

**MINUTES OF THE
SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY – EAST
BOARD MEETING
THURSDAY, DECEMBER 19, 2013**

The regular monthly Board Meeting of the Southeast Louisiana Flood Protection Authority - East (Authority or SLFPA-E) was held on Thursday, December 19, 2013, at the St. Bernard Parish Council Chambers, St. Bernard Parish Government Complex, 8201 West Judge Perez Drive, Chalmette, Louisiana, after due legal notice of the meeting was sent to each Board member and the news media and posted.

Mr. Doody called the meeting to order at 9:30 a.m. and led in the pledge of allegiance.

The roll was called by Secretary Wittie:

PRESENT:

Timothy P. Doody, President
Stephen Estopinal, Vice President
Louis E. Wittie, Secretary
Wilton P. Tilly, III, Treasurer
Jefferson M. Angers
Lambert J. Hassinger, Jr.
Kelly J. McHugh
G. Paul Kemp
Richard A. Luettich, Jr.

ABSENT:

None

OPENING COMMENTS:

Mr. Doody advised that a breakfast meeting was held on December 6th on the SELA projects. Participants included Lt. General Thomas Bostick, U.S. Army Chief of Engineers and Commanding General of the U.S. Army Corps of Engineers (USACE), Brig. General Duke DeLuca, USACE Commander, Mississippi Valley Division, John Young, Jefferson Parish President, and Pat Brister, St. Tammany Parish President. Speakers addressed the on-going SELA drainage program projects for Jefferson, Orleans and St. Tammany Parishes.

Mr. Doody commented that a retirement party was held on December 6th for Marcia St. Martin, Executive Director of the Sewerage & Water Board of New Orleans (S&WB). The Mississippi River Valley Flood Control Association's annual meeting was held on December 5-7.

Mr. Doody reported that a Strategic Partnership meeting was held on December 19th. Participants included representatives from the S&WB, Plaquemines Parish, Coastal Protection and Restoration Authority (CPRA) and the City of New Orleans. The

accreditation of the Hurricane and Storm Damage Risk Reduction System (HSDRRS) was discussed. Mr. Doody and Robert Turner, SLFPA-E Regional Director, attended a meeting on December 18th at the behest of the Rockefeller Foundation. The City of New Orleans is in competition to be one of thirty-three cities in the country to receive grant money to become more resilient. The SLFPA-E's role in flood protection was discussed.

Mr. Doody advised that the Seabrook Complex structure has been completed and was turned over to the SLFPA-E. A number of punch list items remain, including painting the lift gates. The USACE's Notification of Contract Completion (NCC) letter to turn over the IHNC Surge Barrier is en route. The SLFPA-E anticipates receipt soon of the NCC for the 23 miles of T-walls located in St. Bernard Parish.

Mr. Doody commented that the Board would be considering a resolution at today's meeting to adopt Emergency Operations Procedures (EOP) manuals that incorporate the operation and maintenance (O&M) of the new HSDRRS structures that have been turned over thus far. The Board must repeat this process again next month to include the turnover of additional structures.

Mr. Doody reported that the levee districts are working to provide the information requested by the CPRA in connection with Senate Concurrent Resolution (SCR) 39. SCR 39 requires a study of the levee districts throughout the state with a goal of efficiency and effectiveness.

ADOPTION OF AGENDA:

A motion was offered by Mr. Wittie, seconded by Mr. Estopinal and unanimously approved, to adopt the agenda.

RESOLUTION NO. 12-19-13-01 - APPROVAL OF NOVEMBER 21, 2013 AND DECEMBER 5, 2013 BOARD MEETING MINUTES

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

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority-East approves the minutes of the Board Meeting held on November 21, 2013 and the Special Board Meeting held on December 5, 2013.

The foregoing was submitted to a vote, the vote thereon was as follows:
YEAS: Mr. Angers, Mr. Estopinal, Mr. Hassinger, Mr. Kemp, Mr. Luettich,
Mr. McHugh, Mr. Tilly and Mr. Wittie
NAYS: None
ABSENT: None

PRESENTATIONS:

1. Update on Permanent Canal Closures and Pumps (PCCP) Project – U.S. Army Corps of Engineers

Dan Bradley, USACE Senior Project Manager for the PCCP Project, explained that the Interim Closure Structures (ICS) have been used since Hurricane Katrina to block storm surges from coming into the outfall canals (17th Street Canal, Orleans Avenue Canal and London Avenue Canal). When the ICS structures are closed the water pumped into the canals by the S&WB must be pumped out. The ICS barriers and temporary pumps will be removed once the permanent pumps are commissioned and tested and the required training is completed. Phase I of the ICS and pumps project was completed in June, 2006. Additional pumping capacity was added in Phase II.

Mr. Bradley discussed the public involvement in the PCCP Project. Nine public meetings were held from June, 2007, to May, 2009, on the Individual Environmental Report (IER) 5. The decision record was signed by the Commander on June 30, 2009. On March 12, 2010 the Project Partnering Agreement (PPA) was executed between the USACE and the State. A series of three public meetings were held relative to the Request for Proposal (RFP) requirements during the period from November, 2009, to March, 2010. Stakeholder support was provided at these meetings by the CPRA, S&WB, SLFPA-E, Orleans Levee District and East Jefferson Levee District. Some of the input received from the public that addressed requirements such as the height of the pump stations and aesthetics was incorporated into the RFP.

Mr. Bradley reviewed the PCCP Project schedule. Two protests to the award of the contract were filed. The contract award was subsequently reaffirmed to PCCP Constructors, a joint venture, in April, 2013, for \$615 million. Notice to proceed was issued on May 6, 2013, and construction commenced in November, 2013. The contractual completion date for the project is January, 2017.

Mr. Bradley showed renderings of the proposed pump stations. Surcharge has been placed in the areas where each generator building will be located. Gates in the bypass structures will be closed only during tropical events. Information was provided on each of the three outfall canals:

- 17th Street Canal - Pumping capacity will be increased from 9,000 cfs to 12,600 cfs and supported by 15 generators. The west side bypass cofferdam has been completed. The cofferdam is anticipated to be dewatered immediately after January 1st.
- Orleans Avenue Canal – Pumping capacity will be increased from 2,000 cfs to 2,700 cfs and supported by 4 generators. The primary entrance will be off Lakeshore Drive with a secondary entrance off Crystal Street. The height of the building was driven by the overhead crane required by the S&WB.
- London Avenue Canal – Pumping capacity will be increased from 5,000 cfs to 9,000 cfs and supported by 11 generators.

Mr. Bradley reviewed the construction milestones starting in 2014 for the PCCP projects. Flows will be maintained in the canals throughout construction so as not to impair the S&WB's ability to drain the city. The pump stations will be constructed with a certain amount of adaptability. The foundations are deep enough so that the Federal investment will not be affected by potential future changes in the canal depths. The London Avenue and 17th Street Canal pump stations will be constructed to a height of 52.9-ft. The Orleans Avenue Canal pump station will be constructed to a height of 49.9-ft.

Mr. Bradley discussed the approved traffic haul routes. The PCCP joint venture has installed a GPS system to track trucks. He pointed out that trucks may on occasion be rerouted by levee district police.

Mr. Bradley addressed construction impacts and mitigation:

Expected impacts during construction:

- Elevated noise levels from pile driving, generators, etc. Pile Driving Activities: 7:00 AM and 9:00 PM
- Increased truck traffic (trucks will utilize approved haul routes) - Plan reviewed and approved by LA DOTD, City of New Orleans and Jefferson Parish.
- Temporary road closures
- Extended work hours (up to 24 hours per day)

Efforts to minimize impacts during construction:

- Noise and vibration monitoring plan to ensure that construction stays within city ordinances
- Coordinating with City of New Orleans Department of Public Works on temporary road closures
- GPS tracking system to monitor contractor truck route
- Construction signage indicating work ongoing / workers present; signage with construction impact hotline

Following Construction:

- Operated during storm events
- Operated during routine maintenance
 - Twice monthly during hurricane season (June 1 - November 30)
 - Once monthly outside of hurricane season (December 1 – May 31)

Mr. Estopinal inquired about provisions in the construction contract relative to the repair of traffic haul roadways. Mr. Bradley replied that the contractor was asked to take pre-construction video surveys of all roadways and homes as permitted by property owners to assist with addressing damage issues. The issue of trucks traveling on Lakeshore Drive between Marconi Drive and Press Drive has been addressed. It was noted that there may be occasions when trucks will need to use this roadway; however, it is not a primary haul route. PCCP is working through the GPS tracking issues. It was pointed out that not all of the trucks traveling along Lakeshore Drive belong to the joint venture.

Mr. Doody inquired about the life expectancy of the ICS temporary pumps. Mr. Bradley explained that when the pumps were installed in 2006 the life expectancy was estimated at five to seven years. The USACE Operations Division has been devoting a great deal of funds to the maintenance of the pumps and gates over the next three years. The USACE is confident that the ICS and temporary pumps will provide the 100-year level of protection through the construction of the PCCPs. The pumping capacity for the new PCCP pumps was coordinated to meet future S&WB's needs. The lowest safe water elevation in the outfall canals is 8-ft. Mr. Doody requested that the Lake Borgne Basin Levee District's needs be kept in mind when the temporary pumps are no longer required for the outfall canals.

Mr. Doody requested that Item XII.C.2 be taken as the next order of business. There was no objection.

**RESOLUTION NO. 12-19-13-02 –
ORLEANS LEVEE DISTRICT MINERAL LEASE NOMINATION**

Mr. Doody advised that the State Mineral Board will be requested to handle the leasing of some property located in the Bohemia Spillway that is owned by the Orleans Levee District.

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

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority-East (on behalf of the Orleans Levee District) has determined that the Orleans Levee District may hold mineral interests in and under immovable property described in Exhibit "A", attached hereto and made a part hereof;

BE IT FURTHER RESOLVED, that the Southeast Louisiana Flood Protection Authority-East (on behalf of the Orleans Levee District) has determined that it desires to take advantage of LSA R.S. 30:152 (A), et seq., to authorize the Louisiana State Mineral and Energy Board to nominate on behalf of the Orleans Levee District for state agency mineral lease the mineral interests the Orleans Levee District may hold in and under the immovable property described in the attached Exhibit "A"; and

BE IT FURTHER RESOLVED, by the Southeast Louisiana Flood Protection Authority-East, in legal session convened, that it does hereby direct and authorize the Louisiana State Mineral and Energy Board and the Office of Mineral Resources to accept nominations, advertise for, accept and award bids, and execute all oil, gas and mineral leases pertaining to the interests the Orleans Levee District may hold in or under the immovable property described in the attached Exhibit "A".

The foregoing was submitted to a vote, the vote thereon was as follows:
YEAS: Mr. Angers, Mr. Estopinal, Mr. Hassinger, Mr. Kemp, Mr. Luettich,
Mr. McHugh, Mr. Tilly and Mr. Wittie
NAYS: None
ABSENT: None

PRESENTATIONS: (continued)

2. Coastal Protection and Restoration Authority's (CPRA) Restoration Strategies – Legal and Financial Implications - Garrett Graves

Garrett Graves, the Governor's Executive Assistant for Coastal Activities and Chair of the CPRA, briefly discussed SCR 39. SCR 39 directs the CPRA and the Department of Transportation and Development (DOTD) to come together and look at the functionality of all of the levee districts in Louisiana. Updated information will be reviewed to determine whether boundaries can be set based upon hydrologic basins and to look for efficient ways to integrate districts in order to increase efficiencies. ARCADIS U.S., Inc. was retained to assist with sorting through the information. The CPRA anticipates having some initial recommendations for the legislature; however, legislation to potentially integrate levee and water districts is not anticipated to be brought up during the upcoming legislative session.

Mr. Graves stated that he heard three reasons expressed for the lawsuit against the oil and gas industry: 1) Louisiana has a coastal crisis, 2) the operations and maintenance (O&M) costs will exceed available SLFPA-E revenues, and 3) companies are not in compliance and need to be held accountable.

Mr. Graves stated that Louisiana has lost 1,900 square miles of coastal wetlands. As Louisiana's land dissolves, so does its culture and portions of its economy. A rendering showed a potential loss of 1,750 square miles of land over the next 50 years. He pointed out the greater rate of land loss going forward compared to the historic loss of 1,900 sq. mi. of land lost over the past 80 years. Currently, flood damages range from five to seven billion dollars per year. Flood damages could increase to \$23 billion per year. Situations such as Hurricanes Katrina and Isaac could potentially become the norm without aggressive action. He agreed that Louisiana has a coastal crisis.

Mr. Graves referred to a document released by the White House earlier this year, which states that in the last 80 years Louisiana has lost 1,880 square miles of coastal wetlands due to river management, sea level rise, erosion, subsidence and salt water intrusion. Oil and gas activities were not listed in the document. A report by the Department of the Interior on the Impact of Federal Programs on Wetlands states that the single most important factor affecting wetlands has been the construction of levees to reduce the frequency and duration of flooding throughout much of the lower Mississippi River Valley. The report discusses how levees associated with the Mississippi River and Tributaries (MR&T) Project have halted the delta building process and deprived wetlands of fresh water, which serves to dilute and keep salt water at bay. The cutoff of riverine influence allows for the intrusion of salt water. He explained that when there is a positive head on access canals and water is flowing from the river, the fresh water is distributed. When levees sever the relationship between the fresh water and the sediment, the canals potentially serve as conduits for salt water intrusion and storm surge.

Mr. Graves explained that the National Research Council of the National Academies of Science was requested to review the Louisiana Coastal Area (LCA) Program in 2006 to help guide the science and reaffirm some of the work that was done and the conclusions drawn. The report notes that there are various impacts and causes of land loss; however, the ubiquitous causes of land loss include reduced sediment loads in the river due to dams and levees throughout the river basin, which is a result of the USACE's actions. The levees of the MR&T Program and the locks and dams that reduce sediment loads are the ubiquitous causes of wetlands loss.

Mr. Graves advised that in 2006 Congress began directing the USACE through a number of pieces of legislation to come up with a plan to close the Mississippi River Gulf Outlet (MRGO). Congress expanded its direction to the USACE to not only close the MRGO, but to come up with a plan for restoration of the MRGO area, as well as all of the areas impacted by the manmade channel. Approximately 600,000 acres were adversely impacted by the MRGO. The USACE's scope of work was approximately 100,000 acres. The scope of work covered by the MRGO impacted area covers virtually all of SLFPA-E jurisdiction that had any degree of oil and gas activity. Congress declared that this project be done at 100 percent Federal cost and expense. Mr. Graves expressed concern that the SLFPA-E's lawsuit is attempting to apportion blame to the energy industry for an area that Congress and Federal law states is the responsibility of the USACE. The report for the restoration plan was due to Congress in May, 2008; however, the USACE did not complete the report until four years later.

Mr. Graves commented that the Board has stated on numerous occasions that one reason for the lawsuit is to support coastal restoration. He asked Board members to recall which restoration projects in the 2014 Louisiana Master Plan are in the SLFPA-E's jurisdiction and the CPRA's means of financing and capacity for building future restoration projects affecting the SLFPA-E's jurisdiction. He pointed out that the statement that "There is no money in the Master Plan" is entirely uninformed. Hundreds of millions of dollars of projects are currently underway and funded by the State. Hundreds of millions of dollars of projects in next year's Master Plan will be funded by the State. He urged everyone to take a look at what is actually happening with restoration. He stated that he was unaware of any investments made by the Board on restoration projects in the past. Mr. Graves pointed out that the State has been working with the Congressional delegation to increase the State's and parishes' share of offshore energy revenues. He asked the Board what actions has it taken to aid this effort. The State has also been trying to convince the Department of the Interior for at least the last three governors' administrations to stop compartmentalizing its environmental impact statements (EIS) for the impacts of offshore energy activities and to produce a comprehensive EIS with a holistic approach. The hundreds of offshore projects underway accumulatively cause an impact that requires mitigation.

Mr. Graves stressed that changing the river management practices of the USACE is the only way that Louisiana will have a sustainable footprint. He reiterated that if the river management practices of the USACE are not changed, Louisiana will never have a sustainable and safe footprint in south Louisiana. He asked the Board what actions has it taken to push the USACE on this issue.

Mr. Graves commented that in some cases mitigation costs have double or tripled due to the USACE's use of the Modified Charleston Method (MCM) to determine the number of acres to be mitigated for wetlands impacts in comparison to the old WVA method. The USACE has caused, and will continue to cause, the greatest loss of jurisdictional wetlands in the United States and will not have mitigated one acre. Mitigation costs for other entities will potentially triple historic costs; however, the USACE, the agency responsible for wetlands loss, will not have to do anything. The Board passed a resolution opposing the MCM. He noted that the State had concerns about the MCM.

Mr. Graves stated that since Hurricane Katrina 17 statutory deadlines pertaining to protection and restoration of south Louisiana have not been met. These deadlines include the MRGO restoration report and the LaCPR (the USACE's master plan for the State integrating protection and restoration). He asked about the SLFPA-E's actions on these efforts.

Mr. Graves stated that the USACE has allowed navigation channels all over south Louisiana to expand. The Gulf Intracoastal Waterway (GIWW) in some instances has flooded miles of adjacent private property. The State requested the USACE to place the spoil produced from dredging on the banks to eliminate the encroachment on private property; however, this has not been done. The State requested that the USACE consider ways to block salt water intrusion on the larger channels where there is a problem; however, the State has been unable to make any progress on this issue. The other states are attempting to significantly diminish the amount of money that the State of Louisiana would receive under the Resources and Ecosystem Sustainability, Tourist Opportunities and Revived Economies of the Gulf Coast States (RESTORE) Act. Under State law all of this money is dedicated to the State's Master Plan and resiliency of Louisiana coastal communities.

Mr. Kemp pointed out that the SLFPA-E has a responsibility for public safety. The SLFPA-E is forced to work very closely with the USACE because of the partnership on the HSDRRS; however, this does not mean that the SLFPA-E excuses the USACE's actions. He noted that he was a lead expert witness against the USACE in the MRGO case. Mr. Estopinal commented that he was a volunteer witness in the MRGO case and acknowledged that the SLFPA-E has not done enough. Mr. Kemp added that no one in Louisiana has done enough.

Mr. Graves commented that he was aware of actions taken by members of the Board in their personal capacities and the losses that they suffered; however, he was not aware of the SLFPA-E acting as a Board on the efforts discussed. He expressed that he had trouble reconciling the Board's action on a multi-billion dollar lawsuit with the motivating factor being restoration versus its historic actions.

Mr. Doody pointed out that the SLFPA-E participated in the study on the New Orleans East Land Bridge. He noted that there is a great deal of coastal restoration work being done near Alligator Bayou. He explained that the SLFPA-E, as well as the State, had concerns about the way that the USACE came up with the MCM for mitigation, which includes a requirement for the mitigation for damage for flood protection and coastal restoration projects. The Louisiana Association of Levee Boards also opposes the

MCM. He added that the CPRA is the local sponsor and that the SLFPA-E has tried not to get in its way.

Mr. Kemp stated that the Mardi Gras Pass in the Bohemia Spillway is open primarily due to the Board's actions. Mr. Graves commented that Sundown Energy has stated that it is pulling out of Louisiana. The State had been negotiating an investment from Sundown Energy, the State and potentially the Board in an attempt to pull together the dollars needed to allow Mardi Gras Pass to remain open. The pass will not be allowed to remain permanently unconstrained and the USACE will force some entity to step in at some point.

Mr. Graves addressed the SLFPA-E's comment on its inability to afford the O&M expenses for the HSDRRS. The cost share for the Lake Pontchartrain and Vicinity (LP&V) Project and other projects were covered by the local levee districts. The State negotiated the deferred payment agreement with the USACE for the cost share for the HSDRRS Project. The CPRA is covering the costs for lands, easements, rights-of-ways, relocations and disposal sites (LERRDs) (real estate costs) for the HSDRRS. The CPRA is paying the majority of the \$1.8 billion cost share on the HSDRRS work. He commented that while the Rand and AECOM studies on future O&M costs had somewhat different conclusions, he did not recall seeing a grave scenario where entities were insolvent. The question that should be asked at this point is whether the Board has the right financial structure for the post-Katrina work. This question is being considered in the across the state study required by SCR 39. He asked what steps have been taken by Board to address solvency issues. He reminded the Board that the Orleans Levee District owns two marinas, an Airport, real estate properties and a shopping center. He stated that he had a hard time understanding discussions of insolvency when entirely superfluous and irrelevant assets are owned by a levee district and that whenever he has tried to go to the legislature with the Board to try to advocate for liquidation of these assets, many times he has been at the table by himself. He reiterated that the CPRA has been largely paying for the cost share on the HSDRRS and contributing funds for the O&M of structures. Mr. Doody reminded everyone that there are huge legislative hurdles to the liquidation of the non-flood assets. Mr. Kemp pointed out the economic situation in St. Bernard Parish.

Mr. Graves agreed with the Board concerning compliance issues and offered to assist with the identification of enforcement mechanisms. The Department of Natural Resources (DNR) was requested to go through all of the permits that were implicated in the lawsuits. A report has not yet been received.

Mr. Graves showed a depiction of coastal Louisiana as it looks today and as it looked before the construction of the levees. He stated that in reality the oil and gas canals would serve largely to replicate the small veins that were historically located in south Louisiana and as conduits or distributaries of the Mississippi River system. He stated that there is liability associated with oil and gas activities; however, he did not think it was close to the liability associated with the river levees. He pointed out that if the levees were not in place that the canals would be filling in. He reiterated that everyone must keep in mind how coastal Louisiana looks today and how it looked when the State was growing three-quarters of a square mile per year.

Mr. Graves stated that compliance and accountability are important. It would cost an estimated two billion dollars per year to replace the wetlands that are being lost and the functions that they provide. A comment was made that the potential objective of the lawsuit is eight or nine billion dollars. After deducting the contingency fees, the Board would have between three and four years of addressing wetlands loss and would then be in the same situation. He stressed that this is not a permanent or holistic solution.

Mr. Graves pointed out that if the USACE used the MCM to determine the mitigation required for the construction of the HSDRRS, it would be in excess of \$700 million instead of \$200 million. The USACE has spent \$125 million studying the Louisiana Coastal Area projects without putting a single shovel in the ground.

Mr. Graves urged that a more holistic strategy be taken legally and that steps be taken in a methodical approach. He commented that BP could potentially use the SLFPA-E's allegations and arguments to diminish the State's case relative to damages resulting from the oil spill. He stated that in the case of the State, all of the money goes to restoration; in the case of the SLFPA-E, up to one-third of the money goes to attorneys.

Mr. Estopinal asked whether Mr. Graves would be giving his presentation to the Jefferson, Plaquemines and St. Bernard Parish Councils. He also asked whether Mr. Graves anticipated the State of Louisiana filing a lawsuit against the oil and gas companies. Mr. Graves responded that the Board has no idea about what may have been happening before the lawsuit was filed in regards to discussions. In addition, the lawsuit filed by the Board cannot be compared to the lawsuits filed by the parishes. The SLFPA-E is an appointed board that is attempting to exercise the authority and standing of the State in stating that the oil and gas activities have adversely affected the Board's activities. In reality, oil and gas companies will not approach the Board to attempt a settlement since it cannot provide relief or remove the liability that belongs to the State. The parish leaders are independently elected and are accountable to the public. The parishes are specifically mentioned in the statutes and have a specific Coastal Zone Plan that can be enforced. He reiterated that he would do anything that he could to help enforce compliance with permits. He stated that he would be shocked if an oil company comes to the Board with a settlement, with the exception of a unique scenario where a small company presents a settlement for a small amount of money in lieu of having to pay attorneys. He stated that the Board cannot provide relief to the companies because the State will never allow the Board to exercise the State's authority and discretion.

Mr. Graves cited examples of the legal conflicts, which include the BP oil spill, Federal river management, O&M of navigation channels, the MRGO and the Stafford Act. He noted that the State would be filing a lawsuit relative to the MRGO issue within the next several months. He stressed that all of these issues cannot be taken on at the same time. The State has fought hard to restore Louisiana's coasts and protect its communities. He stated that the Board cannot expect the State to sit back and allow actions that will actually decrease its recovery and impede progress.

Mr. Graves urged the Board to review the contract that it executed with the attorneys. The contract states that the contingency is based upon the value of non-pecuniary

interests. There is a potential for the contingency to be based upon not only on a project's cost, but also on the ecological productivity of the restoration project monetized and the benefits provided by the project. In effect, the Board has become an indentured servant in absolute perpetuity.

Mr. Graves pointed out that with the exception of the SLFPA-E, every other levee district at the Louisiana Association of Levee Boards' annual meeting voted in support of a resolution that opposes the Board's lawsuit. He stated that the other levee boards understood that the SLFPA-E's approach is not the right approach and that a comprehensive strategy is needed. He stressed that the lawsuit is not in the State's long term best interest and that it will result in less money for the coast. The lawsuit offends efforts to require the USACE to retain the O&M of the hurricane protection system, to hold the USACE accountable and to increase offshore energy revenues. He added that Louisiana deserves a greater portion of offshore energy revenues because it has experienced the historic impacts and that a provision was included in the Gulf of Mexico Energy Security Act (GOMESA) to take the historic impacts into account. He agreed that there are liabilities; however, the liabilities must be addressed in pieces. Mr. Kemp indicated that at some point some entity will request compensation for the damages associated with the oil and gas industry liability and that there are oil and gas companies that are interested in settlements. Mr. Graves responded that actions can be taken in a cooperative vein before filing lawsuits. He commented on the difficulty in attempting to co-manage several different lawsuits at the same time because arguments will be made that entities are attempting to obtain double recovery.

Mr. Kemp asked whether the State had a plan to address the oil and gas industry's liability. Mr. Graves responded that he had stated numerous times that the State has a comprehensive strategy, which cannot be publicly discussed. He commented that you can't lay all your cards down in front of the other side sometimes. He added that there were discussions that are not happening anymore. He stated that when asked by the SLFPA-E he advised that this is not the right time to file litigation. He had asked the Board to allow the State to get through the BP issue and pursue discussions. He stressed that there are real impacts resulting from the litigation and that there are questions that need to be answered. A portion of a decision by Shell Oil Company was related to increased costs associated with litigation in Louisiana. The Legislative Auditor questioned whether funds from the lawsuit would go to the coast or to the legislature since the State's liability is involved. He commented that open meetings laws and notice requirements were violated by the Board. He stated that it appears that the Board's decision was not properly thought out and that now there are serious repercussions. He referred to the "poison pill" provision in the contract with the attorneys and pointed out that the SLFPA-E could not afford to cancel the lawsuit today because it would become insolvent. He noted that the contract is not limited to oil and gas activities and that there is nothing in the contract that would prevent it from being inherited by others attorneys in the future. He reiterated that the CPRA is the cost share sponsor; therefore, if the SLFPA-E becomes insolvent, it becomes a problem for the CPRA. He asked the Board what funding source would be used to pay the contingency fees if it is successful in the lawsuit but receives only projects. He added that the Board recently called a Special Board Meeting that was described as having no practical effect with about eight attorneys in attendance and pointed out the expenses

incurred associated with the meeting. He stressed that the potential legal debt is not limited to the SLFPA-E and affects the taxpayers of St. Bernard, Orleans and Jefferson Parishes and the CPRA, who is the local sponsor for the HSDRRS. He added that he did think that the resolution submitted to the Attorney General's office properly disclosed the compensation terms, the poison pill provision and negotiated fees, and that this non-disclosure could potentially be used as a mechanism to be released from the contract.

Mr. Graves commented on the potential impacts of lawsuits. He noted that Louisiana has the highest car insurance rates in the United States, which is blamed on the judicial system and lawsuits. Louisiana was listed as number two in a recent list of judicial hellholes and the SLFPA-E's lawsuit is mentioned as an impetus.

Mr. Graves stated that there have been discussions with the Attorney General's office about whether or not the lawsuit is a conflict of interests. He referred to an article released in the latter part of August in which the Attorney General's office explicitly came out and said that Mr. Barry's statements are totally untrue and that the attorneys did not say that there was not a conflict of interest in pursuing the lawsuit. He asked the Board whether its attorney informed them that the Attorney General's office or his representative indicated that there was a potential conflict of interest before the Board made its decision.

Mr. Graves stated that the CPRA and the SLFPA-E can work together on a number of issues. The Board and the CPRA essentially have the same mission in regards to protecting the citizens of Louisiana; however, there are big differences in how the entities are attempting to achieve their goals. He stated that he was hopeful that the joint strong feelings towards the mission and goal would help the CPRA and SLFPA-E overcome some of the current obstacles.

Mr. Graves pointed out that the State law followed by the SLFPA-E for retaining attorneys states that the reason special counsel is needed must be demonstrated and that the compensation terms must be disclosed. In regards to the special counsel, the SLFPA-E just stated that special expertise is needed. He commented that the lawsuit states that the SLFPA-E alone is responsible for hurricane protection for the communities under its jurisdiction. He stated that this statement is entirely false. The SLFPA-E hired an expert who wrote statements that are not true. The SLFPA-E is not in a contractual relationship with the USACE on the HSDRRS—the CPRA is in that contractual relationship with the USACE and the SLFPA-E is in a relationship with the CPRA. The State is ultimately responsible for the cost share and the O&M of the system, not the SLFPA-E. In a recent article in the Advocate when asked about the USACE's responsibility the attorneys stated that the USACE has been absolved because of the money spent on the levees after Hurricane Katrina. He pointed out that the Board issued a Request for Qualifications and publically pre-selected qualified attorneys from which to choose to provide services; however, in this case everything was done outside of this process. He pointed out that John Barry stated on numerous occasions that he interviewed attorneys and made the decision to select the attorney in this case. He asked the reasons for the secrecy and for the Board not attempting to find an attorney who would work on a contingency with rates like those in the BP litigation. He requested that the Board members carefully read the contract with the attorneys.

Mr. Doody commented that the SLFPA-E has worked very well and closely with the CPRA for a long time. Mr. Graves pointed out that differences are generally put aside because everyone is fighting for the same goals; however, the lawsuit is a major impediment. He added that this situation is not a threat to the overall relationship between the SLFPA-E and the CPRA, but that he is concerned that it may become a bigger obstacle.

PUBLIC COMMENTS:

Carol Byram commented that she was told by two USACE representatives, one of which was Dan Bradley, that the 17th Street Canal and levees were not part of the Federal system and that only the floodwalls were part of the Federal system. She asked whether any of the issues referred to by Mr. Doody in a prior Board meeting relative to the possibility of turning over the outfall canal levees/floodwall to the S&WB could affect the adjacent private properties in the future and about minutes of the meeting.

Mr. Doody advised that he would ask Mr. Bradley about the statement referred to by Mrs. Byram. He explained that the outfall canal levees are part of the Federal system and must be certified for flood insurance purposes. The Board was successful in its request to the USACE to lower the PCCP intake sills to allow for a future potential construction of Option 2, should funding be received, which would impact all of the properties along the outfall canals. A meeting was held with representatives of the S&WB and Jefferson Parish to discuss the issues. He added that this was not a meeting of the Board, but a meeting with other entities; therefore, no minutes were taken.

John Barry, President of Restore Louisiana Now, commented, in response to Mr. Garrett's presentation, that the attorney never said that the USACE was absolved. He quoted from the Master Plan that dredging canals for oil and gas exploration and pipelines took a toll on the landscape disastrously altering the natural hydrology. Canal dredging has had one of the most dramatic effects. He stated that the industry has tremendous liability, which is the reason the lawsuit was filed. The State has had years to enforce the permits. Not a single governor or DNR has taken any action whatsoever to enforce the permits. He stated that someone had to go first before the coast disappears. He stated that Mr. Graves had 5-1/2 hours of time in executive sessions during which he could discuss the State's strategy privately with the Board. However, Mr. Graves could not change a single vote during the 5-1/2 hours because the Board did not think that his strategy was adequate. There are hundreds of millions of dollars being spent, other than the BP money, in the out years for the Master Plan. Roughly \$250 million per year will be received from GOMESA beginning in 2017; however, this is not enough money. The plan is to raise the cap on GOMESA and use this money to fund restoration activities. However, in reality this is saying that the most profitable industry in the history of the world is not going to be held accountable. He pointed out that the timber industry did not sign permits stating that they would perform restoration after they were done; only the oil industry signed such permits. He commented on the Rand study, which was commissioned by the State, on O&M costs. The study left out

the \$3 million cost of the Orleans Levee District (O.L.D.) police department, \$18 million for the O.L.D. to restore the lakefront seawall and money for levee raisings. He indicated that he was responsible for most of the search for an attorney; however, the comment ascribed to him by Mr. Graves concerning the decision to hire the attorney was not an accurate representation.

Gary Rauber commented that the Board represents the interests of the taxpayers. The basis of the suit is that the SLFAP-E is damaged by unpermitted oil and gas activities. He stated that it will be hard to tease out a large dollar amount in terms of damages to the Board. He asked whether the taxpayers would receive any compensation for damages.

Mr. Doody responded that a citizen can intervene in the lawsuit.

Craig Berthold inquired about a potential timeline for the construction of Option 2 on the outfall canals, which would involve substantial real estate acquisitions.

Edward Feinman, a resident along the 17th Street Canal, commented on the pumping of water from Jefferson Parish into the 17th Street Canal, the erosion occurring along the canal and the variation in the measurements taken for determining the toe plus 6-ft. zone along the canal. He commented that Orleans Parish pays a larger allocation of the SLFPA-E's costs than the other levee districts; however, it has only one vote on the Board.

Roy Arrigo commented that Mr. Doody appointed a committee several months ago to study the issue of turning the levees/floodwalls along the 17th Street Canal over to the S&WB. He asked did the committee meet and were the public meeting laws followed.

Mr. Doody responded that the meeting was not a meeting of the Board and was not subject to the public meeting laws. The committee consisted of Mr. Doody, Mr. Turner and representatives from the S&WB, Jefferson Parish and the USACE and was for the purpose of discussing the issues.

Mr. Arrigo commented that a statement was made that an act of Congress would be required to remove the 17th Street Canal levee from the Federal system. He asked that the SLFPA-E provide the location of the requirement and added that he was certain that the requirement did not exist.

COMMITTEE REPORTS:

Finance Committee: Mr. Tilly reported that the Finance Committee met on December 12th. The Committee considered and recommended for the Board's approval the renewal of various insurance coverages for the levee districts.

Operations Committee: Mr. Wittie reported that the Operations Committee met on December 12th. The Committee considered the following items:

- A presentation was provided by Mike Merritt, SLFPA-West Commissioner, on levee foundation issues and fault lines.
- Mr. Estopinal offered several recommendations that were drafted into a resolution and placed on the Board's agenda for approval, including an RFP for a gravitational vertical study.
- The updating of the levee districts' Emergency Operations Procedures (EOP) Manuals to include O&M of the HSDRRS features turned over thus far.
- The O.L.D. will issue a task order under one of the SLFPA-E's Indefinite Delivery-Indefinite Quantity (ID-IQ) contracts for the development of plans to deal with erosion along the outfall canals.

Legal Committee: Mr. Doody advised that Legal Committee members received copies of the legal invoices that have been placed on the Board agenda for approval.

CPRA/Governmental Affairs: Mr. Doody advised that he did not attend the last CPRA meeting. He provided a report on the Water Resources Development Act (WRDA) bill. The Senate version of the bill includes a provision to task the O&M of the IHNC Surge Barrier gates to the USACE. The House version of the WRDA bill does not include this provision. The provisions must be reconciled in the conference committee. The SLFPA-E/O.L.D. will be operating and maintaining the IHNC Surge Barrier gates until such time as there is a resolution of this issue. Additional language is needed from the USACE to supplement the original language that it provided in order to allow the USACE to perform the required O&M. The O&M will be cost shared 65% Federal / 35% State. Inclusion of sufficient language in the WRDA bill to task the USACE with the O&M of the IHNC Surge Barrier gates would allow the opportunity to seek the funding required for this O&M effort.

Coastal Advisory Committee: Mr. Kemp reported that the Coastal Advisory Committee (CAC) met on November 22nd and conducted a planning session. The CAC plans to provide the Board with a list of priority coastal advisory topics to be developed for the SLFPA-E over the next year.

REGIONAL DIRECTOR REPORT:

Mr. Turner reviewed the highlights of the Regional Director's Report (copy appended to minutes). Additional comments were provided as follows:

- IHNC Surge Barrier – Stevan Spencer, SLFPA-E Regional Chief Engineer, is attending a post final inspection being conducted today. The Notification of Contract Completion (NCC) letter has been placed in the mail. The contractor will remain on site during December. Staff will interact with the contractor to ensure that as much knowledge and information is received on the O&M of the project as possible.
- Seabrook Complex – The USACE issued the NCC letter on the project. SLFPA-E/O.L.D. personnel are now actively maintaining the project.
- HSDRRS O&M Manuals – Staff has been reviewing the USACE's O&M manuals, which will form the basis for maintaining the system. The USACE is rewriting the

initial volume (Volume 1), which deals with authorizations and general information relative to O&M of the system. The O&M manuals will also form the basis of the submission to FEMA for the certification of the system. FEMA is requiring O&M plans from each of the entities that deal with any part of the system [HSDRRS and the Mississippi River Levee (MRL)]. An item has been placed on today's agenda for the approval of the revised EOP manuals for the three levee districts, which have been updated to include the new infrastructure received since the May version of the EOP manuals was approved. The EOP manuals will become appendices to the overall O&M plan, which will require ratification at a future Board meeting.

- SCR 39 questionnaire – Staff is preparing a significant amount of information to submit in response to the multi-page questionnaire received from ARCADIS U.S., Inc. The SLFPA-E anticipates meeting the December 20th deadline for submitting its response.
- LPV 01.2 Foreshore Protection (Jefferson Parish) – Issuance of the NCC letter is being postponed due to erosion issues that must be addressed by the USACE.

Mr. Doody clarified that the NCC letters are sent to the State (the local sponsor). The State has not accepted the letters and has returned them to the USACE. The State's position is that the projects should be turned over by polder and not by individual project. There are four distinct polders within the SLFPA-E's jurisdiction. The SLFPA-E and levee districts have agreed to operate and maintain the projects. Mr. Turner pointed out that the SLFPA-E and USACE are working through a number of outstanding issues on various projects.

EXECUTIVE SESSION:

1. Southeast Louisiana Flood Protection Authority-East, et al, v. Tennessee Gas Pipeline Company, LCC, et al, Civil District Court for the Parish of Orleans No. 13-6911.

A motion was offered by Mr. Estopinal and seconded by Mr. Wittie for the Board to convene in Executive Session to discuss the item listed on the agenda with the proviso that the Board's attorneys remain throughout the Executive Session.

Mr. Hassinger asked whether the Board would be discussing just the lawsuit or would it also be discussing the letter from the Legislative Auditor in the Executive Session. Mr. Doody responded that the issues are tied together. Mr. McHugh commented that the Commissioners should be allowed to speak freely in the Executive Session without the presence of the attorneys. Mr. Estopinal suggested that if there are comments that cannot be expressed in front of counsel then perhaps another type of Executive Session could be arranged specifically for this purpose. Mr. Hassinger requested that the Board address the Legislative Auditor issue in open meeting. He added that the Legislative Auditor has provided some direction to the Board that does not need to be discussed in closed session. Mr. Doody suggested that an item could be placed on a future Board agenda for this purpose. Mr. Hassinger objected to the Board going into Executive Session. Mr. Angers stated that Mr. Gladstone Jones' presence in the Executive

Session is needed; however, there may come a time during the session that Mr. Jones' will need to excuse himself so that the Commissioners could freely discuss the contract and the Legislative Auditor's letter. Therefore, Mr. Angers also objected to the Board going into Executive Session as stated in the motion.

The motion to convene in Executive Session with the proviso that the Board's attorneys remain throughout the Executive Session was adopted, with Mr. Estopinal, Mr. Kemp, Mr. Luettich, Mr. Tilly, Mr. Wittie and Mr. Doody voting yea and Mr. Angers, Mr. Hassinger, Mr. McHugh voting nay.

A motion was offered by Mr. Estopinal, seconded by Mr. Wittie and unanimously adopted, for the Board to reconvene in regular session.

Mr. Estopinal provided a report on the Executive Session. He stated that counsel asked the Commissioners in Executive Session to sign an affidavit or privilege memorandum. He noted that not all Commissioners agreed to sign such a document, which modified the amount of information that the attorney felt free to provide. The Commissioners who agreed to sign the document were Mr. Wittie, Mr. Estopinal, Mr. Kemp, Mr. Tilly and Mr. Luettich. The Commissioners who refused to sign the document were Mr. Doody, Mr. Hassinger, Mr. McHugh and Mr. Angers. Mr. Doody pointed out that it is illegal for the Board members to discuss Executive Session discussions outside of an Executive Session. Mr. Estopinal commented that he understood Mr. Doody's position that the document was superfluous. He stated that Mr. Hassinger was asked if he would sign an affidavit confirming that his law firm does not and will not consider representing or engage in privileged discussions with any defendants identified in the lawsuit or any of the defendants' insurers. He stated that Mr. Hassinger declined to do so. Mr. Doody commented that it would be unethical for Mr. Hassinger or his firm to participate in such discussions.

Mr. Estopinal added that the Board has been promised a letter from Mr. Jones stating that he has unilaterally agreed to the following changes in the contract:

- The section discussed by Mr. Graves dealing with no value compensation is being withdrawn and will not be a part of the contract.
- The political costs that may have been expended by Mr. Jones' firm in order for the litigation to go forward will not be a part of the costs to the Board.
- A termination of contract for cause clause will be adhered to or added to the contract.
- No additional defendants will be named unless agreed to by the Board.

Mr. Doody clarified that Mr. Jones did not state that he would change the contract, but that he would provide a letter to be distributed to the Board members and that he would not enforce portions of the contract.

Mr. Hassinger stated that he would not reply to the recitation of what was done or not done and said or not said in the Executive Session, since his response would involve discussion of what was discussed in the Executive Session.

Mr. Doody pointed out that Mr. Jones sent the same issues to the Board members outside of the Executive Session.

NEW BUSINESS:

RESOLUTION NO. 12-19-13-03 - APPROVAL OF LEGAL INVOICES

On the motion of Mr. Tilly,
Seconded by Mr. Kemp, the following resolution was offered:

WHEREAS, the legal invoices submitted to the Southeast Louisiana Flood Protection Authority-East (SLFPA-E), East Jefferson Levee District, Lake Borgne Basin Levee District and Orleans Levee District listed on the spreadsheet entitled "Legal Invoices Approved on December 19, 2013", have been reviewed and approved by the appropriate levee district Executive Director, the SLFPA-E Regional Director and the SLFPA-E General Counsel, Robert Lacour; and

WHEREAS, the aforementioned invoices were submitted to the members of the Legal Committee for review.

BE IT HEREBY RESOLVED, that the legal invoices listed on the spreadsheet entitled "Legal Invoices Approved on December 19, 2013" are hereby approved.

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

YEAS: Mr. Angers, Mr. Estopinal, Mr. Hassinger, Mr. Kemp, Mr. Luettich,
Mr. McHugh, Mr. Tilly and Mr. Wittie

NAYS: None

ABSENT: None

Discussion of the Board's Competitive Selection Policy and the process used to retain counsel to pursue the Authority's coastal damage claim.

Mr. Angers explained that as a new Board member he was interested in what happened that was in compliance with the Board's policy and what was not in compliance. A discussion was started in the December 5th Special Board meeting about the selection of the attorneys. It was unclear and there seemed to be confusion about whether or not there was a selection committee. He asked was there a selection committee, did the committee meet, were there meaningful deliberations and were the meetings public, or did a single individual make the selection.

Mr. Doody clarified that there was no formally appointed committee and that it was more informal. He explained that when a legal strategy is being developed, it cannot be advertised or discussed publicly. Therefore, there was nothing public, formal or written. However, the Board met many times, making it almost a committee of the whole, in Executive Session to discuss the issue. He added that this is not something that would typically be advertised because the Board would then be showing its hand before it was ready to take action.

Mr. Lacour stated that as he recalled John Barry brought up to the Board in Executive Session the possibility of finding a law firm that had unique experience in handling oil and gas litigation. Mr. Barry was the point man on this issue. He stated that he received a call from Mr. Doody advising that Mr. Barry was meeting with the environmental law staff at Tulane University and that he and Mr. Doody then attended the meeting. There were subsequent meetings attended by Mr. Doody and/or Mr. Lacour. Eventually, a meeting was held with representatives of the firm of Jones, Swanson. There was no formal committee. He stated that it was often he and Mr. Doody and always Mr. Barry attending the meetings and that the information was brought back to the Board. Mr. Doody reiterated that in his mind it was almost a committee of the whole by report to the rest of the Board.

Mr. Hassinger stated that at the last meeting Board members were advised that there was a committee. He referred to a Lens/NOLA article quoting Mr. Lacour, the Board's General Counsel, as stating that in this case there was a three man committee, consisting of Mr. Doody, Mr. Lacour and Mr. Barry, and that Mr. Doody appointed himself, Mr. Lacour and Mr. Barry during an Executive Session. The article went on to state that the Board did not publicly solicit firms to apply and that the legislature was in session at the time and it was their feeling that if some members knew about this, they might have taken action to prevent them from proceeding. Mr. Hassinger stated that the way that it was explained at the last meeting and in the media by the General Counsel, a committee was appointed, the committee met, but nothing was done publicly because the Board needed to keep it from the legislature. The opening meetings law and the Board's bylaws provide that when a committee is formed, there must be an agenda, notice to the public and the committee must keep minutes. The committee can go into executive session once the meeting is called. It appears that a committee was appointed in secret, the committee carried out its function in secret, there is no notice or executive session, and it was conducted in this manner, according to the Lens/NOLA, because the legislature was in session at the time and it was the feeling that if some members knew about it, they might have taken some action to prevent it. He stated that he has a serious problem with a board of unelected officials making major policy decisions outside of the sunshine laws and the knowledge of the legislature, the governor and everyone else in State government. He asked the reason that the Board did not follow its qualifications based selection process, which provides that the President shall appoint a committee. He pointed out that the Board issued Requests for Qualifications (RFQ) in 2007 and 2009 soliciting responses from law firms for legal services in a variety of practice areas, including real estate, litigation and oil and gas issues. He reiterated that the Board did not follow its policies, appointed a committee in Executive Session that was not disclosed to the public or the legislature, the committee performed its work outside of the public view and a large contract was signed.

Mr. Lacour explained that at the last meeting he did consider Mr. Doody, himself and Mr. Barry as a committee, although they never met and just spoke to some attorneys. After the meeting he stated that he spoke to Mr. Doody, who clarified that a committee was not formally appointed. Mr. Lacour stated that Mr. Doody definitely did not appoint a committee in Executive Session because action cannot be taken in Executive Session. He stated that the Lens may have misunderstood him, but that he never said that a committee was appointed in Executive Session. He pointed out that if the Board

would have entertained issuing an RFQ for an oil and gas law firm to sue the oil companies, then the legislature would have passed last year whatever bill they may pass this year. The Board adopted its policy by a simple resolution and can disregard its resolution. He added that there is case law on this issue. He stated that the Board acted properly. Everything was brought back to the entire Board and the Board voted on it. Therefore, nothing was done in secret except the Executive Sessions, which are permitted by law.

Mr. Angers asked Mr. Lacour, if the Board thought the bill that may be passed this year would have been passed last year if there was a discussion on this issue, did he think it was wise to counsel the Authority that it should proceed with signing the contract knowing that the taxpayers would be responsible if a bill is passed by the legislature. Mr. Doody responded that he did not know that Mr. Lacour counseled the Board to sign the contract and that this issue goes into the Executive Session discussions.

Mr. Angers commented on the importance of discussing this issue and added that he would hope that the Board in the future follows its policies and is accountable to the public. He commented on the expenses involved in conducting the December 5th Special Board Meeting, which served no purpose other than reaffirming for a second time a resolution adopted by the Board. Mr. Kemp commented that the Special Board meeting was not a waste of time or money.

Mr. Doody reiterated that in his mind it was a committee of the whole and that the reason for doing things in Executive Session was to not tip the Board's hand.

Mr. Angers requested that in the future a motion be offered when the Board acts as a committee of the whole and that the Board be informed of the appropriate parliamentary procedures that should be followed. He added that if the Board is incurring future obligations, then appropriate records should be kept.

Mr. Doody commented that the Board has always operated in the best interest of the public.

**RESOLUTION NO. 12-19-13-04 –
APPROVAL OF EMERGENCY OPERATIONS PROCEDURES MANUALS**

Mr. Doody advised that the CPRA requested that the SLFPA-E adopt the updated EOP manuals required for the accreditation of the HSDRRS. The Board will be required to adopt updated manuals at a future date when additional structures are turned over by the USACE.

On the motion of Mr. Wittie,
Seconded by Mr. Estopinal, 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 manuals; and

WHEREAS, the staffs of the Orleans Levee District (O.L.D.), the Lake Borgne Basin Levee District (LBBLD) and the East Jefferson Levee District (EJLD) have each reviewed and updated their respective Emergency Operations Procedures Manual to incorporate the operation and maintenance responsibilities for the new features of the Hurricane and Storm Damage Risk Reduction System infrastructure within their area of jurisdiction.

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

BE IT 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. Angers, Mr. Estopinal, Mr. Hassinger, Mr. Kemp, Mr. Luettich,
Mr. McHugh, Mr. Tilly and Mr. Wittie

NAYS: None

ABSENT: None

Motion to approve the recommendations from the Operations Committee to 1) Issue a Request for Proposals for a gravitational vertical study of the flood protection system in order to establish a baseline for tracking movement; 2) Investigate the potential of issuing a task order to a SLFPA-E Indefinite Delivery-Indefinite Quantity (ID-IQ) contractor for the development of recommendations on the frequency of data collection, hydraulic model maintenance and methods of funding the continuing effort; and 3). Develop a program in conjunction with NOAA and other appropriate entities for the installation of hardened weather and water level gages.

The motion was offered by Mr. Estopinal and seconded by Mr. Wittie.

Mr. Estopinal explained that the request for the issuance of a Request for Proposals (RFP) deals with serious concerns about differential movement taking place within the SLFPA-E's jurisdiction. He recommended that an RFP be drafted for the development of a comprehensive means and mechanism for establishing repeatable and enduring vertical data and for tracking differential movement across a very rigid system. The RFP should include the expertise provided by the National Geodetic Survey (NGS) and the CPRA. He suspected that some movement has occurred along the Michoud fault, which runs through the SLFPA-E's jurisdiction. If there is differential movement of the magnitude that is suspected, problems could occur within the system in a short period of time. He recommended that the SLFPA-E begin its data collection early and in full cooperation with the CPRA. The CPRA is doing some of the same work; however, the main difference is that the SLFPA-E's effort would result in the development of a gravitational study. NGS is predicting the use of vertical datum control as a gravitational datum and the movement away from regional surface related datum. The RFP would

allow the experts to tell the Board the best way to do what it is trying to accomplish—a good mechanism for monitoring vertical movement throughout the system. Respondents will be advised that the inclusion of the CPRA, NOAA and NGS in their proposal would make the proposal more favorable. The third recommendation in the motion concerns NOAA's continued improvement of coastal weather gages. The SLFPA-E would like to have vertical datum and gravitational observations as part of this work with NOAA. There is a lack of funding for hardened gages; therefore, a source of funding must be sought.

Mr. Luettich commented that he is in favor of monitoring the system. He asked about the information that will be required in the proposals and pointed out that some of the information may be proprietary. Mr. Doody explained that the RFP would be developed by Mr. Turner and staff. The RFP would be distributed to the Board for review prior to its advertisement. Mr. Lacour advised that he recently recommended to a levee district executive director that language be included in bids specifications to advise respondents that anything submitted is a public document that must be disclosed if called upon to do so.

Mr. Kemp inquired about the reason for an RFP in lieu of an RFQ. Mr. Estopinal explained that typically an RFQ is used when a specific performance is anticipated for a scope of work. However, a contractor may have a method to accomplish the Board's goal that is unknown to the SLFPA-E. He stated that he would be amenable to staff drafting an RFQ in lieu of an RFP. Mr. Tilly commented that the SLFPA-E is looking for methods to accomplish the goal. Once the Board makes a decision on the method, a proposal can be requested.

Mr. Turner recommended that a clear and concise scope of work be developed. Once the scope of work is developed, a decision can be made as to whether an RFQ should be developed for the appropriate engineering services or whether an RFP should be developed for a contractor with a specific expertise. It was suggested that a scope of work be drafted and submitted to Mr. Estopinal and Mr. McHugh for review prior to its submittal to the other members of the Board.

The Board took no action on the motion.

RESOLUTION NO. 12-19-13-05 - NON-FEDERAL LEVEE CERTIFICATION

Mr. Turner advised that the contract with Tetra Tech has a not to exceed amount of \$4.5 million. The resolution before the Board is for the approval of the third task order under the contract. The work is required for the accreditation of the non-federal levees.

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

WHEREAS, the Maxent Levee in New Orleans East and the Forty Arpent Levee in the Lower Ninth Ward and St. Bernard Parish must be certified order to be accredited by FEMA for the National Flood Insurance Program; and

WHEREAS, by Resolution No. 11-15-12-06, the Southeast Louisiana Flood Protection Authority-East (SLFPA-E) approved the selection of Tetra Tech for the purpose of entering into a Contract with said consultant to provide the professional engineering services required for the aforementioned non-federal levee certification effort; and

WHEREAS, the SLFPA-E entered into Task Order No. 1, dated May 9, 2013, for Phase 1 – Needs Assessment, which identified the additional work needed to complete the certification effort; and

WHEREAS, the SLFPA-E entered into Task Order No. 2, dated October 18, 2013, for Phase 2 – Subsurface Exploration Program; and

WHEREAS, Tetra Tech submitted a scope of work with a not to exceed amount of \$1,360,743 for Phase 2 – Additional Tasks to Support the Levee Certification Report, which includes items such as the development of alternatives to bridge gaps in the line of protection, drainage pipe investigations, development of operations and maintenance plan, determination and evaluation of sheetpile thickness and depth for I-walls, concrete wall evaluation, geotechnical analysis, structural analysis, inspection update report, and as built verifications.

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority-East approves the issuance of Task Order No. 3 to Tetra Tech for Phase 2 – Additional Tasks to Support the Levee Certification Report for an amount not to exceed \$1,360,743, and authorizes the SLFPA-E Regional Director to sign said Task Order and any and all other documents necessary to carry out the above.

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

YEAS: Mr. Angers, Mr. Estopinal, Mr. Hassinger, Mr. Kemp, Mr. Luettich,
Mr. McHugh, Mr. Tilly and Mr. Wittie

NAYS: None

ABSENT: None

RESOLUTION NO. 12-19-13-06 - RENEWAL OF EJLD INSURANCE COVERAGES

On the motion of Mr. Tilly,

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

WHEREAS, the East Jefferson Levee District's (EJLD) Property, Inland Marine, Law Enforcement Liability, Worker's Compensation and Pollution Insurance coverages and Accident Policy will expire on or about January 1, 2014; and

WHEREAS, Arthur J. Gallagher Risk Management Services, Inc. shopped the market and provided the following recommendations for the renewal of said coverages:

- Property Insurance from Allianz at an annual premium of \$15,642.
- Inland Marine Insurance from Allianz at an annual premium of \$15,300.
- Law Enforcement Liability Insurance from the Darwin Group at an annual premium of \$33,406.50.

- Worker's Comp Insurance from LWCC at an estimated annual premium of \$193,199.
- Pollution Insurance from Allied World at an annual premium of \$10,584.
- Accident Policy from ACE at an annual premium of \$1,264.

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority-East authorizes the renewal of Property, Inland Marine, Law Enforcement Liability, Worker's Compensation and Pollution Insurance coverages and Accident Policy, as recommended and stated above, for a one year period commencing on or about January 1, 2014, through Arthur J. Gallagher Risk Management Services, Inc.

BE IT FURTHER RESOLVED, that the EJLD Executive Director is 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. Angers, Mr. Estopinal, Mr. Hassinger, Mr. Kemp, Mr. Luettich, Mr. McHugh, Mr. Tilly and Mr. Wittie

NAYS: None

ABSENT: None

RESOLUTION NO. 12-19-13-07 - RENEWAL OF O.L.D. HEALTH CARE PLAN, DENTAL CARE PLAN AND VISION CARE PLAN COVERAGE

Gerry Gillen, O.L.D. Executive Director, advised that the following corrections were required to the draft resolution: the estimated annual cost of the vision plan should read \$9,824.64 and the estimated annual cost of the dental plan should read \$56,017.20.

On the motion of Mr. Tilly,

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

WHEREAS, the Orleans Levee District's (O.L.D.) Health, Dental and Vision Care Plans will expire on December 31, 2013 and

WHEREAS, renewal quotes were submitted by the Office of Group Benefits (OGB) for the Health Care Plan, Crescent Dental for the Dental Care Plan and United Health Care for the Vision Care Plan for a one year term commencing on January 1, 2014, for Flood Protection Division employees, through Arthur J. Gallagher Risk Management Services, Inc., as follows:

- The OGB Health Care Plan renewal is offered at a 2.4% increase in premium at an estimated annual cost of \$1,985,623.13 with an estimated annual cost of \$476,815.75 to be paid by employees and retirees.
- The United Health Care Vision Plan for active employee is offered at the locked rate of an estimated annual cost of \$9,824.64.
- The Crescent Dental Care Plan for active employees is offered at an estimated annual cost of \$56,017.20.

WHEREAS, the renewal of the Health, Vision and Dental Care Plans as stated above was reviewed and recommended by the Finance Committee at its meeting held on December 12, 2013.

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority-East authorizes the renewal of the OGB Healthcare Plan, the Crescent Dental Care Plan and the United Health Care Vision Plan as stated above for a period of one year, commencing on January 1, 2014 and ending on December 31, 2014.

BE IT FURTHER RESOLVED, that the O.L.D. 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. Angers, Mr. Estopinal, Mr. Hassinger, Mr. Kemp, Mr. Luettich, Mr. McHugh, Mr. Tilly and Mr. Wittie

NAYS: None

ABSENT: None

**RESOLUTION NO. 12-19-13-08 –
AWARD OF CONTRACT FOR IHNC / MISSISSIPPI RIVER VEGETATION REMOVAL**

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

WHEREAS, the Orleans Levee District (O.L.D.) has been tasked by the U.S. Army Corps of Engineers with vegetation removal on the IHNC / Mississippi River Levees; and

WHEREAS, the Vegetation Removal was advertised and four bids were received, as follows:

Bidding Contractors	Total Base Bid Price
Holliday Construction, LLC	\$183,540.00
River Road Construction, Inc.	\$247,500.00
Wallace C. Drennan, Inc.	\$288,000.28
Hamp's Construction, LLC	\$374,460.00

WHEREAS, funds for this project are available from the approved FY 2014 Special Levee Improvement Fund Budget.

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority – East authorizes the award of a contract in the amount of \$183,540.00 to Holliday Construction, LLC, and the establishment of a budget in the amount of \$220,000 to include contingencies, for the Vegetation Removal.

BE IT FURTHER RESOLVED, that the O.L.D. Executive Director is hereby authorized to execute a contract in the amount of \$183,540.00 with Holliday Construction, LLC, and any and all other documents necessary to accomplish the above.

The foregoing was submitted to a vote, the vote thereon was as follows:
YEAS: Mr. Angers, Mr. Estopinal, Mr. Hassinger, Mr. Kemp, Mr. Luettich,
Mr. McHugh, Mr. Tilly and Mr. Wittie
NAYS: None
ABSENT: None

RESOLUTION NO. 12-19-13-09 - RENEWAL OF LBBLD INSURANCE COVERAGES

On the motion of Mr. Tilly,
Seconded by Mr. Estopinal, the following resolution was offered:

WHEREAS, the Lake Borgne Basin Levee District's (LBBLD) Worker's Compensation and Pollution Insurance coverages will expire on or about January 1, 2014; and

WHEREAS, Arthur J. Gallagher Risk Management Services, Inc. shopped the market and provided the following recommendations for the renewal of said coverages:

- Worker's Comp Insurance from LWCC at an estimated annual premium of \$74,732.
- Pollution Insurance from Allied World at an annual premium of \$15,723.

BE IT HEREBY RESOLVED, that the Southeast Louisiana Flood Protection Authority-East authorizes the renewal of Worker's Compensation and Pollution Insurance coverages, as recommended and stated above, for a one year period commencing on or about January 1, 2014, through Arthur J. Gallagher Risk Management Services, Inc.

BE IT FURTHER RESOLVED, that the LBBLD Executive Director is 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. Angers, Mr. Estopinal, Mr. Hassinger, Mr. Kemp, Mr. Luettich,
Mr. McHugh, Mr. Tilly and Mr. Wittie
NAYS: None
ABSENT: None

Mr. Doody announced that the next regular monthly Board meeting would be held on January 16, 2014 and hosted by the East Jefferson Levee District.

There was no further business; therefore, the meeting was adjourned at 1:30 p.m.

SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY - EAST

REGIONAL DIRECTOR'S REPORT

December 19, 2013

HSDRRS Project Status Update

IHNC-01 - Seabrook Complex The Notification of Contract Completion (NCC) for the Seabrook Complex was issued on Dec. 2.

On the same day, a coating expert hired by the Coastal Protection & Restoration Authority (CPRA) inspected numerous rust issues on the Vertical Lift Gates, and his report is expected soon.

IHNC-02 - Lake Borgne Surge Barrier Complex All navigational floodgates are operational. Miscellaneous work continues on various surge barrier and gate structure components, and Operation and Maintenance Manuals are being finalized.

The painting of portions of the Bayou Bienvenue Vertical Lift Gate is to be this week, and the Corps schedule indicates the NCC will be issued this month.

Orleans Levee District personnel continue to practice barge gate operations, as well as participate with the Corps in weekly utilization meetings to review activities and discuss lessons learned.

LPV-20.2 - Foreshore Protection Reaches 3 & 4 The NCC letter for this project was received Oct. 2, but there are still some unresolved issues, including a 150- foot-long section of rock dike near the Suburban Pump Station at Lake Villa that may have undergone a rotational failure. The Corps has completed additional surveys as part of its investigation into this problem and has indicated verbally that they do not believe there was a failure. We are awaiting a written report.

LPV-01.2 - Foreshore Protection Reaches 1&2 The Corps did work to repair substantial erosion along the landward interface between the rock and the soil embankment, using a method of repair that SLFPA-E staff opposed and which, ultimately, failed. We tasked consultant CH2MHill to review and evaluate the area, and we have forwarded the options they developed for an acceptable repair to the Corps for review. The NCC for this project will be delayed until spring.

LPV-109.02a - Levee Enlargement for South Point to CXS Railroad and US11 and US 90 Floodgates A Corps consultant is preparing plans to repair problems resulting from excessive settlement of the Highway 11 floodgate. The

Corps plans to make temporary repairs to the emergency by-pass road adjacent to the gate, but that work has not started.

A section of slope paving near the CSX Railroad Floodgate has undergone significant, non-uniform settlement, and the Corps has decided to remove the damaged paving and install grouted rip rap in its place. No date has been set to begin that work.

Adequate grass coverage must still be established on recently raised levee sections.

LPV-111 - CSX RR to Michoud Canal Gaps in slope paving joints caused by levee embankment settlement near the CSX Railroad Floodgate were previously filled with asphalt, and have just been refilled again, per Corps guidelines; however, the joints continue to widen and must be periodically refilled as part of the Non-Federal Sponsor's operations and maintenance (O&M) responsibilities.

The Corps plans to issue the NCC for this project by year's end.

LPV-145A- Bayou Bienvenue Bridge A construction contract award is scheduled for late January 2014.

LPV-149AR - Access Road at Caenarvon The construction contract was awarded and a Notice to Proceed (NTP) issued Oct. 25. Construction is expected to take approximately 120 days, but the contractor had not mobilized to site as of Dec.11.

LPV – 149A – Floodwall Tie-in to the MRL at Caenarvon The construction contractor is mobilizing on the job site, and work on this 230-day project is to begin by Dec.16.

Outfall Canals The work to install more sheet pile along the London Ave Canal and the west side of the 17th St. Canal (OFC-07) was to have started in early December, but a bidder protest has delayed that for 35 days.

Canal bank protection on the west side of the 17th Street Canal to ensure wall stability for the low water case has been designed, but a four-month-long environmental review is required before bidding.

Permanent Canal Closures and Pumps (PCCP) Construction is underway. The CPRA is holding regular Non Federal Sponsor team meetings and working closely with the New Orleans Sewerage & Water Board, which will own and operate the new pumps. Weekly status reports are provided by the construction contractor to SLFPAE.

Armoring Although the Corps has decided to use sod, not seed, when it armors parts of the HSDRRS with High Perform Turf Reinforced Mats, or HPTRM, there is still no final plan on where it will go. The Non Federal Sponsor may get a chance this week to sit with Corps representatives to hear them discuss the cost of various armoring options. The Corps is also scheduled to see its Levee Armoring Research Development Report finally certified this week, but SLFPAE is awaiting confirmation of that milestone, which has been delayed several times as the Corps works to resolve all issues raised by the Non Federal Sponsor and the Risk Management Center.

What has moved ahead at a good clip over the last two months is a series of field tests on armoring pilot sites on the east and west banks of the river. Lessons learned at the test sites – such as the superiority of sod over seed to grow through the HPTRM – will help inform the system-wide installation and maintenance of armoring. Armoring installation contracts are not scheduled to be awarded until June of 2014. .

SBPS - 07 – Repairs to LBBLD Pump Stations #2 and #3 The project is scheduled for construction contract award in February of 2014, with completion anticipated the following December. Final plans and specifications are now in review.

Mississippi River & Tributaries (MR&T)

The construction contractor who will raise the Mississippi River's east bank levee from the Jefferson-St. Charles parish line in Kenner to the Orleans-Jefferson line should start mobilizing on the site by the end of this month. The work, the Jefferson Heights Project, will be done in 5,000-ft. increments, starting at the downriver end of the project. The project is expected to take 783 days to complete and will start with the removal of trees within the levee right-of-way. Corps project leaders say no trees on the property owners' side of existing fence lines will be removed.

An adjacent river levee-raising job, the Carrollton Project, is in the final stage of construction from the Orleans-Jefferson line to just north of Audubon Park. The levee section near Bisso Marine is currently being raised after a power line was relocated.

A recent pre-final inspection of the work identified significant issues that the contractor is now addressing.

Internal Affairs

Non-Federal Levee Certification

Geotechnical field investigations began earlier this month, and land surveying is underway.

The initial sheet pile testing and assessment report for the 40-Arpent levee indicates that a 2,500 linear foot section of piling may require extensive repair.

Complex Structure Training Our personnel train weekly to become more familiar with operation and maintenance of the complex gated HSDRRS navigational structures.

As-Built Review Process An Atkins construction inspection group is helping SLFPA-E staff review all as-built drawings for completeness, clarity and accuracy. All as-builts for projects in East Jefferson have been reviewed, as well as for New Orleans projects, except for the Seabrook and Lake Borgne Surge Barrier complexes. The review of projects in St. Bernard continues.

Senate Concurrent Resolution 39 instructs the CPRA to study the effectiveness of levee districts in Louisiana. In response, CPRA tasked the Arcadis consulting group to compile information on levee districts statewide. We are working with our levee districts to prepare responses to a detailed questionnaire from Arcadis and will submit the results on Dec. 20.

Emergency Preparedness The Mississippi River level at the Carrollton Gage in New Orleans is hovering around 3.5' and is expected to rise to 7' later this month.

Our Levee Districts have just finished updating their Emergency Operation Plans to include new infrastructure recently turned over to the Non Federal Sponsor.

Meetings and Items of Note:

The Governor's Advisory Commission on Coastal Protection, Restoration and Conservation will meet Feb. 5, 2014, from 9:30 am – 5 pm at UNO.

The CPRA board will meet in regular session on Jan. 15 at 9:30 am in the LaSalle Building's LaBelle Room, 617 N. Third St. in Baton Rouge.

NOAA is urging public comment on a draft plan to restore the Gulf after the 2010 Deepwater Horizon oil spill. The draft plan was released by the Natural Resource Damage Assessment Trustees, which is a group of nine federal and state agencies that act on behalf of the public to restore resources directly or indirectly harmed by oil released into the environment as a result of the spill.

Under the draft plan, NOAA would partner with Louisiana and the Department of the Interior to fund and execute restoration of beach, dune and back-barrier marsh habitat on Chenier Ronquille, a barrier island near the Barataria Basin Shoreline of Plaquemines Parish. Release of the draft plan has opened a 60-day public comment period that runs through Feb. During that time, trustees will hold 10 public meetings across the Gulf coast to discuss details of projects in Louisiana, Alabama, Florida and Mississippi. One of them takes place Jan. 14 in the Belle Chasse Auditorium at 8398 Louisiana 23 in Belle Chasse. The two-part format includes a 5:30 pm open house and a 6 pm public meeting.

For meeting dates and times in all locations, visit www.gulfspillrestoration.noaa.gov; updates on ten early restoration projects already in various stages of implementation are available in an interactive atlas.

Levee District Construction Projects:

Project	District	Status	Comments
Franklin Administration Building Refurbishment	OLD	100%	Complete
Bayou Bienvenue Maintenance Cycle	OLD	100%	Complete
Bayou St. John Sandbar Removal	OLD	95% complete	
Seawall Steps Erosion – Phase 1B	OLD	36% complete	
Franklin Warehouse Steel Silo Demolition	OLD	100%	Complete
Franklin Warehouse Safe house Remediation	OLD	100%	Complete
OLD Franklin Facility Parking Lot Improvements Landscaping Plan	OLD	0% complete	Contract Signed
Citrus Lakefront Levee Haynes Blvd. utility pads removal	OLD	90% complete	
IHNC Florida Ave. Bridge Sheet Pile	OLD	0% complete	Contract signed
Floodgate & Floodwall Repairs	OLD	0% complete	Contract signed

Levee District Project Designs and Studies

Project	District	Comments
Citrus Lakefront Railroad Drain Pipe Crossings (BKI)	OLD	Study 95% complete
Franklin Front Parking Facility	OLD	Design 100% complete; construction Administration 0%
Lakefront Seawall Area Reach , 4&5	OLD	Bid opening Dec. 19, 2013; Reach 4&5 Design 100% complete
Lakefront Seawall Area Reach 2B	OLD	Design 0% complete
Floodgate Seal Repairs	OLD	Design complete; construction Administration 0%
IHNC Florida Bridge Floodwall Replacement	OLD	Design complete; construction Administration 0%
Phase 1 for engine upgrades at Pump Stations 1&4 HMGP approved by FEMA	LBBLD	Design Contract awarded; 5% complete
Phase 1 for Safe Room Design HMGP approved by FEMA	LBBLD	Design 95% submitted to FEMA/GOHSEP for review
Pump Station #6 pump repair and hangers at P.S. #7	LBBLD	P&S at 100%; advertise when erosion control project is complete
Pump Station #6 Erosion Repair	LBBLD	P&S at 100%; advertise for construction bids in December 2013
Floodgate #9 renovation	LBBLD	P&S at 100%; advertise for construction bids in December 2013
Safe house & Consolidated Facility	EJLD	Waggonner & Ball Architects is developing Preliminary Schematic Design Plan & cost estimate that will be considered by the Board in setting the project's budget.
PM Support to LBBLD Staff for HMGP Projects	LBBLD	Ongoing; provides staff augmentation for LBBLD HMGP projects