

**MINUTES OF THE  
SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY – EAST  
BOARD MEETING  
THURSDAY, MAY 21, 2009**

The regular monthly Board Meeting of the Southeast Louisiana Flood Protection Authority - East (Authority or SLFPA-E) was held on Thursday, May 21, 2009, in the Second Floor Hall, Lake Vista Community Center, 6500 Spanish Fort Boulevard, New Orleans, Louisiana, after due legal notice of the meeting was sent to each member and the news media and posted.

Mr. Doody called the meeting to order at 9:45 a.m. and led in the pledge of allegiance.

The roll was called and a quorum of the Board was present.

Present:

Timothy P. Doody, President  
John M. Barry, Secretary  
David P. Barnes, Jr.  
Stradford A. Goins  
Thomas L. Jackson  
Ricardo S. Pineda  
Louis E. Wittie

Absent:

Abril B. Sutherland, Vice President  
George Losonsky, PH.D., Treasurer  
Stephen Estopinal  
Sara Lee St. Vincent

**OPENING COMMENTS:**

Mr. Doody advised that Mr. Estopinal and Mr. Losonsky were unable to be at the Board meeting because they were testifying before the House Transportation Committee on House Bill (HB) 61 filed by Representative Wooten. HB 61 seeks legislative intervention where the Louisiana Department of Natural Resources (DNR) and the Courts have denied the request of Plaquemines Parish to turn over land purchased by Orleans Levee District to Plaquemines Parish. He explained that the Bohemia Spillway was built roughly in 1924 in a deal that was confected by Leander Perez. At that time the Grand Prairie Levee District was in bankruptcy. Part of the purchase price was the payment of the Grand Prairie Levee District's outstanding bonds. Representative Wooten would like the Legislature to overturn this real estate transaction, in addition to the payment of \$65 million by the Orleans Levee District. This would have a tremendous effect on the Orleans Levee District, including the possible bankruptcy of the District, and would strain State assets because the State would have to step in and provide flood protection for the District. He pointed out that the additional operational

and maintenance costs for the IHNC surge barrier, which is estimated at \$800,000 annually excluding the Seabrook Structure, will have to be faced when the project is completed.

Mr. Barry added that in 1984 the Legislature ordered the Orleans Levee District to return land to private owners. Plaquemines Parish submitted a claim in 2007 and DNR refused to certify Plaquemines Parish as a claimant because this occurred under a different transaction completed in 1929 between Leander Perez and a levee board appointed by Huey Long. He commented that this goes against the Coastal Protection and Restoration Authority's (CPRA) attempts to establish a rational decision making process on the allocation of resources for flood protection and that it pits one parish against another parish.

Mr. Doody commented that HB 61 suggests that the Bohemia Spillway is no longer operational or necessary. However, pictures taken last year show the Bohemia Spillway in operation.

Mr. Doody reported that the first pilings for the IHNC surge barrier were driven two weeks ago. Each of the approximately 1,400 piles is 140 feet long and weighs 96 tons. The pile driving is guided by GPS and pilings are driven six inches apart. Smaller piling will be driven between the large piles and will be grouted to form the barrier. A second pile driving crew will be in operation in about a week.

Mr. Doody advised that the Mississippi River Gulf Outlet (MRGO) closure is nearing completion.

Mr. Doody explained that Mr. Barry and representatives from the Sewerage & Water Board and Jefferson Parish traveled to Washington, D.C., to make a case for Option 2, which is considered the best solution for the Outfall Canals. The Board adopted two resolutions relative to this issue. The first resolution requested that the three options for the Outfall Canals be compared on a level playing field. The second resolution supported Option 2 as the best technical solution. The issue is whether the U.S. Army Corps of Engineers (USACE) is authorized to proceed with Option 2. The USACE is expected to follow up by June 1<sup>st</sup> with the group that traveled to Washington to at least report on the progress in finding an answer to this issue. The USACE made no commitment to engage in any type of study comparing the options.

Mr. Doody reported that he and Robert Turner, SLFPA-E Regional Director, attended a scoping meeting on the Outfall Canals. A detailed presentation was provided on the USACE's plan for additional study of the canals because of the new criteria (the Spencer method). Initial reports are anticipated by June 1<sup>st</sup> on the Orleans and London Avenue Canals and by September 1<sup>st</sup> on the 17<sup>th</sup> Street Canal. SLFPA-E will participate in a peer review of the finalized reports. The USACE indicated that there will be plans to take remedial action on the floodwalls where problems are found with the safe water elevation.

Mr. Doody advised that the storm proofing of the St. Bernard and Plaquemines Parish pump stations that was requested by the Authority was not included in the FY 10 Federal Budget, the Economic Stimulus Bill or the War Supplemental Spending Bill that included Midwest Flooding. The storm proofing is authorized. The Congressional Delegation was asked to work to get this critical piece of flood protection funded as soon as possible because the safety of employees, as well as the rebuilt infrastructure, is at stake.

Mr. Doody commented that Robert Turner will be traveling to the Netherlands next week at the invitation of the Dutch and Senator Landrieu's office.

Mr. Jackson stated that there was an advertisement by the Pump to the River group that stated that he personally supported Option 2A. He explained that he wrote the two resolutions adopted by the Board on this issue and that he was careful to assure that both resolutions and his personal opinion addressed only the levee concerns for which the Authority is responsible and not the pumping concerns. He also advised that he attended the Environmental Public Hearing last night and that the USACE on several occasions publicly talked about their partners, but did not mention this Board. He pointed out that the Board has worked very hard in cooperation with the USACE.

Mr. Pineda asked the USACE representatives whether the budget of OMB reflects money to continue technical work on the LaCPR. He stressed that furthering the study is critical to defining the available alternatives for the long term effort.

Colonel Greg Gunter, USACE Deputy of Task Force Hope, explained that Karen Durham-Aguilera, Director of Task Force Hope, and Colonel Alvin Lee, New Orleans District Commander, are in Washington discussing aspects of the LaCPR progress with the Federal principals. He stated that he did not have the information to answer the question about the budget by OMB with him at the meeting; however, he would send the information to Mr. Pineda. He apologized to Mr. Jackson for not recognizing the Authority at last night's meeting and explained that the USACE understood and recognized the importance of the Authority.

Mr. Barry commented that \$3 million had been included in the budget request to continue the LaCPR.

Mr. Goins commented that he and Mr. Jackson had not been receiving invitations to HPO and PRO meetings. Mr. Turner advised that e-mails were sent to the project managers requesting that Mr. Goins and Mr. Jackson be invited to those meetings. Colonel Gunter indicated he would follow up on this situation with HPO and PRO staff.

#### **ADOPTION OF AGENDA:**

The agenda was amended to include Item XIII.A.5 – discussion of HB 796 and Item XIII.A.6 – a motion to authorize payment of per diem for a Commissioner who misses a Board meeting to represent the Board at a Federal, State or local government meeting.

A motion was offered by Mr. Jackson, seconded by Mr. Barry and unanimously adopted by roll call vote, to adopt the agenda as amended.

**RESOLUTION #05-21-09-01 – APPROVAL OF MINUTES**

On the motion of Mr. Barry,  
Seconded by Mr. Jackson, the following resolution was offered:

**BE IT HEREBY RESOLVED**, that the Southeast Louisiana Flood Protection Authority-East hereby approves the minutes of the Board Meeting held on April 16, 2009.

The foregoing was submitted to a vote, the vote thereon was as follows:  
YEAS: Mr. Barnes, Mr. Barry, Mr. Goins, Mr. Jackson, Mr. Pineda and Mr. Wittie  
NAYS: None  
ABSENT: Mr. Estopinal and Mr. Losonsky

**PUBLIC COMMENTS:**

Mark Schexnayder with the LSU AgCenter Louisiana Sea Grant Program informed the Board that he was delivering the report on the Bayou Bienvenue Central Wetland Unit: Wetland Restoration and Hazard Mitigation Proposal For Creating A Sustainable and Disaster Resilient Environment. He explained that this report is in connection with a presentation given to the Board several months ago by Bruce Sharkey. The report was also delivered to the USACE Ecosystem Restoration Task Force.

Mr. Doody requested that Colonel Gunter have a USACE representative provide a presentation at the June Board meeting on the use of mitigation funds and on projects that are taking place that may be beneficial to this region. Mr. Pineda requested that projects that are mitigation for flood protection projects and restoration work be differentiated in the presentation.

**PRESENTATIONS:**

**A. East Jefferson/St. Charles Levee-Floodwall – Billy Marchal, Flood Protection Alliance.**

Billy Marchal with the Flood Protection Alliance (FPA) advised that his presentation dealt with portions of the barrier between St. Charles and Jefferson Parishes, other than the West Return Canal Floodwall, and pertained to a local issue rather than a Federal issue. He explained that 100 year protection equals a 39% chance of an event in 50 years, 400 year protection equals a 12% chance of an event in 50 years and 1,000 year protection equals a 5% chance of an event in 50 years. A slide of the area was shown with elevations that will be constructed sometime next year and the authorized elevations for 100 year protection. He pointed out that the area that he wanted to address in particular is south of the airport. He stated that the St. Charles/Jefferson

Parish line levee is 11-feet (8 feet of earth with 3 foot stickup of sheetpile) from the airport to Airline Highway. He pointed out that there is a gate where the railroad track goes through the Federal levee, a second railroad location where there is a break with no gate, there is nothing at Airline Highway, and there is an elevation from 2 to 5 feet from Airline Highway south to the river.

Mr. Marchal stated that no problem is anticipated with a 100 year event. However, the LaCPR maps show 14 or 15 feet of water in St. Charles Parish to the River in a 400 year event. He stated that the LaCPR maps are based on overtopping only and do not assume any breaching. The USACE is building to the 100 year elevation, but with the resiliency or strength for a 500 year event. The USACE is certifying the levee/floodwall for a 100 year event as far as overtopping. In a 500 year event the wall will be overtopped, but will not fail.

Mr. Marchal stated that the FPA contracted with Royal Haskoning to re-run the modeling with two changes; first, the reference point was moved to the edge of the West Return Canal Floodwall about half way between the lake and the airport, and second, using authorized elevations on the West Return Canal Floodwall.

Mr. Marchal showed maps from the Final Draft LaCPR Report showing a 100 year event with 100 year protection. The elevations shown were relative to sea level. He discussed a 400 year event with 100 year protection. He pointed out that the LaCPR treated each polder separately with no interconnection. In rerunning the data, the PFA found that water from St. Charles Parish drains into Jefferson Parish resulting in +4 feet of water in Jefferson Parish. He pointed out that the risk in Jefferson Parish is from St. Charles Parish and not from the lake in a 400 year event.

Mr. Marchal then discussed a 1,000 year event. The initial LaCPR report showed +4 feet of water in Jefferson Parish with 100 year protection. When the FPA re-ran the data using the corrected reference point and wall heights with 100 year protection in place, including the Michoud structure, IHNC project and the Seabrook gate, the water elevation rose to +7 feet in Jefferson Parish. If the water that is now 16 feet in St. Charles Parish is allowed to flow into Jefferson Parish the level will rise to +10 feet in Jefferson Parish.

Mr. Jackson commented that the crux of the presentation is based on actual model runs under certain conditions. He asked Mr. Marchal whether he was saying that these are the same model runs that the USACE employed Royal Haskoning to run and is using for the design of the 100 year event.

Mr. Marchal responded that the USACE has not gone back to reuse the modified data.

Mr. Jackson stated that he understood that statistically Hurricane Katrina was a 400 year event storm and pointed out that East Jefferson did not have +4 feet of water. He asked Mr. Marchal the reason in his projections that East Jefferson would go from no flooding to a 4-foot elevation for basically the same storm with all of the improvements

in place and the raising and structural replacement of the West Return Wall, and assuming that the pumps operating.

Mr. Marchal indicated that the USACE has taken an average of 152 storms; however, it depends on the storm and where it hits. It does not mean that every 400 year storm is going to cause this type of flooding. However, a 400 year storm in the right place in this vicinity will cause this flooding. This is the average with a 90 percent confidence level.

Mr. Jackson pointed out that the USACE uses a 360 degree rosette of storms.

Mr. Marchal added that the Authority would have to ask the USACE their logic for their results. He stated that the FPA just took the USACE data, corrected it to today's conditions and used the same modeling, people and computers to re-run the data.

Mr. Barry asked Mr. Marchal what percent of the 400 year storms are on a track that would do the type of flooding shown on the slides.

Mr. Marchal responded that he did not know that information and that the Authority would have to ask the USACE.

Mr. Jackson explained how the USACE determines return frequency. He clarified that it is the worst of all events that are run that is used in designing hurricane protection and not an actual event.

Mr. Marchal advised that at a recent meeting which included Jefferson Parish officials, State Senator Conrad Appel stated that he would take the lead as far as the request for a study; however, he was of the opinion that the request should come from the Authority. The proposed study should determine what is structurally required south of the airport to substantially prevent the flow of water between Jefferson and St. Charles Parishes in 400 and 1,000 year events, model the effects on Jefferson and St. Charles Parishes of the proposed levee from overtopping in 400 and 1,000 year events, look at the type of structure that provides the best benefit and estimate the total project cost including land acquisition. Mr. Marchal stated that he forwarded a proposed resolution to Mr. Doody to request funding for this study from the CPRA. In accordance with budget estimates that have been obtained, the resolution requests funding from the CPRA for this study not to exceed \$200,000.

Mr. Marchal explained that the barrier plan in the LaCPR report assumes a 12-1/5 foot barrier between New Orleans and the North Shore. He stated that even with the barrier plan in place, St. Charles Parish will have water

Mr. Pineda complimented the FPA for its efforts. He asked Mr. Marchal whether there was a preferred alternative in LaCPR?

Mr. Marchal stated that one of the State's criticisms of the LaCPR is that it did not prioritize the structures. He stated that when looking at the east the least expensive

barrier plan for 100 year protection is 6-1/2 to 7 billion dollars and includes additional levee work on the North Shore and St. Bernard and a 12-1/2 ft. barrier with gates from New Orleans East to the North Shore at an approximate cost of \$3 billion. He stated that the analysis in the study was thorough; however, it kept the polders separate and did not allow any movement of water.

Mr. Goins asked for a point of contact at the USACE for the model runs.

Mr. Marchal responded that he would provide the contact information for Royal Haskoning, which is the firm currently under contract with the USACE and did this analysis with the USACE's blessing. He added that a copy of the report would be provided to the USACE and the Authority.

Mr. Doody asked whether the USACE is doing any further refining of the data that they are using.

Mr. Marchal replied that he has not received a call from the USACE since giving them this information. Mr. Marchal stated that he talked Jeff Jacobson at NAS yesterday and that he was advised that this information was turned over to the committee that is reviewing that part of the report.

Mr. Turner clarified that the model runs done for the LaCPR did not use the same grid, data or assumptions that were used for the actual 100 year level of protection design. The 100 year level of protection used more updated information.

Mr. Marchal pointed out that those were the changes that the FPA had Royal Haskoning make to the LaCPR. The purpose of this effort was to take what the LaCPR said and update it to make it agree with what is being constructed.

Mr. Doody thanked Mr. Marchal for the presentation. He commented that more work needs to be done before the Authority can definitively state that East Jefferson is going to flood from the west in a 400 year event. He clarified that Mr. Marchal is asking the Authority's support in requesting funding from the CPRA for additional engineering. He stated his support for an additional engineering study that would include St. Charles Parish. Mr. Marchal advised that the FPA realizes that this is a regional issue and recommended that it include Jefferson and St. Charles Parishes.

## **B. Status of MRGO closure (Gregory Miller) and opinion of Orleans Outfall canal proposals from Lake Pontchartrain Basin Foundation (Carlton Dufrechou).**

Gregory Miller with the USACE New Orleans District Protection and Restoration Office provided a update on the Mississippi River-Gulf Outlet (MRGO) Channel Closure Construction. The de-authorization of the MRGO as a navigation channel took place under the Water Resources Development Act of 2007 and includes the construction of a closure plug at Bayou La Loutre and the development of an eco-system restoration plan.

Mr. Miller explained that the rock structure will stretch 950 feet from bank to bank. Overbank tie-ins have been completed that stretch 150 feet on the south bank (spoil bank side) and 250 feet on the north bank (marsh side). The design quantity for the closure structure is 433,500 tons of rock material. The completed structure will rise about seven feet above the water surface and have a 455 foot wide base and 12 foot wide crown.

Mr. Miller advised that the channel was officially closed to navigation on April 22, 2009. He explained that the channel in this area was about 40 foot deep at its deepest part. The channel was closed to navigation at the point when a minus 14-foot elevation was reached. The U.S. Coast Guard officially closed the channel and issued broadcast notices to mariners. The channels were marked in accordance with recommendations from the Coast Guard. In addition, there was widespread press coverage of the closure event. Construction is approximately 86 percent completed. The structure is not experiencing the settlement that was predicted during the design phase and some modification was done to the amount of rock used for the structure base. Therefore, the project is estimated to come in approximately 100,000 tons short of the design quantity. Approval was received to use stone from a portion of the Breton Sound Jetty. All work is expected to be completed prior to the scheduled completion date of July 26, 2009. Photos were shown of the construction of the closure structure and tie-ins.

Mr. Miller advised that a Operations and Maintenance Manual will be developed with the State which will anticipate settlement, the amount of material that will need to be added and when it will be needed. He clarified that the MRGO closure structure is not a feature of the Hurricane Risk Reduction System. The closure structure is located in a remote area that is not tied in with any levee or floodwall system and it is not intended to stop surge. The structure is designed to take significant wave action.

Mr. Goins asked that Mr. Miller provide the calculated rates of actual settlement and expected settlement.

Closure signage and the USACE's efforts to inform boaters about the closure were discussed. Mr. Doody requested that the USACE and SLFPA-E issue a joint press release when the project is completed. Additional information can be found on the USACE's web page <http://MRGO.usace.army.mil>.

Carlton Dufrechou with the Lake Pontchartrain Basin Foundation (LPBF) stated that it is the opinion of the LPBF that Option 2 is the far better method for IER 5 (Outfall Canal Closure Structures, Orleans and Jefferson Parishes). The LPBF's only hesitancy about Option 2 is that it will take at least twice as long to construct and the question remains about available funding. It is the LPBF's understanding that approximately \$800 million is currently available. The LPBF's recommendation would be that the structural work at the mouth of the outfall canals under Option 1 be commenced as soon as possible, but that elements of Option 2 be included ; i.e., the lower sill elevations and other necessary advanced design measures.

Mr. Jackson commented on a meeting held at the USACE that included Congressman Scalise, Jefferson Parish Councilmember John Young, representatives of the Sewerage & Water Board and USACE leadership. He suggested a fallback position in which Congress would declare that its authorization covers Option 2 or 2a and for the project to be built in phases. The USACE could reverse its position in terms of the equipment that it would be putting into the pump stations and could install equipment that could be used for Option 2. The USACE would then have to continue monitoring the canals and floodwalls.

Mr. Dufrechou informed the Board that the Pontchartrain Levee District has contracted for work in connection with the proposed restoration of some of the LaBranche Wetlands to reduce surge on the levee. The preliminary work will be completed this Fall.

Mr. Dufrechou thanked the Authority for its endorsement of the monitoring for Bayou St. John. The Bayou St. John Conservation Alliance has received a grant from the Greater New Orleans Foundation to acquire the monitoring equipment.

Mr. Doody stated that the Authority has been working closely with the LPBF in an attempt to develop local projects. Mr. Dufrechou commented on the funding that will be available for potential projects with multiple benefits, such as habitat and coastal restoration. He pointed out that these projects should be prioritized to include storm reduction benefits.

### **COMMITTEE REPORTS:**

**Finance Committee:** Mr. Jackson advised that the Committee discussed a number of issues that were included on the Board's agenda for action.

**Operations Committee:** Mr. Wittie reported that the Committee discussed the selection of surveying firms for ID-IQ contracts and recommended the selection of six firms. The Committee also discussed a Cooperative Endeavor Agreement between the East and West Authorities for seismic testing on levees and a servitude with UNO that is required for Lakefront levee work. The Orleans Levee District provided an update to the Committee on the design of its safehouse build out. The Committee provided instruction to representatives of NOLA Rising relative to their proposed permit request for the painting of a floodwall mural. The levee districts provided monthly status reports and addressed updates for their Emergency Operations Manuals.

**Legal Committee:** Mr. Goins reported that the Legal Committee discussed the transfer of responsibility for the West Return Wall/Levee Right-of-Way located in St. Charles Parish from the Pontchartrain Levee District to the Authority and the selection of firms to provide legal services. The Committee also approved legal invoices.

**Special Issues Committee:** No report.

**CPRA Report:** Mr. Barry commented on governmental issues. He advised that the President's Budget only provided about \$25 million for Louisiana in terms of coastal restoration. CPRA Chair Garret Graves had stated that he believed that there are six to eight billion dollars of projects that are within two years of turning a shovel.

Mr. Barry advised that a round table discussion, which was attended by the Governor, was held on Monday. Several issues were raised in that discussion, including the need to find a way to strategically communicate Louisiana's message to Washington and the possibility of a coalition with other states that have experienced similar problems with the USACE to formulate recommendations to speed up the process. He stated that he brought out at the discussion that the problems faced by Louisiana, which is the only major delta in the country, are largely created by services given to the rest of the country; however, Louisiana is paying 100 percent of the cost for those benefits received.

Mr. Barry reported that a meeting was held in Washington, D.C., which was attended by Senators Landrieu and Vitter, Congressmen Melancon and Scalise, and leadership from the USACE, relative to Option 2 on the Outfall Canals. An independent study concerning this issue was requested. According to the USACE numbers, the difference between Option 1 and Option 2 is \$2.5 billion. He noted that according to Mr. Marchal the estimated cost of the barrier that would close off the lake is \$3 billion. He pointed out that with limited resources available the Authority may need to consider which project is more important.

Mr. Jackson stressed the importance of having the USACE's support on the canal levees with the goal at some point of effecting Option 2.

**Legislative Report:** Mr. Barry commented on SB 320 which would transfer the Orleans Levee District's non-flood assets from the Division of Administration (DOA) to the Department of Transportation and Development. He advised that Garrett Graves is following this legislation to assure that the Memorandum of Understanding that was worked out with the DOA would be honored should the non-flood assets be transferred. He also commented on legislation that was filed that would re-organize the Office of Coastal Protection and Restoration (OCPR) and centralize hurricane levees and flood protection. He stated that Garrett Graves and his staff recognize the concerns of the levee district directors and will work to minimize any future problems.

Mr. Doody commented on SB 153 filed by Senator Morrell which would have turned over 30 percent of the Orleans Levee District's ad valorem tax revenue to City Park to operate and maintain the non-flood assets. Senator Morrell was advised that with limited resources and growing operations and maintenance costs, it is becoming difficult, if not impossible, to maintain the flood protection needed by his constituents. Senator Morrell asked that the Authority agreed to address the disposition of the non-flood assets within 18 months.

## **REGIONAL DIRECTOR'S REPORT:**

Robert Turner reviewed the Regional Director's Report (copy appended to minutes).

Mr. Doody pointed out that the Bayou Bienvenue control structure is often opened and closed primarily due to the concerns of several businesses along Paris Road. He asked Mr. Turner to determine how those concerns could be addressed so that the structure would not have to be opened and closed as frequently. This would reduce wear and tear on the gates.

Mr. Doody advised that the funding which was received for approximately \$12 million of flood protection improvements at the NASA facility was transferred to the USACE and that the improvements would begin soon.

Mr. Turner reported that 16 resumes were received for the currently vacant LBBLD Executive Director position. The resumes have been reviewed and several will be considered for interviews during the second week in June. Mr. Doody asked that Mr. Turner schedule the interviews and then Board participation would be determined. Mr. Turner advised that former LBBLD Director Dan Caluda is working in the interim on a part time basis at the LBBLD. He asked that Mr. Caluda's services be retained until a new LBBLD Executive Director is hired and trained.

Brett Herr with the USACE addressed the presentation provided earlier in the meeting concerning the St. Charles Parish levee. He noted that in constructing 100 year protection the USACE looks at several factors. One of these factors is the still water level for the 500 year storm. All of the levees and floodwalls being built by the USACE will be above the 500 year still water elevation. Therefore, the area will be subject to some overtopping with a 500 year storm from wave wash, but there would not be free flowing water over the levees or floodwalls. He explained that IPET ran the 500 year storm model with 100 year protection in place. The IPET modeling showed from four to six feet of water in St. Charles Parish between Airline Highway and the levee and from two to four feet of water between Airline Highway and the river levee. The IPET results are significantly different from those of the FPA. He stated that there should be follow up to work out the differences in the modeling and to understand the reason for the different results.

Mr. Herr reported that that the tree removal work along the IHNC is essentially completed. The tree removal work along LPV 109 in New Orleans East is progressing and should be completed in mid to late June. The tree removal work along the west side of the 17<sup>th</sup> Street Canal will commence as soon as right-of-entry is received from the East Jefferson Levee District.

Mr. Goins asked the USACE representatives present whether there are plans to relocate the power poles located along the IHNC floodwall from Mirabeau to Chef Highway. In addition, he stated that the grass was stripped in that area and he asked

what emergency procedures are in place to cover the area should a storm approach. Mr. Turner pointed out that the USACE will be starting the slope protection soon.

Mr. Jackson reported on the status of the East Jefferson Shoreline Project. Two options are in consideration; i.e., a 3-ft. wide rock dyke along the existing shoreline (water's edge) and a dyke some distance out in the lake. Both options would be designed in accordance with the design around the airport. He advised that both he and Fran Campbell recommended that the off shore rock dyke be pursued. This would provide an opportunity for a natural shoreline. The off shore rock dyke is estimated to cost \$17 million. FEMA has obligated about half this amount; however, FEMA had omitted items and found problems in the original project worksheet.

### **EXECUTIVE SESSION:**

1. Board of Commissioners of the Southeast Louisiana Flood Protection Authority – East on Behalf of the Orleans Levee District v. Louisiana Department of Natural Resources, No. 561-175, 19<sup>th</sup> Judicial District for the Parish of East Baton Rouge, State of Louisiana, Division 22. (Estate of Emma Herwig)
2. Shell Oil Company v. Leslie Durden, et al, Docket No. 10-363, Division A, 25<sup>th</sup> Judicial District for the Parish of Plaquemines, State of Louisiana.
3. 8<sup>th</sup> Waiver of Prescription with Bryan G. Krantz regarding Gabriel Development.

Mr. Goins offered a motion at 12:35 p.m., which was seconded by Mr. Jackson and unanimously adopted, for the Board to convene in Executive Session to discuss the items listed on the agenda.

Mr. Mr. Goins offered a motion at 1:15 p.m., which was seconded by Mr. Jackson and unanimously adopted, for the Board to reconvene in Regular Session.

A motion was offered by Mr. Wittie, seconded by Mr. Barnes and unanimously adopted by roll call vote, to amend the agenda to add the three following motions:

- To authorize the President to enter into an Eighth Waiver of Prescription with Gabriel.
- To authorize Gordon, Arata to proceed with the settlement recommended in Executive Session relative to the litigation entitled of Board of Commissioners of the SLFPA-E on Behalf of the O.L.D. v. Louisiana Department of Natural Resources, No. 561-175, 19<sup>th</sup> Judicial District for the Parish of East Baton Rouge, State of Louisiana, Division 22. (Estate of Emma Herwig), and Shell Oil Company v. Leslie Durden, et al, Docket No. 10-363, Division A, 25<sup>th</sup> Judicial District for the Parish of Plaquemines, State of Louisiana.
- To authorize Gordon, Arata to file a Writ in the Fourth Circuit Court of Appeals relative to the litigation entitled *Southern Delta Land Company, Inc., et al v. Orleans Levee District*, No. 55-383, 25th JDC for the Parish of Plaquemines, State of Louisiana, Division "B" and *Succession of Helen Katz wife of/ and Sam Mermelstein v. Board of Commissioners of the Orleans Levee District*, No. 55-314, 25th JDC for the Parish of Plaquemines, State of Louisiana, Division "B".

**RESOLUTION #05-21-09-02 – EAST JEFFERSON LEVEE DISTRICT - EIGHTH WAIVER OF PRESCRIPTION -- GABRIEL**

On the motion of Mr. Jackson,  
Seconded by Mr. Wittie, the following resolution was offered:

“A resolution to enter into an 8th Waiver of Prescription with Gabriel.”

**WHEREAS**, claims of ownership have been asserted by the Succession of Marie G. Krantz, (“Krantz”) and the East Jefferson Levee District to certain portions of the shoreline of Lake Pontchartrain and lands between the shoreline of Lake Pontchartrain and the Lake Pontchartrain protection levee adjacent to the Gabriel development situated in the City of Kenner, Jefferson Parish, Louisiana (the “Disputed Property”); and

**WHEREAS**, Krantz and the EJLD have cooperated by allowing construction on the Disputed Property without asserting opposition, each party preserving its respective rights; and

**WHEREAS**, The parties previously have entered into a Waiver of Prescription (the “First Waiver”), which was effective as of June 18, 2002, as well as Second, Third, Fourth, and Fifth, Sixth and Seventh Waivers of Prescription (collectively the “Waivers”) and are willing to enter into a Eighth Waiver of Prescription, extending the Waivers for an additional year in order to preserve the respective rights of the Board and Krantz, each party preserving its right to assert positions as they existed or may have existed if suit had been filed as of the date of the First Waiver.

**BE IT RESOLVED**, the Southeast Louisiana Flood Protection Authority – East authorizes its President to enter into the aforementioned Eighth Waiver of Prescription.

The foregoing was submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Barnes, Mr. Barry, Mr. Goins, Mr. Jackson, Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Estopinal and Mr. Losonsky

**RESOLUTION #05-21-09-03 – LEGAL ACTIONS**

On the motion of Mr. Barry,  
Seconded by Mr. Wittie, the following resolution was offered:

**BE IT RESOLVED**, in accordance with discussions held in Executive Session, the Board hereby:

- Authorizes the law firm of Gordon Arata to proceed with the settlement recommended in Executive Session relative to the litigation entitled *Shell Oil Company v. Leslie Durden, et al.*, No. 10-363, 25th JDC for the Parish of Plaquemines, State of Louisiana, Division “B” and authorizes Gerard Gillen,

Director of the Orleans Levee District, to execute any and all necessary documents.

- Authorizes the law firm of Gordon Arata to proceed with the settlement recommended in Executive Session relative to the litigation entitled *Board of Commissioners of the Southeast Louisiana Flood Protection Authority- East on Behalf of the Orleans Levee District v. Louisiana Department of Natural Resources*, No. 561-175, 19th JDC for the Parish of East Baton Rouge, State of Louisiana. Division “22” and authorize Gerard Gillen, Director of the Orleans Levee District, to execute any and all necessary documents.

The foregoing was submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Barnes, Mr. Barry, Mr. Goins, Mr. Jackson, Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Estopinal and Mr. Losonsky

### **RESOLUTION #05-21-09-04 – LEGAL ACTIONS**

On the motion of Mr. Pineda,

Seconded by Mr. Goins, the following resolution was offered:

**BE IT RESOLVED**, in accordance with discussions held in Executive Session, the Board hereby:

- Authorizes the law firm of Gordon Arata to file a Writ with the Fourth Circuit Court of Appeals as recommended in Executive Session relative to the litigation entitled *Southern Delta Land Company, Inc., et al v. Orleans Levee District*, No. 55-383, 25th JDC for the Parish of Plaquemines, State of Louisiana, Division “B”.
- Authorizes the law firm of Gordon Arata to file a Writ with the Fourth Circuit Court of Appeals as recommended in Executive Session relative to the litigation entitled *Succession of Helen Katz wife of/ and Sam Mermelstein v. Board of Commissioners of the Orleans Levee District*, No. 55-314, 25th JDC for the Parish of Plaquemines, State of Louisiana, Division “B”.

The foregoing was submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Barnes, Mr. Barry, Mr. Goins, Mr. Jackson, Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Estopinal and Mr. Losonsky

### **RESOLUTION #05-21-09-05 – APPROVAL OF EMERGENCY OPERATIONS (EOP) PROCEDURES MANUALS**

Mr. Goins suggested that consideration be given to the inclusion of a contingency plan in the event that a barge or ship strikes a levee. Mr. Turner advised that an incident of this type would be coordinated with the USACE; however, a clear explanation of how the Authority and levee districts would interface with the local emergency operations centers is needed. Mr. Doody recommended that this subject be discussed at the Executive Directors’ meeting and a report be provided to the Board.

Mr. Doody reminded Board members that the EOP manuals are posted on the Authority's emergency web site.

On the motion of Mr. Barry,  
Seconded by Mr. Wittie, the following resolution was offered:

**WHEREAS**, Louisiana Revised Statutes, Title 38, Section 319, mandates that each Board of Commissioners of each Levee District prepare and regularly review its emergency procedures manual; and

**WHEREAS**, Orleans Levee District (O.L.D.), Lake Borgne Basin Levee District (LBBLD) and East Jefferson Levee District (EJLD) staff have each reviewed and updated its respective Emergency Operations Procedures (EOP) Manual.

**BE IT RESOLVED**, That the Southeast Louisiana Flood Protection Authority-East (SLFPA-E) approves the revised O.L.D., LBBLD and EJLD Emergency Operations Procedures Manuals, and authorizes all actions under the EOP Manuals and the Statute.

**FURTHER RESOLVED**, That the President, SLFPA-E Regional Director or Executive Director of the O.L.D., LBBLD and EJLD for their respective levee district, are hereby authorized to sign any and all documents necessary to carry out the above.

The foregoing was submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Barnes, Mr. Barry, Mr. Goins, Mr. Jackson, Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Estopinal and Mr. Losonsky

**RESOLUTION #05-21-09-06 –  
ID-IQ CONTRACT FOR PROFESSIONAL SURVEYING SERVICES**

Mr. Doody explained that this matter was discussed at the Operations Committee meeting. The selection team rated the responses to the Request for Qualifications and recommended the selection of six firms. It was determined that six firms may be required to do the work required throughout the system. He noted that the State is responsible for the cost of Lands, Easements, Rights-of-Way, Relocations and Disposal Sites (LERRDs) for 100 year protection; however, discussion is on-going about whether the cost will be advanced or reimbursed. The potential cash flow problem is being discussed with the State.

On the motion of Mr. Wittie,  
Seconded by Mr. Goins, the following resolution was offered:

**WHEREAS**, the Southeast Louisiana Flood Protection Authority-East (SLFPA-E) and the levee districts under its jurisdiction have a need for Professional Surveying Services on an indefinite delivery-indefinite quantity basis; and

**WHEREAS**, by Resolution No. 01-15-19-06, the Board approved the advertisement of a Request for Qualifications (RFQ) for Professional Surveying Services for the purpose of selecting consultants and entering into an Indefinite Delivery-Indefinite Quantity (ID-IQ) Contract with said consultants; and

**WHEREAS**, the ten Statements of Qualifications submitted in response to the RFQ were reviewed and competitively rated by the selection team; and

**WHEREAS**, the selection team has recommended the following consultants for the purpose of entering into an ID-IQ Contract for Professional Surveying Services with said consultants:

Forte and Tablada  
Krebs, LaSalle, LeMieux  
NTB Associates  
Acadia Land Surveying  
Riverlands Surveying  
BFM Corporation

**BE IT HEREBY RESOLVED**, that the Southeast Louisiana Flood Protection Authority-East (SLFPA-E) approves the selection of the following firms for the purpose of entering into an ID-IQ Contract with said consultants:

Forte and Tablada  
Krebs, LaSalle, LeMieux  
NTB Associates  
Acadia Land Surveying  
Riverlands Surveying  
BFM Corporation

**BE IT FURTHER RESOLVED**, that the SLFPAE Regional Director is authorized to negotiate the final ID-IQ Contract with the approved consultants, and that the SLFPAE President is hereby authorized to execute said ID-IQ Contract with the approved consultants.

The foregoing was submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Barnes, Mr. Barry, Mr. Goins, Mr. Jackson, Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Estopinal and Mr. Losonsky

**RESOLUTION #05-21-09-07 – COOPERATIVE ENDEAVOR  
AGREEMENT BETWEEN SLFPA-EAST AND SLFPA-WEST**

Mr. Doody explained that a presentation was provided by Dr. Juan Lorenzo at the Operations Committee meeting that showed the type of information that could be gained from a geographic seismology footprint of the system. The Authority-East's share of the cost for this study is \$30,000. Problem areas will be identified and some segment of the test will be done in each of the three levee districts.

On the motion of Mr. Wittie,

Seconded by Mr. Goins, the following resolution was offered:

**WHEREAS**, Juan Lorenzo, Ph.D., with the LSU Department of Geology and Geophysics, has proposed to conduct a demonstration study on the Seismic Testing of Levees; and

**WHEREAS**, the demonstration study will be conducted at cost of \$60,000 and will including testing of two miles of levee; and

**WHEREAS**, the Southeast Louisiana Flood Protection Authority-East (SLFPA-E) and Southeast Louisiana Flood Protection Authority-West wish to enter into a Cooperative Endeavor Agreement in order to share equal participation in the aforementioned study; and

**WHEREAS**, the levee segments making up the one mile length of levee that will be studied for the SLFPA-E will be selected by the SLFPA-E Regional Director.

**BE IT HEREBY RESOLVED**, that the Southeast Louisiana Flood Protection Authority-East approves joint participation in the demonstration study on the Seismic Testing of Levees with the Southeast Louisiana Flood Protection West.

**BE IT FURTHER RESOVLED**, that the Southeast Louisiana Flood Protection Authority-East authorizes the SLFPA-E President to execute a Cooperative Endeavor Agreement with the Southeast Louisiana Flood Protection-West in connection with the participation in the demonstration study.

**BE IT FURTHER RESOLVED**, that the SLFPA-E President is authorized to sign any and all documents necessary to accomplish the above.

The foregoing was submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Barnes, Mr. Barry, Mr. Goins, Mr. Jackson, Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Estopinal and Mr. Losonsky

### **RESOLUTION #05-21-09-08 – APPROVED LIST OF ATTORNEYS AND LAW FIRMS**

Mr. Goins advised that the Legal Committee recommends that all of the firms that submitted qualifications be approved with the breakdown according to tasks as follows:

1. Real Estate Acquisition transactions:
  - Montgomery, Barnett, Brown, Read, Hammond & Mintz, L.L.P.
  - Law Office of Michael S. Rolland, LLC
  - Oats & Hudson
  - Kean, Miller, Hawthorne, D'Armond, McCowan & Jarman, L.L.P
2. Complex Real Estate Litigation:
  - Panzeca & D'Angelo, L.L.C.
3. Federal/State Public Policy:
  - Baker, Donelson, Bearman, Caldwell & Berkowitz, PC

On the motion of Mr. Goins,

Seconded by Mr. Jackson, the following resolution was offered:

“A resolution to approve a list of attorneys and law firms from which the SLFPA-E may choose to enter into contracts to provide special

legal services, as needed, by the SLFPPA-E and the levee districts within its jurisdiction.”

**WHEREAS**, the Southeast Louisiana Flood Protection Authority-East (SLFPA-E) by Resolution No. 11-08-07-11 selected and approved a list of attorneys and firms for special legal services for the SLFPA-E and the levee districts within its jurisdiction; and

**WHEREAS**, in order to supplement the aforementioned approved list of attorneys and firms, a Request for Qualifications (“RFQ”) was published for special legal services for the SLFPA-E and the levee districts within its jurisdiction; and

**WHEREAS**, after reviewing all timely submitted responses to said RFQ, the SLFPA-E Legal Committee recommends approval of the following list of attorneys and firms, from which the SLFPA-E Board may select an attorney or law firm with which to enter into a contract to provide special legal services, as needed, by the SLFPPA-E and levee districts within its jurisdiction:

**Real Estate Acquisition Transactions:**

Montgomery, Barnett, Brown, Read, Hammond & Mintz, L.L.P.  
Law Office of Michael S. Rolland, LLC  
Oats & Hudson  
Kean, Miller, Hawthorne, D’Armond, McCowan & Jarman, L.L.P.

**Complex Real Estate Litigation:**

Panzeca & D’Angelo, L.L.C.

**Federal/State Public Policy:**

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC

**WHEREAS**, attorney fee rates in said contracts for special legal services shall comply with the Hourly Fee Schedule of the Attorney General for special legal services, unless otherwise specifically provided for in the contract and approved by the Attorney General. The hourly fee schedule for these contracts shall be as follows:

**\$175.00 Per hour for Attorneys having experience of ten years or more in the practice of law**

**\$150.00 Per hour for Attorneys having experience of five to ten Years in the practice of law**

**\$125.00 Per hour for Attorneys having experience of three to five Years in the practice of law**

**\$100.00 Per hour for Attorneys having experience of less than three years in the practice of law**

**\$ 45.00 Per hour for Paralegal Services**

**\$ 25.00 Per Hour for Law Clerk Services**

**WHEREAS**, the terms of any contract for special legal services shall be limited to a period of three years, and all contracts shall be submitted to the Attorney General for approval.

**BE IT RESOLVED**, that the SLFPA-E approves the following list of attorneys and firms, from which the Board of Commissioners of the SLFPA-E may select an attorney or law firm with which to enter into a contract to provide special legal services, as needed, by the SLFPPA-E and levee districts within its jurisdiction:

**Real Estate Acquisition Transactions:**

**Montgomery, Barnett, Brown, Read, Hammond & Mintz, L.L.P.:**

John Y. Pearce – 33 years experience - \$175.00 per hour  
Stephen P. Schott – 28 years experience - \$175.00 per hour  
Ashley L. Belleau – 25 years experience - \$175.00 per hour  
Patrick J. Browne – 45 years experience - \$175.00 per hour  
Diana B. Moore – 7 years experience - \$150.00 per hour  
Jeremy D. Rush – 3 years experience - \$125.00 per hour  
Ryan J McCabe – 2 years experience - \$100.00 per hour  
Andrew Lilly – less than 3 years experience- \$100.00 per hour  
Paralegals - \$45.00 per hour  
Law Clerks - \$25.00 per hour

**Law Office of Michael S. Rolland, LLC**

Michael S. Rolland - 29 years experience - \$175 per hour  
Kenneth Bossetta - 7 years experience - \$150 per hour

**Oats & Hudson:**

Lawrence E. Marino - 14 years experience - \$175 per hour  
Lisa A. Benefield, - 3 years experience - \$125 per hour  
Monica V. Bowers - 9 years experience - \$150 per hour  
James C. Carver - 21 years experience - \$175 per hour  
Michael M. Duran, Sr. - 21 years experience - \$175 per hour  
Victoria A. Guidry - 23 years experience - \$175 per hour  
Kenneth M. Henke - 36 years experience - \$175 per hour  
William M. Hudson, III - 25 years experience - \$175 per hour  
George O. Luce - 3 years experience - \$125 per hour  
Patrick B. McIntire - 23 years experience - \$175 per hour  
Stephen J. Oats - 25 years experience - \$175 per hour

**Kean, Miller, Hawthorne, D'Armond, McCowan & Jarman, L.L.P.**

Troy Charpentier – 18 years experience - \$175 per hour  
Jennifer Thomas - 10 years experience - \$175 per hour  
Patrick Roquemore - 4 years experience - \$125 per hour  
Katherine Green - 3 years experience - \$125 per hour

**Complex Real Estate Litigation:**

**Panzeca & D'Angelo, L.L.C.**

Gregory G. D'Angelo - 24 years experience - \$175 per hour  
William David Coffey - 20 years experience - \$175 per hour

Paralegal: Sarah L. Johnson - \$45 per hour

**Federal/State Public Policy:**

**Baker, Donelson, Bearman, Caldwell & Berkowitz, PC**

Claiborne Tanner - 9 years experience - \$150 per hour

Dickie Patterson - 30 years experience - \$175 per hour

Elizabeth Quinn - 8 years experience - \$150 per hour

Chris Morris - 8 years experience - \$150 per hour

Andrew Kolb - 7 years experience - \$150 per hour

Brandon Lagarde - 3 years experience - \$125 per hour

Tawni Smith - 2 years experience - \$100 per hour

**BE IT FURTHER RESOLVED**, that this Resolution be submitted to the Office of the Attorney General for the State of Louisiana for approval, and shall be included in the submission of each subsequent contract submitted to the Attorney General for approval pursuant to this resolution.

The foregoing was submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Barnes, Mr. Barry, Mr. Goins, Mr. Jackson, Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Estopinal and Mr. Losonsky

**Discussion of House Bill (HB) 796.**

Mr. Barry explained that HB 796, which was drafted by the Business Council, would completely separate the Pontchartrain Levee District from the Authority's jurisdiction. According to existing law, the Authority has jurisdiction over a portion of the Pontchartrain Levee District from the Mississippi River to Lake Pontchartrain. No conflicts thus far have taken place between SLFPA-E and the Pontchartrain Levee District; however, SLFPA-E has never exercised any authority over the Pontchartrain Levee District. He discussed the enormous amount of time and energy spent by the East and West Authorities in their attempt to exercise dual authority over the west bank of Orleans Parish and ultimately in negotiating its separation. He stated that when SLFPA-E was created, the creation of a single board over the entire metropolitan area and the lake basin would have been the best solution. However, political realities intruded and the Pontchartrain Levee District was technically placed under the East Authority even though it operates completely on its own. He pointed out that the Authority faces legal liabilities for not exercising authority over that area; therefore, he strongly supported this separation. He added that he spoke only for himself when testifying in favor of HB 796 and was explicit that he was representing his own views and not the views of the Board.

Mr. Barry further explained that HB 796 would simplify the selection process for the nominating committee for choosing new Board members. Three national organizations had never shown up at a meeting or responded were eliminated. This will alleviate quorum problems. The bill also eliminates the explicit stipulation for a geologist or

hydrologist on each Board, which gives the nominating committee more flexibility when recommending future Board members.

Mr. Barry pointed out that a concern is what happens to the two Board slots currently occupied by representatives from St. John and St. Charles Parishes. He explained that when he testified in support of the legislation, it did not do anything to those two slots. The two slots were in the bill passed by the Committee. However, this did not mean that the two slots would remain and there will probably be an effort to amend the bill to eliminate them. It was noted that the Pontchartrain Levee District is strongly in favor of this legislation.

Mr. Goins pointed out that the potential impact of St. Charles Parish on Jefferson Parish was demonstrated in the presentation given earlier in the meeting. He noted that the correct solution would be for the Legislature to pass legislation placing the Pontchartrain Levee District under the control of SLFPA-E.

The Board discussed the intent of levee board reform and the jurisdictions created by Act 1 of 2006. The Board also discussed voting status of the members representing St. Charles and St. John Parishes.

Mr. Jackson suggested a liaison between SLFPA-E and the Pontchartrain Levee District Board. The possible execution of a Memorandum of Understanding between SLFPA-E and Pontchartrain Levee District was discussed. Mr. Doody advised that he would attempt to schedule a meeting relative to Mr. Goins' concerns.

#### **RESOLUTION #05-21-09-09 – COMMISSIONERS' PER DIEM**

Mr. Barry explained that two Board members are testifying today before the House Transportation Committee on HB 61 and that similar conflicts could occur in the future. These Board members should not be penalized financially for being unable to attend a Board meeting. He read the proposed resolution.

Mr. Doody added that Mr. Barry does not serve on a Committee of the Board; however, he is the Board's designee on the Coastal Restoration and Protection Authority (CPRA) and attends those meetings on the Board's behalf. Commissioners are limited to receiving per diem for attending Board meetings and one Committee meeting per month. He recommended that the Board's designee to the CPRA receive the same consideration as Commissioners that attend Committee meetings with the same limitation. The resolution was amended to include a provision relative to the designee to the CPRA retroactive to May 20, 2009.

On the motion of Mr. Goins,  
Seconded by Mr. Jackson, the following resolution was offered:

**BE IT RESOLVED** that whenever a Commissioner misses a Board meeting to represent the Board at a meeting of Federal, State or local government, the

Commissioner will be entitled to the same per diem and reimbursement as if the commissioner had attended the Board meeting and the Board meeting is duly constituted.

**BE IT FURTHER RESOLVED** that the Board member who is a designee on the Coastal Protection and Restoration Authority (CPRA) shall be entitled to the same per diem and reimbursement as the commissioners who serve on the Authority's standing committees.

**BE IT FURTHER RESOLVED** that this resolution does not amend the limit of paid days per month in force. This resolution shall apply on and after May 20, 2009.

The foregoing was submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Barnes, Mr. Barry, Mr. Goins, Mr. Jackson, Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Estopinal and Mr. Losonsky

### **RESOLUTION #05-21-09-10 – EJLD LEVY OF MILLAGE FOR 2009**

Mr. Doody explained that the Board must vote each year to levy millage rates for the levee districts. The millage rate being levied for the EJLD is the same rate that was levied last year. Mr. Doody read resolution in its entirety. A roll call vote was conducted and Mr. Barnes, Mr. Barry, Mr. Doody, Mr. Goins, Mr. Jackson, Mr. Pineda and Mr. Wittie voted in favor of the resolution.

On the motion of Mr. Jackson,

Seconded by Mr. Wittie, the following resolution was offered:

**BE IT RESOLVED**, that the following millage(s) are hereby levied on the 2009 tax roll on all property subject to taxation by East Jefferson Levee District:  
4.01 mills

**BE IT FURTHER RESOLVED**, that the proper administrative officials of the Parish of Jefferson, State of Louisiana, be and they are hereby empowered, authorized, and directed to spread said taxes, as hereinabove set forth, upon the assessment roll of said Parish for the year 2009, and to make the collection of the taxes imposed for and on behalf of the taxing authority, according to law, and that the taxes herein levied shall become a permanent lien and privilege on all property subject to taxation as herein set forth, and collection thereof shall be enforceable in the manner provided by law.

The foregoing resolution was read in full, the roll was called on the adoption thereof, and the resolution was adopted by the following votes:

YEAS: Mr. Barnes, Mr. Barry, Mr. Doody, Mr. Goins, Mr. Jackson, Mr. Pineda and Mr. Wittie

NAYS: None

ABSTAINED: None

ABSENT: Mr. Estopinal and Mr. Losonsky

**RESOLUTION #05-21-09-11 –APPROVAL OF INCREASE IN PROPERTY INSURANCE COVERAGE FOR EJLD MAINTENANCE/POLICE COMPLEX**

Mr. Jackson advised that the Finance Committee discussed the issue of replacement value vs. cash value and recommended coverage for the complex's actual cash value.

On the motion of Mr. Jackson,  
Seconded by Mr. Barry, the following resolution was offered:

**WHEREAS**, by Resolution No. 01-15-09-09, the Southeast Louisiana Flood Protection Authority-East approved the renewal of Property Insurance Coverage with Lloyds of London through Arthur J. Gallagher Risk Management Services for the East Jefferson Levee District (EJLD) administrative, maintenance/police and sandbag buildings for a period commencing February 1, 2009 and ending on February 1, 2010; and

**WHEREAS**, the coverage for the maintenance/police complex was subsequently reviewed and determined to be insufficient; and

**WHEREAS**, after further review by the Finance Committee at its meeting held on March 14, 2009, the Committee recommended that the maintenance/police complex Property Insurance Coverage be increased to the actual cash value of \$461,393 at an estimated premium of \$5,536.

**BE IT HEREBY RESOLVED**, that the Southeast Louisiana Flood Protection Authority-East authorizes the increase of Property Insurance Coverage for the maintenance/police complex to the actual cash value at an estimated premium of \$5,536.

**BE IT FURTHER RESOLVED**, that the EJLD Executive Director is authorized to execute any and all documents necessary to carry out the above.

The foregoing was submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Barnes, Mr. Barry, Mr. Goins, Mr. Jackson, Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Estopinal and Mr. Losonsky

**RESOLUTION #05-21-09-12 – WEST RETURN WALL/LEVEE RIGHT-OF-WAY**

Fran Campbell, EJLD Executive Director, explained that research of the West Return Wall/Levee revealed that a portion of the right-of-way extends into St. Charles Parish.

Mr. Doody advised that the Pontchartrain Levee District adopted a similar resolution at its last Board meeting.

On the motion of Mr. Jackson,  
Seconded by Mr. Wittie, the following resolution was offered:

**BE IT RESOLVED**, by the Board of Commissioners of the Southeast Louisiana Flood Protection Authority-East that it does hereby accept, undertake and

assume, from and on behalf of the Pontchartrain Levee District, the full exercise of all functions, jurisdictions and responsibilities which otherwise devolve upon the Pontchartrain Levee District by law in that limited portion of the Parish of St. Charles which comprises the western side of the Jefferson-St. Charles Parish Line Canal and the accompanying construction of the Jefferson-St. Charles Parish Line Floodwall between Airline Highway and Lake Pontchartrain.

**BE IT FURTHER RESOLVED**, that the East Jefferson Levee District shall assume any and all liability and financial responsibility which might otherwise devolve upon the Pontchartrain Levee District for any reason, whether by act or omission, or otherwise, arising in any way with respect to that portion of property located in the Parish of St. Charles as described and referred to hereinabove.

**BE IT FURTHER RESOLVED**, that if any claims are made against the Pontchartrain Levee District for any reason, whether by act or omission, or otherwise, arising in any way with respect to that portion of property located in the Parish of St. Charles as described and referred to hereinabove, the East Jefferson Levee District shall provide legal counsel to the Pontchartrain Levee District for all matters relating to the defense of any such claim and shall further hold harmless and indemnify the Pontchartrain Levee District from any financial loss suffered by the Pontchartrain Levee District that arises in any way with respect to that portion of property located in the Parish of St. Charles as described and referred to hereinabove.

The foregoing was submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Barnes, Mr. Barry, Mr. Goins, Mr. Jackson, Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Estopinal and Mr. Losonsky

#### **RESOLUTION #05-21-09-13 –**

#### **UNO TEMPORARY CONSTRUCTION SERVITUDE AND RIGHT-OF-ENTRY**

Gerry Gillen, O.L.D. Executive Director, explained that this Agreement is required in order to construct the modified lakefront crossings. The University of New Orleans supports this project.

On the motion of Mr. Wittie,

Seconded by Mr. Goins, the following resolution was offered:

**WHEREAS**, the London Avenue to IHNC Lake Pontchartrain Orleans Parish, LPV 104.01A Project includes construction and improvements to the levees surrounding the University of New Orleans campus; and

**WHEREAS**, a Temporary Construction Servitude and Right-of-Entry is required between the Orleans Levee District and Board of Supervisors of the Louisiana State University and Agricultural and Mechanical College, on behalf of the University of New Orleans, for the construction of said project.

**BE IT HEREBY RESOLVED**, That the Southeast Louisiana Flood Protection Authority-East approves the Temporary Construction Servitude and Right-of-Entry

between the Orleans Levee District and the Board of Supervisors of the Louisiana State University and Agricultural and Mechanical College.

**BE IT FURTHER RESOLVED**, That the Orleans Levee District Executive Director is hereby authorized to execute the aforementioned Temporary Construction Servitude and Right-of-Entry.

**BE IT FURTHER RESOLVED**, That the Southeast Louisiana Flood Protection Authority-East expresses its appreciation and thanks to the University of New Orleans and the Board of Supervisors of the Louisiana State University and Agricultural and Mechanical College for their cooperation and assistance in granting this Temporary Construction Servitude and Right of Entry for this vital flood protection project.

The foregoing was submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Barnes, Mr. Barry, Mr. Goins, Mr. Jackson, Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Estopinal and Mr. Losonsky

**RESOLUTION #05-21-09-14 - LBBLD FY 2009 BUDGET REVISIONS**

Mr. Jackson advised that this matter was discussed at the Finance Committee meeting.

Peggy Sembera representing the LBBLD explained that additional monies were received from FEMA subsequent to the Committee meeting that were included in the revised budget presented to the Board.

On the motion of Mr. Jackson,

Seconded by Mr. Goins, the following resolution was offered:

**WHEREAS**, a review of the operating results to-date indicates that budget revisions to the Lake Borgne Basin Levee District Operating Budget for Fiscal Year ending June 30, 2009 are necessary to comply with applicable state law, which requires that budgets be changed to reflect new expectations; and

**WHEREAS**, funding in the following amounts is required for Fiscal Year Ending June 30, 2009:

LAKE BORGNE BASIN LEVEE DISTRICT  
BUDGET AMENDMENTS  
FOR FISCAL YEAR ENDING JUNE 30, 2009

	GENERAL FUND	DEBT SERVICE	CAPITAL PROJECTS FUND	TOTAL (MEMORANDUM ONLY)	PROPOSED CHANGES	AMENDED BUDGET
REVENUES						
AD VALOREM TAXES	\$2,600,000	\$500,000	\$0	\$3,100,000	0	\$3,100,000

REVENUE SHARING	140,000	24,000	0	164,000	0	164,000
INT INCOME	185,000	5,000	3,000	193,000	(150,000)	43,000
OIL & GAS ROYALTIES	0	0	0	0	1,300,000	1,300,000
FEMA GRANTS	200,000	0	0	200,000	600,000	800,000
MISC. INCOME	2,000	0	0	2,000	0	2,000
<b>TOTAL REVENUE</b>	<b>3,127,000</b>	<b>529,000</b>	<b>3,000</b>	<b>3,659,000</b>	<b>1,750,000</b>	<b>5,409,000</b>
<b>EXPENDITURES</b>						
ADMINISTRATIVE & EXECUTIVE	491,800	0	0	491,800	0	491,800
PROFESSIONAL SERVICES	88,600	0	0	88,600	100,000	188,600
INSURANCE	250,000	0	0	250,000	0	250,000
LEVEE MAINTENANCE	935,800	0	0	935,800	500,000	1,435,800
PUMPING STATION EXPENSE	1,658,200	0	468,000	2,126,200	0	2,126,200
SHERIFF PENSION COST	80,000	20,000	0	100,000	0	100,000
CAPITAL OUTLAYS	518,000	0	0	518,000	300,000	818,000
DRAINAGE FEASIBILITY STUDY	150,000	0	0	150,000	(150,000)	0
<b>DEBT SERVICE:</b>						
PRINCIPAL	0	640,000	0	640,000	0	640,000
INTEREST AND OTHER COST	\$0	17,600	0	17,600	0	17,600
<b>TOTAL EXPENDITURES</b>	<b>4,172,400</b>	<b>677,600</b>	<b>468,000</b>	<b>5,318,000</b>	<b>750,000</b>	<b>6,068,000</b>
<b>EXCESS OF REVENUES OVER EXPENDITURES</b>	<b>(1,045,400)</b>	<b>(148,600)</b>	<b>(465,000)</b>	<b>(1,659,000)</b>	<b>1,000,000</b>	<b>(659,000)</b>
<b>FUND BALANCES AT BEGINNING OF YEAR</b>	<b>4,100,000</b>	<b>150,000</b>	<b>465,000</b>	<b>4,715,000</b>	<b>169,750</b>	<b>4,884,750</b>
<b>FUND BALANCES AT END OF YEAR</b>	<b>\$3,054,600</b>	<b>\$1,400</b>	<b>\$0</b>	<b>\$3,056,000</b>	<b>\$1,169,750</b>	<b>\$4,225,750</b>

**BE IT HEREBY RESOLVED**, that the revisions to the Lake Borgne Basin Levee District Operating Budget for FY Ended June 30, 2009 as indicated above are approved, and the Budget is so amended

The foregoing was submitted to a vote, the vote thereon was as follows:  
YEAS: Mr. Barnes, Mr. Barry, Mr. Goins, Mr. Jackson, Mr. Pineda and Mr. Wittie  
NAYS: None  
ABSENT: Mr. Estopinal and Mr. Losonsky

**RESOLUTION #05-21-09-15 – LBBLD GOVERNMENT CRIME AND INLAND MARINE/EQUIPMENT INSURANCE COVERAGES**

Mr. Jackson advised that this matter was discussed at the Finance Committee meeting and approved. The cost of coverage has not increased; however, it is being extended for a thirteen month period. Several pieces of purchased equipment have been added to the Inland Marine coverage.

On the motion of Mr. Barry,  
Seconded by Mr. Goins, the following resolution was offered:

**WHEREAS**, the Lake Borgne Basin Levee District's (LBBLD) Government Crime insurance coverage will expire on June 8, 2009 and Inland Marine/Equipment Insurance coverage will expire on June 15, 2009; and

**WHEREAS**, the aforementioned coverages will be renewed for a term of approximately thirteen months ending on July 19, 2010; and

**WHEREAS**, Great American Insurance Company, an admitted AM Best Rated A XIII company has submitted a quote through Arthur J. Gallagher Risk Management Services for renewal of the subject coverage at an estimated premium of \$9,891 for a term commencing on June 15, 2009 and ending on July 19, 2010; and

**WHEREAS**, Government Crime insurance coverage can be obtained from Zurich for a term commencing on June 15, 2009 and ending on July 19, 2010 at an estimated premium of \$1,142.

**BE IT HEREBY RESOLVED**, that the Southeast Louisiana Flood Protection Authority-East (SLFPA-E) authorizes the renewal of Government Crime insurance coverage with Zurich and Inland Marine/Equipment Insurance coverage with Great American Insurance Company, through Arthur J. Gallagher Risk Management Services, at the aforementioned estimated premiums for a period of approximately thirteen months ending on July 19, 2010.

**BE IT FURTHER RESOLVED**, that the SLFPA-E Regional Director is hereby authorized to execute any and all documents necessary to accomplish the above.

The foregoing was submitted to a vote, the vote thereon was as follows:

YEAS: Mr. Barnes, Mr. Barry, Mr. Goins, Mr. Jackson, Mr. Pineda and Mr. Wittie

NAYS: None

ABSENT: Mr. Estopinal and Mr. Losonsky

The next Board meeting will be held on June 18, 2009, and hosted by the Lake Borgne Basin Levee District.

There was no further business; therefore, the meeting was adjourned at 2:25 p.m.

# SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY - EAST

## REGIONAL DIRECTOR'S REPORT

May 21, 2009

### 100 Year Level of Protection

#### **Inner Harbor Navigation Canal Hurricane Storm Surge Barrier:**

Design work on the project continues. Many components have been submitted for 60% design review and comment. Our emphasis continues to be Operation & Maintenance considerations and the necessity to "design in" reasonable O&M features early in the process.

Several significant changes have been made as a result of the recent VE analysis. The GIWW sector gate will utilize buoyancy tanks to support the weight of the gates instead of wheels. The most notable change, however, is the use of a vertical lift gate instead of a sector gate at Bayou Bienvenue.

The towers on the proposed Bayou Bienvenue lift gate are currently shown as being constructed with steel framing. We have requested the USACE consider concrete towers to reduce maintenance costs.

The first 66" diameter concrete pile was driven on May 9, 2009. The contractor will soon begin running two rigs, each utilizing (2) 10 hour shifts per day per rig. Production rates are anticipated to be in the 8 to 12 pile per day range. Batter pile installation will begin at the end of June 2009 and floodwall cap installation is scheduled to begin at the end of July 2009.

Fill operations in the MRGO segment of the project have begun and are scheduled for completion in August 2009.

#### **East Jefferson Levee District:**

Reach 5. The Contractor began work about four months ago (280 day contract duration). This work is progressing slightly behind schedule. The Project should be completed in August 2009. Flooding in the spillway may adversely impact borrow operations.

Construction contracts are scheduled to be executed for Reaches 1, 2, 3, and 4 and the Duncan Breakwater Project in the 2<sup>nd</sup> quarter of this year.

Bonnabel Breakwater Project Contract has been awarded and work should begin in June 2009.

### **Orleans Levee District:**

LPV 102 – Phase I (West End Blvd. to Orleans Canal) is 100% complete pending submission of As Builts.

The LPV 103 – Phase I and LPV 104 – Phase I levee projects have a few small locations on each project where USACE is trying to obtain more sufficient grass growth.

### **Lake Borgne Basin Levee District:**

#### LPV 144 – Bayou Dupre Control Structure:

We received notice yesterday that new right-of-way will need to be acquired in fee for the construction of the new Control Structure.

#### LPV 145, 146, and 148 – Bayou Dupre to Caernarvon Levee/Floodwall:

The USACE's proposed alternative for improving the Chalmette Loop of the LPV is a T-Wall floodwall atop a levee section for nearly the entire 22 mile reach. The final decision will be made after the IER has been completed.

#### LPV 149 Caernarvon Floodwall – Lake Borgne Basin Levee District:

It appears that the USACE will now recommend a realignment of the Caernarvon levee/floodwall to a location east of the Caernarvon Canal. This will require a new Control Structure in the Caernarvon Canal. The project still has to be vetted through the IER process. The St. Bernard Parish Government and the general public (particularly residences and businesses near the existing floodwall alignment) favor the USACE's proposed alignment change.

We have to develop and execute an agreement with Plaquemines Parish Government because the new alignment for this project is located outside the jurisdictional boundaries of Lake Borgne Basin Levee District. The agreement would allow for construction of the project in Plaquemines Parish and would place the responsibility for maintenance with LBBLD.

#### Permanent Pump Stations and Outfall Canals:

According to the USACE, they are authorized and funded to design/construct perimeter protection only (Option 1). They are authorized but not funded to do an engineering study, which would include modifying the outfall canals to allow for gravity flow to the new pump stations at the lake and removing the existing upstream pump stations (Option 2/2a). This study would include a risk assessment of Option 1. Funding for the study would probably have to be included in the Corps' Federal Works Appropriations Budget.

According to USACE, design and construction Option 2/2a is neither authorized nor funded. All agree, however, that Option 2/2a is technically superior to Option 1 alone. In any case, it is imperative that the new pump stations be designed and constructed with deep sills to accommodate construction of Option 2/2a. Failure to do at least this would make conversion of the outfall canals to gravity flow low level interior drainage channels impracticable.

#### Elevation Map:

The USACE has published a map showing the 100 year level of protection elevations for the hurricane protection levee system in the metro New Orleans area. The elevations depicted are current as of June 13, 2008. The map can be found at the following web address:

[http://www.mvn.usace.army.mil/hps2/pdf/2008\\_Storm\\_Vulnerabilit\\_Elev\\_ed\\_1\\_1.pdf](http://www.mvn.usace.army.mil/hps2/pdf/2008_Storm_Vulnerabilit_Elev_ed_1_1.pdf)

### **Coastal Protection and Restoration**

Governor Jindal has asked the Legislature to appropriate \$300 million in surplus dollars from the 2009 fiscal year for coastal restoration and hurricane protection efforts. At the CPRA meeting last month, Garret Graves urged the CPRA to dedicate \$200 million of those potential surplus dollars to the state's obligation to purchase lands needed by the Army Corps of Engineers to continue to build the hurricane protection system for the New Orleans area.

#### Lake Borgne Basin Levee District:

The Violet Freshwater Diversion siphon is in operation at 100% capacity. LBBLD is preparing specs for the purchase of a new vacuum pump. LBBLD will be reimbursed by DNR for the cost of the pump.

### **Flood Fight**

The Mississippi River is above 15' at the Carrollton Gage in New Orleans. It is predicted to rise to 16' on May 28, 2009. We are currently in a Second Stage Alert Status.

### **Design and Construction**

#### East Jefferson Levee District:

The USACE will install piezometers to monitor groundwater fluctuations for an area showing signs of seepage on Levee Reach 4. EJLD personnel are visually monitoring the area.

### Orleans Levee District:

Work is complete on the LPV 101 Advance Measures sheet pile contract. The USACE is awaiting the revised set of As-Builts from the contractor before turning this project over to Orleans Levee District for O&M.

Construction on LPV 108 began last month. This project will bring the elevation of the levee to pre-Katrina authorized elevation, which is higher than the new 100 year elevation. It is scheduled for completion in August 2009.

The USACE has executed a contract for LPV 120 (West Side IHNC) and work is underway. The project utilizes soil stabilization techniques to attain a sufficient safety factor for slope stability. It is scheduled for completion in June 2009.

The USACE has awarded the construction contract for LPV 117 Project (East Side IHNC). The project involves the installation of approximately 20 relief wells. It is scheduled for completion in late June 2009.

The tree and fence removal work on the west side of the IHNC has been completed by the USACE. Tree removal along LPV 109 alignment (Southpoint to CSX) is underway and is scheduled for completion in June 2009.

Murray Architects is proceeding with the Safe House plans and specification for Orleans Levee District. The Operations Committee suggested modifications to the proposed floor plan.

### Lake Borgne Basin Levee District:

The Verret Highway floodgate was damaged last month. It appears a piece of heavy equipment (such as a dozer or front end loader) hit the gate and damaged the hinge assembly. A contractor has been hired and has begun repair operations. Work should be completed by the second week of June 2009. Emergency gate closure procedures have been developed and exercised just in case the gate would have to be closed prior to completion of repairs.

LPV 148.01 - Verret to Caernarvon Reach is 99% complete. The project is scheduled for completion in June 2009. The contractor has experienced some weather related delays.

Bids for the fabrication and installation of new trash screens at Drainage Pump Stations 2, 3, and 5 are due in on June 3, 2009.

Bids for the Bluebird and Artillery Canal Cleaning Project are due in on June 9, 2009. This Project is funded through NRCS.

Work is continuing on the Taintor Gate Repairs at P.S. Nos. 1 & 4. The project is on schedule.

### **Internal Affairs**

The end of the year audit process has begun. The auditor has met with each levee district and has generally indicated the information that will need to be submitted.

Second Quarter Levee Inspections will be completed before the end of June 2009.

A sample Contract has been drafted for use for ID/IQ work for Coastal, Geotechnical, and Hydraulic engineering services. Contract negotiations (fees schedule) are underway.

Sample contracts for the Safe House in EJLD and Safe Rooms at selected LBBB pump stations have been developed. Scope of work development and fee negotiations are underway.

ID/IQ contracts for land surveying work will be drafted this month.

We are awaiting the final report from Dr. Martin and Dr. Bachus on the 17th Street Canal Seepage area.

### **Upcoming Events**

- |         |   |
|---------|---|
| June 2  | Hurricane Preparedness Meeting<br>State EOC<br>Independence Blvd<br>Baton Rouge, LA |
| June 11 | Levee Inspector Certification Training Workshop<br>Lake Vista Community Center      |