

NEWS FROM THE DOCKS



ASSOCIATION OF LOUISIANA

Louisiana Ports Deliver

June 2007
Volume 8, No. 6

Message from the PAL Office

So much happening in such a short time! That has been PAL's mantra for the last few weeks. With the legislature in session and so many PAL events on the calendar, this has continued to be a busy place.

PAL has elected new officers and they will assume their duties on July 1st. They are: President, Roy Pontiff (Executive Director of the Port of Iberia); Vice President, Adam McBride (Executive Director of the Port of Lake Charles; Treasurer, Pat Gallwey (Chief Operating Office of the Port of New Orleans) and Secretary, Eric England (Executive Director of the Port of Shreveport-Bossier). This group will continue to develop PAL initiatives and move the industry forward.



Secretary Eric England, President Roy Pontiff, Outgoing President Bobby Scafidel, Treasurer Pat Gallwey – not shown Vice President Adam McBride

Associate Members will remember receiving certificates of appreciation from PAL for each year of their membership. This year we chose not to hand them out at our annual conference but to mail them to you at a later time. Don't think that we have forgotten about how important you are to us. We're just doing things a little differently. You should be receiving your

3055 East Lakeshore Drive •Baton Rouge, LA 70808

certificates soon along with copies of our new "Profiles of Louisiana Ports." Don't hesitate to request more copies. We want to put them in the hands of everyone who needs to know about Louisiana's port system.

On May 14th PAL hosted a reception at the Governor's Mansion. Each year that event appears to grow. We invite all members of the legislature, all of our associate members, elected officials and state agency personnel involved with port programs. It is always a lovely evening.



This year we welcomed over 300 guests who enjoyed wonderful food, entertainment and an opportunity to visit with all of Louisiana's maritime industry leaders. We appreciate Governor Blanco's willingness to share her home with us.

For the last several years we have been fortunate to have the legislature recognize the importance of Louisiana's ports with Ports Day at the Legislature. This year that event was held on May 15th. The day began with Joe Accardo making a presentation to the Joint Committee on Transportation, Highways and Public Works. Following the meeting the committee members were invited to join PAL for a luncheon at Long-

•(225) 334-9040 •fax (225)334-9044

View. PAL appreciates Randy Haynie for allowing us to use his beautiful home for this event.

For those of you who are following PAL's progress with grant applications, I can tell you that everything is still on track to develop a *Louisiana Ports and Maritime Strategic Economic Development Plan*. PAL has put together an unprecedented coalition of state, federal and local agencies to accomplish this task. At the present time, we are still waiting to receive the final approval from EDA. The LED grant is in the Office of Contractual Review for final approval and the Cooperative Endeavor Agreement has just been signed for the DOTD grant. As soon as all of this comes together, we are ready to proceed.

PAL welcomes two new associate members this month. If you are interested in joining, please contact me, Dot McConnell, at 225/334-9040.

Legislative Update

PAL is excited about possibilities on the horizon during this session. As we have reported in the past, our primary focus has been to impress members of the legislature with the importance of adequately funding for port infrastructure. The funds that we are requesting would flow through the Port Construction and Development Priority Program. At the present time that program has recommended projects for construction that would require \$62 million in state funding. With an anticipated appropriation of \$20 million, that would leave \$42 million in unfunded projects. Those projects would be funded by future appropriations – not allowing for any new projects for at least 3 years. This would cripple our industry. Therefore PAL has requested a one-time influx of \$42 million in the coming fiscal year to address that backlog.

In addition PAL is requesting that our annual appropriation be increased from \$20 million to \$40 million. This is consistent with recommendations of DOTD's Intermodal Transportation Plan and the Maritime Advisory Task Force.

Even if these funds are made available PAL still faces \$800+ million in projects identified in the 5-Year Capital Investment Plan.

With all of the information that PAL has developed we are getting the attention of some members of the administration and the legislature. The following presents a summary of some of the bills that are most important to us. Please contact your legislators to let them know that you support these.

1. House Bill 2, the Cash portion of the Capital Outlay Bill has passed the House containing \$20 million appropriated from the Transportation Trust Fund to the Port Construction and Development Program. HB 2 will next be considered in the Sen. Finance Committee.

2. HB 722 by Rep. Quezaire will transfer sales and use taxes on vehicles to the Transportation Trust Fund and will most likely be used as the legislative instrument to amend a compromise of several other House and Sen. Bill proposals to fund highway construction. The current version of the compromise proposal will allot 7% of the sales taxes to the Port Construction and Development Priority Program (PCDPP), which based on the current fiscal note, will provide approximately \$23 million of additional funds.

3. HB 383 by Rep. Hollis Downs (duplicates Sen. Reggie Dupre's SB 146) will transfer 50% of the excess mineral revenue to 30% for coastal protection, and 70% to DOTD. Of the DOTD funds, 10% would be allotted to the PCDPP, an estimated \$8-10 million.

4. The Senate Finance Com. has heard Sen. Reggie Dupre's SB 146, a duplicate of HB 383, and passed it out of committee. On June 6 it was heard on the floor of the Senate and passed.

5. The exact amount of surplus funds available has changed multiple times, and will be affected by the amount of funds appropriated to the LRA, for tax cuts or credits. We have requested a minimum of \$42 million to be appropriated to the PCDPP to cover the current deficit in this year's approved program.

The general attitude of most members of the Legislature appears to be that ports should receive additional funding. We feel that Governor Blanco, Secretary Olivier, Secretary Bradberry and Com. of Administration LeBlanc agree with the Legislature. However in the final analysis Gov. Blanco and the Legislature will have to make port

infrastructure a priority for funding. Therefore it is important that each of you and your commissioners and tenants contact your legislative delegation to emphasize the need for additional funds.

**CALL YOUR LEGISLATORS TODAY!!
PAL AND LOUISIANA'S PORTS NEED
YOUR SUPPORT!**

Corporate Member News

Port of Lake Charles

The Lake Charles Harbor and Terminal District announced that the Port of Lake Charles and Sheehan Pipe Line Construction Company have entered into a six-month lease agreement on twenty acres of property located in Westlake, Louisiana. The acreage will be used as a staging area and field office for the construction company.



“As an ongoing effort to promote jobs and economic development in Southwest Louisiana, the Port is pleased to meet the requirements of Sheehan Pipe Line by making available the Westlake property,” said Dan Loughney, Port of Lake Charles Director of Marketing and Trade Development.

Sheehan will use the acreage for staging equipment and as a base of operations to install pipeline for Cheniere’s Creole Trail LNG terminal. Creole Trail LNG will be located on 1,463 acres along the Calcasieu River Ship Channel in Cameron Parish, Louisiana. Sheehan will also use the site as location for workers to report for transport to the pipeline construction site.

Sheehan Pipe Line Construction Company is a four-generation family-owned company based in Tulsa, Oklahoma, with over a century of

experience in pipeline construction. Sheehan is one of the nation’s oldest pipeline construction companies and has completed more than 23,000 miles of pipe since 1903.

The Lake Charles Harbor and Terminal District is the 12th largest Port District in the United States and is located on the Calcasieu Ship Channel in Southwest Louisiana. The Lake Charles Harbor and Terminal District is governed by a seven member Board of Commissioners. To learn more about the Port of Lake Charles and the surrounding area, visit the Port’s website at www.portlc.com.

Port Manchac

Port Manchac Creates Master Plan for Future Inter-Modal Terminal

The South Tangipahoa Parish Port Commission has authorized the creation of a Master Plan for future development at Port Manchac. The business plan will be utilized as a reference to indicate potential clients and related infrastructure needs at the inter-modal facility located on the northern shore of Lake Pontchartrain.

The document was officially presented to Louisiana State Senator Julie Quinn (District 6) at the Port’s Association of Louisiana’s (PAL) Annual Legislative Reception for 2007. The South Tangipahoa Parish Port Commission was represented at the event by members Anthony Licciardi, Jr., and Mike Williams. Port Manchac’s cargo operator, Associated Terminals, was represented by President David Fennelly.



Dr. James Richardson, Professor of Economics at Louisiana State University, prepared the study. The economic data contained in the

report details the ports current assets and illustrates the long-term benefits of investments in basic infrastructure improvements that will be required to attract new industries and create jobs for residents of the Tangipahoa Parish area.

The Master Plan for Port Manchac is also a vision of economic development projects engineered to transform the facility into a state-of-the-art trans-loading center. It is an ongoing document and was designed to allow for planning revisions forecasted over the next five (5) years.

Port Manchac is currently re-developing its forty (40) acre terminal to efficiently handle a variety of bulk, break-bulk, neo-bulk, and containerized cargo by rail, truck, or barge. The facility, which is operated by Associated Terminals, is adjacent to Interstate 55 with easy access to Interstates 10, 12, & 59. Mainline rail service is provided six (6) days a week by Canadian National and barge service to/from Lake Pontchartrain is accessed via North Pass.

Associate Member News



ES&H Conducts ICS Training Course for CITGO

The ES&H Consulting & Training Group was recently contracted by CITGO to assist with conducting upper level Incident Command System and Marine Oil Spill Response Training at CITGO's Lake Charles Manufacturing Complex. A series of courses was conducted in April and May that were designed to continue the ongoing proactive training process of CITGO's experienced Emergency Management Team in the functional areas of the Incident Command System (ICS) along with course modules and hands on break out sessions concentrating on Large Scale Spill Response Issues, Clean-up Techniques, Contingency Planning, Resource Management, Wildlife, and Safety.

"Having the opportunity to participate in this training was a great learning experience working with CITGO's team. Their proactive approach to emergency management was quickly evident by

communicating with the team personnel and being able to utilize the state of the art Emergency Operations Center along with current response planning systems. CITGO has a close knit family at the Lake Charles Complex and it was a pleasure working with everyone," says Pat Bergeron, ES&H C&TG Vice President

Legal News



On April 27, 2007, the Occupational Safety and Health Review Commission, in the matter of *Secretary of Labor v. Summit Contractors, Inc.* (OSHRC Docket No. 03-1622), issued its decision wherein it reversed the decision of the Administrative Law Judge and ruled that a general contractor should not automatically be penalized when one of its subcontractors fails to maintain a safe environment.

Summit, based in Jacksonville, entered into a contract to build student housing for a college in Little Rock. To perform the construction, Summit contracted approximately fifteen subcontractors. Summit's superintendents coordinated the vendors, scheduled the work of the subcontractors and ensured that their work met specifications.

The subcontractor hired to do the masonry work on the three-story building erected scaffolding around its exterior. By chance, an OSHA inspector driving to another job site observed men on the scaffolding without fall protection as required by OSHA regulations. On the grounds that Summit, as the general contractor, failed to ensure that employees of the subcontractor were not working in violation by utilizing fall protection devices it was cited by OSHA with a proposed penalty of \$4,000. After a hearing in Little Rock the Judge fined Summit \$2,000 and the subcontractor \$2,500. Summit appealed.

On review, the Commission noted that liability had been imposed on Summit pursuant to OSHA's "multi-employer citation policy." Under this rule OSHA could hold a general contractor who controls or creates a worksite safety hazard liable for OSHA violations even if the employees exposed to the hazard are solely employees of another employer. The general contractor may be held responsible on a

construction site to ensure a contractor's compliance with safety standards if it can be shown that the general contractor could reasonably be expected to prevent or detect and abate the violative condition by reason of its supervisory capacity and control over the worksite. This is a doctrine that OSHA had adopted over thirty years previously.

Summit argued and the Commission agreed that the multi-employer citation policy was not enforceable because it is contrary to 29 CFR 1910.12(a) which states in part ". . . Each employer shall protect the employment and places of employment of each of his employees engaged in construction work by complying with the appropriate standards prescribed in this paragraph." It was Summit's position that because it had no employees exposed to the hazard, and did not create the hazard, 1910.12(a) does not permit the issuance of a citation to it for a hazard created by the subcontractor.

The Commission reviewed the history of the multi-employer citation doctrine or policy and found that it had been amended numerous times over the years by the secretary, but never addressed the apparent conflict with 1910.12(a). Chairman Scott Railton, writing for the Commission, stated "that the limitation of 1910.12(a) making the compliance obligation of an employer for violations of standards applicable only to 'his employees' precludes issuance of a citation to a general contractor having none of its employees exposed to the hazard." Continuing, he stated "It seems to me that the checkered history of the multi-employer doctrine as expressed in the secretary's ever changing compliance guidelines . . . taken in contrast with a regulation which has not been amended since 1971, results in the latter trumping whatever reliance the Commission can place on the varying nature of the policy." Concluding, the Commission found that the Secretary of Labor's reliance on the multi-employer worksite doctrine to cite *Summit* in this case was impermissible given the contrary language of the regulation at 1910.12(a) and vacated the citation.

Commentators have seen this in different lights. Some have opined that this will give general contractors freedom to ignore unsafe conditions on the job site. Others say that this now places responsibility on the subcontractors to improve

their safety records and make sure they comply with OSHA regs.

This writer believes that this ruling finally clearly expresses what Congress intended, *i.e.*, that it is the employer that must be held accountable for injuries to its own employees resulting from violation of OSHA standards. This ruling should not be interpreted as giving general contractors *carte blanche* to ignore safety standards. If the general contractor plays a hand in creating the unsafe condition it can and should be held responsible. However, this ruling should relieve general contractors from having to defend themselves against injuries from employees other than their own caused by conditions for which the subcontractor was solely responsible in creating.

It should be noted that the Secretary of Labor has appealed this decision. Your correspondent will keep you advised of developments in this matter.



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

World Trade Center News



1ST QUARTER LOUISIANA EXPORTS INCREASE 28 PERCENT TO \$7.3 BILLION

Louisiana's worldwide merchandise exports, which set a record in 2006 after slowing in 2005 due to Hurricanes Katrina and Rita, topped \$7.3 billion in the first quarter of 2007, an increase of 28.2 percent in value over the January-March 2006 period, according to a report issued by the World Trade Center of New Orleans. The state's exports reached \$23.5 billion for all of 2006.

Agricultural products, chemicals, petroleum and coal, processed foods, and industrial machinery were Louisiana's top five export sectors in the first quarter of 2007, all of which registered

gains over the same period in 2006. The state's principal export markets were Japan, China, Mexico, the Netherlands, and Canada.

The WTC report was generated by the World Institute of Strategic Economic Research (WISER) from U.S. Census Bureau data. It covers the exports of both Louisiana originating products and some major commingled bulk commodities (especially grain and coal) produced in other states that are shipped abroad from Louisiana's ports and recorded as Louisiana exports because of the difficulty of identifying the actual states of origin.

The value of export shipments of agricultural products through Louisiana's lower Mississippi River ports – which account for over 50 percent of U.S. grain exports – was especially strong in the first quarter of 2007, with \$3.49 billion, a 40.7 percent increase.

America's WETLANDS News

On May 18, 2007, members of the America's WETLAND Conservation Corps got their hands dirty at the Rockefeller Wildlife Refuge by restoring vital coastal wetlands that were damaged by Hurricane Rita. The event featured the formation of the America's WETLAND Conservation Corps (AWCC), as well as the historic partnership between AmeriCorps, the Louisiana Serve Commission, the LSU AgCenter and the America's WETLAND Foundation.

"The LSU AgCenter has been on the ground fighting for coastal erosion for years," said Dwight Landreneau, Associate Vice Chancellor, LSU AgCenter. "The America's WETLAND Foundation has been fighting to gain the nation's attention about what the loss of Louisiana's wetlands will mean to them. Together we will fight the problem from both fronts, and hopefully engender a new generation of volunteers that see the importance of protecting Louisiana's coast."

The America's WETLAND Conservation Corps will build community pride and environmental awareness through volunteerism and education. It will also support collaborative efforts to organize and engage participants in a variety of activities with the message of both responsible stewardship and also a call for action to save

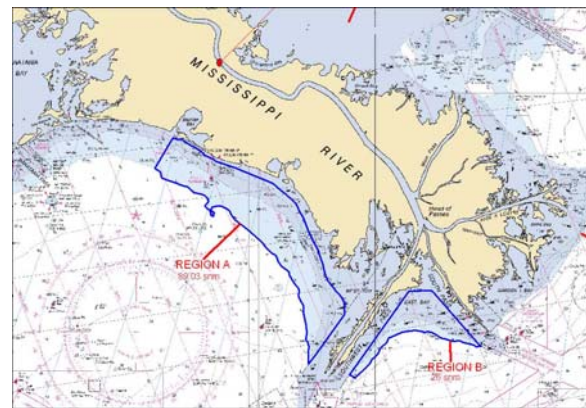
coastal Louisiana. AWCC members will coordinate hands-on coastal restoration projects that will include vegetative planting, restorative interventions, and community-wide clean-ups for volunteers and the communities they will serve, in order to promote stewardship and conservation.

The America's WETLAND Conservation Corps is also supported by generous donations from America's WETLAND Sponsors, Spectra Energy, CH2MHILL, and the Dow Chemical Company, the Credit Bureau of Baton Rouge, Robinette Studios, Tabasco, and individuals from around the country.

NOAA



NOAA should have a Local Notice to Mariners soon on the start of NOAA hazards surveys that will cover the area depicted in the graphic below. Two survey boats will be working under contract to NOAA, one working from Empire and the other out of Venice. The contractor is David Evans and Associates and Jon Dasler is project coordinator.



.....

NOAA Predicts Above Normal 2007 Atlantic Hurricane Season 13 to 17 Named Storms Predicted

Experts at the NOAA Climate Prediction Center are projecting a 75 percent chance that the Atlantic Hurricane Season will be above normal this year—showing the ongoing active hurricane era remains strong. With the start of the hurricane season upon us, NOAA recommends those in hurricane-prone regions begin their preparation plans.

"For the 2007 Atlantic hurricane season, NOAA scientists predict 13 to 17 named storms, with seven to 10 becoming hurricanes, of which three to five could become major hurricanes of Category 3 strength or higher," said retired Navy Vice Adm. [Conrad C. Lautenbacher](#), Ph.D., undersecretary of commerce for oceans and atmosphere and NOAA administrator. An average Atlantic hurricane season brings 11 named storms, with six becoming hurricanes, including two major hurricanes.

Climate patterns responsible for the expected above normal 2007 hurricane activity continue to be the ongoing multi-decadal signal (the set of ocean and atmospheric conditions that spawn increased Atlantic hurricane activity), warmer-than-normal sea surface temperatures in the Atlantic Ocean and the [El Niño/La Niña](#) cycle.

Welcome New Associate Members

PAL would like to welcome two new associate members this month:

The Louisiana Secretary of State's Office will be represented by Mr. Steve Windham.

Brown and Brown Insurance of Baton Rouge will be represented by Mr. Bill Rigell.

MARK YOUR CALENDARS

- June 12, 2007 – Millennium Port Authority – 10am – DOTD 3rd floor conf. Rm.*
- July 12, 2007 – PAL Monthly Meeting, 10AM, Richmond Suites, Baton Rouge*
- August 2, 2007 - PAL Monthly Meeting, 10AM, Richmond Suites, Baton Rouge*
- September 11, 2007 – Millennium Port Authority – 10am – DOTD 3rd floor conf. Rm.*
- December 11, 2007 – Millennium Port Authority – 10am – DOTD 3rd floor conf. Rm.*

