

NEWS FROM THE DOCKS



ASSOCIATION OF LOUISIANA

Louisiana Ports Deliver

July 2006
Volume 7, No. 7

Message from the PAL Office

There is no doubt that we are in the long, hot and dry days of summer. Everything seems to slow down a bit as the heat zaps our energy. Just breathing is an effort. But, we do manage to find ways to keep on going.

PAL continues to be active in developing a Five Year Capital Plan. Lu Cutrera and others at the Shaw Group are working hard to contact all of the ports and to understand their needs for future development. As the plan nears completion, they are refining the data to produce a document that will be realistic in presenting viable needs for future growth. We anxiously await the results of this study.

Donn Young Photography was contracted by PAL to do a photographic survey of all of PAL's member ports last year. Unfortunately, Donn was severely impacted by Hurricane Katrina and is just now getting back to our effort. He has recovered the data collected before the storm and now he is contacting the remaining ports to schedule times to visit their facilities. Once Donn has completed this task, PAL will begin working with a graphic designer to develop a publication showing all of our member ports and their facilities. It is our hope that this publication will become a useful marketing tool.

As August gets nearer, we are finalizing our plans to take members of the House and Senate Transportation Committees and House and Senate Natural Resources Committees on a tour of north Louisiana ports. The legislature will charter a bus and we will begin in Vidalia. Over a three-day period, we will visit the ports at Vidalia, Tallulah, Lake Providence, Columbia, Monroe, Shreveport, Red River, Natchitoches and Alexandria. It is an ambitious trip and we

hope that our legislators will enjoy seeing the diversity in the port industry in this state. Should you care to join us along the way, please contact the PAL office and I will be happy to provide you with an itinerary of the trip.

September 10-14, PAL will participate with the Port of New Orleans in welcoming the 2006 Annual Convention of the American Association of Port Authorities to New Orleans. September 11th, PAL will host a "Taste of Louisiana". Many of our member ports will host food booths, which represent a favorite food in their region of the state. It promises to be a great evening. As a special courtesy to Louisiana ports, the AAPA is offering registration to any Louisiana port that is not an AAPA member at half of the registration fee. Do not fail to take advantage of this offer. The conference is sure to be a wonderful educational opportunity. For more information visit the AAPA web page at <http://www.aapa-ports.org/>.

Please note that at the end of this newsletter I have included a registration form for the coming Homeland Security Seminar sponsored by the Louisiana Engineering Society.

PAL welcomes two new associate members this month. We encourage you to join PAL and help us to keep emphasis on maritime issues. For additional information about associate membership, please visit our website at www.portsoflouisiana.org or call the PAL office at 225/334-9040.

Message from the Executive Director

The regular legislative session ended on June 19th. In previous issues we have discussed

specific bills and their potential impact on the port industry. Fortunately we were able to amend legislation that negatively impacted us. The other significant bill that passed during the session became Act 18. That brought about changes to the Port Construction and Development Priority Program. PAL is pleased with these changes and believes that the program can now be more responsive to changing market conditions.

With the session over, we are now looking to a busy election season. Two statewide offices are to be filled. The Secretary of State's race already has 4 declared candidates with others still considering their options. There will also be a specially called race to fill the Insurance Commissioner's seat.

Representative Bryant Hammett has resigned his legislative seat to help Governor Blanco with recovery efforts. As an engineer, he will oversee part of the hurricane recovery for the Division of Administration's Office of Community Development.

Hammett was elected to the House in 1991. As chairman of the House Committee on Ways and Means, he handled the multibillion-dollar state construction budget for the Blanco administration.



Joe Accardo
Executive Director

Corporate Member News

West Calcasieu Port

West Calcasieu Port officials recently announced that the facility's board of directors has contracted with Lynn E. Hohensee to serve as the facility's new port director, effective June 1, 2006.

"The West Cal Port has been a viable part of the parish's maritime community infrastructure for

many years," said Larry Mashburn, president of the West Calcasieu Port board of directors. "We are now on the threshold of tremendous growth opportunity, and the creation of the port director position is a critical step in our expansion plan.



"We know that Lynn's experience in economic development, marketing communications and community relations will prove critical to our strategic growth as a progressive shallow-water port facility," he added.

Hohensee, a seven-year resident of Calcasieu Parish, owns and operates LEH Communications, LLC, a communications consulting company specializing in marketing communications and public relations support for private business, government entities and non-profit organizations.

"I'm very excited to join the West Cal Port as its port director," Hohensee said. "Southwest Louisiana is entering into a time of great potential for growth and development as the region rebuilds following Hurricane Rita, and the West Cal Port needs to be well positioned in the emerging maritime industry of the parish if it is to grow with the region.

"The port already benefits from the sound leadership of a solid board of directors," he added. "Now, the port must gear itself to better serve its existing tenants of today – and the new clients of tomorrow."

Strategically positioned on the busiest stretch of the Gulf Intracoastal Waterway midway between Houston and New Orleans, the 170-acre West Cal Port is located 12 miles south of Interstate 10 on Highway 27. The West Cal Port offers 2,500 feet of waterfront property on the Gulf Intracoastal Waterway with 12-foot water depth.

Current tenant activity includes barge operations, maritime fueling service, dry cargo barge cleaning, diesel repair, heavy equipment contracting and maritime supply operations.

Hohensee served as executive director of The Chamber Foundation/Southwest Louisiana in Lake Charles prior to opening his business in August 2005. He joined The Chamber/Southwest Louisiana in June 2003 as the Director of Economic Development & Investor Relations for the Chamber/Southwest Louisiana.

Prior to joining the local chamber, he worked for ConocoPhillips (formerly Conoco) for 22 years and Shell Oil Company for eight years. His final position with ConocoPhillips was regional director of public relations for the company's Gulf Coast Business Unit headquartered in Lake Charles, from March 1999 to February 2003.

Hohensee is a 1971 graduate of South Dakota State University with a Bachelor of Science degree in journalism/geography (double major). In 1999, he retired as a lieutenant colonel after 28 years in the U.S. Army and U.S. Army Reserve.

Locally in Southwest Louisiana, Hohensee is a member of the Propeller Club of Lake Charles, the Southwest Louisiana Economic Development Network Group, and the Ports Association of Louisiana. He is a 2000 graduate of Leadership-Chamber/SWLA and serves as president of the Board of Councilors at CHRISTUS St. Patrick Hospital. He is on the advisory board for the Department of Mass Communications at McNeese State University and serves on the board of directors for the Southwest Louisiana Chapter of the American Red Cross. He is a member of the communications committee for the United Way of Southwest Louisiana, having served as the committee head for three years. He also is a member of the Lake Charles Ad & Press Club board of directors and the Public Relations Society of America.

Port of New Orleans

Board Approves Measure To Expand Foreign-Trade Zone To Include Abbott Inclusion In FTZ To Aid Abbott Growth

The Board of Commissioners of the Port of New Orleans unanimously approved a measure today

to give President and Chief Executive Officer Gary LaGrange the authority to establish a Foreign Trade Zone operating agreement to accommodate new business for Abbott.

Abbott, a broad-based healthcare company, which currently only exports goods from its facility in Harahan, La., plans to import products from international Abbott facilities and consolidate them with U.S.-made products. The products will then be packaged and shipped to Latin American markets.

Port officials worked quickly with the Foreign-Trade Zones Board to help accommodate Abbott officials, requesting a boundary modification on May 18 and having it approved May 31.

“We received a tremendous response from the Foreign Trade Zone Board and were granted permission in very short order,” LaGrange said. “This agreement will help grow business at Abbott and at the Port’s docks.”

Foreign-Trade Zones are economically beneficial to firms because foreign goods can be imported and exported from a domestic facility duty-free.

The Port of New Orleans Foreign Trade Zone was modified to delete two acres from the Port’s Napoleon Avenue Container Terminal Complex and adding the same size parcel to Abbott’s facility on Distributors Row.

Port of Lake Charles

Lake Charles Harbor and Terminal District announces Timothy Manuel as the Recipient of the Port Maritime Scholarship

The Board of Commissioners of the Lake Charles Harbor and Terminal District presented Timothy Manuel with this year’s Port of Lake Charles Maritime Enhancement Scholarship.

Timothy Manuel, the son of Carl and Christina Manuel, graduated from Barbe Senior High School with a 3.3 grade point average. The 18-year-old excelled in Math and Science and plans to major in Computer Science at McNeese State University. While at Barbe Senior High School, Timothy was a member of the Chess Club and played the trumpet in the Barbe marching band. He is also an Eagle Scout. Tim’s mother,

Christina, is the traffic manager in the operations department for the Lake Charles Harbor and Terminal District and has been employed by the district for 26 years.

The Board established the Port Maritime Enhancement Scholarship program in 1994 for qualified applicants who plan to attend McNeese State University. The scholarship is worth \$10,000 which will be administered at \$1,250 a semester for four years. The first scholarship was awarded to a Kinder High School senior.

Kay Barnett, President of the Port of Lake Charles Board of Commissioners said “the Port is delighted to sponsor this scholarship to help local, deserving students with an ever increasing cost to obtain an education.”

Dependents of either a Port employee or a full-time qualified member of the International Longshoreman’s Association are eligible for the Port of Lake Charles Maritime Enhancement Scholarship.

Legal News



Recent Cases of Interest

On April 6, 2006 the Third Circuit, United States Court of Appeals, affirmed a Judgment in favor of the defendants in the matter of *Goldsmith v. Swan Reefer A.S., et al.* Here, a longshoreman working in the Port of Camden, New Jersey, was injured when a crane that was unloading cargo from a ship caused a container to hit him and knock him overboard. Goldsmith, a longshoreman employed by the stevedore company that was hired to do the unloading sued both the ship owner and the terminal operator. As to the ship owner, Goldsmith contended that it breached its duty to intervene under 33 USCS 905(b) because it knew or should have known that the stevedore’s practice of unloading with two cranes was dangerous. The appellate court affirmed the District Court’s holding that the ship owner did not have a general duty under 905(b) to supervise the stevedore operations, and that the ship owner’s contract with the stevedore did not impose a duty on the ship to safeguard the longshoremen in the performance of their

duties. Citing the United States Supreme Court case *Scindia Steamship Navigation Co. v. De Los Santos*, decided 1981, the Court recognized that a vessel owner owes a longshoreman limited duties while performing cargo operations. The vessel has (1) a turnover duty requiring it to turn over the ship and its contents in a safe working condition and to warn if they are in a dangerous condition; (2) an active participation duty to exercise due care in protecting longshoremen from hazards in equipment or areas under the active control of the vessel; and (3) a duty to intervene if the vessel has actual knowledge of a dangerous condition and reason to believe that the stevedore will not remedy it. The Court found that the ship owner did not breach any of these duties.

Concerning the terminal operator, the Court found that there was no breach of any duty of care. As to the terminal owner, Del Monte, the Court applied federal maritime law because the event occurred on navigable water, had a substantial relationship to traditional maritime activity and had a potentially disruptive impact on maritime commerce. The general maritime negligence standard applicable to the terminal operator is “the duty of exercising reasonable care under the circumstances of each case.” The Court found that the accident in this case appeared to have been caused by listing that resulted from improper timing of the cranes, something within the stevedore’s control, not the operator’s. The Court found there was simply no evidence that the terminal operator failed to exercise reasonable care.

In *Abt v. Dickson Equipment Company, Inc., and Greens Port Ship Channel Partners*, United States District Judge Samuel Kent, sitting in Galveston on June 22, 2006 dismissed plaintiff’s Complaint for lack of subject matter jurisdiction. Abt was injured when the crane that he was operating broke, causing him to fall into the Houston Ship Channel. Abt was employed as a longshoreman crane operator by Richardson Stevedoring Company at Greens Port Terminal on the Channel. When the alleged accident occurred, Abt was in the crane’s cab operating the crane. Although he was not operating the crane to service a vessel, he was positioned over water. While over the water, the pedestal supporting the raised cab sheared at its base, causing him to fall into the channel along with parts of the crane. He sued the terminal operator in federal court under admiralty law for

negligence, gross negligence and premises liability. Greens Port filed a Motion to Dismiss for lack of subject matter jurisdiction on the grounds that this matter did not fall within the admiralty and maritime jurisdiction of the federal court. To establish admiralty jurisdiction over a tort claim, a plaintiff must show both a maritime situs and a connection to maritime activity. The situs test requires that the plaintiff show that his injury occurred on navigable waters or if suffered on land, that it was caused by a vessel on navigable waters. As to whether there is a connection to maritime activity, the Court looks to whether the incident has a potentially disruptive impact on maritime commerce and whether the general character of the activity giving rise to the incident shows a substantial relationship to traditional maritime activity.

Judge Kent found that Abt met the situs test inasmuch as his injuries occurred when he hit the water and that he was in the water for approximately thirty minutes after the accident took place, which may have exacerbated his injuries.

However, the Court found that Abt failed to satisfy the maritime nexus test. The Court found that the incident wherein the crane fell into the channel could have had the potential to disrupt maritime commerce, as it could have landed on a ship or prevented travel in the channel. However, the Court found that the incident did not bear a substantial relationship to maritime activity. When the crane broke, it was not providing services to a vessel in navigable waters. Abt was simply moving the crane from one end of the dock to the other and there was no evidence that the crane was either engaged in servicing a vessel or preparing to service a vessel at the time of the events giving rise to the lawsuit.

Consequently, Judge Kent dismissed plaintiff's suit without prejudice.

On the lighter side: As a result of two high profile tour boat capsizings that resulted in several deaths, United States Coast Guard has re-assessed vessel capacity regulations. One event involved the motor vessel Ethan Allen, a forty foot boat carrying forty-seven passengers, which capsized in calm weather on New York's Lake George on October 2, taking the lives of twenty people.

The other occurred in 2004 when a water taxi capsized in Baltimore Harbor, killing five people.

In the Ethan Allen catastrophe, the boat was certified to carry up to fifty people, but officials noted that it was based on obsolete passenger weight guidelines. The boat, built in 1964 had also gained weight as it aged, as it was modified with a heavier canopy, larger engine and more ballast. For decades, boat operators had assumed the average passenger weighed 140 pounds based on the Coast Guard's standards for a mix of men, women and children in calm inland waters. However, the Centers for Disease Control and Prevention estimates that the average American gained more than twenty-four pounds between the 1960's and 2002, for an average weight of 177.7 pounds without clothing. The Coast Guard, weighing this evidence, announced in April that it has settled on a single standard of 185 pounds per person. The new weight calculation is voluntary until new rules are created in months' long process that includes gathering feedback from operators of passenger boats of all sizes.

News Bit: When the motor vessel WILD LOTUS, a 30,000 ton refrigerated cargo ship carrying bananas from Guatemala arrived on June 27, 2006 at Port Hueneme, sixty-five miles north west of Los Angeles, a message scrawled with a marker pen in the cargo hold was found which read "This nitro is for you Mr. George W. Bush" Federal authorities were notified and ordered the port closed. Twenty people aboard the Panamanian registered vessel were taken off the ship for questioning. A sweep aboard and around the vessel by divers turned up no nitro glycerin or any other dangerous materials and several hours later the port reopened.



**BY WILTON E. BLAND, PARTNER
MOULEDOUX, BLAND, LEGRAND &
BRACKETT.
504-595-3000 OR WWW.MBLB.COM**

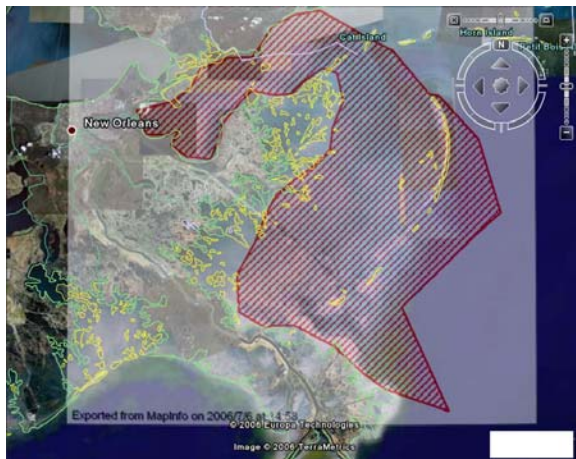
NOAA



NOAA is in the process of developing survey areas to update the NOAA charts of coastal, nearshore and offshore areas that have seen significant changes and impacts from storms, changing shorelines, altered depths, and changing barrier islands, sounds and bays.

Development of new survey areas under NOAA's newly emerging critical survey areas effort is part of the early planning for future efforts by NOAA to chart and update the bathymetry of important coastal, nearshore and offshore areas along the northern Gulf.

Below is a graphic of eastern Louisiana (Chandeleur, Breton Sounds, Lake Borgne and nearshore waters of western Mississippi). A draft survey area has been applied to the graphic by NOAA for inclusion into the newly emerging critical areas list.



Comments and suggestions to this draft survey area are welcome as NOAA moves forward with future plans for surveying of this area and other areas along the Gulf.

Louisiana Sea Grant Program and NOAA

Marine Debris Project Rescheduled

The volunteer-based Marine Debris Marking & Mapping Project on Calcasieu Lake, Moss Lake

and West Cove scheduled for Saturday, June 24, has been postponed due to adverse environmental conditions and ongoing clean-up operations surrounding the 70,000 barrel oil and wastewater spill at CITGO's Indian Marais on-site drainage facility. The event has been rescheduled to coincide with CCA's Trout Shootout July 15.

"Given the environmental risks, with approximately 15,000 barrels contained just prior to our June 24 volunteer-oriented event, and the visible sheen located at the Calcasieu Point Landing—the risk to boaters was simply too high," said Louisiana Sea Grant's Port Specialist Justin Farrell. Closures that affect the project include the Calcasieu Ship Channel and Moss Lake. Additional closures quickly followed the project's postponement, and included Calcasieu Lake and Prien Lake.



Heavy rainfall in the Lake Charles area during the week of June 20 caused flooding and problems at CITGO's waste water storage tank area and secondary containments. The official cause of the spill remains under investigation. In response to on-going recovery and containment efforts on the Calcasieu Ship Channel, the U.S. Coast Guard, Louisiana Oil Spill Coordinator's Office (LOSCO), and the CITGO Lake Charles Manufacturing Complex have created a Unified Incident Command. Likewise, CITGO has established the following hotline at (800) 213-5540 and a direct line for claims relating to boat cleaning at (337) 708-7177.

Hurricane Rita scattered residential, industrial and vegetative debris throughout the estuary system, creating a hazard for recreational and commercial boaters, as well as their vessels and gear. In an attempt to make the lake safer, the

National Oceanic and Atmospheric Administration (NOAA) Office of Coast Survey, Louisiana Sea Grant College Program (Louisiana Sea Grant), Coastal Conservation Association (CCA), Lake Charles Power Squadron, LSU AgCenter, Louisiana Department of Wildlife and Fisheries and the Lake Charles Pilots continue to move toward marking and mapping as much of the marine debris as possible.

Anyone with information or data on known marine debris locations is asked to contact Tim Osborn, Tim.Osborn@noaa.gov, (337) 291-2111; Justin Farrell, jfarrell@lsu.edu or (225) 578-6348; or Kevin Savoie, KSavoie@agcenter.lsu.edu, (337) 475-8812; or visit www.laseagrant.org/debris. Project updates will also be posted to this site.

This effort is made possible with involvement of NOAA's Office of Coast Survey with the funding and support of NOAA's Marine Debris Program, which is part of the NOAA Office of Response and Restoration (National Ocean Service). The NOAA Marine Debris Program works with other NOAA offices and partners to support national, state, local and international efforts to protect and conserve our nation's natural resources and coastal waterways from the impacts of marine debris.



By Justin Farrell
Research Associate-
Coastal Ports
Specialist
Louisiana Sea Grant
College Program

Welcome New Associate Members

PAL would like to welcome the following new associate members:

The Louisiana Offshore Terminal Authority (LOOP) is located in Baton Rouge and will be represented by Executive Director Rochelle Michaud Dugas.

The Louisiana Oil and Gas Association (LIOGA) is also located in Baton Rouge and will be represented by Rebekah Robertson.

MARK YOUR CALENDARS

August 3, PAL Meeting – Port of New Orleans – 10AM
August 8-10 – PAL's Legislative Tour of North Louisiana Ports.
September 11, Taste of Louisiana at the AAPA – New Orleans
September 15th – Louisiana Engineering Society sponsored 8-hour seminar on Homeland Security presented by Dan Witliff-contact Brenda Gajan at LES (924-2120) for more information.

Louisiana
Ports Deliver

8 Hour Homeland Security Seminar

by Dan Wittliff, P.E., F.NSPE

Sponsored by: LOUISIANA ENGINEERING SOCIETY

**Co-Sponsored by: AMERICAN COUNCIL OF ENGINEERING COMPANIES OF LA
LA AIRPORT MANAGERS ASSOCIATION
PORTS ASSOCIATION OF LOUISIANA**

**Seminar will be held at the Baton Rouge Marriott
5500 Hilton Avenue, Baton Rouge, LA 70808
(225) 924-5000**

September 15, 2006 8:00am – 4:30pm

This one-day seminar serves to acquaint seminar participants with an “all hazards” approach to homeland security planning and preparedness. Specifically, attendees will receive instruction in terrorist tools, homeland security risk assessments, statewide homeland security evaluations, and organizing volunteer engineers.

In addition, the seminar will introduce attendees to available resources for their use in recognizing and taking effective action on potential threat elements of terrorism. Attendees will receive instruction on how to accomplish risk and vulnerability assessments according to Department of Homeland Security procedures.

Finally, seminar leaders will help attendees develop a strawman of a homeland security implementation plan to guide the efforts of volunteer engineers in (1) organizing volunteers to evaluate the preparedness and potential targets in the state and (2) matching their volunteer members to the needs of governmental organizations.

REGISTRATION FORM

Name: _____
Address: _____
City: _____ State: _____ Zip: _____
PhoneNumber: _____ FaxNumber: _____
Email: _____

REGISTRATION: Fee = \$125 Visa M/C
(Lunch is included in registration cost.) (We do not accept American Express)

Card No. _____ Exp.Date _____
Signature: _____

Please circle organization you are affiliated with: **LES ACEC/L PORT ASSN. AIRPORT ASSN.**

Mail checks and registration to: Louisiana Engineering Society, 9643 Brookline Ave., Ste. 116
Baton Rouge, LA 70809

You may fax your registration to: (225) 924-2049 or email to les@les-state.org

For more information please visit our website: www.les-state.org

If you have any questions, please call the LES office at (225) 924-2021

Sorry, no refunds will be given after August 31, 2006

Seating is limited to the first 100 so register now!!

**A block of hotel rooms has been reserved under “Louisiana Engineering Society”
at an event rate of \$119. Room cutoff is August 31, 2006.**