuisine of all the great cities and towns along the Mississippi River from New Orleans to St. Paul. Together with our U.S.

partners, we take great pride in the economic benefit that river-cruising provides to the regions our guests visit, from the shipbuilders to the local businesses."

"New Orleans is on a roll, and this investment is yet another example of the continued growth across industries in our city," New Orleans Mayor Mitch Landrieu said. "With the creation of nearly 800 direct and indirect jobs, Viking's project will generate major opportunities for our citizens, boost our tourism industry, and continue to turbocharge the Port of New Orleans. I am thrilled to welcome Viking River Cruises to New Orleans."

LED began discussing expansion possibilities with Viking River Cruises in November 2013. To secure the project, the State of Louisiana offered the company a competitive incentive package that includes a \$4.5 million performance-based grant for site preparation at the company's docking locations in Louisiana. The company also will receive the customized solutions of the nation's No. 1 state workforce development program, LED FastStart®, which will include partnerships with the Louisiana Workforce Commission and local educational institutions.

"Having the top river cruise company homeport in New Orleans will be an outstanding chance to tell the story of the Louisiana renaissance to the world," said President and CEO Michael Hecht of Greater New Orleans Inc. "Viking River Cruises choosing greater New Orleans is a testament not only to our culture and river, but also to our outstanding teamwork at the state, regional and local level. GNO Inc. is proud to have been an integral part of the team that met with Viking on two continents to bring them to New Orleans."

Viking River Cruises was founded in 1997 with the purchase of four ships and the launch of river cruise operations in Russia. Since that time, the company has grown to become the world's leading river cruise line, owning the largest share of the market and operating the largest fleet of cruise vessels along rivers across the globe. The company's fleet currently features 60 modern, deluxe river vessels, including its innovative Viking Longships®. The company first expanded into the U.S. market by establishing U.S. headquarters in Los Angeles. The Mississippi River itineraries will be the

company's first cruise offering in North America.

"We are thrilled by the choice of the Port of New Orleans as Viking's initial entry into the North American market," said Port of New Orleans President and CEO Gary LaGrange. "Viking is one of the premier cruise brands throughout Europe and Asia. Their worldwide reputation underscores New Orleans as a destination city for both international and domestic leisure travelers. The Board of Commissioners of the Port of New Orleans has worked with the Viking team for nearly two years to determine the proper venue for the new ships within the port and along the Mississippi River, and we couldn't be happier to add Viking to the port's cruise portfolio."

"Viking River Cruises is an exciting and compelling addition to the opportunity-rich New Orleans destination," said President and CEO Stephen Perry of the New Orleans Convention and Visitors Bureau. "Viking is synonymous with elegance and class, and they will bring a diverse domestic and international clientele drawn not only to tremendous enjoyment of the river through cruising, but to the New Orleans part of their visit in this historic capital of American music and food as well."

"It was an honor to be part of Governor Jindal's recent economic development trip to Europe, encouraging companies to locate in our great state," said Chairman Greg Rusovich of the Louisiana Board of International Commerce. "We witnessed the world-class standards employed by Viking River Cruises. Their New Orleans homeport will provide a positive impact along the Mississippi River, benefiting the ports and the private sector."

"The decision to locate Viking's North American homeport in New Orleans speaks to the operational capabilities of our port, the expertise of our hospitality workforce and the increasing popularity of river cruising around the globe," said executive board Chairman Henry Coaxum of the New Orleans Business Alliance. "We welcome Viking to the New Orleans business community and look forward to its success."

Legal News



Mooring Respective Duties and Responsibilities Of Vessel and Wharfinger

A heavily laden bulk carrier is scheduled to arrive at midnight at your wharf on the Mississippi River. The river is running high and fast and due to fog, visibility is limited. The ship is under the command of a river pilot as required by law, and is being assisted by helper tugs. As she makes her way into the berth, it takes considerable effort to secure the ship due to the weather and river conditions. Hours after she is finally secured, the ship breaks her mooring lines, is set adrift and causes significant damage to vessels and wharves downriver where she runs aground. Lawsuits are filed and the ship owner blames you, alleging negligence in that you failed to provide a safe berth, failed to ensure a sufficient number of mooring lines were deployed and failed to provide a standby tug to help keep the ship in its berth. What is your defense?

First, to establish maritime negligence the ship owner in this scenario must demonstrate there was a duty owed by you to the vessel, breach of that duty, damages sustained and a causal connection between your conduct and the plaintiff's injury. *In re: Cooper/T. Smith*, 929 F.2d 1073 (5th Cir. 1991).

In 1975, the Fifth Circuit Court of Appeals set forth the duty of a wharfinger towards a vessel in *Trade Banner Line, Inc. v. Caribbean Steamship Co.*, 521 F.2d 229 (5th Cir. 1975), when it held, "It is well settled that a wharfinger is not the guarantor of the safety of a ship coming to his wharf. He is, however, under a duty to exercise reasonable diligence to furnish a safe berth and to avoid damage to the vessel. This includes the duty to ascertain the condition of the berth, to make it safe or warn the ship of any hidden hazard or deficiency known to the wharfinger or which, in the exercise of reasonable care and inspection, should be known to him and not reasonably known to the ship owner."

In 1977, the Fifth Circuit Court of Appeals in *Bunge Corporation v. M/V FURNESS BRIDGE*, 558 F.2d 2790 (5th Cir. 1977), elaborated and, citing *Trade Banner*, stated, "The wharfinger's

duty to warn applies only to 'any hidden hazard or deficiency...not reasonably known to the ship's owner.' Thus, no warning is required 'where the alleged obstruction or condition is open and obvious to those in charge of the vessel's management' or where those in control of the vessel have actual knowledge."

In 1989, the late Honorable George Arceneaux wrote, "The duty of a wharfinger (person or entity operating a wharf, dock, etc.) towards a vessel is well established. Although a wharfinger does not guarantee the safety of vessels coming to his wharves, he is bound to exercise reasonable diligence in ascertaining the condition of the berths thereat, and if there is any dangerous obstruction to remove it, or to give due notice of its existence to vessels about to use the berths." *Delta Commodities v. M/T JOE OAK*.

In *Trade Banner, supra*, the Court also addressed the duty of a vessel and held that when the mooring of the vessel is controlled by the ship's crew and under the supervision of its master, the responsibility of the mooring lay with him, stating, "It is the master, when present and supervising, and not a wharfinger absent some type of contractual commitment not present here, who is responsible for mooring of a ship." Judge Charles Schwartz came to the same conclusion in *Petro United Terminals, Inc. v. J.O. Odfjell Chemical Carriers*, 756 F. Supp. 269 (E.D. La. 1991) when he held, "In addition, the proper mooring of a vessel is the responsibility of the vessel and her master, not the dock owner, although the dock owner itself is required to keep its facility in proper condition.

In *Bunge, supra*, the Court addressed the issue also. It stated, "*Bunge*, as a dock owner, had no duty to supervise the *FURNESS BRIDGE*'s docking procedure, absent, perhaps, a hidden defect in the docking facilities. Rather, the master, and expert mariner, is responsible for the docking of his ship."

The role of the compulsory pilot in mooring operations was succinctly discussed by the Fifth Circuit Court of Appeals in *Bunge, supra*. The Court stated in Footnote 6:

During the docking in question, the vessel was being navigated by a compulsory pilot as required by LSA-R.S. 34:1041, *et seq.* "The

authority of the master of a vessel is not in complete abeyance," however, "while a pilot, who is required by law to be accepted, is in discharge of his functions." ... In fact, our conclusion as to the respective duties of the parties is strengthened by the presence of the compulsory pilot who must be held to an unusually high standard of care because he "is selected for his personal knowledge of the topography through which he steers his vessel . . . He must . . . be familiar with all dangers that are permanently located in the course of the river . . . All this he must know and remember and avoid". . . "(S)uch skillfulness requires a high degree of knowledge predicated on special training and inquiry, and not casual competence". . . Thus, absent a finding of actual knowledge, the pilot may be charged with knowledge of a local condition as a matter of law. In the instant case, the compulsory pilot was charged with constructive, if not actual, knowledge of the mooring dolphins and the risk they presented.

In our hypothetical scenario the rising, fast-running river, fog and darkness would be open and obvious conditions about which you should not have to warn the ship's master or pilot. As experienced mariners, they are presumed to possess the skills necessary to ensure safe mooring of the ship. Mooring is the responsibility of the ship and should be under the control of the ship's crew under the supervision of the ship's officers. As stated by the Court in *Trade Banner, supra*, "Parting of the lines provided by the ship and set out by its crew cannot be blamed on the wharfinger." The courts have also held that the ship owner cannot complain that the wharf was too small to safely moor the ship. This allegation was addressed by the Court in *Bunge* and rejected. The Court stated, "This characteristic was obvious indeed, unmistakable and required no warning. Those in control of the ship must be charged as a matter of law with knowledge of the comparative sizes of their vessel and the wharf."

With regard to the decision at night in fog the courts have refused to place responsibility on the wharfinger. With regard to the number or type of mooring lines, the courts have found that as a matter of law there is no duty on the part of the dock owner to assist in mooring. As a matter of law, the dock owner's failure to provide line handlers to assist in mooring cannot be a valid basis for liability.

In sum, unless there are contractual obligations assumed by the dock owner requiring its involvement or unless the dock owner voluntarily involves itself in the mooring of the ship, its only obligation is to provide a reasonably safe berth.

Assuming no such involvement, you, the dock owner, should bear no liability. As stated by the Fifth Circuit Court of Appeals in *Bunge*: “We see no reason to disturb the traditional standard of care to which the wharfinger is held. Whether it be tugs or tankers that come to berth at his dock, the wharfinger remains in the same position in terms of his ability to protect his structure. Those in control of the vessel’s navigation must bear the greater responsibility for bringing their ship safely into and out of port. The dock owner’s liability should extend only so far as the vessel’s master could not have averted an accident, such as where a hidden hazard is or reasonably should be known to the wharfinger and cannot be known to the master in the exercise of ordinary care.”



BY WILTON E. BLAND, PARTNER

MOULEDOUX, BLAND, LEGRAND & BRACKETT.

World Trade Center



WORLD TRADE CENTER
OF NEW ORLEANS

Louisiana exports total more than \$65 billion in 2014

Growth closely follows national average

Louisiana’s 2014 worldwide merchandise exports increased by 2.76 percent over 2013, according to a report released today by the World Trade Center of New Orleans. For the year, Louisiana exports totaled \$65.1 billion, compared to \$63.3 billion in 2013, and \$62.8 billion in 2012. These numbers mark the sixth consecutive year of export growth for the state. Louisiana’s principal export markets for 2014 were China (\$8.7 billion, up 8.91 percent), Mexico (\$7.3 billion, up 14.53 percent), and Canada (\$3.3 billion, up 5.59 percent), followed

by the Netherlands, Japan, Colombia, and France. Rounding out the top ten were Brazil, Egypt, and Panama.

"Louisiana's exports have shown tremendous growth over the past 6 years." said Dominik Knoll, Chief Executive Officer of the World Trade Center of New Orleans. "Despite challenges from Oil and Natural Gas prices, the Louisiana economy continues to prove that it can prosper in an increasingly competitive global market."

Exports for all 50 States and Puerto Rico, the U.S. Virgin Islands, and the District of Columbia set another annual record in 2014, totaling \$1.62 trillion, a 2.78 percent increase over 2013. Louisiana ranked 6th among U.S. states, the same ranking it held in 2013. In general the top 10 exporting states remained the same with the exception of Washington moving to the top three and pushing New York out to number four. Of the top ten states, New York, Florida, and Michigan were the only states to show a decrease in exports.

Welcome New Associate Members

PAL welcomes one new associate member.

Massman Construction is a marine construction firm located in Kansas City, Mo. They will be represented by Mr. Robert Roble.

MARK YOUR CALENDARS

March 25, 26, 27, 2015, PAL Annual Conference, Omni Royal Orleans, New Orleans, LA

May 7, 2015 PAL Monthly Meeting, 10am, Baton Rouge, Richmond Suites

June 4, 2015 PAL Monthly Meeting, 10am, Baton Rouge, Richmond Suites

July 2, 2015 PAL Monthly Meeting, 10am, Vidalia, LA

