

NEWS FROM THE DOCKS



Louisiana Ports Deliver

ASSOCIATION OF LOUISIANA February 2011
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Message from the PAL Office

It's time for all of this cold weather to end. Even the groundhog said we've had enough! What could be better than to head into Spring with an exciting event being planned for all of our members and maritime friends.

The PAL Annual Conference is just around the corner. Please make your reservations NOW. The hotel will only honor our block at the \$80 room rate until February 22nd. Registration should be in the mail early next week. It will also be available on our web site at www.portsoflouisiana.org. Call 1-877-429-0711 and ask for the block code S07PAL.

The program will concentrate on federal issues and promises to be interesting and informative. We look forward to seeing you all in Shreveport!

Check your membership status:

PAL sent out associate membership renewals at the first of January. Please check to make sure your dues are paid for 2011. If you need additional information, contact the PAL office and I will be happy to assist you.

If you are interested in joining, please visit our web site and look for the link "Join". PAL dues are \$300 per year and for that investment, PAL will invite you to all of our monthly meetings, post your organization on our web site with a link to yours, and provide you with a copy of our monthly newsletter. We also invite associate members to submit information for inclusion in this newsletter. It's a great way to disseminate information about new ventures and new technologies that are available through your organization.

Legislative Update

Several of our members have expressed an interest in participating in the new infrastructure tax credit program. However, no one is certain of how to go about it. To provide assistance, PAL has requested that LED conduct a seminar. Paul Sawyer has promised to look into the possibility. PAL will keep you posted as that effort continues.

RAMP – Dredging Legislation (taken from The American Press)

U.S. Rep. Charles Boustany, R-Lafayette, introduced the Realize America's Maritime Promise Act as a way to rededicate funding for dredging projects in harbors and ports nationwide. RAMP will ensure that funding in the Harbor Maintenance Trust Fund is used solely for the purpose of coastal dredging and maintenance.

The trust fund is a tax paid on cargo that moves through U.S. ports in order to pay for channel maintenance. According to Boustany, the fund has a balance of about \$5.1 billion. "For too long, Congress used the Harbor Maintenance Trust Fund to disguise the federal deficit," Boustany said.

He believes Gulf Coast ports suffer from a backlog of necessary maintenance and dredging projects. Boustany also said Louisiana ports risk the restraint of regional commerce, vessel groundings, collisions and pollution accidents.

In 2009, Boustany said projects in Louisiana alone received \$100 million less than authorized levels, creating significant backlogs.

He hopes the RAMP Act will change congressional limits on the fund's ability to address problems along Louisiana's waterways. "These waterways create thousands of jobs throughout the Gulf Coast region, but chronically under-funded dredging imperils those jobs and commerce each year," Boustany said. "We cannot afford to threaten these water highways that are so important to our nation's commerce."

Joe Accardo, director of The Ports Association of Louisiana, hopes the funds will get to the U.S. Army Corps of Engineers. "Louisiana has a need for about \$1 billion in port infrastructure improvement alone," said Accardo. "Money will flow to where money is made. But the hard part is finding the funding now."

Boustany believes more dredging also could mean more rebuilding of wetlands in Louisiana because dredge spoils have been used for that purpose.

Corporate Member News

Port of South Louisiana

Port of South Louisiana Holds FTZ #124 Semi Annual Meeting

Last month, subzone operators along with customs agents from New Orleans, Gramercy, and Morgan City joined Port of South Louisiana Executive Director Joel T. Chaisson and Foreign Trade Zone (FTZ) manager Lisa Braud at the Port's Globalplex Intermodal Terminal in Reserve for the Foreign Trade Zone #124 semi-annual meeting.



Items of discussion included the new Halliburton LaRose facility, for which an application has been submitted to the FTZ Board

in Washington, D.C. for subzone approval. Also, North American Shipbuilders has a pending expansion application to include their newly constructed shipyard in Houma, LaShip. Both are expected to be approved this coming year.

During the meeting, Mr. Chaisson stressed that Globalplex Intermodal Terminal's 335-acre site is an approved general purpose site that is available for use by any company wanting to utilize FTZ benefits.

The 39th annual National Association of Foreign Trade Zones (NAFTZ) conference will be hosted by Louisiana Foreign Trade Zones in New Orleans on September 11-14, 2011 at the New Orleans Marriott. For more information on the 2011 conference, visit the NAFTZ website at www.naftz.org.

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Brazilian Delegation Visits The Port of South Louisiana

The Port of South Louisiana hosted a special luncheon for trade officials visiting from burgeoning though less-developed states in Brazil. The trip was sponsored by the New Orleans Citizen Diplomacy Council via the U.S. Department of State's International Visitors Leadership Program (IVLP).



Pictured L-R: Ruth Weinfeld, Interpreter; Ana Karina Frota, State of Ceara Federation of Industries; Buddy Amedee, PSL Director of Marine Cargo & Trade; Melissa Folse, PSL Director of Governmental Affairs & General Counsel; Islano Marques Nascimento, International Relations for Government of Piauí; Joel T. Chaisson, PSL Executive Director;

Karina Dourado Gueiros, State of Paraiba Federation of Industries; Carolina Paraventi, Interpreter;
Felipe de Moraes Chaves, State of Pernambuco Secretariat of Economic Development;
Linda Prudhomme, PSL Director of Business Development; Larry Collins, LED International Services Director

The main objective of the delegation's visit was to familiarize representatives from the states of Pernambuco, Ceará, Piauí, and Paraiba with U.S., state, and local programs that promote investment, tourism, and trade to help attract a larger portion of domestic and foreign resources to the northeast region of Brazil, thus increasing their advantage over the wealthier south.

During the luncheon meeting, Joel T. Chaisson, Port of South Louisiana's Executive Director, Larry Collins, LED International Services Director, and other Port representatives addressed areas of interest to the IVLP participants, including the role of state and local government and their relationship with private businesses in support of economic development and international trade, the development of future partnerships to increase trade and business between Brazilian and U.S. corporations, and to observe and discuss port operations and policies to enhance exports and imports.

Before visiting the Port of South Louisiana, the delegation visited Washington, D.C., Los Angeles, and Salt Lake City and will conclude their stay in the U.S. in Jacksonville, Florida.

Port of West St. Mary

A. Philip Prejean Retires from Port of West St. Mary

On December 31, 2010, Mr. A. Philip "Pudgy" Prejean officially retired as the Executive Director of the Port of West St. Mary. Mr. Prejean has served in the maritime industry for approximately 33 years, the last 13 years at the Port of West St. Mary. As Executive Director of the Port, Mr. Prejean worked with the Commission and made tremendous progress.

All of the Port's facilities have been rehabilitated, a state of the art water plant that serves the Port and surrounding area has been built, the Port's acreage has been increased from 150 acres to over 850 acres, along with the Port being on a sound financial basis. The Commissioners and staff will miss his leadership at the Port and wish him a comfortable and healthy retirement.

At the December 2010 meeting of the Port of West St. Mary, the Commissioners unanimously appointed Mr. Albert H. "Tad" Blevins, Jr. as Executive Director/President. Mr. Blevins was appointed to the Port Commission in 1974 and is the only Charter Member presently on the Board. Mr. Blevins will serve as Executive Director of the Commission and Mr. David J. Allain has volunteered his services to assist him in the day-to-day operations of the Port. The staff and Commissioners look forward to working with Mr. Blevins and Mr. Allain for the continued progress of the Port of West St. Mary.

Southwest Louisiana Ports

Area ports working together: Six Southwest Louisiana ports have formed network

By Heather Regan White American Press

That Southwest Louisiana has six ports may come as a surprise to many people — and that's something one local group hopes to change.

Two years ago, representatives from each of the six ports began meeting quarterly to discuss common problems and solutions. The meetings evolved into the Southwest Louisiana Port Network.

Its members are the Port of Lake Charles, the East and West Cameron ports, the West Calcasieu Port, and the Mermentau River and Vinton harbor and terminal districts.

"The Southwest Louisiana maritime industry is in a better position to react to opportunities in concert, rather than separately," said Lynn Hohensee, West Calcasieu Port director.

Ernest Broussard, director of planning and development for Cameron Parish and an agent for both of the parish's ports, agrees.

“As the port and the parish partner to pursue economic development, the professional relationship established with the other ports really does create a synergy for the entire region,” he said.

“Each member of the network is an excellent platform to project the collective maritime strengths of the region, with each entity having a unique niche in the industrial base without really competing among its stakeholders.”

What they’re selling:

Southwest Louisiana’s ports are commercial gateways — via deep water, planes, trains — to many of the region’s major industries.

“These ports, first and foremost, are economic development engines, each with the ability to recruit businesses and create jobs,” Hohensee said. “All of the ports working together are making coordinated regional economic development their top priority.”

The state offers a 5 percent tax credit to those who invest in ports, and property tax abatements and Gulf Opportunity Zone bonds remain available for the seven hardest-hit parishes, according to Hohensee.

Also of interest to potential clients is the availability of land at the ports. Hohensee said most major ports in the U.S. are landlocked and have nothing to offer those looking to build. And, according to the Waterways Council, a maritime public policy advocate, moving freight by water is the most energy efficient and environmentally sound commodities transport method.

According to the council, barges can move a ton of cargo 576 miles for every gallon of fuel; the distances for a rail car and a truck are 413 and 155 miles.

From the beginning, the Southwest Louisiana Economic Development Alliance has backed the network with support and suggestions.

The alliance has underwritten the cost of a network brochure and has paid for its involvement in regional trade shows.

They sponsored a 30-second television ad that ran throughout the region between October and December.

“It gives us a stronger story to tell if we can talk about six ports each with their own specialties. Their willingness to work together sends a tremendous signal to those looking to locate here,” said alliance President George Swift.

“We’ll be able to point prospects in the best direction for them.”

SW LA. Ports

Each of the six ports within the Southwest Louisiana Port Network has its own niche:

The Port of Lake Charles — A general cargo port located 34 miles north of the Gulf of Mexico. Its jurisdiction encompasses about 65 miles of waterway.

It has a 95-acre dock facility that handles grain and a 71-acre bulk terminal at Rose Bluff Cutoff that handles petroleum coke, wood chips and other dry bulk commodities.

It has four properties for lease: 170 acres off Lincoln Road; 296 acres in the Industrial Park East near Chennault; 54 acres in Westlake on the Calcasieu River; and 98 acres off the Calcasieu Ship Channel.

The West Cameron Port — A deepwater access port located on the Gulf; it has shallow draft capabilities and is home to two LNG plants, with a third set to be constructed in the next three years.

The East Cameron Port — It grants access to the Gulf through the Mermentau River estuary and offers properties and large infrastructure. It and the western port account for about 60 percent of the revenue for Cameron Parish.

The West Calcasieu Port — A 190-acre port located halfway between Houston and New Orleans on the Gulf Intracoastal Waterway, two miles west of the Calcasieu Ship Channel and close to Interstate 10. It accommodates repair and construction support businesses and a barge-towing provider.

Vinton Harbor and Terminal District — The port, reopened a decade ago after a period of inactivity, sits seven miles north of the Intracoastal Waterway. It comprises 320 acres of

land, a small dock and a 20,500-square-foot commercial building.

Mermentau River Harbor and Terminal District — The port, located on the Mermentau River, one mile north of U.S. 90, features a slip and 12 acres of land. Its cargo includes inbound aggregates, fertilizer, rough rice, rice hull compost, and outbound rice and soybeans.

Port Fourchon

Bayou Group Heads to D. C.

Local leaders in the bayou area are traveling to Washington, DC, in an effort to save the livelihoods of people in the coastal community. Their mission is to foster a sense of urgency in ending permit delays and de facto moratoriums by showing real-life examples of the economic slowdown in our area, which they feel is directly attributable to government-instituted policies in the aftermath of the Gulf oil spill. They are scheduled to meet with Interior Secretary Ken Salazar and BOEMRE Director Michael Bromwich this week.

The bayou business group is made up of representatives from local government entities in Grand Isle, Port Fourchon, and Golden Meadow, boat companies, service industry providers, small independent oil and drilling companies, engineering firms, and vessel owners. This group has been meeting for months to discuss the effects of the moratorium and lack of permitting on their businesses and the community, and they have decided to take their message to Washington.

Group members traveling to DC include: David Camardelle, Mayor of Grand Isle; Chett Chiasson, Director of Port Fourchon; Chuckie Cheramie, Greater Lafourche Port Commission Board Member; William Gray, CEO of Pisces Energy; Doy Dugan, CFO of Spartan Offshore Drilling; Kurt Crosby, CEO of Crosby Tugs; Josh Jambon, President/CEO of Jambon Boat Rentals; O'Neil Malbrough, Central Gulf District Manager of Shaw Environmental and Infrastructure Group; and Joey Bouziga, Mayor of Golden Meadow.

The group plans to show how the lack of permitting and de facto moratoriums are

crippling successful businesses on the local level, demonstrating the need to immediately implement a functional, effective permit approval process. The people that live and work in the coastal communities of Grand Isle, Fourchon, and South Lafourche, a vital hub of commerce and industry, have been among the hardest hit, and the area's economy is hemorrhaging, burdened with damage to fisheries, tourism, and oilfield service industries.

Grand Isle Mayor David Camardelle is counting on the President and his staff to listen. "President Obama said in the State of the Union address, 'When we find rules that put an unnecessary burden on businesses, we will fix them.' We want to show the federal government firsthand how they are burdening us, and we want them to honor their word and fix it."

Pisces CEO Bill Gray said, "Pisces and all of the other independent operators like us are critical to exploiting the full remaining economic potential of maturing basins like the GOM. However, we need to maintain profitability and continue to attract substantial capital investment. The slow pace of regulatory review and reform is crippling us on both sides. Realize that the general environment of uncertainty that still exists ten months after the Macondo incident is a huge burden to our industry and it must be resolved before permanent damage is done."

"We're not 'big oil,'" said Josh Jambon of Jambon Boat Rentals. "We're regular people who make an honest living providing services that oil companies need, and if they're not working, we're not working."

Port Director Chett Chiasson plans to reiterate the important role Port Fourchon plays to the nation's oil supply and its economy. "I look at this as an excellent opportunity to educate key people in D.C. about why they should be concerned about saving coastal Louisiana's environment and its jobs," said Chiasson. "We know that energy and environment can coexist. We've been doing it down here for decades. We have a successful economy in this region because we work hard, and we work together. All we're asking is for our government to work with us, not against us."

**Port of Shreveport-Bossier
Port Swears In Two New Commissioners**

On Monday, February 7 at the monthly meeting of the Caddo-Bossier Parishes Port Commission, Rick C. Prescott and Sam N. Gregorio took their oaths of office as Commissioners.

Commissioners Gregorio and Prescott were recently appointed by the City of Shreveport to the Port Commission which is a bi-parish, nine-member special purpose governing authority created by the State Legislature in 1962 to regulate commerce and traffic in the parishes of Caddo and Bossier.

Immediately following the swearing in ceremony, the Port Commission held an election for the offices of Vice President and Secretary/Treasurer. Commissioner Erica R. Bryant was elected Vice President and Commissioner Capt. Thomas F. Murphy was elected Secretary/Treasurer. Commissioner James D. Hall was recently reelected for a second term as President of the Port Commission.

“We welcome Mr. Prescott and Mr. Gregorio to the board of commissioners at this pivotal time in The Port’s development. We look forward to the contributions of our new commissioners and I have no doubt Rick and Sam will bring meaningful ideas that will continue to help shape The Port’s future as the economic engine of Northwest Louisiana,” said James D. Hall. “In addition, I am honored to serve with our newest officers, Commissioners Bryant and Murphy. Both of them have served tirelessly in several other Port leadership positions and this experience will be an incredible benefit as they serve in these new positions,” Hall continued.

Legal News



**Communications With the Plaintiff’s
Treating Physician – Be Careful**

The consequences of engaging in *ex parte* communications with the plaintiff’s treating physician can be severe. This was demonstrated in the matter of *Coutee v. Global Marine*

Drilling Co., decided by the Louisiana Third Circuit Court of Appeal. In that case, Global’s attorneys had engaged in *ex parte* communications with Coutee’s treating physicians. This was done without his knowledge and without the knowledge of his attorney. In these meetings, Global’s attorney provided to the doctor documents and depositions, as well as Department of Labor records. The purpose was to elicit testimony from the doctor that Coutee may have been malingering or exaggerating his condition. When Global called Coutee’s doctor to the stand, it became apparent that they had engaged in this series of communications. Plaintiff’s counsel objected and asked that the doctor’s testimony be stricken. The trial court refused. On appeal, the Third Circuit ruled that the doctor’s testimony should have been stricken from the record. The Court of Appeal referred to Louisiana Code of Evidence article 510 which provides that communications between another person and the plaintiff’s doctor can take place under certain circumstances, most commonly when the patient has asserted a personal injury claim or a workers’ compensation claim. However, the Rules of Evidence state that waiver of this privilege is only permissible “as to testimony at trial or discovery of the privileged communication by one of the discovery methods authorized by the Code of Civil Procedure”

In this case, the court determined that the doctor’s testimony, as influenced by communications with Global’s attorneys, was prejudicial and struck the doctor’s testimony. The court cited *Boute v. Winn-Dixie*, also decided by the Third Circuit in 1996. In that case, the court determined that the improper communication occurred between the defendant and the plaintiff’s treating physician where privileged information was divulged. A reversal was warranted where the defendant’s clear abuse of justice, even if not ill-intended, substantially impacted the course of the trial. Such violations can generally result in financial sanctions against the attorney, but also elimination of testimony at trial. In other words, the consequences can be severe. The court reasoned that, in any personal injury case, the credibility of the person claiming injuries is important. Here, the doctor’s testimony that Coutee may have been magnifying his symptoms was not contained anywhere in his records and the doctor’s testimony “cast a cloud over Mr.

Coutee's overall credibility as a witness."

The lesson to be learned is that it is better to be safe than sorry. Communications with the plaintiff's physician should be as allowed by the rules of procedure and evidence and should not be undertaken unilaterally. If the doctor's testimony is influenced by such communications outside the means permitted, the courts have the discretion of levying financial sanctions and striking witnesses from trial.



BY WILTON E. BLAND, PARTNER
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Welcome New Associate Member

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

TOPCOR Services, Inc. is a specialty construction firm located in Baton Rouge. They will be represented by Mr. Johnny Bradberry.

Cothorn, Graff, Smoak Engineering, Inc. is a consulting engineering firm located in Shreveport. They will be represented by Mr. Randall Smoak.

MARK YOUR CALENDARS

March 3, 2011, PAL Monthly Meeting, Baton Rouge, LA. Richmond Suites Hotel, 10am

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

