

# NEWS FROM THE DOCKS



ASSOCIATION OF LOUISIANA

*Louisiana Ports Deliver*

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## Message from the PAL Office

October has always been my favorite month of the year. There is something about waking up to a crisper, cooler morning. It signals the start of fall weather and that means the holidays are just around the corner. And...it is always better when the Tigers are off to a 5 and 0 start. It just can't get any better than that!



As we have mentioned, PAL is in the midst of selecting a consultant to develop our Strategic Economic Development Plan. We feel this plan will provide direction for port and maritime industry development in Louisiana for years to come. Therefore, it is an extremely important study, not only for the ports but for Louisiana's economic future as well.

PAL hopes to select a consultant at our meeting on October 11<sup>th</sup>. We anticipate the study will take 8-10 months to complete. It is our intention to have preliminary data available by the start of the 2008 legislative session.

October also marks the beginning of our 4<sup>th</sup> quarter associate membership drive. Any new

associate member joining in the last quarter of 2007 will receive membership through December of 2008. If you have been considering joining us but have held off, now is the time. Just visit our website at [www.portsoflouisiana.org](http://www.portsoflouisiana.org) or call the PAL office at 225/334-9040 for additional information.

We welcome 2 new associate members this month.

## Legislative Update

### *Federal Issues:*

On September 24<sup>th</sup> the US Senate passed the conferenced version of the Water Resources Development Act (WRDA). It has now been sent to the White House for signature. Unfortunately the President has threatened to veto the bill because he considers the appropriation to be excessive.

The bill has tremendous implications for Louisiana. The entire bill would cost \$21 billion with 20% dedicate solely to Louisiana. Democrats and Republicans in Louisiana's congressional delegation are promising to fight Bush's decision by pushing for a veto-override session, where lawmakers can actually cancel the president's conclusion.

"I can understand the fiscal concerns of the White House, but I think it's important for them to consider that because of the long time it's taken to pass this bill, it's really three WRDA bills in one," said Rep. Richard Baker, R-Baton Rouge, who served on the special conference committee. "I for one will fight to make sure a veto is not the last word on the subject," he added.

*State Issues:*

On October 20<sup>th</sup>, Louisiana will hold the gubernatorial primary election. All of the statewide elected officials are up for election as well as legislative seats and many local offices. **Please remember to vote!**

**Corporate Member News**

*Port of New Orleans*

*LaGrange Cites Successes In Annual Address*

A new facility for a long-term Port tenant, recruitment of an operator for niche shipping from the Port's Inner Harbor, and better than 50 percent gains in container traffic highlighted Port President and CEO Gary LaGrange's annual State of the Port Address at the Plimsoll Club atop the World Trade Center.

One year ago, LaGrange placed the relocation of New Orleans Cold Storage to the Mississippi River as his top priority. In June, Port officials secured \$30.5 million in capital outlay money to renovate the Governor Nicholls Street Wharf to become the new home of NOCS.



“We searched for a location for this facility throughout the Port and found Governor Nicholls was the economically feasible solution,” LaGrange said. “This is a site where a longstanding Port tenant can grow its business for many years to come.”

NOCS found itself forced to look for a location on the Mississippi River after silting and the impending closure of the Mississippi River – Gulf Outlet effectively cut off deep-draft access to its dockside cold-storage facility. In 2005, NOCS generated 718 direct and indirect jobs and had a \$35 million economic impact on the local economy. NOCS officials hope to double its cargo at the new facility on the Mississippi River.

The recovery and growth of the Port's container traffic also topped the Port's agenda and

LaGrange pointed to strong current cargo figures and plans for expansion.

“During the first half of 2007, we've seen exceptional growth in container cargo – overall up 54 percent compared to last year,” LaGrange said. “Mediterranean Shipping Company, Hapag-Lloyd, Seaboard Marine and Maersk are all growing their container cargo through the Port of New Orleans.”

In August, Seaboard Marine announced plans to enter into a long-term lease with the Port to operate the Port's France Road Container Terminal, which had been shuttered since Hurricane Katrina. The Miami-based shipper currently operates a twice-weekly service with three ships in New Orleans.

“We hope Seaboard can grow that business and possibly double their services between New Orleans and Latin America,” LaGrange said.

The Port's cruise and tourism sector also realized remarkable milestones throughout the past year, highlighted by the opening of the Port's \$37 million Erato Street Cruise Terminal and Parking Garage in October. The state-of-the-art cruise terminal has garnered national and international awards for its design and passenger amenities. LaGrange said Port officials are also in the design phase for a new cruise terminal at the Poland Avenue Wharf, which could be completed by 2009.

Carnival Cruise Line officials also signed an extension this summer to keep the world's largest cruise line sailing from New Orleans through at least 2010.



Robert Jumonville, director of the Cruise and Tourism division of the Port of New Orleans, and Gary LaGrange, President of CEO of the Port of New Orleans, show Carnival Cruise Lines President and CEO, Gerald Cahill some of the key features of the Erato Street Cruise Terminal.

“Carnival officials cited increased demand for

their New Orleans product when they made the announcement,” LaGrange said. “We are continuing to work with Carnival to return the company’s year-round seven-day cruises to New Orleans, as well. And, the Port is pleased to report Norwegian Cruise Line will home-port a new, larger balcony ship – the *Norwegian Spirit* – next month.”

LaGrange said preliminary figures indicate the 2007 cruise season bounced back to well over 50 percent of pre-Katrina levels, as about 500,000 passengers will embark or disembark from New Orleans. In 2004, the Port had 740,000 passengers, the last full year unaffected by the storm.

“This is all good news for the Port and our city’s tourism industry,” LaGrange said.

Another project underway is the riverfront development plan, initiated when the City of New Orleans and Port officials signed an agreement in the spring of 2006 to streamline the permitting process for riverfront projects.

“As a result of our agreement, a comprehensive plan called ‘Reinventing the Crescent’ will be unveiled in the coming months,” LaGrange said. “World-renowned architects partnered with local firms to create a new vision for our city’s picturesque riverfront, mixing public parks and commercial projects, which could result in \$3 billion of private investment.”

While much of the LaGrange’s address focused on the great strides made in the past year, he also challenged Louisiana to invest in the state’s maritime infrastructure.

LaGrange cited a soon-to-be released study conducted by GNO Inc., which repeatedly placed the region’s “extensive port system” as its most valuable asset.

“Sadly, the planners and economists contributing to this report, say a major problem is under-funding and under-utilizing that same port system,” LaGrange said. “With 160,000 jobs in Louisiana alone and 380,000 nationally depending on commerce at the Port of New Orleans, our leaders must realize the time is now to invest with a vision toward the future. Our leaders must realize Louisiana’s economy and New Orleans’ recovery emanates from the Port.”

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### **Gov. Blanco Appoints Mumphrey To Board**

Governor Kathleen Babineaux Blanco appointed J. Wayne Mumphrey to the Board for a five-year term, succeeding Sen. Samuel Nunez as the St. Bernard Parish member on the regional Board, which governs Port operations in Orleans, Jefferson and St. Bernard parishes.

A native of St. Bernard Parish, Mumphrey earned his law degree from Loyola University in 1971 and established his law practice that same year. Throughout the 1970s and 1980s, Mumphrey divided his time between his law practice and insurance and construction endeavors. Today, Mumphrey Law Firm LLC employs 20 people and has offices in Chalmette, Slidell and New Orleans.

“My mission on the Board is to see to it that the greatest Port in the United States is properly funded,” Mumphrey said. “I look forward to working to grow the most significant economic engine of this state.”

Port President and CEO Gary LaGrange welcomed Mumphrey to the Board and lauded his selection.

“I feel confident Mr. Mumphrey will be a strong voice for the Port of New Orleans,” LaGrange said. “I look forward to working with him as a commissioner and believe he will be an asset to the entire Port community.”

In 1999, the Louisiana Supreme Court appointed Mumphrey to fill a temporary vacancy as District Judge in the 34<sup>th</sup> JDC.



Commissioner J. Wayne Mumphrey is sworn in as the newest member of the Board of Commissioners of the Port of New Orleans. He was sworn in by his son Wayne with the assistance of his wife Victoria and daughter Sarah.

Mumphrey's law practice focuses on civil litigation and the resolution of complex legal disputes. He is admitted to practice before all Louisiana courts, U.S. District Court for the Eastern District, U.S. Fifth Circuit Court of Appeals and the U.S. Court of Claims in Washington, D.C.

Mumphrey is a member of the American Association for Justice, Louisiana Association of Justice, Louisiana State Bar Association and the 34<sup>th</sup> 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.

Mumphrey and his wife, Victoria, have three children, Claude, Wayne and Sarah, all of whom practice law with the family firm.

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### ***West Calcasieu Port***

#### ***Allegro Subsidiary Allocated \$150M GO Zone Bonds by Louisiana Governor***

Allegro Biodiesel Corp. (OTCBB:ABDS), announced that Governor Kathleen Babineaux Blanco, of the state of Louisiana, has allocated \$150 million in Gulf Opportunity Zone Bonds ("GO Zone Bonds") to be issued by the West Calcasieu Port for the benefit of the Southern Intracoastal Biofuels, L.L.C., a 50 percent owned subsidiary of Allegro.

Allegro is currently pursuing next steps to support the bond issuance, including finding buyers for the bonds. If the bonds are issued, the proceeds would be expected to be used by the project team to engineer, procure and construct a multi-phase biodiesel-manufacturing facility with supporting infrastructure, including a dock and storage tank facility to hold inventories of raw materials and finished fuel products at the Port of West Calcasieu or within the Port's taxing district on the Gulf Intracoastal WaterWay. This facility would be strategically located in the Gulf Coast petroleum-refining corridor making blended biodiesel more available in the Gulf Coast region and Gulf Intracoastal WaterWay. The bond allocation is in effect until January 16, 2008, at which time

bonds that have not been delivered will be returned to the Gulf Opportunity Zone Bond Pool. There is no assurance that Allegro will find buyers for the bonds or other ways to utilize the bond allocation before the January 16, 2008 deadline.

GO Zone Bonds are a new category of tax-exempt private activity bonds referred to in the GO Zone Act as "Gulf Opportunity Zone Bonds." The bonds are an integral part of the federal assistance made available in the GO Zone to support the rebuilding and revitalization of the local and regional economies impacted by hurricanes Katrina and Rita.

GO Zone Bonds present a unique opportunity for private business owners and corporations to borrow capital at very favorable tax-exempt rates to acquire, construct, reconstruct or renovate non-residential real property, qualified residential rental projects, and public utility property in the GO Zone. While the bonds must still be sold to private parties, businesses will essentially be able to use the state's tax-exempt borrowing authority to borrow money at a low interest rate, creating an extraordinarily important financial option for rebuilding.

"The Governor's approval of this allocation, along with the 2 percent renewable fuel standard, is an example of Louisiana's support of biodiesel. This is an opportunity to bring in commerce that benefits not only the Port community but also local farmers," stated Darrell Dubroc, Chief Operating Officer of Allegro. "This project would boost the Southwest Louisiana economy and result in increased job opportunities for the community."

### ***About Allegro***

Allegro Biodiesel Corporation is a producer and distributor of biodiesel fuel. Allegro began production and sales in April 2006, becoming the first operational producer of biodiesel in the State of Louisiana. Allegro's biodiesel production facility is located in Pollock, Louisiana and uses renewable agricultural-based feedstock to produce biodiesel. For more information or to be added to the Company's email list please [click here](#) or visit the Company's website at [www.allegrobiodiesel.com](http://www.allegrobiodiesel.com).

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**Associate Member News**

*Associated Terminals*



In celebration of National Maritime Day, the Propeller Club of the United States, Port of New Orleans recognizes and honors one of the leaders of the local maritime industry for his or her leadership in promoting and furthering the industry at its annual Maritime Day Gala. On Thursday, October 18, 2007, the Propeller Club will honor its 48th recipient, Mr. David Fennelly as their 2007 Maritime Person of the Year. Mr. Fennelly is President and CEO of Associated Terminals, LLC, Chairman of Turn Services Inc. and Co-Chairman of Monroe Marine and Associates, LLC which provide marine services including stevedoring, logistics, terminal operations, towing and fleetings.



David Fennelly became co-founder of Associated Terminals in 1991, which began as a broker of stevedoring services on the Lower Mississippi River. The company leased its first floating crane in 1996 and then purchased two additional cranes in 1997, launching its commitment

and motto, ***“The ability and attitude to accomplish anything for our customers”***. With only 30 employees at the time, Associated handled approximately 1 million tons of cargo annually.

Turn Services was acquired in 2004 with David becoming Chairman of the company. This expanded the group’s marine service offerings to include towing and fleetings.

Today it is quite a different story. The Associated Terminals and Turn Services Group of companies have grown into one of the premier providers of marine services in the Gulf South Region, with its primary concentration being the Lower Mississippi River from the

mouth of the river up to and including Baton Rouge.

Presently, the companies employ in excess of 600 employees, trans-load over 15 million tons of cargo annually, and transport and fleet tens of thousands of barge loads of cargo each year for customers across the United States and all over the world.

The 2007 Maritime Day Gala will be held at the Plimsoll Club in the World Trade Center, Thursday, October 18, 2007 beginning with a reception at 6:30 p.m., followed by dinner at 7:30 p.m. Advanced reservations are required. Cost is \$90.00 per person. Contact the Propeller Club at (504) 779-5671 or [propclubnola@bellsouth.net](mailto:propclubnola@bellsouth.net) for more information.

**ES&H**

*ES&H Assists Newpark Environmental Services with Land Conservation Donation*



ES&H assisted Newpark Environmental Services LLC with donating recycled concrete pieces for land conservation initiatives in Fourchon, Louisiana.

The donated concrete was removed from Newpark Environmental's Fourchon Transfer Site during a remediation project preformed by ES&H. The concrete was then donated to the Constantine Land Corporation to help prevent coastal erosion.

"It's great to see that our recycled concrete will be used in a project that will help to protect the banks of Bayou Lafourche from erosion," commented Michael Breaux, Vice President - Facility Operations, Newpark Environmental Services.

*Pictured: Jennifer Campbell of ES&H and Billy Picou of Newpark Environmental survey the donated concrete.*



## Legal News



### THE PRIMARY DUTY DOCTRINE

The Primary Duty Doctrine was first introduced into the legal lexicon in the early '50's when it was articulated by Judge Learned Hand in *Walker v. Lykes Bros. S.S. Co.*, 193 F2d 772 (2d Cir. 1952). It is a doctrine that has been applied by some courts in maritime personal injury cases to preclude a seaman from recovering from his employer for injuries caused by his own failure to perform an affirmative duty imposed on him by his employment. In simplest terms, it holds that a seaman may not recover for negligence or unseaworthiness against his employer where he is under a duty to exercise due care to maintain safe conditions aboard the vessel and he is injured due to his breach of that duty.

Judge Hand distinguished the duty that a seaman owes to his employer to use reasonable care in the exercise of his duties from the duties that a seaman, usually a ship's officer, consciously assumes as a term of his employment. Where violation of the former duty reduces recovery, violation of the later bars recovery.

The courts have discussed three factors that must be satisfied in order for an employer to relieve itself from liability under the Primary Duty Rule.

First, the seaman must have consciously assumed a duty as a term of his employment.

The second is whether the dangerous condition that injured the seaman had either been created by the seaman or could have been controlled or eliminated solely by the seaman in the exercise of his employment duties.

Third, did the seaman knowingly violate a duty consciously assumed as a condition of his employment? The doctrine does not apply to a momentary lapse of care by an otherwise careful seaman. Instead, there must be conscious disregard by the seaman of his duties.

In recent years some courts have refused to strictly apply or recognize the doctrine. Those

courts have instead adhered to the standard enunciated by the Fifth Circuit Court of Appeal in *Gautreaux v. Scurlock*, decided in 1997, where it held that a seaman is obligated to act with ordinary prudence under the circumstance. In doing so, the Fifth Circuit has essentially rejected the Primary Duty Doctrine as a bar to recovery, but does recognize its application as evidence of the plaintiff's contributory negligence in mitigation of his claim.

However, this should not inhibit the defendant/employer from pleading and arguing the doctrine's applicability. If the employer can show that but for breach of his duty the seaman would not have been injured, the claim should be barred.



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## Americas Wetlands



### *Women of the Storm Invite the Presidential Debates to New Orleans*

The Women of the Storm have invited the 2008 presidential debates to Louisiana, offering New Orleans and the Ernest N. Morial Convention Center as the site for one of the three debates. The cooperative proposal, which they created in concert with Dillard, Loyola, Tulane, and Xavier Universities, was submitted to the Commission on Presidential Debates and has won unprecedented endorsements from the New York Times, the Washington Post, TIME, and USA Today. Never before has a consortium of academic institutions joined in a collaboration with a non-profit grassroots group to host such an event - which attracts thousands of international media outlets and has been compared to the Super Bowl in its impact on the host city.

TIME is asking for comments about the possibility of a debate in New Orleans. Please send an email to

neworleansdebate@timemagazine.com to make your voice heard about this important issue, which can bring attention to the case for restoring Louisiana's coast.

## Welcome New Associate Member

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

*Accel Protection & Technologies* is a systems integrator located in Breaux Bridge, LA. They will be represented by Mr. Craig Noel.

*Oil Mop, LLC* is an emergency response and tank cleaning operation with home offices in Belle Chasse, LA. They will be represented by Ms. Danielle Morvant.

NOAA



### NOAA Nautical Charting

#### Chart No. 1

“Nautical Chart Symbols, Abbreviations and Terms” is a reference publication depicting basic chart elements and containing a description of the symbols, abbreviations and terms that appear on nautical charts produced by the National Geospatial-Intelligence Agency, the National Oceanic and Atmospheric Administration, and the International Hydrographic Organization. It is a valuable aid for new chart users and a useful tool for all mariners. Chart No. 1 is no longer available in print, but can be downloaded and printed for free from <http://NauticalCharts.NOAA.gov/mcd/chartno1.htm>.

U.S. nautical charts do not fully comply with the standard international symbology. For example, the buoyage systems used by other countries often vary from that used by the United States. U.S. Charts show the colors, lights and other characteristics in use. In the U.S. system, on entering a channel from seaward, buoys on the starboard side are red with even numbers, on the port side, green with odd numbers. Lights on buoys on the starboard side of the channel are red, on the port side, green. Mid-channel buoys have red and white vertical stripes and may be passed on either side. Junction or obstruction buoys have red and green horizontal bands, the top band color indicating the preferred side of passage.

### MARK YOUR CALENDARS

October 11, 2007 – PAL Monthly meeting  
November 1<sup>st</sup>, PAL Monthly meeting - Port of New Orleans  
December 11, 2007 – Millennium Port Authority – 10am – DOTD 3<sup>rd</sup> floor conf. Rm.  
December 13<sup>th</sup>, PAL Monthly meeting – Natchitoches, Louisiana  
March 12 –14, 2008 – PAL Annual Conference, El Dorado Hotel, Shreveport, LA

