

# NEWS FROM THE DOCKS



*Louisiana Ports Deliver*

ASSOCIATION OF LOUISIANA

July 2011  
Volume 12, No. 7

## Message from the PAL Office



We hope you all had a wonderful 4<sup>th</sup> of July holiday. It was hot here but not too hot to keep everyone from enjoying a beautiful fireworks display on the river.

PAL's efforts have continued this month toward revision of our *Profiles of Louisiana Ports*. We have now enlisted the assistance of The Shaw Group toward revision of the map, both in the directory and on the website. Once that is completed we should be ready to print.

PAL is still investigating the possibility of updating our Economic Impact Study. We have been in discussions with Dr. Jim Richardson of LSU and we hope to be able to execute a contract with him for the work. Hopefully PAL will be able to obtain additional funding to assist in this effort.

Associate Memberships are past due. If you have any questions about the status of your organization, please contact the PAL office.

## Legislative Update

The 2011 Regular Session of the Legislature ended as scheduled at 6pm June 23rd. The following is a partial list of bills followed by PAL during the session.

HB 1--by Fannin-General Appropriations (PASSED)--the House, Senate and Gov. Jindal worked successfully to pass a balanced budget which avoids deep cuts to higher education and healthcare.

HB 2 by Rep. Green--Capital Outlay bill (PASSED) was finally passed 15 minutes before adjournment. The Port Priority Program was funded at \$19.7 million. Several ports were successful in securing additional appropriations for port projects.

HB 45 by Henry--Tax Credits--(FAILED)the bill provided for income and corporations franchise Tax Credits for ad valorem taxes paid by certain barge lines, towing and water transportation companies. The Ways and Means committee did not move the bill because of an \$887,000 fiscal note.

HB 182--by Rep. G. Jackson--Public Contracts/Design-Build--(PASSED)--extended the sunset by one year to rebuild public works projects damaged by hurricanes Katrina and Rita. Damaged projects are allowed to be rebuilt utilizing the design-build process but must commence prior to the sunset date of July 10, 2012, and when construction begins prior to the sunset date, construction can continue until completed even after the sunset date of July 10, 2012.

HB 192 by Rep. Bodie White--Public Contracts/Bids (PASSED)--authorizes public entities the option to require that all public bids be submitted electronically. Further it requires all bid documents to be posted on the electronic website accepting electronic bids.

HB 192 by Rep. Sam Jones--Port of Morgan City (PASSED)--expands the territorial limits of the Port of Morgan City to include Wax Lake Outlet. (Calumet Cut).

HB 356 by Rep. J. Brossett--New Orleans Public Belt Railroad--(PASSED)--relative to the membership and appointment of the

governing Commission, reducing it from 16 to 9, with 3 appointed at large by the Mayor, and 6 appointed by the Mayor from a list of nominees to be provided by City Council ordinance.

HB 543 by Rep. Walt Leger--Design-Build for Ports--(FAILED)--The bill would have granted public ports the right to utilize Design-Build for production related public works for 5 years. The bill passed the House Transportation Committee without objection and passed the House 85 to 2. The bill was heard in the Senate Transportation Committee and was deferred by a 3-2 vote after receiving opposition from Engineer groups. The bill was opposed by Chairman McPherson, Senators Erdey, Heitmeier, and Mount. It was supported by Senators Adley and Shaw. Representatives of contractors and engineer groups have now indicated that they want to work with public ports and other public entities on language for a design-build legislation next year.

SB 159 by Senator Conrad Appel--Port Tax Credits--(PASSED)--the bill extended sunset by 2 years to 2017. During the process Senator Appel, port representatives and several groups of maritime business leaders attended the Senate Revenue and Fiscal Affairs meeting to lobby and testify for implementation of Import-Export tax credits. However, the committee did not allow that testimony due to time constraints. The bill was limited to extending the sunset to 2017.

SB 257 by Senator A. G. Crowe--Port Tax Credits --(Failed)--Would have removed the certification requirements of the Commissioner of Administration, LED, and the Legislative Budget Committee that implementation of the tax credits would not result in a loss of state revenue. The bill was given a partial hearing and received substantial opposition from the committee resulting in Senator Crowe deferring the bill. During a subsequent meeting with Secretary Moret, Port of New Orleans officials and Professor Jim Richardson, progress seemed to have been made, and LED has pledged to expedite the process of implementing the Import/Export Tax credits. If this occurs Import/export tax credits will compliment the Infrastructure Tax Credit Rules which have been promulgated.

HB 250 by Rep. Morris--Dept. Transportation Restructuring---(PASSED)-Office of Planning

and Programming is renamed Office of Multimodal Planning, led by the Assistant Secretary of Multimodal Transportation. The Office of Public Works and Intermodal Transportation functions are transferred to the Office of Multimodal Planning. The position and duties of Assistant Secretary of Public Works are transferred to the Chief Engineer and Assistant Secretary of Multimodal Planning.

HB 34 by Rep Brossett--Planning/Mapping--Requires GoHSEP and political subdivisions to create a statewide critical incident and planning and Mapping system for all public buildings when funds are available.

SB 83 by Senator Donahue--Purchasing--Allows for a reverse auction which is a competitive online solicitation process for materials, supplies, and services, etc.

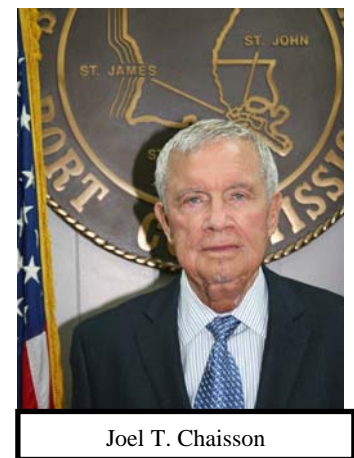
SB 242 by Senator Appel--Public Contracts--Prohibits splitting of profits, fees, and commissions by public officials or employees. Requires recordation with the clerk of court of all change orders which amount to 10% of the contract and equal at least \$10,000 or when cumulated to 20% or more of the original contract. A similar provision applies to insurance contracts.

## Corporate Member News

### *Port of South Louisiana*

*Port of South Louisiana Extends Contract of Director Joel Chaisson*

During the June 2011 meeting, the Port of South Louisiana (PSL) board of commissioners voted to extend the contract of its Executive Director, Joel T. Chaisson. With the new agreement, Mr. Chaisson will remain with PSL through July 14 of 2012. "We decided that he's doing a good job with projects that we've got going on," said Commission President Louis Joseph.



Joel T. Chaisson

Mr. Chaisson has been Executive Director since April of 2005 and under his leadership, PSL has seen several projects come to fruition. For example, in late 2005, PSL was able to help three prominent New Orleans businesses who were displaced by the destruction of Hurricane Katrina relocate to the River Region. In June 2007 was the acquisition of the PSL Responder, a \$1.3 million state-of-the-art security vessel, purchased with funds from the Department of Homeland Security Grant Program Round 5. In June 2010, PSL opened a 40,000 square-foot \$6 million transit shed funded in part by \$4.8 million from LA DOTD's Port Construction and Development Priority Program. In mid 2009, PSL entered into a cooperative endeavor agreement with St. John the Baptist Parish for PSL to take over the management and operation of the St. John Parish airport.

Mr. Chaisson is presently working on several projects that are important to the future growth of the Port of South Louisiana, including the completion of an \$18.9 million 65'W by 700'L finger pier at Globalplex, funded in part by LA DOTD's Port Construction and Development Priority Program; the development of a public port/industrial park facility on the west bank of the Mississippi River; the \$3.5 million expansion of the St. John Parish Airport; and the development of an intermodal container terminal near the Bonnet Carré Spillway that will offer an alternate, cost-effective shipping route via the Mississippi River for mid-America and Canada to world markets.

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### **Port of Lake Charles**

*Jindal appoints Guillory, Burckel, McManus to LC Port Board*

BY JIM BEAM

AMERICAN PRESS BATON ROUGE —

Three gubernatorial appointments to the Lake Charles Port Board were announced by Gov. Bobby Jindal's office.

Elicie Guillory's reappointment was also announced. Daryl V. Burckel and Barbara McManus are the additional appointments.

The appointments won't become official until the state Senate is formally notified. Sen. Willie Mount, D-Lake Charles, said that won't take place until sometime after the legislative session

ends June 23. The Senate has to confirm the appointments.

Guillory is serving an interim term. He was named to the seven-member Port Board after the resignation of Mark Abraham. Burckel and McManus were nominated to replace Wade Shaddock and Kay Barnett, who are limited to serving two four-year terms.

A former state representative, Guillory served 17 years on the Calcasieu Parish Police Jury. Burckel has been an accounting professor at McNeese State University since 1992. He served in the Army during Operation Desert Storm and was on Chennault International Airport's Board of Commissioners. McManus was a longtime official and regional administrator with the Louisiana Office of Family Support in southwest Louisiana. She serves as the retired elected trustee of the Louisiana State Employees Retirement System.

The three nominations were made by members of the area legislative delegation. The other four members of the board are appointed from nominees submitted by the Calcasieu and Cameron police juries, the Lake Charles City Council and the Westlake City Council. Each organization submits a list of three nominees.

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### **Port of New Orleans**

*Mumphrey Elected Board Chairman  
Cahill, Toomy Elected Vice Chair, Secretary-treasurer*

J. Wayne Mumphrey

The Board of Commissioners of the Port of New Orleans elected J.

Wayne Mumphrey chairman. Mumphrey succeeds John Fay, whose term as chairman expired. Fay will continue to serve on the Board as a commissioner. The Board also elected Commissioners Valerie Cahill vice chair and Joe Toomy secretary-treasurer.



J. Wayne Mumphrey

“The past few years have been challenging for the Port of New Orleans, but we have overcome those challenges and today we are primed for growth for years to come,” said Mumphrey, who was appointed to the Board in September of 2007. “The Port is the most significant economic engine in this state and I hope to build upon the strong leadership that has led us to this point.” An attorney and St. Bernard Parish native, Mumphrey earned his law degree from Loyola University in 1971 and established a law practice that same year. Throughout the next two decades Mumphrey divided his time between the law practice and insurance and construction endeavors. Today, Mumphrey Law Firm LLC employs about 20 people and has offices in Chalmette, La., Franklinton, La., Slidell, La., and New Orleans. The firm focuses on civil litigation and the resolution of complex legal disputes.

In 1999, the Louisiana Supreme Court appointed Mumphrey to fill a temporary vacancy as District Judge in the 34th JDC. He is a member of the American Association for Justice, Louisiana State Bar Association and the 34th JDC Bar Association. An avid outdoorsman, Mumphrey is a supporter of numerous charitable organizations and recreational clubs, such as the New Orleans Big Game Fishing Club, North American Hunting Club, Recreational Fishing Alliance, World Billfish Series and the National Rifle Association.

The Board’s commissioners serve five-year staggered terms and every nine months elect new officers. The unsalaried commissioners are appointed by the Governor of Louisiana from a list of three nominees submitted by local civic, labor, education and maritime groups. The Board reflects the three-parish jurisdiction, with four members from Orleans Parish, two from Jefferson Parish and one from St. Bernard Parish. Other board members include Tommy Westfeldt, Dan Packer and Greg Rusovich.

### Associate Member News

#### **Burk-Kleinpeter**

*Port Planner Randy Carmichael Retires After 31 Years*

Randy Carmichael, AICP, recently announced his retirement from Burk-Kleinpeter, Inc. (BKI),

after 31 years of service with that consulting engineering and planning firm. Randy started with BKI in 1980 and ascended through the ranks from Planner to Senior Planner to Associate, as his contributions to the port and maritime industry grew. Prior to his work at BKI, Randy served as a City Planner at the New Orleans City Planning Commission.

In recent years, Randy played a critical role in assisting the St. Bernard Port, Harbor, and Terminal District in its growth from a small, struggling operation in the early 1980s to a successful and booming industrial power in St. Bernard Parish and the lower Mississippi River region. His work with the St. Bernard Port included numerous studies and analyses, involvement in the port’s acquisition of major sites on the River, and the preparation and negotiation of many successful Port Priority Program applications that netted the St. Bernard Port over \$50 million in new infrastructure improvements.

Beyond the St. Bernard Port, Randy also provided important planning services to the Port of Shreveport-Bossier in the development of their Master Plan, the Jefferson Parish Economic Development Commission (and Port) in addressing the maritime needs on the Harvey Canal Waterway, strategic planning for Belize City and the Almonaster-Michoud Industrial District, master planning services for initiatives to provide improved passenger rail and freight rail services in Louisiana, Mississippi, and Alabama, and many other transportation-related endeavors for clients throughout the southeastern U.S..

Randy holds a Bachelor of Fine Arts Degree from the University of New Orleans (UNO), as well as a Master of Urban Studies from UNO that he acquired in 1980. He was inducted into the American Institute of Certified Planners (AICP) in 2000. This dual interest in both Planning and Art continues to guide Randy’s planned retirement activities.

While maintaining his professional planning practice at BKI over the past decade, Randy developed a significant reputation within the fine art community for his evocative abstract paintings, some of which won top honors at local shows and gallery competitions. Randy hopes to expand that creative outlet through the growth of his fine art business and to achieve

even greater recognition for his unique, expression-filled art, during the coming years.



Randy & Colleen Carmichael and their daughter, Shea

To honor Randy, Burk-Kleinpeter hosted a dinner reception at Antoine's on Friday, June 24<sup>th</sup>. About 60 people attended. Biff Burk credited Randy with bringing in much of the capital for infrastructure development that kept the engineering staff at BKI busy.

## Legal News



### *The Lookout Rule*

Safe, orderly, efficient vessel traffic on our nation's waterways, just as with vehicular traffic on our nation's highways, is dependent upon standardized rules of conduct. Our present rules, which apply to all vessels operating in our inland waterways, are found at 33 U.S.C. §§ 2001-2038. They are titled the Inland Navigation Rules, but are referred to as the Rules of the Road. These rules have evolved over the centuries and their origins can be traced to Roman and English law in place long before we became a republic. The current rules of the road are based largely on the International Regulations for Preventing Collisions at Sea (COLREGS).

When a collision, grounding, or maritime casualty occurs involving vessels underway and an investigation ensues, one of the first determinations made is whether the vessel or vessels involved complied with Rule 5 (33 U.S.C. § 2005) which is simply titled "Look Out." Rule 5 is the shortest of the 38 rules, but perhaps the most central to safe navigation. It states:

Every vessel shall at all times maintain a proper lookout by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision.

Rule 5 places a large responsibility on the mariner. Rather than specific duties, equipment, places, times, and number of persons, Rule 5 requires the master to decide how best to maintain a proper lookout. Instead of giving us precise guidance on the adequacy of the lookout, the Rule uses vague terms such as "proper" and "appropriate." Only in this way could the Rule reasonably provide for all vessels at all times. Requirements covering even the most common situations would have been intolerably detailed and complex.

The lookout requirement of Rule 5 relies heavily on common sense and good seamanship. If the information collected by the lookout is insufficient, then the master must intensify his or her lookout efforts (for example, by turning on the radar) or reduce the need for information (for example, by slowing a fogbound vessel).

Responsibility for maintaining a proper lookout lies with the vessel's operator, not with a subordinate designated as "lookout." The vessel's operator – that is, master, watch officer, or person in charge – is the lookout manager. If the operator can keep a lookout personally, then coordinating the collection and analysis of information is relatively straightforward. But if the operator, that is, the decision maker, must rely on others to gather the information, then management of a proper lookout becomes more complicated. The operator must ensure that information on the vessel's surroundings is detected in a timely manner and promptly communicated so that he or she can correctly analyze the situation. The courts have held that the person at the wheel may serve as his own lookout when conditions permit.

Generally, absent potentially hazardous conditions such as fog, blind curves, rough seas and congested waterways, a towing vessel operator or pilot of smaller vessels will not generally be found to be in violation of the Lookout Rule simply because the designated lookout was also the vessel's pilot.

Traditionally, the duty of the lookout was to watch out for vessels, lights, and other objects (such as reefs, shoals, and icebergs) by sight and hearing alone and to report their presence to the vessel's operator promptly.

Although the traditional principles of the lookout are still pertinent, today's mariner has tools available that greatly extend the distance over which information can be detected. Today, a proper lookout is a team effort. Yet the master of the vessel is the one held accountable. For this reason, the master must see to it that each member of the lookout team is competent in the use of equipment and diligent in the performance of that duty. It is the master's duty to ensure that a proper lookout is maintained at all times. That duty cannot be delegated.

Human sight and hearing have their limitations. Fortunately, mechanical means for maintaining a lookout are available. "Available" to Rule 5 means "shall be used" in appropriate circumstances. Some "other means" available to today's mariner are:

- Binoculars
- Radar
- VHF bridge-to-bridge radiotelephone
- Automated radar plotting aids (sometimes called collision avoidance radar)
- Differential GPS (DGPS) satellite navigation equipment
- Automatic Identification Systems (AIS) radio transponders
- Vessel traffic services
- Navigation and piloting instruments

Radar has assumed such importance that it is the subject of Rules 6 and 7. Rule 5 does not require the installation of radar, but if radar is installed it must be used whenever it would contribute to the quality of the lookout.

Automatic Identification Systems (AIS) have been implemented in some areas to advance the state of the art even further. AIS uses radio transponders in much the same way as the mandatory aircraft collision avoidance system uses radar transponders to transmit encoded information between aircraft in a given area and

to air traffic controllers. In the case of the shipborne AIS, this information can include vessel identification, GPS/DGPS position, course, speed, navigation status, dimensions or cargo. Combined with a display capability, AIS presents critical navigation and vessel traffic information to the bridge team. AIS systems at present are limited and have not been standardized, although an international standard is being actively pursued, and it seems likely that carriage requirements for such equipment will follow adoption of an international standard. If the vessel is equipped with this technology, it must use it properly in order to comply with Rule 5.

The last words of Rule 5, "full appraisal of the situation and risk of collision" restate the purpose of Rule 5.

It is this broad objective that you should keep in mind when managing the lookout. If there is not enough information to assess the situation, the master should tap all available resources to gather more. If the master is still unable to acquire the necessary information he should take steps immediately to reduce his requirement for information – for example, by slowing or stopping. Otherwise, the master may be held to have violated Rule 5.

Violations of the Lookout Rule and most of the other Rules of the Road can create a presumption of fault. Under the common law *Pennsylvania Rule*, a vessel that is shown to be in breach of a safety statute or regulation has the burden of proving not only that its violation probably was not one of the contributing causes of an accident, but that its statutory breach could not have been a contributing cause. This can be a difficult hurdle to overcome. Rule 5 while simple, has far reaching implications. [Handbook of the Nautical Rules of the Road](#), Llana & Wineskey, Third Ed.



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504-595-3000 OR WWW.MBLB.COM**

## World Trade Center

The C. Alvin Bertel Award is presented annually to an individual in recognition of outstanding contributions to the advancement of the Greater New Orleans port area. The World Trade Center is pleased to announce that after careful consideration, the selection committee organizations have chosen Capt. A.J. Gibbs as this year's recipient.

Capt. Gibbs is the President of the Crescent River Port Pilots Association, and has served in that capacity for the past ten years. The Association members pilot ships to and from the Port of New Orleans. Chartered in 1908 to serve the State of Louisiana, the Association currently has 102 members. Capt. Gibbs is also past Chairman of the Board of Commissioners of the Port of New Orleans and past Chairman of the Louisiana River Pilots Association. He has been a River Pilot for the past 32 years. Capt. Gibbs attended Redemptorist High School and is a graduate of Louisiana State University in New Orleans. A life long resident of New Orleans, he has been married for forty-four years to Shirley Frolich Gibbs; they have four adult children and two grandchildren.

Capt. Gibbs holds several Coast Guard Licenses and endorsements, including a Master of Inland Waters of Any Gross Tons and a First Class Pilots License of Any Gross Tons. He is a past member of the Board of Directors of the New Orleans Board of Trade and the Propeller Club of the Port of New Orleans. In addition, he serves as a member of the Transportation Committee of the World Trade Center and the Louisiana Pilotage Fee Commission.

As President of the Association and former Chairman of the Port of New Orleans, Capt. Gibbs has participated in the collaborative efforts to stimulate economic development on the Mississippi River. These efforts include the construction and operation of the Stolthaven Facility in Braithwaite, the expansion of the Cruise Ship Industry in the Port, the installation of the mooring buoys in the Port of St. Bernard, the redesign of Chalmette Slip and other facilities along the river, the relocation of the New Orleans Cold Storage Facility. He also

participated in the effort to maximize the usable draft of the channel by working with the Corps of Engineers. He was involved with the Association's latest partnership with the Port of New Orleans to promote marketing strategies for the Port. Captain Gibbs has also served on The Senate Committee created to enhance Global Trade in Louisiana.

## Marine Log

*Wednesday July 06 2011*

Reports on the Deepwater Horizon disaster continue to appear. Now Transocean Ltd. (NYSE: RIG) (SIX: RIGN), the owner and operator of the Deepwater Horizon, has released an internal investigation report on the causes of the April 20, 2010, Macondo well incident in the Gulf of Mexico.

Following the incident, Transocean commissioned an internal investigation team comprised of experts from relevant technical fields and specialists in accident investigation to gather, review, and analyze the facts and information surrounding the incident to determine its causes.

The report concludes that the Macondo incident was the result of a succession of interrelated well design, construction, and temporary abandonment decisions that compromised the integrity of the well and compounded the likelihood of its failure.

You can access the whole report and supporting materials [HERE](#)

## Coast Guard Update

By Paul Purpura, The Times-Picayune  
Monday, June 27, 2011

### *Gautier takes the helm of Coast Guard Sector New Orleans*

Capt. Peter Gautier replaced Capt. Edwin Stanton as commander of the Coast Guard's Sector New Orleans. Gautier is now the Coast Guard's operational field commander over a region from the Mississippi River in Point Coupee Parish to 200 miles offshore in the Gulf of Mexico, and from Louisiana's border with Mississippi west to the western boundaries of Vermillion, Acadia and Evangeline Parishes.

The sector has 900 Coast Guard personnel and 250 Coast Guard Auxiliary members. Units in the sector include Station New Orleans, the boat operation at Bucktown.

Sector New Orleans' headquarters is in Algiers on land the Coast Guard acquired from the Navy and overlooking the Mississippi River adjacent to the new Marine Corps Support Facility, New Orleans.

Stanton, who commanded the sector since May 2009, is retiring as an active duty Coast Guard officer.

The ceremony took place at the National World War II Museum in New Orleans.

Gautier transfers to New Orleans from Coast Guard Headquarters in Washington D.C., where he was chief of the Deepwater Horizon Action Office. He also has served as chief of operations for the Deployable Operations Group, which "provides deployable specialized forces" to the Department of Homeland Security, the Defense Department and other agencies.

Gautier also was involved in the nation's response to the Sept. 11, 2001, terrorist attacks on the World Trade Center.

A native of Ridgewood, N.J., Gautier graduated from the Coast Guard Academy in 1987.

## MARK YOUR CALENDARS

July 7, 2011 PAL Monthly Meeting, 10 AM, Best Western Richmond Suites, Baton Rouge, LA

August 4, 2011 PAL Monthly Meeting, 10 AM, Best Western Richmond Suites, Baton Rouge, LA

September 1, 2011 PAL Monthly Meeting, 10 AM, Best Western Richmond Suites, Baton Rouge, LA

