

NEWS FROM THE DOCKS



ASSOCIATION OF LOUISIANA

Louisiana Ports Deliver

May 2015

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Message from the PAL Office

This month PAL honored members of the legislature with a Cinco de Mayo party. It was co-hosted by The Beer Industry League of Louisiana and took place at their office location on N8th Street in Baton Rouge. Many thanks to all who helped with that event. We were lucky to have a beautiful, cool evening for an outdoor venue. The food was good and the company was even better. Everyone appeared to have a great time and we have even been requested to make it an annual event. Maybe...?

Congressman Garrett Graves attended the PAL May meeting and shared his comments and concerns for all things maritime.



PAL members complimented the Congressman on how quickly he has settled into his role and how effective he has become after only six months in office.

Legislative Update

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

Legislative Session

A. Port Construction and Development Priority Program—The Joint House/Senate Committee on Transportation gave final approval to the 2015-16 Port Priority Program on April 13th, the first day of the Legislative Session. The Program 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. The construction costs are to be funded by \$141.7 million of port funds and \$159.7 million of State funds of which \$31 million have been funded in prior years, resulting in a \$127.9 million unfunded balance.

When completed, the Projects will create 1,467 new jobs, preserve 876 jobs, and have a projected economic benefit of \$1.669.3 billion, which equates to \$10.50 for each one (\$1) dollar of State funds invested.

B. The Legislature continues its efforts to find funding for the 2015-16 operating budget. More than 125 bills have been introduced relative to tax credits and other revenue related measures. There is no consensus on how to balance the budget.

(1) Additionally, multiple bills have been introduced relative to the Transportation Trust Fund (TTF). They restrict the amount of appropriations of TF funds to the State Police for “Traffic Control” which in the current

Executive Budget exceeds \$60 million , and limit the appropriations for the Parish Road Funds.

The goal is to make available more of the TTF money for Transportation Infrastructure, including ports, roads and bridges and flood control.

(2) Several bills have been introduced which provide for additional TTF funding by increasing the motor fuel taxes, sale taxes on internet sales and changing the formula for deposit of surplus mineral revenue into the Budget Stabilization fund.

(3) Representative St. Germain has introduced a constitutional amendment and bill to create a La. Infrastructure bank, to be focused on local transportation related projects.

(4) The law authorizing Louisiana Ports to utilize the Design Build method for constructing infrastructure will terminate on December 31, 2015, and SB 66 by Senator Gary Smith will extend the sunset provision to December 31, 2020. Additionally, SB 162 by Senator Smith will lower the threshold to \$3 million for infrastructure projects which are allowed to utilize the Contraction Management at Risk method. Both of these bills are pending Senate final passage.

(5) SB 162 by Senator Chabert provides amendments relative to the Office of Multimodal Commerce (OMC). The law is amended to consolidate the sections from six to four –Ports and Waterways, Commercial Trucking, Aviation, Freight and Passenger rail development. The provisions which authorizes the OMC Commissioner becomes effective January 12, 2016, and the operational plan is to be presented to the Legislature to be implemented July 1, 2016. The bill is pending Senate floor passage.

The Multimodal Advisory Commission will continue in an advisory capacity.

(6) HB 661 by Representative Helena Moreno proposes to restrict the transportation of hazardous materials on certain La. highways in St. Bernard and Orleans Parishes which will affect the transport of maritime cargo. The bill is pending House Transportation Committee consideration.

Louisiana Port Tax Credits—

Louisiana Economic Development continues to revise the La. Import/Export Tax credit rules by consulting with businesses which may utilize the credit. It is anticipated that the rules will be finalized in the near future.

The Legislature has considered multiple bills and will consider additional bills which will revise all tax credits. The La. Port Tax credits are limited to an amount equal to the economic benefits received by the state and are not transferable and have a limitation on the total dollar amount of credits. Several of the tax credit bills consider similar revisions for other La. tax credits.

Water Resources Reform and Development Act (WRRDA) 2014—

The Louisiana Congressional delegation supported the passage of WRRDA, and during the current budget negotiations have continued to support increased appropriations to the U. S. Army Corps of Engineers for dredging as targeted in the WRRDA.

Import/Export Bank—Congress is currently considering the re-authorization of the Import/Export Bank which is utilized by many small Louisiana exporters. (PAL has previously supported the enactment of Import/Export Bank)

Trade Promotion Authority (TPA)—PAL has previously supported TPA in 2002 and should consider the ongoing the 2015 Trade Promotion Authority legislation.

National Ambient Air Quality Standard (NAAQS) –PAL has filed comments dated March 10, 2015 relative to the proposal to lower the current NAAQS ozone level of 75 ppb to a range of from 65 ppb to 70 ppb wherein PAL outlines how lowering the standards would affect ports and the businesses located in Louisiana.

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AAPA

U.S. Sen. Vitter Selected For AAPA's 2015 'Port Person of Year' Award Recipient honored at AAPA's Spring Conference in Washington, D.C., April 20-21

U.S. Senator David Vitter (R-LA) was selected to receive the American Association of Port Authorities' (AAPA) 2015 "Port Person of the Year" award.

The decision for selecting him to receive the AAPA's most prestigious annual award was based primarily on his adept leadership for, and many contributions to, the seaport and freight movement industry.

Marking its 103rd year as the recognized, authoritative and coordinated voice of the seaports industry in the Americas, AAPA selected Sen. Vitter based on his dedication to improving this country's water resources, infrastructure and freight transportation policy. His work toward reforming the USA's water resources development legislation, including boosting federal funding to maintain and improve ports and harbors, helps create jobs and propel economic competitiveness in the U.S



"Sen. Vitter has displayed extraordinary leadership toward ensuring the needs of the port and maritime industry are addressed at the federal level," said Kurt Nagle, AAPA's president and CEO. "He appreciates the critical role that ports and waterways play in the global economy and he has worked hard to encourage development of the infrastructure necessary to support modern, efficient seaports, including the land- and water-side connections with ports."

As a member of Congress for over 15 years (combined House and Senate terms) and recently selected chairman of the Transportation and Infrastructure Subcommittee on the Senate Committee on Environment and Public Works (EPW), Sen. Vitter has used his political expertise and influence to increase federal appropriations for America's ports and waterways and positively affect much-needed water resources policy changes. Throughout his tenure and leadership in Congress, he has also been a strong advocate for improving the landside transportation infrastructure needs of America's ports, both in terms of facilitating safe intermodal operations through funding programs like TIGER (Transportation Infrastructure Generating Economic Recovery) and in protecting port assets through funding such as the Port Security Grants program. To recognize his achievements in advancing the maritime industry and water resources, Sen. Vitter has received several awards and commendations, including the 2010 Congressional Leadership Award from the Propeller Club of the United States, and the 2013 Congressional Leadership Award from the National Waterways Conference.

Each year, AAPA presents its **Port Person of the Year** award to an individual or individuals who have made significant contributions to the port industry. Recent award recipients include: Sen. Barbara Boxer (D-CA) and Cong. Bill Shuster (R-PA) - 2014; Cong. Janice Hahn (D-CA) and Cong. Ted Poe (R-TX) - 2013; Cong. John Mica (R-FL) - 2012; U.S. Sen. Tom Carper (D-DE) - 2011; Adm. Thad W. Allen, Commandant, U.S. Coast Guard (U.S. "Port Person") and The Honourable David L. Emerson, P.C., former Minister of Industry, International Trade and Foreign Affairs for the Government of Canada (Canadian "Port Person") - 2010; Cong. Jane Harman (D-CA) - 2009; U.S. Sen. Robert Byrd (D-WV) - 2008; Panamanian President Martin Torrijos - 2007; U.S. Sen. Susan M. Collins (R-ME) - 2006; and U.S. Transportation Secretary Norman Mineta - 2005.

Economic News

Louisiana Receives Its Highest Ranking Ever In CEO Survey Of State Business Climates

Up 40 positions since January 2008, Louisiana ranks No. 7 in Chief Executive's Best & Worst

States for Business, representing the greatest improvement of any state in that time period

Chief Executive reported that CEOs nationwide rank Louisiana No. 7 in the U.S., the state's highest position ever, in the magazine's annual ranking of Best & Worst States for Business. The report continues the state's ascent in national business climate rankings, with Louisiana showing the greatest improvement of any state in the U.S. over the past seven years. Since January 2008, Louisiana has improved a nation-best 40 spots in the *Chief Executive* survey.

Gov. Bobby Jindal said, "Louisiana now stands as a formidable force in the global competition for jobs. In multiple national surveys, executives from around the country have recognized that Louisiana's business climate is not only strong, but one of the best in the nation. This latest rating is a further confirmation that our efforts to make economic development our top priority have paid off. We have created a business environment where companies want to invest and create jobs for our citizens. As more business leaders look to our state for their next investment, we are assured that Louisiana's future is bright."

Chief Executive Editor-in-Chief J.P. Donlon said of Louisiana's performance, "Louisiana is proof that a state can transform itself, provided it has the will and understanding of what attracts business investment, from a place that was once considered a backwater to a state that CEOs now regard as dynamic and business-friendly."

In every major national business climate ranking, Louisiana stands higher today than it ever did before 2008, including rankings by *Area Development*, Beacon Hill Institute, *Business Facilities*, *Chief Executive*, CNBC, DCI, *Forbes*, Pollina Corporate Real Estate and *Site Selection*. Prior to 2008, Louisiana never ranked among the top 10 states in any national business climate ranking. Today, Louisiana ranks among the top 10 states in most of them.

Since January 2008, LED has secured major economic development wins that are resulting in more than 91,000 new jobs and more than \$62 billion in new capital investment in Louisiana. According to the U.S. Bureau of Labor Statistics (BLS), Louisiana's private-sector employment

growth since January 2008 ranks second best in the South and seventh best in the U.S.

Corporate Member News

Port Fourchon



On April 24th, the LSU E. J. Ourso College of Business, Public Administration Institute and Student Association honored Chett Chiasson, Executive Director of Port Fourchon, with its 2015 Distinguished MPA Alumnus of the Year Award.



PAISA Day 2015 honorees Chett Chaisson, MPA Alumnus of the year; Sarah Brown, Astrid Merget Award recipient; and David Stokes, David B. Johnson Award recipient pose with Dean Richard White and PAI Director Jim Richardson.

Port of New Orleans



**Port of New Orleans
Leads Clean Water
Effort**

PORT NOLA
THE PORT OF NEW ORLEANS

U.S. EPA Brings Together Local Stakeholders for Cleaner Waterways

The Louisiana Department of Environmental Quality presented an Environmental Leadership Award to the Board of Commissioners of the Port of New Orleans at a ceremony held recently at DEQ's headquarters in Baton Rouge, La. The award recognizes environmental achievement for voluntary pollution prevention efforts,

community environmental outreach initiatives and environmental management systems that are above and beyond regulatory compliance.

The Port received its award March 25 for its Stormwater Management Program, which included educational outreach and employee involvement to mark storm drains throughout the Port's property. Cathy Dunn, the Port's Director of Development and Amelia Pellegrin, Environmental Services Director, received the award at the ceremony.

"The Environmental Leadership Program recognizes voluntary pollution reductions by government, schools, businesses and community groups in Louisiana," DEQ Secretary Peggy Hatch said. "Award winners have gone above and beyond regulation to combat pollution, spearhead community outreach efforts, or present educational programs that make a positive difference in the quality of Louisiana's environment."



Port President and CEO Gary LaGrange said the results of a renewed environmental focus are good for the entire port community and the region as a whole.

"The Mississippi River and Lake Pontchartrain belong to everyone," LaGrange said. "We want to be good guardians of natural resources and good stewards of our waterways. The Port's focus on a greener footprint will benefit all for generations to come."

As part of efforts to improve water quality, the Port recently partnered with the U.S. Environmental Protection Agency (EPA), DEQ, and multiple local organizations to address trash and litter in waterways. This effort is a pilot project in EPA's Trash Free Waters national program. The Port's Board

adopted a resolution March 30th committing the Port to further stakeholder engagement, education and outreach, and clean-up events to prevent trash and litter from reaching waterways.

"Keeping trash out of our nation's waters brings environmental, aesthetic, and economic benefits to coastal communities," said EPA Regional Administrator Ron Curry. "The Port of New Orleans will serve as a model for bringing diverse stakeholders together to reduce trash pollution and improve water quality."

Local organizations involved in the Port's Trash Free Waters initiative include stevedores Ports America, New Orleans Terminal, Coastal Cargo Company, Southern Recycling, Lake Pontchartrain Basin Foundation, University of New Orleans, New Orleans Sewerage and Water Board, Regional Planning Commission and many more including representatives from the business community and trucking industry.

"The Lake Pontchartrain Basin Foundation appreciates the opportunity to be part of such a proactive initiative to clean storm water before it enters Lake Pontchartrain," said Andrea Bourgeois-Calvin, PhD, the Foundation's water quality director. "The Port shows that as industries, businesses, and individuals we can all play a role in keeping debris and litter out of the storm water and out of our lake."

Karen Parsons, principal planner for the New Orleans Regional Planning Commission added: "The Regional Planning Commission is proud to have partnered with the Port of New Orleans in establishing the first Trash Free Waters policy that could very well lead a nationwide renaissance in port watershed cleanup. This is an immense step toward ensuring litter-free waters in our future."

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Arnold B. Baker Appointed to Board of Commissioners of the Port of New Orleans

Gov. Bobby Jindal appointed New Orleans businessman Arnold B. Baker to the Board of Commissioners of the Port



of New Orleans this week. Baker, who was sworn in during the monthly Board meeting by former Board Chairman Bernard Charbonnet, will serve a five-year term, succeeding Daniel F. Packer, as one of four Orleans Parish representatives on the seven-member regional Board that governs Port operations in Orleans, Jefferson and St. Bernard parishes.

Baker is owner and founder of New Orleans-based Baker Ready Mix and Building Materials, which operates three plants in the area, a fleet of mixer trucks and employs 40 local drivers, technicians and industry professionals.

“The strategic visioning and implementation processes of the Port of New Orleans Board, Directors and management team have been second to none, creating one of the nation’s greatest economic engines,” Baker said. “As the U.S. maintains its position as a leading and stabilizing force in global commerce and trade, the Port of New Orleans has a critical role in assisting in the fulfillment of that responsibility. I am honored to have an opportunity to participate, and will commit my industry, government and national organizational experience towards the commission’s continued success.”

Port President and CEO Gary LaGrange said Baker’s industry experience and leadership within the business community will serve the Port well.

“I am excited to welcome Arnold Baker aboard,” LaGrange said. “His leadership in civic, industry and philanthropic organizations within the New Orleans area is vital to sustaining the success the Port has realized. I look forward to working closely with him to build upon his vision and ideas.”

Baker currently serves on the boards of the New Orleans Board of Trade, New Orleans Chamber of Commerce, National Black Chamber of Commerce, Greater New Orleans Sports Foundation, Kate Middleton Elementary School, and the Bayou District Foundation.

He is a former board member of the New Orleans Business Council, GNO Inc., New Orleans Bureau of Governmental Research and the Louisiana Airport Commission.

A marketing and business administration graduate and former athlete with honors at Texas

State University, Baker also earned advanced marketing director certifications from the International Council of Shopping Center’s Management Institute.

Prior to founding Baker Ready Mix in 2003, Baker served as Managing Member of Centergy Development Group – a consultancy created to implement redevelopment strategies for distressed commercial real estate – from 1999 until 2003. He also served as Assistant to the Mayor of New Orleans for Policy, Planning and Development from 1996 until 1999, and prior to that was a field executive for several of the nation’s largest mall development and management firms.

Baker grew up in a military family moving frequently throughout the United States and Europe. He chose New Orleans as his “hometown,” where he has resided since 1992. He is married to Tracee Dundas, the producer of New Orleans Fashion Week and owner of About Faces Models & Talent Management.

The seven-member Port Board is unsalaried and members serve five-year staggered terms. The governor of Louisiana appoints members from a list of three nominees submitted by 19 local business, civic, labor, education and maritime groups. Four members are selected from Orleans Parish, two from Jefferson Parish and one from St. Bernard Parish.

Other current members include Chairman Scott H. Cooper, Vice Chairman William T. Bergeron, Secretary-Treasurer Michael W. Kearney, Robert “Rusty” Barkerding, Gregory R. Rusovich, and Laney J. Chouest.

South Tangipahoa Parish Port Commission



The South Tangipahoa Parish Port Commission (STPPC) recently hosted an official groundbreaking photo ceremony for its upcoming Bulkhead/Dredging Project. The new infrastructure projects are part of a \$3 million construction program primarily funded by the Louisiana Department of Transportation & Development (DOTD). Honorary attendees at

the event included LA State Senator Mac “Bodi” White (LA-District #6), State Rep. Steve Pugh (LA-District #73), and LA-DOTD Port Priority Program Manager - Randall Withers, Tangipahoa Parish President Gordon Burgess, and members of the South Tangipahoa Parish Port Commission (STPPC).



Officials who attended the event (in no particular order) including: State Senator Mack "Bodi" White (LA District #6), State Rep. Steve Pugh (LA-District #73), Tangipahoa Parish President Gordon Burgess, LA Department of Transportation & Development Port Priority Program Manager -Randall Withers, and members of the South Tangipahoa Parish Port Commission

Upon conclusion of the groundbreaking ceremony, STPPC President Don Boihem commented “It is exciting to begin construction on the series of infrastructure improvements that have been engineered to re-develop the Port Manchac inter-modal terminal into a state-of-the-art inland trans-loading facility designed to attract new industries and create new job market opportunities for residents of the Tangipahoa Parish region”.

The South Tangipahoa Parish Port Commission serves as the official governing authority for Port Manchac. The seven (7) commission members are appointed by the governor of Louisiana to six (6) year terms and receive no compensation for their community service to the organization. The commission was originally created by Act #299 of the Louisiana Legislature in 1962.

South Tangipahoa Parish Port Commission Officers for 2015:

Donald Boihem – President
Daryl Ferrara – Vice-President
Ernest Drake, III – Secretary
Lucas Watkins – Treasurer

James Wesley Daniels, II – Member
Cheryl Brumfield – Member
William Joubert - Member

The \$3 million investment program will also include internal roadway, drainage & parking improvements, rail spur maintenance, lay-down storage area improvements, as well as bulk-head/harbor dredging improvements at the facility. The projects will provide safe & efficient cargo storage/trans-loading operations for bulk, break-bulk, neo-bulk, and containerized cargo by barge, rail, and truck. The new infrastructure is part of the port’s master plan for future development that was originally developed in 2007 and designed to attract new industries and create new job opportunities for residents of the Tangipahoa Parish area. The current construction phase is scheduled to be completed by the end of the year.

The 140-acre inter-modal terminal is located directly adjacent to Interstate Highway-55 at the southern end of Tangipahoa Parish. Port Manchac is also adjacent to the mainline of the Canadian National Railroad (CN) that provides regular service to the 6’000 ft. of storage track at the site. The terminal’s ideal location also provides direct trucking links to nearby Interstate’s 10 & 12, and offers maritime access for barge shipments to Lake Pontchartrain, Mississippi River and The Port of New Orleans via North Pass. Additional infrastructure and logistical info on the Port Manchac inter-modal terminal is available @ www.portmanchac.com.

West Calcasieu Port



Poised for Growth: West Cal Port ready, willing, able for expansion

Barge counts aren't the only indicator of growth. In 2007, the port's net assets were pegged at \$2.9 million and the operating budget was \$128,287. By year's end 2014, port assets totaled \$10.4 million and the budget was \$395,497.

Southwest Daily News - Sulphur, LA
By Heather Regan-White



Lisa Kennedy/SDNWith industrial expansion exploding all around Calcasieu Parish, the West Calcasieu Port (shown above near the Ellender Bridge) has prepared to handle the economic growth and will welcome a new tenant soon.

In a recent interview with the Daily News, West Calcasieu Port Director Lynn Hohensee and Port Board President Dick Kennison talked about how the port is situated to handle the massive industrial expansion going on all around it and how it got there.

The West Calcasieu Port is a shallow-water port located west of the Ellender Bridge in Hackberry, along the Gulf Intracoastal Waterway, two miles west of the Calcasieu River Ship Channel. It was formed in the mid-1960s by state legislative action. Of the 190 acres that make up the port, about 40 percent is wetlands, according to Hohensee, leaving 60 percent usable.

In 2005, the port's governing authority, the West Calcasieu Port Board Authority, realizing that much of their available land was under-utilized, commissioned a study to look at possible uses. The study recommended that a part-time marketing director be hired for the port. Hohensee said that in the first half of 2006, the board decided they needed more than a marketing director and he was hired in June of 2006 to serve on a part-time contract basis as overall director. Also hired that year were attorney Glen James, CPA Darla Perry, and Sulphur engineering firm Meyer and Associates. "We were able to start getting the snowball rolling on growing the port," he said.

A \$50,000 grant from the Louisiana Economic Development helped fund a master strategic plan for the port, which gave the board an idea of where they wanted to be and where they wanted to go.

"We're looking to revisit that plan soon to reflect changes," said Hohensee. He said that at

the time the study was commissioned, there were not the growth opportunities and potential that the region has now.

"From 2007 on we started to really develop and experience some growth out here," said Hohensee. "Daily barge counts exceeding 100 became the norm in 2014."

He said that Mike Devall with Devall Towing, which handles all waterway activity at the port, anticipates this growth will continue and that daily barges will double by 2020.

"We were doing 40 to 50 a day nine years ago," said Hohensee. "Today we do between 100 and 130 barges a day."

Barge counts aren't the only indicator of growth. In 2007, the port's net assets were pegged at \$2.9 million and the operating budget was \$128,287. By year's end 2014, port assets totaled \$10.4 million and the budget was \$395,497.

"The fact that we have six ports and a robust pipeline network has helped attract industrial development," said George Swift, President and CEO of the Southwest Louisiana Economic Development Alliance.

"Our research indicates we are the reigning leader nationally with \$32 billion in projects currently underway and proposed projects for a combined \$86 billion," he continued, "The West Calcasieu Port is very important with its location on the Intracoastal Canal. They've been very aggressive in recruiting tenants and expanding, which helps the entire area."

Swift said all six ports provide different services to different sectors.

"Our niche is not a cargo port for moving freight through," said Hohensee. "Our niche - and it has evolved - is providing marine services like barge fleet, marine construction, dry barge cleaning, wet barge cleaning and stripping, marine fueling and concrete production." There are currently several tracts of land available for lease at the port. One of them, a 40-acre tract of land, is used as a dredged spoils containment area. Hohensee said the land, which will eventually be available to lease, is a prime spot as it is right on the canal and already built up for construction.

The port receives no tax dollars. Funding is solely from lease agreements with the port's seven tenants and water the port sells to them. The Carlyss Waterworks has a 6-inch water line that runs to the port and the port extended it to run to tenants.

The West Calcasieu Port Board is comprised of five members. Appointments are made based on recommendations from the Mayor of Sulphur, the Sulphur City Council, West Calcasieu Parish Police Jury members, the West Calcasieu Chamber of Commerce and the Building and Trades Council. Current members are President Dick Kennison, Wilmer Dugas, Tim Daugherty, Dave Aguiard and Scott Foreman.

"Dick has done a superb job of leading the board and that's one of the things that makes my job easy," said Hohensee. "It's an incredibly progressive board that understands the path that we're going and subscribes to the ideas that we bring them - not all of them. They challenge, and they question but we work it out. They are very supportive and they deserve a lot of the credit." "We don't rubber stamp anything," added Kennison.

The port also has a Tenant Committee which considers applications for leasing to see if the proposed business would fit well with the other tenants. Chuck Stutes with Meyer and Associates, Glen James, Kennison, Perry and Hohensee serve on the board.

"We take the fiduciary responsibility we have very seriously," said Hohensee, "As well as our responsibility to maximize the port's potential, our responsibility to our tenants and to be good neighbors."

The port's oldest tenant, Devall Enterprises, has a lease agreement with the port through 2037. Both Hohensee and Kennison said the importance of Devall Enterprises as a tenant cannot be overstated.

"Devall is the dog and everybody else there is part of the tail," said Kennison. "Devall is almost exclusively responsible for everybody else being here as a result of their presence and reputation."

On July 1, 2014, a ribbon cutting ceremony was held for a new \$640,000 barge loading ramp. The 80,000-pound capacity ramp was funded by a significant grant from Devall Towing and is accessible by a 700-foot hard-surface road, The

road and its related infrastructure were funded through two economic development grants from the Calcasieu Parish Police Jury totaling \$352,000. Hohensee said the barge project would not have been possible without the funding support from Devall.

"This demonstrates the importance of public/private partnerships," he said. Hohensee said that supplemental funding for the port comes from grants from the City of Sulphur, the Calcasieu Parish Police Jury's economic development fund, the Department of Transportation and Development's (DOTD) Port Priority Fund and federal grants. The DOTD funded maintenance dredging on the barge basin in 2009 and an 800-linear-ft. extension and some expansion of the barge basin that was complete in 2012. The port also secured \$3 million in bonds in 2013 that they use as matching funds in applications for capital outlay funding grants from the state.

Hohensee said watching the port grow has been like watching a child move from toddler to teen to adult. He said that he enjoyed his 28-year military career and 30-year career in the local petroleum industry.

"But I love my job now," he said. Hohensee also praised the Calcasieu Parish Police Jury.

"In my estimation, much of what is going on (with industrial expansion) starts with the Police Jury," he said. "I have to give them all the credit for all the good things so far and for their stewardship and forward-thinking." "Calcasieu Parish will probably be a shining star for years to come," he said.

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Hohensee: Tenant synergy a strong element of West Cal Port

Southwest Daily News - Sulphur, LA
By Heather Regan-White

The West Calcasieu Port currently has seven tenants. Port Director Lynn Hohensee said they make up a family of tenants with mutually beneficial skills

"Tenant synergy is a strong element of our culture at this port," he said.

The oldest and largest, Devall Enterprises, provides fueling, towing, fleetings, barge cleaning, and diesel repair services and handles all of the waterway activities at the port. Orion Marine Group (formerly F. Miller and Sons), a heavy civil marine contractor, recently negotiated a five-year lease agreement extension for its marine construction services, dredging, repair and maintenance salvage, underwater inspection and a dozen other marine services. The company has been with the port since 2009. River Barge Works, with the port since 2013, specializes in cleaning dry barges. These are barges that ship petroleum coke, scrap iron, grains, other non-liquid-type products. They have been on board for about two years and they lease space on the barge basin. Also joining the port in 2013 was United States Environmental Services. They provide dry barge cleaning and wet barge cleaning and scraping. That year USES partnered with Tresco. Tresco scrapes the the bottom of barges and stores whatever chemicals it recovers in mobile storage facilities located on-site which are then shipped off for recycling.

In January of this year, Tauber Oil Co. come onboard. The company’s 30,000-barrel-capacity refueling barge supplies vessels on the Intracoastal Waterway with ultra-low sulfur diesel fuel.

The most recent addition to the port’s list of tenants is CEMEX Cement of Louisiana. The company currently provides concrete support across the Intracoastal for Sempra through contractor CBI.

Hohensee said there is a strong possibility of an eighth tenant by year’s end.

“And we’re looking for more,” he said.

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Associate Member News

T. Baker Smith

T. Baker Smith, LLC (TBS) announces the newest expansion office in Lake Charles, LA, home to two of our trusted advisors from the area—Senior Project Manager John Lowery, P.E. and Business Development Representative Justin Ardoin.

John is a native of Sulphur, LA and has lived and worked in the Lake Charles area for most of his career. A licensed professional engineer, John received his bachelor's degree in civil engineering from McNeese State University. John has been a part of many important engineering projects in the Lake Charles area, including airport, sewer, power plant, roadway, and dock improvements.

Justin grew up in DeRidder, LA and also attended McNeese State University, achieving bachelor's degrees in finance and business marketing while also participating as an athlete for the blue and gold. The majority of Justin's professional career has been spent in the Lake Charles area in the banking and oil and gas industries.

Kenneth Wm. Smith, President and CEO of TBS, expresses, "It's exciting to see yet another Louisiana community continue to grow, develop, and strengthen the economy. TBS is eager to be a part of a forward-thinking region that is providing jobs and growth in demanding times."

Our new office is located at 949 Ryan Street in the Phoenix Building. For more information on TBS or to become part of our team, please contact Justin Ardoin at 337.241.0978 or justin.ardoin@tbsmith.com as well as John Lowery at 337.419.0585 or john.lowery@tbsmith.com.

Legal News



EMOTIONAL INJURY

ZONE OF DANGER

Can a claimant recover for purely emotional injuries under the Jones Act and General Maritime Law if he has suffered no physical contact or injury?

This is an issue that has garnered considerable attention as creative trial attorneys seek compensation for their clients. When first considering this issue, the Fifth Circuit Court of Appeals provided that purely emotional injuries would be compensated only when maritime

plaintiffs satisfy the “physical injury or impact rule.” Either a physical injury or physical impact was required before emotional injuries could be compensated. One purpose for the impact or injury rule was to “provide courts with an objective means of ensuring that the alleged mental injury is not feigned.” A more important purpose of the rule was to provide a principled basis for limiting liability. Traumatic events may cause foreseeable emotional distress through a broad range of time and space. The courts recognized that without some way to limit these claims, anyone could claim emotional distress if involved in or if a witness to an accident. *Gough v. Nat. Gas Pipeline Co.* (5th Cir. 1993).

But what if the claimant has suffered no physical injury or impact? This was first addressed in *Gaston v. Flowers* (5th Cir. 1989). In *Gaston*, the plaintiff tried to recover for the emotional distress caused when he witnessed his half brother get crushed to death during a collision between a barge and a tugboat. The Court refused to extend Jones Act liability to include Gaston’s “bystander liability,” which the Court defined as “an attempt to recover damages for witnessing the death or injury of another crew member, without significant injury or fear of injury to himself.” Particular significance was given to the fact that “no evidence was presented tending to show that Gaston was ever concerned for his own safety.” The Court in *Gaston* saw the creation of liability to one who could not claim the status of a direct victim as “inviting significant and unwelcomed innovations, such as permitting a recovery for purely emotional injuries...and permitting such a recovery, not for such injuries resulting from physical trauma to the Plaintiff, or even from his fear of such trauma to himself, but for the emotional injuries stemming from witnessing a bad sight.”

In *Gaston*, the plaintiff had urged that recovery should be permitted under a “zone of danger” theory, even for bystanders. In Louisiana, the “zone of danger” rule provides some mechanism for recovery of emotional injuries absent any physical contact which result from the witnessing of peril or harm to another if the plaintiff is also threatened with physical harm as a consequence of the defendant’s negligence. *Gaynor v. State Farm* (4th Cir. 1999). In *Gaston*, the plaintiff was denied recovery because, even though witnessing the death of his half brother was traumatic, he made no showing that he

thought himself in danger, or in harm’s way. In so holding, however, the Fifth Circuit preserved “zone of danger” as a possible theory of recovery for purely emotional harm. In *Plaisance v. Texaco, Inc.* (5th Cir. 1992), a tugboat captain who was towing a barge struck a pipeline. The rear of the flotilla was engulfed in flames, but no one was injured. The captain sued, claiming post traumatic stress disorder. The trial court dismissed the captain’s claim, finding that his PTSD “was not a reasonably foreseeable consequence of the alleged negligence of his employer.”

As a consequence of this evolution, the present state of the law provides for recovery of purely emotional injuries if certain criteria are met. As stated by Judge Martin Feldman in *Anselmi v. Penrod Drilling Corp.* (E.D. La. 1993), “Under the right circumstance, one may recover for purely emotional harm under a zone of danger theory if the facts place the plaintiff within the definable zone. What is necessary for a valid claim is that the claimant must have been objectively within a zone of danger, he must have feared at the time of the incident that his life or person was in danger and his emotional injuries must be a reasonable foreseeable consequence of the defendant’s alleged negligence.

The zone of danger theory preserves traditional tort doctrines of negligence, legal causation and foreseeable risks.

The most obvious of the criteria is that the claimant have been in the “zone of danger.” This requires an objective analysis of the facts by the judge or jury. To have been within the zone of danger, the plaintiff must have experienced fear of death or injury due to his proximity to an actual or near accident. (*See, Ainsworth v. Penrod Drilling Corp.*, where plaintiff’s claim for emotional injury was denied as he was 100 feet from the point of impact of a crashing helicopter and did not prove he feared injury due to the crash.)

In Louisiana, the law provides that recovery for mental anguish/emotional distress from property damage is possible, even without actual physical injury or a manifestation of physical injury. Louisiana courts have identified five situations when a mental anguish award can result from property damage. The situations are:

- (1) When property is damaged by an intentional or an illegal act;
- (2) When property is damaged by an act for which the tortfeasor will be strictly liable or absolutely liable;
- (3) When property is damaged by acts constituting a continuing nuisance;
- (4) When property is damaged at a time in which the owner thereof is present or situated nearby and the owner experiences trauma as a result;
- (5) The mental anguish must be a real mental injury; the usual worry or inconvenience over the consequences of the property damage will not justify an award for mental anguish. *Blache v. Jones* (4th Cir. 1998).



BY WILTON E. BLAND, PARTNER

MOULEDOUX, BLAND, LEGRAND & BRACKETT.

Welcome New Associate Members

PAL welcomes one new associate member.

Scott Equipment Company is located in Baton Rouge. They will be represented by Lance Landeche.

MARK YOUR CALENDARS

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

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

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

