

NEWS FROM THE DOCKS



Louisiana Ports Deliver

ASSOCIATION OF LOUISIANA February 2012
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Message from the PAL Office

We hope you're getting excited. Our Annual Conference is just around the corner. You need to make your room reservations NOW! Call the L'Auberge at 1-866-580-7444 and use the room code SPAL12 to secure your room at the special rate of \$99 per night. Our room block will only be held until February 14th.

Registration is now available at the PAL website. Go to <http://www.portsoflouisiana.org/> to register. The program is also posted and you will be able to see all of the speakers and events that are scheduled.

PAL appreciates all of the work that the host ports (Lake Charles, Mermentau, West Cameron, West Calcasieu and Vinton) are doing to make sure that we all have an informative and enjoyable experience.

PAL is also excited about our Economic Impact Study. Dr. Jim Richardson is nearing completion of the study and he will present his findings during the conference. Preliminary discussions indicate that Louisiana's Ports are ImPORTant!!

This is our membership renewal period. If you have not renewed for 2012, please do so now. If you need another invoice, I will be happy to provide one.

Legislative Update

LEGISLATIVE: As reported previously, Legislative Officers have been elected and committee chairmen have been appointed.

Leadership includes Speaker Chuck Kleckley, Speaker Pro-temp Walt Leger, III, Senate President John Alario and President Pro-temp Sharon Weston Broome.

Committees of direct interest to PAL:

- A. Senate Transportation Committee
Chairman is Senator Robert Adley and Sherri Smith Buffington is vice-chair of the 7 member committee;
- B. House Transportation Committee
Chairperson is Karen St.Germain and Austin Badon is vice-chair of the 19 member committee;
- C. Senate Finance Committee Chairman is Jack Donahue and Vice-Chair is Norby Chabert of the 11 member committee;
- D. Senate Revenue and Fiscal Affairs
Chairman is Neil Riser and Vice Chair is Dale Erdey of the 11 member committee;
- E. House Appropriations Committee
Chairman is James Fannin and Vice Chair is Henry Cameron of the 25 member committee;
- F. Ways and Means Committee Chairman is Joel Robideaux and Vice Chair is Patrick Williams of the 19 member committee.

The Regular Session of the Legislature is scheduled for 60 days within an 85-day calendar period and will commence on March 12th, and end not later than June 4th, 2012. It is a General Session and "no measure levying or authorizing a new tax, increasing an existing state tax, or legislating with regard to state tax exemptions, exclusions, deductions, or credits can be introduced or considered at the Regular Session".

As reported in the press, financial issues, education and retirement reforms will dominate. As of February 1, more than 120 bills have been

pre-filed. The last day for filing retirement bills was January 27th and 79 bills relative to retirement were pre-filed in both houses. The proposed general appropriation bill will have to be cut by \$875 million.

PORT PRIORITY PROGRAM

DOTD continues to work on selecting a replacement for Dr. Jay as the economist for the \$20 million Port Priority Program through the existing contract with the University of New Orleans. DOTD has recommended Dr. James Richaron to complete the existing contract which extends to the end of the fiscal year.

HYDROKINETIC GENERATOR RULES

The Office of Mineral Resources (OMR) adopted the revised rules incorporating several requested changes by Ports and DOTD which will allow for Port to more efficiently review applications for permits for Hydrokinetic Generators. However, OMR rejected some of those requests and particularly that Ports be allowed to charge the applicant for reimbursement of actual expenses incurred in contracting for experienced consultants to analyze if the generator sites may hinder navigation.

Free Flow Power will apply to the Federal Energy Regulatory Commission for a permit to install generators under long segments of the Mississippi River. They have become associate members of PAL. This association will allow more direct and earlier communications of issues which may affect navigation. Free Flow Power is currently conducting feasibility test at a site in the Mississippi River north of Baton Rouge.

It may be necessary to legislatively make changes to the rules and to authorize the reimbursement of cost incurred by ports if permitted by the Fiscal session limitations.

DESIGN –BUILD FOR PORTS

PAL continues to cooperate with the committee Chaired by Kent Dussom of URS to draft compromise changes to the Design Build legislation filed in 2011 to allow Design-Build for ports.

The ACES members who opposed the Design Build legislation are scheduled to suggest possible changes to the bill PAL filed in the last Legislative session.

Representative Walt Leger has agreed to file a revised bill which has been drafted with changes suggested by engineers who are proponents and opponents to the bill. The proposed bill, with changes, was drafted by Don Brinkman and Mike Dees of the Port of Lake Charles, the original proponent of Design Build for ports.

Additionally, a Design-Build Chapter in La. of the National Design-Build Association has been established and will meet at the Port of New Orleans at 11:30 on February 8th. This organization will support Design Build authorization for Ports and possibly other public entities.

COASTAL PROTECTION AND RESTORATION –2012 PLAN—The MARITIME FOCUS GROUP was formed by the Coastal Protection and Restoration Authority early in 2012 to provide the opportunity for navigation interest to comment relative to the draft 2012 Coastal Master Plan which may include approximately 285 projects costing approximately \$50 billion.

The Focus Group has met 3 times with Kirk Reinhardt and his staff. The purpose of the focus group is to allow the exchange of information as to how navigation and ports located within the coastal zone may be impacted by the master plan projects. At one of the meetings Garrett Graves participated and answered questions of the focus group.

Mr. Reinhardt appeared at the PAL February meeting to make a presentation and answer questions relative to the 2012 Master Plan. The CPRA has completed the draft plan, however the comment period extends to February 25th. The plan will be submitted to the Legislature on March 26, 2012 and will be under consideration by the Legislature for adoption.

PORTS OF LA. ECONOMIC STUDY

Dr. Jim Richardson gave a report and draft summary of the study on February 2, prior to the PAL meeting. PAL Board members or their proxy attended. The final study will be presented by Dr. Richardson at the PAL Annual meeting in Lake Charles on March 8th.

PORT TAX INCENTIVES

The rules relative to the Import/Export Tax incentive have not been adopted as LED continues to review the data provided by the

Port of New Orleans to support the economic conclusion that the state will not have a net loss of revenue upon implementation of the tax credit. Because of the Fiscal Session limitations, no amendment can be offered to legislatively adjust the Port Tax Incentives. The Infrastructure tax credit rules have been implemented.

HARBOR DREDGE FUND

PAL is a member of the Big River Coalition and it continues to support the efforts to secure adequate funding for dredging of navigation channels in La. and the nation.

Through the Big River efforts and the La. Congressional delegation, Congress recently enacted legislation to deal with Mississippi River Flood damage and provided additional funding for dredging the lower Mississippi River which will allow the channel to be maintained to the authorized depth during 2012. PAL continues to support the legislation to require the use of the Harbor Maintenance Tax for dredging of harbors and channels.

On January 10th, the Big River Coalition released its study by Dr. Tim Ryan relative to the economic effects on shipping caused by reduced dredging of the Mississippi River. Dr. Ryan found that a reduction in the draft to 44 ft from the authorized 45 ft will cost a direct loss of \$722 million in spending and a \$1.4 billion loss in total spending and a reduction in the draft to 38 ft will cause the U. S. economy a loss of up to \$7.2 billion in direct spending.

The long term solution to dredge funding is requiring that all of the Harbor Maintenance Tax be utilized for harbor dredging and maintenance as provided by the Realize America Maritime Promise Bill (RAMP ACT) by Congressman Boustany and supported by the La. delegation. A hearing on the bill was held in the House Ways and Means Committee with testimony by Port of New Orleans Director Gary Lagrange and Commissioner of Agriculture Bill Strain on February 2, 2012.

DOTD and Department of Natural Resources will enter into a Memorandum of Understanding relative to DNR permit requirements for “economic justification” and “beneficial use” of dredging in the Coastal Zone. Pursuant to the Draft MOU, DNR will accept the Port Priority Program “economic justification” of a PPP

project for purposes DNR permits, and will accept that there is “beneficial use” of “dredge material” when a port can “justify and document the expansion and development (i. e. Post’s master plan, etc).” A copy of the draft MOU was forwarded to members. PAL has recommended changes to the final document and the final document has not been agreed to by DOTD and DNR...



Joe Accardo
Executive

Corporate Member News

Port of New Orleans 2011 Marks Record Year For Cruise Passengers - Two Unique Ship Calls Help Boost Passenger Counts

The year 2011 marked a record year for cruising from the Port of New Orleans, as the Port handled 736,908 passengers – besting the previous record in 2004 by 2,265 passengers. The 2011 numbers also beat the 2010 passenger count by more than 39 percent.



“We are experiencing tremendous growth in our cruise industry,” said Gary LaGrange, Port President and CEO. “New Orleans is a hugely popular cruise port and cruise lines are taking notice and investing larger and newer ships in their New Orleans itineraries. This year we will

be knocking on the door of the 1-million-passenger mark.”

In addition to the four home-ported cruise ships sailing from New Orleans each week, the Port is hosting two unique cruise ship calls, which means vessels simply calling on New Orleans as a cruise destination. The 1,778-passenger *Balmoral* berthed at the Julia Street Cruise Terminal to allow passengers to explore New Orleans. Owned by United Kingdom-based Fred Olsen Cruise Lines, the ship is the largest and newest of the company’s fleet. Port Director of Cruise and Tourism Robert Jumonville presented Capt. Olav Sovdsnes with a plaque to mark the vessel’s maiden voyage to New Orleans.

P&O Cruises *Oceana* called on the Julia Street Cruise Terminal to allow passengers to visit the Crescent City before departing Friday night for Cozumel. The 857-foot, 2,272-passenger cruise ship is in the midst of a Caribbean cruise for the United Kingdom-based cruise line and visited Grand Cayman prior to New Orleans.

The cruise industry is big business for the Port and the New Orleans tourism industry. In 2011, the total direct local economic impact of the industry is estimated at \$132.1 million – or \$937,000 per ship call. Economic impact studies determined the industry contributes more than \$226 million overall to the state, supporting more than 3,000 jobs. And those impacts will surely rise in the coming year with further increased activity.

In the fall of 2011, three new ships began calling on the Port. In November, the 2,052-passenger *Carnival Elation* arrived to sail year-round four- and five-day cruises to Cozumel and Progreso, Mexico. The 2,974-passenger *Carnival Conquest* returned to New Orleans replacing the *Carnival Triumph* to sail year-round seven-day western and eastern Caribbean cruises. And Royal Caribbean’s *Voyager of the Seas* – a 3,114-passenger cruise ship, the largest ever to home-port in New Orleans – began sailing seasonal seven-day western Caribbean itineraries Nov. 12. The three new ships joined Norwegian Cruise Line’s 2,018-passenger *Norwegian Spirit*, which sails seven-day western Caribbean itineraries, as well. NCL plans to replace the *Norwegian Spirit* with the larger 2,348-passenger *Norwegian Star* this fall.

In addition to the popular cruise lines sailing regularly from New Orleans to the Caribbean, LaGrange pointed out inland cruising on the Mississippi River will return in 2012, as well. American Cruise Line will debut a new sternwheeler built for navigating the Mississippi River named the *Queen of the Mississippi* in June and Travel Dynamics International will begin sailing its 257-foot *Yorktown* coastal ship from New Orleans in November 2012. In April, the Great American Steamboat Company will return the *American Queen* to New Orleans and Blount Small Ship Adventures will begin sailing inland itineraries aboard the *Grande Caribe* in March.

For more information, please visit the Port’s web site at www.portno.com

Port of New Orleans Cruise Ships:

Carnival Elation

2,052 passenger; four- and five-night cruises; Cozumel and Progreso

Carnival Conquest

2,974 passengers; seven-day cruises; Key West, Freeport and Nassau (eastern Caribbean); Belize, Roatan and Cozumel (western Caribbean); Montego Bay, Grand Cayman and Cozumel (western Caribbean)

Norwegian Spirit

2,018 passenger; seven-day cruises; Costa Maya, Cozumel, Roatan and Belize

Royal Caribbean Voyager of the Seas

3,114 passengers; seven-day cruises; Jamaica, Grand Cayman and Cozumel

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Record Container Volumes Set In 2011 New Services, Cranes and Facilities To Spur Further Growth

2011 proved to be a banner year for container volumes at the Port of New Orleans. Year-end figures show the Napoleon Avenue Container Terminal moved 476,413 TEUs (twenty-foot-equivalent units), up 11.6 percent compared to 2010 - the Port’s previous record-setting year – and up 46 percent compared to volumes just two years ago.

“Two back-to-back record-setting years is a testament to the hard work of our customers

and terminal operators,” said Port President and CEO Gary LaGrange. “Our volumes are attributed to a strong export market, particularly chemicals and agricultural products; coffee and apparel were strong commodities on the inbound side.”

The Port also added a new Latin American container service in 2011 and a new container carrier, as CMA CGM returned to the Port. The shipping line joins Mediterranean Shipping Company, Hapag-Lloyd, Maersk, Seaboard Marine and CSAV in serving the Napoleon Avenue Container Terminal.

New Orleans Terminal and Ports America jointly operate the Napoleon Avenue Container Terminal. An expansion is underway throughout the terminal, as the Port invested \$38 million in 2011 alone into the facility, including the delivery of two new container gantry cranes and the addition of more than four acres to the terminal’s marshalling yard. Both projects increase efficiencies and terminal capacity.

In December, U.S. Deputy Secretary of Transportation John Porcari awarded the Port a \$16.7 million federal grant to build the Mississippi River Intermodal Terminal – a specialized, 12 acre freight rail yard on the terminal - which will capitalize on New Orleans’ unmatched rail access to six Class One railroads.

We continue to reap the benefits of investments we have made at the Napoleon Avenue Container Terminal,” LaGrange said. “We will continue to work hard to stay a few steps ahead of the market’s demand as the container trade grows in the Gulf of Mexico.”



Mediterranean Shipping Company's Maeva, a 1,066-foot container vessel capable of carrying more than 8,000 TEUs (twenty-foot-equivalent units), is shown at the Port of New Orleans' Napoleon Avenue Container Terminal recently. 2011 proved to be banner year for the terminal, setting a new record for container volumes at 476,413 TEUs - up 11.6 percent compared to 2010.

Congressional Testimony

Port of New Orleans President and CEO Gary LaGrange was one of several witnesses testifying before a U.S. House of Representatives Ways and Means Subcommittee today. He spoke in favor the RAMP Act, of H.R. 104, which would dedicate all proceeds of the Harbor Maintenance Tax to Harbor Maintenance Projects.

The Harbor Maintenance Tax is a tax collected on imports, but a large portion of the tax is not used for Harbor Maintenance Projects. Meanwhile, U.S. harbors are under-maintained, resulting in the full channel dimensions of America’s busiest ports being available less than 35 percent of the time. Reduced channel dimensions could increase both the cost of shipping and the risk of grounding or collision.

The RAMP Act was introduced by Rep. Charles Boustany (R-La), who is the Chairman of the House Ways and Means Subcommittee on Oversight.

The testimony and background materials are available at <http://waysandmeans.house.gov/Calendar/EventSingle.aspx?EventID=276552>

Port of Iberia

Bernard Named Commission President Port Expansion, AGMAC Preparations to Highlight 2012

Raymond Bernard Jr. was elected president for 2012 at the January meeting of the Port of Iberia Board of Commissioners.

Bernard, 52, is the vice president and general manager for Aviation Exteriors (AVEX), Inc. He was appointed to the commission in 2005 by the Iberia Parish Council, and this will be his second term as president.



Bernard said several projects, including advance work for the Acadiana Gulf of Mexico Access Channel (AGMAC) and completion of the port's Millennium Expansion Phase II, will be priorities for 2012.

And if history is any indication, the \$8.1 million dollar, 108-acre expansion project slated for completion in December will mean more jobs at the Port.

"The last expansion that the Port did was completed six years ago, and 60 percent of the leased property for expansion came from existing tenants," Bernard said. "That original expansion now employs more than 560 people."

Preparation work also continues at the Port relating to the AGMAC project. All bulkheads will be retrofitted, and existing pipelines deepened, in anticipation of the future 20-foot channel depth.

"The commission has been very active at keeping the AGMAC channel at the forefront," Bernard said. "We continue to work with the U.S. Army Corps of Engineers, as well as our local, state and federal delegation to keep the project moving forward and to secure the appropriate funding necessary. We plan on continuing to get our ducks lined up in anticipation of a 20-foot channel."

Roy Pontiff, executive director at the Port of Iberia, said he is confident Bernard will be an effective leader for the commission in the coming year.

"Having served seven years on the commission, Raymond has been an energetic leader as past president and chair of several committees," Pontiff said. "He brings that energy and experience to the table at a time when the Port is taking on \$20 million in capital projects in 2012,

including the 108-acre port expansion.

"As a true working president, Raymond is involved in the community and has developed key relationships which will greatly benefit our work here," he said. "Under his leadership, I look forward to a challenging and exciting year ahead."

Bernard is married to the former Susan Valls and has two children: Dustin 24 and Lori, 20.

***Port of South Louisiana
Port of South Louisiana Commemorates
Maiden Voyage of M/V Lucia Bottigleir***

On January 17th, the Port of South Louisiana welcomed the crew of the M/V Lucia Bottiglieri as the vessel made its first call to the Port of South Louisiana. In recognition of the vessel's maiden voyage, the ship's Captain, C.I. Perederic, was presented an Honorary Harbor Master Certificate and a ceremonial plaque by Lee "Buddy" Amedee, Port of South Louisiana's Marine Cargo and Trade Director.



Operating under the Marshall Islands flag, the Panamax-size vessel sailed from Tsuneishi, Japan on December 10, 2011 and arrived at the Archer Daniels Midland Ama facility in St. Charles Parish on January 15th to take on 70,000 tons of N^o 2 yellow corn destined for Damman, Saudi Arabia. Bluewater Shipping served as the ship's agent during its journey to the Port of South Louisiana.

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Local High School Football Teams Recognized During January 2012 Commission Meeting

During the Port of South Louisiana Commission meeting held on January 17, two local high school football teams were honored for their achievements during their 2011 season.

The West St. John High School Rams earned the runner up spot in the Louisiana High School Athletic Association 1A state division. Head football coach Robert Valdez and Russell Jack, St. John Parish School Board Representative, were presented a congratulatory plaque from Commission President Louis A. Joseph. Serving the communities on the west bank of the Mississippi River, West St. John High School is part of the St. John the Baptist Parish public school system.



Pictured (L-R): Russell Jack, Jr., St. John the Baptist Parish School Board Representative District 1; Robert Valdez, West St. John High School Head Football Coach; and Louis A. Joseph, Port of South Louisiana Commission President

The St. Charles Catholic High School Comets won the championship in the 3A state division. Head football coach Frank Monica was also presented a congratulatory plaque at the meeting from Commission President Louis A. Joseph. St. Charles Catholic High School is located in LaPlace, St. John the Baptist Parish.

Blaise J. Gravois Appointed As Treasurer of Board of Commissioners

Blaise J. Gravois was appointed to the Port of South Louisiana Board of Commissioners by Governor Bobby Jindal to fill the unexpired term

held by Gregory Gravois, who served on the board from 2000 until his passing in September 2011. Mr. Gravois was subsequently elected by the board to serve as treasurer. Commissioner Gravois' father, Honora F. Gravois, also served on the commission from January 1989 through May 2000, where he held the positions of President, Secretary, and Treasurer during his tenure.



A native of Vacherie, Louisiana, Commissioner Gravois has over 35 years of business experience. He has held positions with M&H Builders, Inc., Aegis Construction, Inc., and is currently project manager/estimator for BET Construction, Inc. He was the proprietor of Gravois Supermarket for 11 years, a family-owned business founded by his grandfather in the 1920s.

Mr. Gravois is actively involved in his community as a member of the St. James Parish Economic Development Board, Chairman of the St James Parish Comprehensive Master Plan Committee, Capital Campaign Committee Chairman of Our Lady of Peace Catholic Church, and Grand Knight in the Knights of Columbus Council #11857. Commissioner Gravois also served as President of the Board of Directors for the River Region Chamber of Commerce and for the Vacherie Volunteer Fire Department.

Mr. Gravois, married to Patricia Reulet Gravois for 34 years, has three children and three grandchildren.

On being appointed to the board of commissioners, Mr. Gravois said, “I am honored to be selected to serve as commissioner for the Port of South Louisiana. I look forward to working with the commissioners and the executive director to make the port strong and continue its growth. I want to see the River Region continue to strengthen economic development and create jobs for our residents. I believe the Port of South Louisiana has a large share in making these things happen.”

South Tangipahoa Parish Port Commission

South Tangipahoa Parish Port Commission Selects Mr. Daryl Ferrara as President for 2012

The South Tangipahoa Parish Port Commission (STPPC) has selected Mr. Daryl Ferrara as President for 2012. Upon the nomination Ferrara commented, “It is an honor and a privilege to be selected to serve as president of this organization... I appreciate the support of my fellow commissioners and look forward to working with the entire staff in 2012, to continue the re-development of the Port Manchac inter-modal terminal into a first class trans-loading facility that will attract new industries and create new jobs for residents of the Tangipahoa Parish community”.

Mr. Ferrara is Vice-President and currently Branch Manager of Hancock Bank (soon to be Whitney) in Hammond, LA. He is a graduate of Southeastern Louisiana University with a B.A. in Marketing and Finance. He is also actively involved in various civic organizations including the Hammond Chamber of Commerce Board since 2005, Options, Inc., Hammond Industrial Development Board, Hammond Area Economic Development District, Crimestoppers, Leadership Tangipahoa, and LHSAA Ladies Top 28 Basketball Tournament Volunteer. In addition, Mr. Ferrara was voted the 2009 Man of the Year by the Hammond Junior Auxiliary, is a member of Holy Ghost Catholic Church, and a life-long resident of Hammond, LA.



Daryl Ferrara (left) and 2011 STPPC President Mark Griggs (right)...

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 LA to six (6) year terms and receive no compensation for their community service to the organization. The commission is currently seeking a replacement to fill the unexpired term of former member Don Bankston, who resigned from the board effective January 1, 2012.

The following list of commissioners were selected to serve accordingly for 2012:

Daryl Ferrara – President
Mark Griggs – Vice-President
Don Boihem - Secretary
Lucas Watkins - Treasurer
J. Parker Layrisson – Member
Mike Williams – Member

In 2012, Port Manchac will continue the re-development of the site through a series of infrastructure projects engineered to provide safe & efficient cargo trans-loading operations by barge, rail, and truck at the inter-modal terminal. The \$3 million investment program will include internal roadway and parking improvements, rail spur maintenance, lay-down storage area improvements, and bulk-head/harbor dredging improvements at the facility. The new infrastructure is part of the port’s master plan for future development that was developed in 2007 and designed to attract new industries and create new job opportunities for residents of the Tangipahoa Parish area.

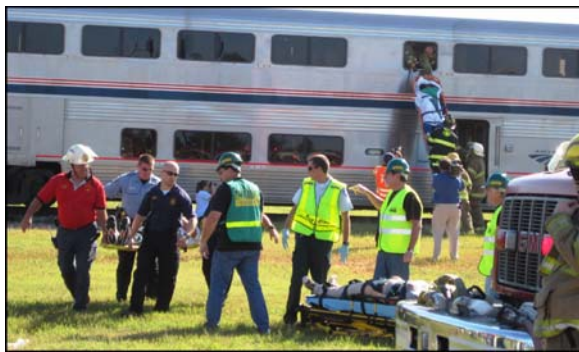
The forty (40) acre inter-modal terminal is located adjacent to Interstate Highway-55 at the southern end of Tangipahoa Parish. Port Manchac is also adjacent to the mainline of the

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 access for barge shipments to Lake Pontchartrain, Mississippi River and The Port of New Orleans via North Pass. The STPPC is currently in the final stages of negotiations with the Octavia Partnership Group to acquire an additional 100 acres on the eastern and northern boundaries of the existing site. Additional infrastructure and logistical info on the Port Manchac inter-modal terminal is available @ www.portmanchac.com.

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Mock Crash in Manchac, LA

CN Railway coordinated a mock crash drill on October 6, 2011, at Port Manchac in south Louisiana. In this scenario, an Amtrak train carrying dozens of passengers (portrayed by Ponchatoula High School students) was in a mock collision with a truck entering the port. Enforcement and emergency personnel from multiple parishes responded to the incident.



LED Announcements

Today, Louisiana Economic Development Secretary Stephen Moret announced five appointments for the state's economic development department, LED.

Anne Villa, currently Vice President of Operations & Finance for MDI Entertainment, a Scientific Games company, will serve as Undersecretary. In this role, she will be responsible for accounting and budget control, procurement and contract management, program analysis, human resources, grants management, information technology, performance reporting, performance monitoring of incentive contracts, management of incentive programs and

management of the business affairs of the Louisiana Board of Commerce & Industry and the Louisiana Economic Development Corporation.

Jason El Koubi, currently LED's Director of State Economic Competitiveness, will serve as Assistant Secretary. As Assistant Secretary, El Koubi will be responsible for managing LED initiatives and programs related to business intelligence, state economic competitiveness, community development, small business development, emergency response and recovery, and entertainment industry development.

Don Pierson, currently LED's Assistant Secretary, will serve as Senior Director of Business Development. In this role, he will be responsible for assisting local communities across Louisiana with site development efforts and redeployment of large economic assets currently undergoing transitions, such as the GM-Shreveport facility, the Avondale shipyard in New Orleans, and the Accent building in Monroe. He also will continue to play a leading role in coordinating domestic and international marketing missions for LED, as well as managing special economic development initiatives.

Jeff Lynn, currently Executive Director of LED FastStart™, will now serve as Executive Director of Workforce Development Programs. In this new position, which combines his current position with another existing position (Director, Workforce Training & Development Program), Lynn will be responsible for both the FastStart program and LED's expanding efforts focused on systemic workforce solutions and programs to assist relocating companies with recruitment of experienced professionals and executives. Lynn will lead LED's efforts related to coordinating development of targeted workforce programs with the Louisiana Community and Technical College System, Louisiana Board of Regents and Louisiana Department of Education.

Chris Stelly, currently Director of Louisiana Film & Television and interim Executive Director of the Office of Entertainment Industry Development, will serve as Executive Director of the Office of Entertainment Industry Development. In this role, Stelly will be responsible for leading LED's entertainment industry division, which manages incentive

programs targeting development of the film production, digital media, sound recording, and live performance industries. Stelly succeeds Sherri McConnell who left her post as Executive Director last summer.

Legal News



No Windfall to Injured Employees

In January this year two decisions, one from the Louisiana Supreme Court and the other from the Fifth Circuit Court of Appeals, placed limits on recovery by employees for medical costs incurred as a result of job related injuries. Historically, when a seaman is injured while in the service of the vessel his employer is obligated to pay all reasonable medical costs incurred in his treatment until he reaches maximum medical improvement(MMI), the point when his condition has plateaued and further treatment is palliative as opposed to curative. For those who work on land and are entitled to workers' compensation benefits (whether it be state compensation or Longshore and Harbor Workers' compensation) due to an injury sustained while in the course of their employment the law requires that the employer pay all medical expenses incurred until the employee reaches maximum improvement.

The majority of the time, the process works smoothly. When an employee is legitimately injured on the job either at sea or on land, the employer steps up and discharges its duty under the law. However, there are instances where the legitimacy of the injury is suspect or a dispute may arise as to when the employee has reached MMI. In those instances, litigation is often the result and the employee will make a claim for all medical costs incurred. Invariably, the employee/plaintiff makes a claim for the total amount of medical costs incurred irrespective of whether he actually incurred those full costs. In the past this has resulted in a windfall for the employee. The following two cases recognized this inequity.

In *Benoit v. Turner Industries Group, LLC*, 2012 WL 182131, the Supreme Court was called upon to determine whether Turner should be required to pay the plaintiff/employee \$625,168.27 in medical costs incurred in his treatment. Benoit sued his employer for benefits and medical costs alleging that he had developed acute myeloid leukemia during his twenty-seven year employment due to his exposure to benzene. Following the trial, the Office of Workers' Compensation awarded Benoit benefits, all medical costs and attorneys' fees. Turner appealed. On the outset, the Court noted that Benoit qualified for the Medicaid program. Of the total \$625,168.27 charges submitted, Medicaid paid \$203,124.68. The remaining \$422,043.59 was written off under the Medicaid program. Benoit claimed that he was entitled to the total costs paid, \$203,124.68. With regard to the \$203,124.68, Turner pointed to La. R.S. 23:1212, Paragraph A, which states in part that "payment by any person or entity, other than a direct payment by the employee, as relative or a friend of the employee, or by Medicaid, shall extinguish the claim against the employer or insurer for those medical expenses..."

Turner argued that since Benoit had not paid a cent, he was not entitled to recovery. Benoit pointed to Paragraph B of the statute, which states, in part, that payments made by Medicaid "shall not extinguish these claims," and any such payments by Medicaid shall be subject to recovery by the State.

The Court noted that prior to 1990 the law prohibited an employer from taking an offset for medical expenses paid by a health care insurer. Responding to pressure from the business community, the legislature amended the law to permit a medical offset to the employer if the benefits were paid by someone other than a direct payment by the employee, a relative or friend of the employee. In opinions that followed, the courts held that this included payments made by Medicare, even though they recognized that as a result the State will ultimately bear much of the burden for the medical expenses incurred, resulting in a windfall to the employee. To remedy this problem the law was amended to provide that if Medicaid pays the medical costs, the State has the right to seek reimbursement from the employer.

Applying these principals, the Supreme Court held that Benoit had no right of recovery of the \$203,124.68 from Turner.

As for the \$422,043.59 that Benoit claimed the Medicaid wrote off, the Court noted that it had ruled in a prior decision that when an injured plaintiff is a Medicaid recipient the law requires that the health care provider accept as full payment the amount set by the Medicaid fee schedule which is invariably less than charged by the provider. The difference between what is charged and what is paid is referred to as the “write-off” amount. See *Bozeman v. State*, 879 So.2d 692. In *Bozeman*, a widow brought suit against the Louisiana Department of Transportation for the death of her husband due to dangerous highway conditions. The Court held that where the plaintiff pays no enrollment fees, has no wages deducted and otherwise provides no consideration for the benefits he receives, he is unable to recover the “write-off” amount. Benoit claimed that *Bozeman* was not applicable because it was a tort action and that he was forced to seek benefits through Medicaid because his employer refused to live up to its statutory obligation to pay his medical costs.

The Supreme Court did not buy Benoit’s argument. The Court found no conflict between the Medicaid write-off process and Workers’ Compensation law and found that Benoit, because he paid nothing for Medicaid benefits, would receive an improper windfall if he was allowed to recover for medical expenses which have been reduced by health care providers as a result of their contractual arrangements with Medicaid. Such double recovery of damages is not permitted under Louisiana law. (Please note that the courts have not adopted this rule when it comes to payments made by Medicare on the theory that the employee pays into the Medicare program for its benefits.)

In *Manderson v. Chet Morrison Contractors, Inc.*, (5th Circuit 1-3-12), a seaman brought suit for his injuries against his employer. He also sought payment from this employer all medical expenses incurred. In a judge tried case, the judge dismissed Manderson’s negligence and unseaworthiness claims, but awarded him maintenance and cure (his medical costs). On appeal, the employer contended that the cure award should not have included the difference between the amount Manderson’s medical

providers charged and the lesser amount they accepted from his insurer in full payment. The trial judge found that as part of his employment with CMC, Manderson paid fifty percent of the cost of his health insurance and ruled that CMC was liable to pay the full amount, not the “discounted” amount the provider accepted.

On appeal, the Court found that CMC was only obligated to pay the lesser amount. The duty of the employer to pay cure is only in the amount of those expenses “actually incurred.” The relevant amount is that amount needed to satisfy the seaman’s medical charges. This applies whether the charges are incurred by a seaman’s insurer on his behalf and then paid at a written down amount or incurred and then paid by the seaman at a non-discounted rate. Even though Manderson paid a percentage of his healthcare premiums, because this was “cure” which is owed by the employer irrespective of negligence, CMC was only responsible for the amount actually paid. The Court noted that if the medical costs were owed due to the negligent conduct of CMC or the unseaworthy condition of its vessel, that CMC would be responsible for the higher amount. However, in the context of its cure obligation where fault is not an issue, the employer is only on the hook for the lesser amount, irrespective of the source of payment.

Both of these decisions are welcome news to both marine and land based employers.



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ASCE NEWS

Louisiana’s infrastructure receives poor grades from civil engineers

Most of Louisiana’s infrastructure has not been adequately maintained or updated, according to a comprehensive 18-month study by the Louisiana Section of the American Society of Civil Engineers (ASCE).

The study, named the Report Card for Louisiana's Infrastructure, was released by the ASCE on Wednesday, January 18, 2012. More than 50 volunteers, mostly civil engineers from the public and private sectors across Louisiana, analyzed technical reports, inspection records, budgets, maintenance schedules and other documents to arrive at letter grades for nine areas of infrastructure. Modeled after the national report card, this is the first report of its kind issued in Louisiana.

Of the nine areas, only dams and solid waste receive above average grades, a B- and C+, respectively. The other areas and their grades are: aviation, C; bridges, D+; drinking water, D+; levees, C-; roads, D; wastewater, C-; and ports, C-.

"Louisiana citizens depend on these public facilities daily to remain mobile, to have access to safe water, to be protected from floods and to keep safe," said Kam Movassaghi, Ph.D., P.E., F.ASCE, executive director of the project team. "As civil engineers, we have a duty to let the public know that our infrastructure is failing to meet our current needs and future growth. With three D's and three C-minuses in critical areas, we are rapidly approaching a period of being unable to sustain competitive economic growth." ASCE engineers also included 42 specific recommendations for the infrastructure areas. Many of the recommendations involve updated financing models for infrastructure development and maintenance, more public emphasis on conservation efforts and better planning.

ASCE developed the report card to create a fact-based assessment of the state's infrastructure in one consolidated document with non-technical language that all citizens can easily understand. A main goal of the project is to give political leaders the ability to compare and contrast grades on different categories of infrastructure, to advise them on ways to improve grades, and to help them make better decisions on where to commit resources.

Dr. Movassaghi, a former Louisiana Department of Transportation and Development secretary, said the report card is a "factual, non-political portrait of the current condition of our infrastructure. Today, we are calling on our public officials, including Governor Jindal, his cabinet members and members of the Louisiana Legislature, to use this report as a starting point

to initiate a plan on when and how we are going to address these critical needs. Time is passing rapidly, and we are approaching a tipping point." "For the first time, the citizens of Louisiana have a comprehensive assessment of their state's critical infrastructure conditions, and sadly it's not good news," said Andrew W. Herrmann, P.E., SECB, F.ASCE, president of ASCE. "Louisiana deserves better, to keep their economy moving and compete with other states."

The committee members studied the physical conditions of the infrastructure areas and analyzed funding sources and trends that impact maintenance and upgrades. In nearly every area, lack of funding was cited as a reason for poor physical conditions.

"We're not saving money when we cut infrastructure investments; we're just ensuring that today's problems become tomorrow's crises," Dr. Movassaghi said. "In the long run, it is cheaper to make repairs and upgrades when they're needed. Otherwise, a small and relatively inexpensive repair to a road, bridge, levee or drinking water system could become a catastrophic failure requiring massive future investments."

Louisiana is the 25th state to produce an ASCE report card. Plans are to update the report card on a 5-year cycle to keep the public informed and to report changes in the state's infrastructure over time.

The report card and its accompanying technical reports can be viewed at www.lasce.org.

Founded in 1852, the American Society of Civil Engineers represents more than 140,000 civil engineers worldwide and is America's oldest national engineering society. For more information, visit www.asce.org.

The Louisiana Section of ASCE was founded in 1914 and has more than 2,000 members in four branches: Acadiana, Baton Rouge, New Orleans and Shreveport. Our Fundamental Canon: Engineers shall hold paramount the safety, health and welfare of the public and shall strive to comply with the principles of sustainable development in the performance of their professional duties.

America's Wetland



America's WETLAND Foundation (AWF) Chair King Milling informed key U.S. House leaders that failure to restore the Gulf Coast would cause economic harm to the entire nation.

Milling, writing to key committee chairmen, urged approval of the RESTORE the Gulf Coast Act, sponsored in the House by U.S. Rep. Steve Scalise, R-Metairie. If approved, the bill will dedicate 80 percent of any federal government fines from the BP/Deepwater Horizon oil spill to the five Gulf states that sustained damage.

The Gulf Coast - America's Energy Coast - stabilizes the U.S. economy in terms of energy, fisheries and river-borne commerce, Milling argued. "Action to preserve the Mississippi River's delta and its coastal reaches must be swift and effective or we will all feel it in the pocketbook for generations," he said.

The RESTORE Act proposal conforms with the recommendations of the National Commission on the BP/Deepwater Horizon Oil Spill and Offshore Drilling, chaired by former U.S. Sen. Bob Graham of Florida and Bill Reilly, former president of World Wildlife Fund and a former Environmental Protection Authority administrator, Milling said.

Milling sent letters to Rep. John Mica, chairman, U.S. House Committee on Transportation and Infrastructure, Rep. Nick Rahall, ranking minority member of the U.S. House Transportation Committee; Rep. Doc Hastings, chairman, U.S. House Committee on Natural Resources, and Rep. Ed Markey, ranking minority member of the U.S. House Natural Resources Committee.

"When extraordinary events spoil critical ecosystem, those responsible must be held accountable and it is also critical that the nation ensure the money is used to repair the damage," King said in his letters.

The AWF chair noted that new research commissioned by Entergy Corporation shows the demise of infrastructure along the Gulf Coast, compromised infrastructure that impacts the nation's ecological health and its navigable waterways, leaving the region vulnerable to sea level rise and more severe weather events. Milling offered to provide the House committees with more information that the Foundation has collected in its 10 years of building partnerships for policies and actions to help sustain the Gulf coastal region.

"We ask that you recognize the national benefits from repairing the damage done to our fragile coast," Milling said. "Thank you for moving quickly to advance the RESTORE Act introduced in the House by Representative Steve Scalise and others."

A Senate version of the RESTORE Act was introduced by U.S. Senators Mary Landrieu, D-New Orleans, David Vitter, R-Metarie, and Jim Sessions, R-Alabama.

TIGER Grants

U.S. Transportation Secretary LaHood Announces Fourth Round of Funding Under Highly Successful TIGER Program

Following President Obama's call in his State of the Union address for greater infrastructure investment as part of "An America Built to Last," U.S. Transportation Secretary Ray LaHood today announced the availability of funding for transportation projects under a fourth round of the popular TIGER (Transportation Investment Generating Economic Recovery) Discretionary Grant program. TIGER 2012 will make \$500 million available for surface transportation projects having a significant impact on the nation, a metropolitan area, or region.

The previous three rounds of the TIGER program provided \$2.6 billion to 172 projects in all 50 states, the District of Columbia and Puerto Rico. Demand for the program has been overwhelming, and during the previous three rounds, the Department of Transportation received more than 3,348 applications requesting more than \$95 billion for transportation projects across the country.

“President Obama made clear in his State of the Union address that investing in transportation means putting people back to work, and that’s just what our TIGER program is doing in communities across the country,” said Secretary LaHood. “Americans are demanding investments in highways, ports, commuter rail, streetcars, buses, and high-speed rail. These kinds of projects not only mean a stronger economic future for the U.S., but jobs for Americans today.”

As in previous rounds, high-speed rail and intercity passenger rail projects remain eligible for funding. TIGER 2012 provides for the possibility of up to \$100 million being used toward these projects. TIGER 2012 will also continue to encourage the development of transportation projects in rural areas, providing \$120 million for rural transportation projects.

On November 18, 2011, the President signed the FY 2012 Appropriations Act, which provided \$500 million for Department of Transportation infrastructure investments. Like the first three rounds, TIGER 2012 grants are for capital investments in surface transportation infrastructure and are to be awarded on a competitive basis.

Projects will be evaluated on primary criteria that include safety, economic competitiveness, livability, environmental sustainability, state of repair and short-term job creation.

Pre-applications are due February 20 and applications are due March 19. You can click [here](#) to view the Notice of Funding Availability.

Welcome New Associate Members

PAL welcomes three new associate members this month. They are:

Ben C. Gerwick, Inc., - a consulting engineering firm located in New Orleans. They will be represented by Mr. Felton Sutton.

Free Flow Power Company - a hydropower development company located in New Orleans. They will be represented by Mr. Jon Guidroz.

Crescent Guardian Inc. - a company dealing in security guard services and electronic surveillance products located in New Orleans. They will be represented by Mr. Ray Cavanagh.

MARK YOUR CALENDARS

March 7-9, 2012 – PAL Annual Conference, L’Auberge, Lake Charles, LA.

March 9, 2012 – PAL Monthly Meeting, 10AM, L’Auberge, Lake Charles, LA

April 5, 2012 – PAL Monthly Meeting, 10AM, Richmond Suites, Baton Rouge

May 3, 2012 – PAL Monthly Meeting, 10AM, Richmond Suites, Baton Rouge

June 7, 2012 – PAL Monthly Meeting, 10AM, location TBA

July 12, 2012 – PAL Monthly Meeting, 10AM, Location TBA

August 2, 2012 – PAL Monthly Meeting, 10AM, Richmond Suites, Baton Rouge

September 6, 2012 – PAL Monthly Meeting, 10AM, Richmond Suites, Baton Rouge

