

# NEWS FROM THE DOCKS



ASSOCIATION OF LOUISIANA

*Louisiana Ports Deliver*

August 2010  
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## Message from the PAL Office

There is good news to report! BP has capped the well and oil is no longer pouring into the Gulf of Mexico. The cleanup continues and the consequences to the fragile wetlands and estuaries have yet to be determined. Unfortunately the moratorium continues and businesses in the area are paralyzed by that action. Hopefully the administration will soon lift the restriction and life can begin returning to normal.

As we mentioned last month, the 2011 PAL conference will be held in Shreveport with the Port of Shreveport-Bossier and the other ports located along the Red River Waterway as hosts. The conference will take place March 23, 24 and 25<sup>th</sup> and the conference hotel will be the Sam's Town Hotel and Casino. The room block is being established and we will let you know as soon as you can begin making reservations.

Another point worthy of mentioning is the Port Infrastructure Tax Credit. LED held a public hearing on the program and publication of the rules is proceeding in accordance with the requirements of the Administrative Procedures Act.

Concurrently with that process, LED is working to develop an application process, which should be complete shortly after the rules are printed.

PAL again reminds all of our Associate Members that your dues for 2011, they are overdue. You may contact this office (225/334-9040) to verify your status. If you are interested in joining, visit our website for more information.

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## DOTD News

D. J. Webre, a long time supporter of the Port Construction and Development Priority Program, has retired from DOTD. Mr. Webre began working with Louisiana ports in 1989 when the Transportation Trust Fund was enacted. He was instrumental in developing rules and regulations for the priority program and in seeing them through to implementation. PAL appreciates all of his efforts and wishes him well in his retirement.

Cortney White is no longer with DOTD and will join the staff at the Port of Greater Baton Rouge. Randall Withers will replace Cortney as PAL's direct contact with the department.

## Corporate Member News

### **Port of South Louisiana** *Port Participates in Counter-Terrorism Exercise*

On June 29, 2010, the Port of South Louisiana (PSL) participated in an FBI comprehensive integrated training exercise. Lester Millet III, PSL's Policy and Planning Director, assisted the FBI with a waterborne tour of the PSL's critical infrastructure and its state-of-the-art security vessel, the *PSL Responder*.

The training exercise, coordinated by the Federal government and organized by SA Roger Tomberlin, SSA Joseph "Bruce" Adamo, and SA Carla Van Landingham, was held in New Orleans. The three-day event consisted of two full days of "lessons learned" and "best practices" from Israeli and Dutch police departments and culminated with a tabletop exercise.

The participating local first responders worked in groups of six to encourage open dialogue

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regarding proactive procedures in the event of future deliberate man-made incidents: prevention, preparation, response, and recovery.



*Pictured L-R: (Front Row) Lester Millet III, SSA Joseph "Bruce" Adamo, Lt. Eric Acosta (Back Row) Lt. Bryan Harrell, CDR Paul M. "Bo" Stocklin, Jr., Lt. Byron C. Tumblyn, SA Roger Tomberlin, Netherlands Police Commissioner Michiel Marchand, and Netherlands Police Superintendent Rene Alexander Verzijil*

This counter-terrorism exercise was well attended, with over 100 participants representing local, state, federal, and private stakeholders throughout the state of Louisiana.

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#### *Port Elects New Commission Treasurer*

During the June 2010 regular Commission meeting, the Port of South Louisiana board of commissioners elected Mr. Gregory Gravois as Treasurer for 2010-2011. He was appointed to the commission by the Governor to represent St. James Parish in 2000 and has served as President (2003-2005) and Vice President (2000-2004; 2005-2010).

Upon his election as treasurer, Mr. Gravois commented that he is "...looking forward to working with the Commission and continue the cooperative marketing endeavor between the five deep water ports of Louisiana, to make sure we hold on to our market share in this downward economy."



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#### **Port of New Orleans**

*Port Lands New Piece of the Shipping Business* Transportation Consultants Inc. announced that it will move its headquarters to New Orleans and establish a \$13.5 million warehouse and

distribution facility at the port.

The facility will bring with it a total of 80 jobs, but economic development officials say the real value of the plant will be its ability to keep shipping activity in New Orleans that is now going to Houston, while introducing a new manufacturing effort in New Orleans.

The facility planned by TCI will package the plastic pellets that are used in a wide range of manufacturing processes and deliver them directly to the plants.

Currently, the pellets, which are melted down to make any number of plastic goods, are made in the many plants between New Orleans and Baton Rouge. No Louisiana shipper has the capability to package and ship the pellets in specific sizes, so the goods leave the state in bulk, where they are packaged elsewhere.

Gary LaGrange, president and CEO of the Port of New Orleans, said the new plant gives Louisiana the opportunity to capitalize on that lost business, which he thinks will cause more growth than the expected 60 direct and 20 indirect jobs the facility itself will bring.

"I think it's going to add work to jobs elsewhere," he said.

He also said the "investment gives the local transportation sector the tools to handle chemical products more efficiently."

Michael Hecht, president and CEO of the economic development group Greater New Orleans Inc., says the packaging capability, called value-adding, increases profits for New Orleans companies. "This gives us the ability to do value-added manufacturing, which we haven't had in the past," he said.

Hecht says Louisiana ships most of its raw goods in bulk form, with the exception of coffee, leading to lower profits. "I think this begins to take us in a new direction," he said.

Hecht also says the plant is a step in the right direction in terms of replacing the massive job loss caused by the shutdown of the Michoud Assembly Facility and the Avondale Shipyard. Northrop Grumman announced plans last week to close the Avondale shipyard in 2013. The Michoud plant is winding down after completing

work on the last external fuel tank for the space shuttle.

"We all recognize that it's unlikely we'll find a 5,000-job company that will replace Avondale one for one," Hecht said. That's why companies like TCI are important. Hecht sees a future where several businesses like TCI make up a "more diverse business portfolio" that's less risky. "It's going to take a while to get there, but I'm confident we will," he said.

The announcement, coming on the heels of the Avondale announcement and the rollout of the last external fuel tank at Michoud, was attended by Gov. Bobby Jindal and other local officials.

"I know our city and our state have faced some challenges, but today is a day to celebrate," Jindal said. "This is a great day for New Orleans, a great day for Louisiana."

TCI is a private logistics and warehousing provider that was founded in 1983 in New Orleans but moved to Harahan in 1990. Jack Jenson, TCI's CEO, said he jumped at the opportunity to return to New Orleans. "As Drew Brees said, 'We begin to understand the importance of making it home and making it successful,'" he said.

Jenson said the project could not have been done without help from state officials from the Port Authority, Louisiana Economic Development, and Entergy Corp.

The project is progressing in two stages. The first stage includes construction on the warehouse and container facilities. TCI obtained Gulf Opportunity Zone bonds and a New Markets Tax Credit to help finance this construction.

For the second stage, Louisiana Economic Development delivered a total of \$900,000 in incentives, money TCI will use to build a rail spur that will allow shipments of plastic pellets to be delivered directly to the plants.

Jindal said that although attracting outside business is important, locally owned companies like TCI are the driving force behind job recovery. "The majority of jobs created will come from existing companies," he said. "We've got another Louisiana-based company not just

making jobs, but keeping jobs that are already here."

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*First Phase Of Napoleon Ave Container Terminal Stage 'C' Approved By Board - Board Action Moves Intermodal Riverfront Center For Cruise Passengers Forward*

The Board of Commissioners of the Port of New Orleans this week approved a demolition contract to begin a project aimed at improving efficiencies and adding container storage space to the Napoleon Avenue Container Terminal.

The Board awarded the \$221,983 contract to Harahan, La.-based Durr Heavy Construction LLC to demolish an unused warehouse adjacent to the Napoleon Container Terminal. The overall project, estimated to cost \$11.8 million, will add four acres to the terminal's marshalling yard – including space for container storage and allow improved efficiencies throughout the terminal.

"This project is part of the Port's ongoing effort to expand and improve container capacity," said Gary LaGrange, the Port's President and CEO. "Coupled with the upcoming delivery of two new container gantry cranes, this project will greatly improve the Port's position to handle increased business at our state-of-the-art terminal."



The project is supported by \$6 million from Louisiana's Port Construction and Development Priority Program and the rest will be funded by the Port. The second phase of the project, which will be constructing the high-density concrete yard, is expected to begin in November.

In other action, the Board approved a resolution to enter into a cooperative endeavor agreement with the Regional Planning Commission to fund the Intermodal Riverfront Center at the Julia

Street Cruise Terminal. The project will allow improved access between the Julia Street Cruise Terminal, Ernest N. Morial Convention Center, Erato Street Cruise Terminal, Riverwalk Marketplace and the John Churchill Chase street car station.

The project, estimated to cost \$500,000, will replace a 25-year-old staircase, refurbishing an existing Port building housing elevators and escalators for handicap accessibility, along with other site improvements. A \$360,000 Federal Transportation Authority grant will pay for most of the improvements, while the Port will pick up the balance. Architects are currently in the final stages of design and completion is expected to be in the summer of 2011.

“Cruise passengers, as well as the general public, will benefit greatly from improved access between our cruise terminals and adjacent entertainment, convention and shopping venues,” LaGrange said.

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### Associate Member News

#### *The Communication Institute*



#### **Are You Prepared for a Crisis?**

**By Bobbie Carey,  
TCI...The Communication Institute**

##### ***“If something can go wrong, it will.”***

The oil drilling business is capital intensive, technologically complex and people driven. The risk of a crisis is constant and one was experienced by British Petroleum in the last four months. The absolute bungling of communication with the media, officials and the people affected was glaringly obvious.

The question is, “**Is your organization prepared for a crisis?**” What do you have to have in place to communicate and survive with your organization’s reputation intact?

The Basics:

1. Create a crisis communication plan and a crisis communication team. Define

roles and responsibilities and have preparatory meetings and practice exercises.

Remember the people who survived the World Trade Center crisis were those that practiced the escape procedures.

2. Identify the key media in your area and develop relationships with them.

Offer a media day during which time they tour the port, have lunch and see a new program, tenant or expansion. Give them contact info for your spokesperson.

Tell them where to go if they need information. Cell phones are important. News tends to happen late in the day or after hours.

3. Identify the key spokesperson and media contact for your company. The media must have one “go to” person and the company must speak with one voice.
4. Speak out early and give the facts as you know them—don’t embellish or use “spin tactics.” Honesty is the best rule. Do not say “no comment.” Set a time and place for your comments that you can control and give the pertinent facts not speculation.

If the company does not get “on the record” the media will go to less reliable sources.

5. As new information becomes available, feed it to the press. Stay factual.
6. Let the media know where information is available and when the spokesperson is available.
7. Have an up to date list of cell numbers and emails for key people—internal and external including clients who can be a resource to your issue. Make sure in your directory there is a list of emergency personnel –including cell

phones. Lists should be digital and hard copy. Know in a crisis how you will communicate with key people, clients, your Board and Union leaders if you have unions in your workforce.

8. Communicate with employees in person if possible at the onset of the crisis. Prepare employees in orientation and at other employee trainings. Employees should know that if a crisis strikes they will receive communication in a certain way. Set up a hot line if possible.
9. Prepare a Fact Sheet as soon as possible. After approval from the legal team, distribute it to all executives, managers and supervisors so they know the facts and can talk to their direct reports. The sheet can be hard copy or digital. Update the information regularly.
10. Establish a network of officials that are important to your port. Have an up to date list of their contact information including cell phones.
11. Get media training for the spokesperson and for all managers and executives. There are definite techniques for interviews, press conferences and Q & A. These are skills that need to be well honed before the microphone is in your face. In the current crisis we have witnessed what a misstatement (“I want my life back.”) can do to a career and company. (Know the 10 To Do’s and the 10 “Not To Do’s in a media interview and the types of questions that media tend to ask to provoke you.)
12. Know where you will set up a Command and Control Center and what equipment will be necessary for it to function.

A structured plan should outline the implementation of these basics as well as who members of the team need to be, their roles and responsibilities and some thought to the types of

issues that could arise in the port business. Your team needs to be in place, the crisis communication plan must be up to date and contain the right information and key relationships should be constantly developed. Get ready... into every life “ a little rain must fall.” Get your umbrella ready.

Bobbie Carey, [www.tcigroup.net](http://www.tcigroup.net), 225.767.7224

### ***T. Baker Smith***



T. Baker Smith has launched a new website. It can be accessed at [www.tbsmith.com](http://www.tbsmith.com).

**T. BAKER SMITH**  
PROFESSIONAL CONSULTANTS SINCE 1975

In addition the company has participated in development of a new boom system to contain the oil spill. Below is a link to a video about the Rigid Pipe Boom (RPB)© system designed by T. Baker Smith, Inc. and Morrison Energy Group. It is being highlighted on the BP website. Check it out!

[http://bp.concerts.com/gom/Rigid\\_Boom\\_Deployment\\_072610.htm](http://bp.concerts.com/gom/Rigid_Boom_Deployment_072610.htm)

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### ***UNO***

The Louisiana Board of Regents has approved the Merritt C. Becker, Jr. UNO Transportation Institute (UNOTI), which will direct all transportation research activities at the University.

The Institute, housed within the College of Liberal Arts, is a means of organizing the diverse transportation research programs that currently exist at the University into a new structure that will allow for more efficient administrative oversight, greater funding opportunities, and a stronger position for UNO in the future and sustainable growth of the field of transportation.

Transportation is a critical component of the national and international economy. Recent disasters in the Gulf region have illustrated that transportation and transportation planning are critical to Louisiana and its citizens.

The Institute will promote innovative policies and practices for the users and providers of transportation throughout the region, United States, and the world.

UNOTI faculty and staff conduct educational and research activities in key areas relating to

the commerce and livability of Louisiana communities. Key areas of research include maritime, transit, and active transportation. The Institute is under the direction of James R. Amdal with Dr. John L. Renne acting as Associate Director. "Establishment of this Institute reinforces UNO's mission to support the region's future, especially in light of the post-Katrina and post-oil disaster environments," Amdal said.

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### Hanson Professional Services Inc.

Gretchen Bonfert recently joined Hanson as the manager for Gulf Coast initiatives, establishing a presence in New Orleans for Hanson. She serves as a liaison for environmental and engineering consulting needs in the Gulf Coast region, working with federal, state and local agencies and organizations.

She combines an understanding of the diverse communities working on the restoration of coastal Louisiana with a systemic perspective on the Mississippi River to bring critical value to Hanson's Gulf Coast program.



Currently, Gretchen is doing outreach regarding Hanson's collective skills in areas such as flood wall, pump station and levee design and assessment; maritime and inland river consulting services; engineering, architecture, planning and environmental services; construction management services; as well as Hanson's previous experience working on disaster recovery and hurricane protection in the Gulf Coast region.

She is a member of the Coalition to Restore Coastal Louisiana, Lake Pontchartrain Basin Foundation, Atchafalaya Basinkeeper, Gulf Restoration Network, and Society of American Military Engineers' New Orleans and Mobile posts. Prior to joining Hanson, she served as a program director for the McKnight Foundation, working with charitable organizations to maintain and restore the Mississippi River in the 10 states through which it flows.

With more than 25 years of experience working on river and coastal restoration, water quality and other environmental issues, Gretchen will leverage her experience to enhance your project needs. You may contact Gretchen at 504-355-8107 or [gbonfert@hanson-inc.com](mailto:gbonfert@hanson-inc.com), [www.hanson-inc.com](http://www.hanson-inc.com).

### Legal News



#### *Breach of Warranty in Policy of Marine Insurance*

A warranty in marine insurance is a condition whereby the insured undertakes that a particular thing or condition shall be fulfilled. For instance, the owner of a vessel is required to warrant that its vessel shall be maintained in a seaworthy condition. If that warranty is breached, the insurer may have grounds to deny coverage. Other common warranties in marine insurance are the navigation warranty (limiting the travel of the vessel to prescribed geographic limits), and the crew warranty (requiring the vessel to be manned by a specific number of crew).

The most common conflict which arises in warranty disputes involves the question of whether state or federal law should govern the policy. Under the laws of many states the insured is given the benefit of the doubt and even if a warranty is breached, coverage may not be denied unless the breach is causally related to the loss which is the subject of the claim. In maritime law, warranties are strictly construed and strictly enforced. There does not need to be a causal link between the loss and the breach of warranty. Ordinarily in insurance coverage disputes the law of the state will apply except where it is displaced by federal legislation or entrenched rules of admiralty law established by federal courts. The courts in the Fifth Circuit have almost uniformly held that admiralty law trumps state law in the interpretation of marine insurance policies where the focus of the debate revolves around breach of warranty issues. Where state law may provide that there needs to be an element of causation linking the breach to the loss, admiralty law requires no such link. In admiralty law if the warranty is breached, coverage may be denied and the question of

whether the breach caused or contributed to the damage is irrelevant.

The lesson to be learned is that the vessel owner must know the warranties set forth in his marine insurance policy. The owner must take those warranties very seriously and do all that is necessary to make sure that he operates the vessel in compliance with them. Marine insurance is not inexpensive and breach of a warranty, no matter how innocent, can result in denial of coverage.

### CASE OF INTEREST

On July 6, 2010 the Louisiana Supreme Court ruled that surveillance video of a claimant who alleged he was disabled due to personal injury could be shown to a physician retained to conduct an independent medical examination of the claimant. In *Bazile v. Bayou Steel Corporation*, Bayou Steel filed a motion with the Office of Workers' Compensation (OWC) to submit certain evidence to the physician conducting an independent medical examination (IME) of claimant. The OWC ruled Bayou could not submit surveillance video and correspondence from claimant's treating physician. The Supreme Court granted a supervisory writ and reversed. The Court ruled that surveillance materials serve an important function in the search for truth, and that the IME physician should have access to all relevant information, including surveillance material, to render an accurate opinion.

Louisiana courts have not been consistent in their rulings concerning use and admissibility of surveillance video in litigation. Some judges who may be predisposed to favor plaintiffs will restrict their use, and/or dictate when production of the surveillance video must be made public or given to the claimant. Justice Lemmon, in his concurring opinion in *McNease v. Murphy Construction Company*, 682 So.2d 1250, succinctly framed the argument when he wrote:

"A defendant usually obtains a surveillance video as a basis for impeachment if the plaintiff's deposition or trial testimony as to the extent of his or her injuries varies from the depictions on the video. On the other hand, a plaintiff's usual basis for discovering a surveillance video is the need to determine whether the photography is misleading. Denying the defendant the opportunity to "pin

down" the plaintiff's version of the injuries by taking the plaintiff's deposition before producing such surveillance videos will frequently prejudice the defendant's right to preserve any impeachment value in the video."

In order to balance the competing interests, the general rule should be that the deposition precede the production of the surveillance video, absent a showing by the plaintiff of special circumstances. By authorizing the trial court's exercise of discretion as to the timing of production of surveillance videos, the decision in *Moak v. Illinois Cent. R.R.* 93-783 (La. 1/14/94), 631 So.2d 401, implicitly recognized that the plaintiff must provide the trial court with some reason why production should precede the taking of the plaintiff's deposition. Absent a showing of special circumstances, the general rule should apply. See *Snead v. American Export-Isbrandtsen Lines, Inc.*, 59 F.R.D. 148, 151 (E.D. Pa. 1973).



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## America's WETLAND



Louisiana's Congressman Charles Melancon is offering an amendment to the CLEAR Act ( HR 3534, the Consolidated Land, Energy, and Aquatic Resources Act) that would provide **\$1 BILLION in dedicated funding for restoration of the Gulf Coast and coastal Louisiana.** At present the bill has passed the House and is on the Senate calendar.

The funded projects will be large-scale restoration projects, endorsed by the Gulf Coast governors and federal agency heads. These projects will benefit all regions of the Gulf Coast and provide a restoration framework that will restore water quality, protect wildlife and ensure resiliency of the coastal wetlands in the face of the oil rig explosion and leak.

This is a wonderful opportunity to secure significant funding for Gulf Coast restoration, but it can only happen with the support of your

delegation. Call your Senator right away and request that he support this important legislation

As part of its' on-going work, America's Energy Coast members brief Federal and state leaders on sustainability issues surrounding the region's economy, culture and environment.

Recently, AEC leaders briefed key leaders in the U.S. Department of Interior, the White House Council on Environmental Quality, the National Oceans Policy Task Force and the Interagency Working Group demonstrating that the balanced approach taken by the AEC continues to receive acknowledgment by the Federal Administration and constituents in the region.

AEC leaders discussed immediate steps that could be taken by the federal government toward a comprehensive long-term Gulf Coast recovery including:

- \* Funding already authorized restoration plans that begin to connect the river to the wetlands.
- \* Immediate action on the President's request for \$19 million for beneficial use of dredge material.
- \* The acceleration of OCS revenue sharing to Gulf Coast states to provide critical funds before 2017 when land loss will reach tragic proportions.
- \* Dedicating a portion of funds from BP to restoration projects that lead to the survival of coastal communities through coastal restoration.
- \* Fixing conflicting federal policies that impede coastal restoration and removing the red tape holding back Coastal Impact Assistance Program (CIAP) grants to our states.

For more information on the AEC resolutions and recent activities, please visit: [www.americasenergycoast.org](http://www.americasenergycoast.org) and see the "Publications and Resources" section of the website.



As the hurricane season moves into the more active part of the year, a priority is now finalizing any post storm response and survey needs to quickly and effectively support the rapid recovery of a port and set of waterways

from a severe storm or hurricane

An example graphic is below for the Port of Iberia. These graphics, used in GIS formats and software, are used for the post-incident survey plans to rapidly respond, survey and report out any hazards or wrecks that may shut down or impede the opening or use of a port or waterway



We hope to consult with each port and related waterway and coastal constituents and industry to determine if any changes or additions to these response plans are needed. We appreciate the collaboration in this effort.

### MARK YOUR CALENDARS

September 2, PAL Monthly Meeting, 10AM , Richmond Suites, Baton Rouge, LA

October 7, PAL Monthly Meeting, 10AM , Richmond Suites, Baton Rouge, LA

March 23-25, 2011, PAL Annual Conference, Sam's Town Hotel and Casino, Shreveport, LA

