

THE LOUISIANA CIVIL ENGINEER ACADIANA BRANCH • BATON ROUGE BRANCH NEW ORLEANS BRANCH • SHREVEPORT BRANCH Journal of The Louisiana Section On line at http://www.lasce

Volume 15 • Number 2

February 2007



Civil Engineers make a

NEWS: Nominations and election

Levee board appointments **Branch attracts grant Section appoints Mattei** Hammett appointed Secretary Wildlife and Fisheries

> Billboard graphic used in Baton Rouge **ANNOUNCEMENTS: Annual Spring Meeting and Conference in Shreveport** March 22-23, 2007

Deep South Conference in Ruston March 23-24, 2007

of difference! Control of Meek 2007

FUTURE: Louisiana Civil Engineering **Conference and Show in Kenner** September 13-14, 2007

Annual Meeting in New Orleans September 14, 2007

PROFESSIONAL LISTINGS



THE LOUISIANA CIVIL ENGINEER

CONTENTS

President's Message
Recent developments in Louisiana law
News from the Branches
Student Chapter News
2007 Annual Spring Meeting and Conference
Registration Form14
Conference Agenda
Section News and Information16
Highlights of January Board of Directors Meeting16
Nominations and election
Levee board appoinments
Professional Listings
Services and Suppliers

PUBLICATIONS COMMITTEE:

Timothy M. Ruppert, PE, *Chair* (504) 862-2106 Branch Presidents, *Members* James C. Porter, PE, *Editor* (225) 242-4556 Yvette Weatherton, PE, *Student Chapter News* (225) 771-5870

PUBLISHER:

Franklin Press, Inc., Baton Rouge, LA

The Louisiana Civil Engineer quarterly journal is an official publication of the Louisiana Section of the American Society of Civil Engineers with an average circulation of approximately 1900. The Section does not guarantee the accuracy of the information provided, does not necessarily concur with opinions expressed, and does not claim the copyrights for the contents in this publication. Please submit letters and articles for consideration to be published by facsimile to (225) 242-4552, by e-mail to jimporter@dotd. louisiana.gov, or by mail to the Publications Committee c/o James C. Porter, PE • 2608 Terrace Avenue • Baton Rouge, LA 70806-6868.

LOUISIANA SECTION • AMERICAN SOCIETY OF CIVIL ENGINEERS

Louisiana Engineering Center • 9643 Brookline Avenue • Baton Rouge, Louisiana 70809 • (225) 923-1662

SECTION BOARD OF DIRECTORS President Timothy M. Ruppert, PE U.S. Army Corps of Engineers President-Elect E.R. DesOrmeaux, PE E.R. DesOrmeaux, Inc. Vice President Ali M. Mustapha, PE City of Shreveport Secretary-Treasurer Christopher P. Knotts, PE Louisiana DNR **Past President** Kim M. Garlington, PE Louisiana DOTD Directors-at-Large Andre M. Rodrigue, PE ABMB Engineers, Inc. Kurt M. Nixon, PE Coyel Engineering Company, Inc. Christopher G. Humphreys, PE Professional Services Industries, Inc. Dax A. Douet. PE C.H. Fenstermaker & Associates. Inc. Branch Directors M. Jamal Khattak, PE University of Louisiana at Lafayette Brant B. Richard, PE Stanley Consultants, Inc. Christopher L. Sanchez, PE Stuart Consulting Group Elba U. Hamilton, El Aillet, Fenner, Jolly and McClelland **Assigned Branch Directors** Daniel L. Bolinger, PE DMJM HARRIS/AECOM Yvette P. Weatherton, PE Southern University **BRANCH OFFICERS** Acadiana Branch President M. Jamal Khattak, PE University of Louisiana at Lafayette **President-Elect** Joseph P. Kolwe, Jr., PE Civil and Structural Engineers, Inc. Vice President Clint S. McDowell, PE SITE Engineering, Inc. Treasurer Joshua P. Stutes, PE Sellers and Associates, Inc. Secretary David J. Girouard, EI C.H. Fenstermaker & Associates, Inc. **Past President** Dax A. Douet, PE C.H. Fenstermaker & Associates, Inc.

Representative to Region 5 Board of Governors Governor, Louisiana Section Norma Jean Mattei, PE University of New Orleans **Baton Rouge Branch** President Brant B. Richard, PE Stanley Consultants, Inc. **President-Elect** Robert W. Jacobsen, PE **URS** Corporation Vice President William H. Wall, PE NTB Associates, Inc. Secretary-Treasurer Jeffrey L. Duplantis, PE SJB Group Director Clinton S. Willson, PE Louisiana State University Director Adam M. Smith, EI Owen and White Associate Director Rudolph A. Simoneaux, III, EI Louisiana DNR **New Orleans Branch** President Christopher L. Sanchez, PE Stuart Consulting Group **President-Elect** Ronald L. Schumann, Jr., PE DMJM HARRISIAECOM Vice President Nathan J. Junius, PE Linfield, Hunter and Junius, Inc. Treasurer Benjamin M. (Ben) Cody, PE Eustis Engineering Company, Inc. Secretary Johann L. Palacios, PE Zehner and Associates Director Margaret S. (Meg) Adams, PE MSA Technical Services Director Reid L. Dennis, PE Sewerage and Water Board of New Orleans Past President William H. Sewell, Jr., PE Sewell Engineering Shreveport Branch President Elba U. Hamilton, EI Aillet, Fenner, Jolly and McClelland **President-Elect** Rusty L. Cooper, EI Alliance, Inc. Secretary J. Cody Goodwin, EI Alliance, Inc. Treasurer Jarred C. Corbell, EI Aillet, Fenner, Jolly and McClelland

Younger Member Sairam V. Eddanapudi, EI Professional Services Industries, Inc. Past President Ashley T. Sears, EI Aillet, Fenner, Jolly and McClelland **BRANCH TECHNICAL COMMITTEE CHAIRS Baton Rouge** Structures Danny J. Deville, PE McKee & Deville Consulting Engineers, Inc. Geotechnical Gavin P. Gautreau, PE Louisiana Transportation Research Center Environmental Stephen D. Fields, PE Water Resources Morris Sade, PE Miraj Envirotek Management Michael N. Dooley, PE Sigma Consulting Group, Inc. Pipeline Roy A. Wagenspack, PE Owen and White, Inc. Transportation P. Brian Wolshon, PE LSU Baton Rouge New Orleans Structures John J. Housey, Jr., PE Orleans Materials and Equipment Company, Inc. Geotechnical William W. Gwyn, PE Eustis Engineering Company, Inc. Environmental and Water Resources Dennis Reed New Orleans Sewerage and Water Board STUDENT CHAPTERS IN THE SECTION Presidents/Faculty Advisors LSU Matthew R. Blackwell T N

	Ayman M. Okeil, PE
La. Tech	Nathan Linhardt
	Luke Lee
McNeese	David Minton
	Janardanan (Jay) O. Uppot, PE
Southern	Brandon DeJean
	Yvette P. Weatherton, PE
Tulane	Kristin Moan
	Anthony J. Lamanna, PE
ULL	Jared A. Veazey
	Emad H Habib
UNO	Rebecca Scherer
	Gianna M. Cothern, PE

The Louisiana Section is located in ASCE Region 5 that consists of the Louisiana, Mississippi, Alabama, Georgia and Florida Sections.

President's Message

By Timothy M. Ruppert, PE

In the aftermath of Hurricane Katrina, the US Army Corps of Engineers launched into the massive effort to repair and rebuild the hurricane protection system in southeast Louisiana. Congress and the President directed the Corps to

...provide the levels of protection necessary to achieve the certification required for participation in the National Flood Insurance Program under the base flood elevations.

To be certified for insurance purposes, levees need to provide a *100-year level of protection*.

I believe that this is a mistake for two important reasons. First, the *100-year level of protection* is not appropriate as a uniform level of safety for densely populated, highly developed areas. Second, the terminology employed is easily subject to misinterpretation, giving a false sense of security to residents, that may in fact cause more harm.

The National Flood Insurance Program (NFIP) selected the so-called *100-year event* as its benchmark and uses it to establish the required Base Flood Elevation. The *100-year event* might make perfect sense from an actuarial point of view, but I am of the opinion it is woefully inadequate as a benchmark for life safety.

When we speak of the *100-year event*, it means that there is a 0.01 probability of annual exceedence or a 1 percent chance that the design capacity will be exceeded in a given year. This may appear reasonable to the layperson, but engineers and scientists know better. As years go by, the odds get worse because the probability of exceedence accumulates according to the following formula:

$$\mathbf{R} = \mathbf{1} - (\mathbf{1} - \mathbf{P}_{\mathbf{x}})^{\mathbf{n}}$$

where

R is the risk of exceeding the event in percent

 \mathbf{P}_{x} is the annual exceedence probability of the event and

n is the time period in number of years.

Given \mathbf{P}_{s} , the probability of annual exceedence, of 0.01 for a design flood event and \mathbf{n} , a time period of 30 years; \mathbf{R} , the computed risk of

Globalization/Outsourcing: (Here) ... are some things I believe: First,... The U.S.'s prosperity, security and health depend on technology created by engineers... (and) we cannot retain our security and our quality of life without a vibrant engineering workforce. Second,... a B.S. in engineering is a great preparation for a lot of careers, and "leaving engineering" is not necessarily evidence of moving to a lesser job. Third, I don't believe in a protectionist approach to solving the nation's problem of ensuring access to engineering talent... We need to think about... positive, constructive alternatives... Fourth,... managers..., if the productivity per unit cost is high enough,... will outsource, and they experiencing an event exceeding the *100-year level of protection* over the 30-year period, is a whopping 26 percent. In the long run then, we can reasonably expect fully 1/4th of the communities relying on the *100-year level of protection* to be flooded within the time span of a typical mortgage. Given the average lifespan of the population in Louisiana — 73 years — we can expect more than ½ of those living in a flood-protected area to experience a catastrophic flood event.

From the actuarial point of view of the NFIP, we might be able to justify the financial risk of building and maintaining some developments exposed to such risks. However, from a life-safety point of view, the risk would certainly be unacceptable to society — if it were properly described. The substance of my second argument against the *100-year level of protection* is that the general public does not under-

...we can reasonably expect fully 1/4th of the communities relying on the 100-year level of protection to be flooded within the time span of a typical mortgage.

stand the statistical implications of the 0.01 probability of annual exceedence. They misinterpret the *100-year* terminology to mean "once in 100 years," and we cannot fault them if they do so.

I am not the first to offer this criticism. A 1994 paper published by the Universities Council on Water Resources called the 100-year criterion "an obstacle to informed and efficient community floodplain management programs." The paper further states the standard misrepresents the risk in all NFIP flood zone classifications and leads to

...the unfortunate effect of encouraging public officials, developers, and even the general public to believe that land outside the

* Quote *

should!... The individual manager in an individual company... is not responsible for solving... (this) problem.

(The) protectionist approach advocated by some... might or might not be appropriate in the short term, but it is not a long-term solution... The long-term solution has to be to prepare our engineers to operate in this new environment..., and create an environment that will let them flourish... (To) protect current jobs will, for the long term, make us non-competitive and have the opposite of the intended effect.

- William Wulf, President

National Academy of Engineering Engineering Times 12/04



boundaries of the hazard zone, so-defined, is not subject to flood risk. Nothing could be further from the truth.

A study from the National Academies called for abandoning the use of the term *level of protection* because it is misleading. The study warns that

Perhaps the worst thing that might be done... is to create a false sense of security or to encourage people to think that any proposed project provides complete protection from flooding.

As engineers obligated and dedicated to protecting the public, we must take appropriate action to effectively inform the public concerning the safety implications in our works. From conversations with neighbors to letters and op-ed pieces in newspapers, to briefs for elected officials, engineers should speak honestly and candidly about the risks to life and property.

The ASCE External Review Panel recently issued a call-to-action letter that encourages us to "...communicate clearly to decision makers and the public how risk-cost-benefit tradeoffs will impact performance and safety." Further, engineers are urged to "...take an active role in formulating public policy and in decision-making at all levels of government."

This 10-point list, available on the ASCE website (<u>http://www.asce.org</u>), also reminds us of our obligation as engineers to place public safety first. Do we hold public safety paramount if the design of our hurricane protection system is governed by property insurance standards? Or if we use terminology that is easily misinterpreted by the public?

The conversation is started. The public needs to hear from trusted civil engineering professionals and particularly from the members of the ASCE.

About the cover: The cover image is a custom graphic developed for the Baton Rouge Branch from one of this year's Engineers Week advertisements. It will be displayed on two billboards in the Baton Rouge area during February, the month containing Engineers Week. See the Baton Rouge Branch news entry and the news article titled "Branch attracts grant" for more details.

Recent developments in Louisiana law: Study of the amendments to an engineer's friend – LRS 9:2772

By Richard E. King and Ryan M. Bourgeois Galloway, Johnson, Tompkins, Burr & Smith

Introduction

Although it can be said without hesitation that each and every one of you would love to finish your career without ever having to defend a lawsuit, the unfortunate reality is that some of you will have to defend a lawsuit someday, whether justifiable or not. This opportunity is therefore taken to either introduce you to - or remind you of - LRS (Louisiana Revised Statute) 9:2772, which may assist you in successfully defending a lawsuit. This issue is especially relevant in this unprecedented post-Katrina era where countless legal issues are emerging. This article examines LRS 9:2772, its amendments and its application in light of pertinent legislative updates and recent jurisprudence.

Statute and important definitions

LRS 9:2772. Peremptive period for actions involving deficiencies in surveying, design, supervision, or construction of immovables or improvements thereon.

A. No action, whether ex contractu, ex delicto, or otherwise, including but not limited to an action for failure to warn, to recover on a contract, or to recover damages, or otherwise arising out of an engagement of planning, construction, design, or building immovable or movable property which may include, without limitation, consultation, planning, designs, drawings, specification, investigation, evaluation, measuring, or administration related to any building, construction, demolition, or work, shall be brought against any person performing or furnishing land surveying services, as such term is defined in R.S. 37:682, including but not limited to those services preparatory to construction, or against any person performing or furnishing the design, planning, supervision, inspection, or observation of construction or the construction of immovables, or improvement to immovable property, including but not limited to a residential building contractor as defined in R.S. 37:2150.1(9):

(1)(a) More than five years after the date of reg-

istry in the mortgage office of acceptance of the work by owner.

(b) If no such acceptance is recorded within six months from the date the owner has occupied or taken possession of the improvement, in whole or in part, more than five years after the improvement has been thus occupied by the owner.

(2) If the person performing or furnishing the land surveying services, as such term is defined in R.S. 37:682, does not render the services preparatory to construction, or if the person furnishing such services or the design and planning preparatory to construction does not perform any inspection of the work, more than five years after he has completed the surveying or the design and planning with regard to actions against that person.

B. (1) The causes which are perempted within the time described above include any action:

(a) For any deficiency in the performing or furnishing of land surveying services, as such term is defined in R.S. 37:682, including but not limited to those preparatory to construction or in the design, planning, inspection, or observation of construction, or in the construction of any improvement to immovable property, including but not limited to any services provided by a residential building contractor as defined in <u>R.S.</u> <u>37:2150.1(9)</u>.

(b) For damage to property, movable or immovable, arising out of any such deficiency.

(c) For injury to the person or for wrongful death arising out of any such deficiency.

(d) Brought against a person for the action or failure to act of his employees.

(2) Deficiency, as used in this Section, includes failure to warn the owner of any dangerous or



Richard King



Ryan Bourgeois

hazardous condition, regardless of when knowledge of the danger or hazard is obtained or should have been obtained.

(3) This peremptive period shall extend to every demand, whether brought by direct action or for contribution or indemnity or by third-party practice, and whether brought by the owner or by any other person.

C. If such an injury to the property or to the person or if such a wrongful death occurs during the

Richard E. King joined the New Orleans Office of Galloway, Johnson, Tompkins, Burr and Smith in 2001. He graduated cum laude with a Bachelor of Arts Degree in Government from Western New England College in Springfield, Massachusetts in 1991, and earned his Juris Doctor from Tulane University in 1997. Before attending law school, King was a licensed property and casualty insurance agent for The Hartford Insurance. King is admitted to practice law in Louisiana, Mississippi and Massachusetts, as well as all United States District Courts in Louisiana, Mississippi, and Massachusetts and the United States Fifth Circuit Court of Appeals. He is a member of the Louisiana Bar Association, Mississippi Bar Association and The Association of Trial Lawyers of America where he is a member of the New Lawyers Division Committee on Education Programs and was the Boston, Massachusetts, 2001 Regional Co-Coordinator of the Student Mock Trial Competition.

Ryan M. Bourgeois joined the New Orleans office of Galloway, Johnson, Tompkins, Burr & Smith as an associate in 2005. He received his Bachelor of Business Administration Degree from Millsaps College in 2001 and his Juris Doctor from Loyola University of New Orleans School of Law in 2004. During law school, Bourgeois was a board member of Loyola's Moot Court program and also competed as an oralist at the John Marshall Information, Technology, and Privacy Law Moot Court Competition in Chicago, Illinois. Bourgeois is licensed to practice in all Louisiana state courts and the United States District Courts Eastern, Western, and Middle Districts of Louisiana. Since joining the firm, his practice has focused on insurance defense, subrogation, casualty/automobile liability, business formation and organization, and corporate law.

5

fifth year after the date set forth in Subsection A, an action to recover the damages thereby suffered may be brought within one year after the date of the injury, but in no event more than six years after the date set forth in Subsection A, even if the wrongful death results thereafter.

D. Actions for the causes enumerated in Sub-section B of this Section, against the persons enumerated in Sub-section A of this Section, shall prescribe by the applicable prescriptive periods established by law for such actions.

E. The peremptive period provided by this Section shall not be asserted by way of defense by a person in possession or control, as owner, lessor, tenant, or otherwise, of such an improvement at the time any deficiency in such an improvement constitutes the proximate cause of the injury, damage, or death sued upon with regard to any cause of action arising out of the alleged delict, quasi delict, or obligation of any such person arising out of his possession or control of the property.

F. Nothing in this Section shall be construed as modifying the liability or responsibility otherwise imposed by law on the owner of an immovable or the possessor, lessor or lessee of an immovable, by reason of the design, planning, supervision, inspection or observation of construction, or construction of improvements to immovable property.

G. Causes of action arising from the performing or furnishing of land surveying services, as such term is defined in <u>R.S. 37:682</u>, if not performed preparatory to construction, which exist prior to September 11, 1981, shall be perempted one year from said date or by the applicable peremptive period established by this Section, whichever is later.

H. (1) The peremptive period provided by this Section shall not apply to an action to recover on a contract or to recover damages against any person enumerated in Subsection A of this Section, whose fraud has caused the breach of contract or damages sued upon. The provisions of this Subsection shall be retroactive.

(2) In any such action in which fraud is alleged, that issue shall be decided by trial separate from and prior to the trial of any or all other issues.

(3) Fraud, as used in this Section, shall have the same meaning as provided in <u>Civil Code Article</u> 1953.

I. Nothing in this Section shall be construed as limiting or modifying the non-liability of contractors for destruction or deterioration of, or defects in, any work, as provided in <u>R.S. 9:2771</u>.

LRS 9:682. Definitions

The following words and phrases when used in this Chapter shall have the following meaning, unless the context clearly requires otherwise:

(4) "Engineer" or "professional engineer" shall mean an individual who, by reason of his special

knowledge and ability to apply the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design, acquired by an engineering education and engineering experience, is qualified to practice engineering, as evidenced by his licensure as such by the board.

(7) "Land surveyor" or "professional land surveyor" shall mean an individual who is qualified to practice land surveying, as evidenced by his licensure as such by the board.

(12)(a) "Practice of engineering" shall mean responsible professional service which may include consultation, investigation, evaluation, planning, designing, or inspection of construction in connection with any public or private utilities, structures, machines, equipment, processes, works, or projects wherein the public welfare or the safeguarding of life, health, and property is concerned or involved, when such professional service requires the application of engineering principles and the interpretation of engineering data.

(b) A person shall be construed to practice or offer to practice engineering: who practices in any discipline of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer; or who represents himself as able to perform; or who does perform any engineering service or work or any other professional service designated by the practitioner or recognized by educational authorities as engineering. The practice of engineering shall not include the work ordinarily performed by a person who himself operates or maintains machinery or equipment.

(13)(a) "Practice of land surveying" shall include the measuring of areas, land surfaces, streams, bodies of water, and swamps for correct determination and description, for the establishment, reestablishment, ascertainment, or description of land boundaries, corners, divisions, distances, and directions, the plotting and monumenting of lands and subdivisions thereof, and mapping and topographical work.

(b) A person shall be construed to practice or offer to practice land surveying who engages in land surveying and who by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a land surveyor, or who represents himself as able to perform or who does perform any land surveying service or work, or any other service designated by the practitioner which is recognized as land surveying.

Peremptive period now 5 years

LRS 9:2772 has been amended several times since its enactment in 1964 — the most recent version cited above was amended in 2003. Initially, it provided for a 10-year peremptive period for all claims based on contracts, torts, failure to warn or claims otherwise arising out of the construction or improvements to a building. In July 1999, the legislature reduced the peremptive period to 7 years, rather than 10 years, for contracts entered into after the effective date of August 15, 1999. In July 2003, the legislature further reduced the peremptive period to 5 years, rather than 7 years, for contracts entered into after the effective date of August 15, 2003.

The purpose of the peremptive statute is to prevent architects, engineers, and contractors from being indefinitely liable for past projects. It therefore limits certain causes of action relating to immovable property.1 In fact, Louisiana law indicates that peremption is prescription, but which cannot be "renounced, interrupted, or suspended."2 A peremptive statute completely destroys the previously existing right such that a cause of action no longer exists to be enforced.³ The running of the peremptive period destroys a cause of action and cannot be revived by subsequent acts.4 LRS 9:2772 sets forth the peremptive period of 5 years, running from the date of registry of acceptance by the owner or within six months of taking of possession of the improvement.5 The legislature and the courts have reasoned that after acceptance by the owner, architects and contractors no longer have access to or control over structural modification, and should be afforded the protection of the preemptive period.6

As such, if 5 years passed from any of the events described in the statute, the following causes of action would be perempted under the 2003 legislative amendment to LRS 9:2772(B):

- Claims for any deficiency in surveying services, design, planning, inspection or observation of construction, or in the construction of any improvement to immovable property, including but not limited to any services provided by a residential building contractor,
- Claims for damage to property, movable or immovable, arising out of any such deficiency,
- Claims for injury to the person or for wrongful death arising out of such deficiency, and
- Claims brought against a person for the action or failure to act of his employees.

The term deficiency, as used above, includes any failure to warn the owner of any dangerous or hazardous condition, regardless of when knowledge of when the danger or hazard was obtained or should have been obtained. This peremptive period was not to be used as a defense to delictual or contractual claims against an owner, lessor, or tenant of the building or improvement, if the improvement in question was the proximate cause of the damage or injury.

Thus, the peremptive period is now 5 years and extends to every demand, whether brought by direct action, for contribution, indemnity, or by third-party practice, and whether brought by the owner or by any other person. There is one major exception to this peremptive period: fraud (LRS 9:2772(H)(3), discussion to follow).

Commencement of peremption

LRS 9:2772 does not itself define occupancy or possession for the purposes of peremption; rather, it simply states that occupancy or possession can "be in whole or in part."⁷ As could be anticipated, the courts have placed particular emphasis on that language in determining occupancy or possession. For example, in *Lauren Plaza Ass'n*, the shopping center owner had

"taken possession" or "occupied" the shopping center when it permitted a tenant to install refrigerator equipment.⁸ The court held that commencement of the peremptive period does not hinge on whether the construction is fully or substantially completed, but rather the date when occupancy begins and possession is taken.

In *Harris*, the peremptive period for the defective design of manufacturing plants commenced upon acceptance of a tiling contract.⁹ The court noted that the peremptive period runs either from the date of registry of acceptance by the owner in the mortgage records or within 6 months of when the owner occupies or takes possession of the improvement.¹⁰ At the latest, the peremptive period runs from the moment at which the new owner of the construction places it into operation.¹¹

In *Guidry v. Sunset Recreation Club Inc.*, the court held that the applicable statutory peremptive period for an action based on a construction defect commences either on the date acceptance of construction is recorded or, if not recorded, within 6 months of the date of occupancy.¹² Moreover, the time at which the "defect in the home manifested itself or was discoverable by owners is irrelevant" to the running of the peremptive period.¹³ The court stressed that peremptive period runs or "commences from the time owners occupy or take possession of the house."¹⁴

Fraud exception

There are circumstances when the peremptive period for actions arising out of construction defects by architects, engineers, and contractors will not apply. In 1985, a Louisiana court ruled that causes of action based on allegations of fraud were outside the scope of the statute.¹⁵ The Court in *Academy* held that LRS 9:2772 "does not by its terms purport to limit every action against someone who once built a building."¹⁶ Instead, that the statute's language limits only actions which arise from deficiencies in design or construction.¹⁷ The court reasoned that "deficiency" could not be fairly interpreted to include allegedly deliberate fraudulent planning and building of a flood-prone subdivision.¹⁸

Shortly after the *Academy* decision, the legislature amended LRS 9:2772 so that claims involving fraud were specifically exempted from the statute's reach. The statute now provides:

H. (I) [t]he peremptive period provided by this Section shall not apply to an action to recover on a contract or to recover damages against any person ... whose fraud has caused the breach of contract or damages sued upon ...

Thus, in instances where a builder or contractor has acted fraudulently, the peremptive period will not apply.

Although a claim of fraud will effectively extinguish the peremption defense, a failure to warn claim is subject to peremption. In *Bunge*, the owners of a storage tank sued the builder for damages as a result of an explosion.¹⁹ The plaintiff asserted that the contractor had knowledge of hazardous conditions and failed to warn the owner. The court held that a contractor who acquires knowledge of a defect and fails to warn is not protected by the provisions of the statute. The court reasoned that the silence in those instances equates with intentional misrepresentation and, thus, falls under the fraud exceptions. By comparison, in *Vasquez v. City of New Orleans*²⁰ and *Harris*, the Courts held that failure to warn does not apply where there was no evidence the contractors knew of a design defect. Accordingly, unintentional failures to warn falls within the 5-year peremptive period while intentional failure to warn does not.

Other 2003 amendments

Part A of LRS 9:2772 was also altered during the July 2003 legislative session. Part A of LRS 9:2772 previously stated:

No action, whether ex contractu, ex delicto, or otherwise, included but not limited to an action for failure to warn, to recover on a contract, or to recover damages shall be brought against any person performing or furnishing land surveying services, including but not limited to those services preparatory to construction, or against any person furnishing the design, planning supervision, inspection, or observation of construction or the construction of immovables, or improvements to immovable property, including but not limited to a residential building contractor.

Due to the 2003 amendment, Part A of LRS 9:2772 was expanded to state the following:

No action, whether ex contractu, ex delicto, or otherwise, included but not limited to an action for failure to warn, to recover on a contract, or to recover damages, or otherwise arising out of an engagement of planning, construction, design, or building immovable or movable property which may include, without limitation, consultation, planning, designs, drawings, specification, investigation, evaluation, measuring, or administration related to any building, construction or demolition work, shall be brought against any person performing or furnishing land surveying services, including but not limited to those services preparatory to construction, or against any person furnishing the design, planning supervision, inspection, or observation of construction or the construction of immovables, or improvements to immovable property, including but not limited to a residential building contractor.

The legislative amendment in 2003 also changed Part C of LRS 9:2772. Originally, Part C stated that if injury to the property or person, including wrongful death, occurred within the 6th year after the dates set out in Section A then an action for damages could be brought within one year of the injury, but in no event more than 8 years after the date set out in Section A, even in cases of wrongful death.21 The amendment changed the stipulated period of 6 years from the date set out in Section A, to 5 years from the date set out in Section A. The amendment also mandates that while an action for damages may be brought within one year of the injury, assuming a time period within 5 years of the date set forth in Section A, it may not be brought any later than 6 years after the date set out in Section A, even in cases of wrongful death.

tive application?

In 2003, the Louisiana state legislature established a 5-year peremptive period on suits for actions involving deficiency in surveying, design, supervision, or construction or improvement to immovable property. The statute in pertinent part states that:

[n]o actions ... including but not limited to those services preparatory to construction, or against any person performing or furnishing the design, planning, supervision, inspection, or observation of construction or the construction of immovables, or improvement to immovable property ... more than five years after the date of registry in the mortgage office of acceptance of the work by owner. LRS Ann. § 9:2772 (2003).

The recent revisions, however, do not specifically address whether the peremptive period applies prospectively or retroactively; whereas, the 1999 amendment expressly stated that the 7year preemptive period was to be applied prospectively. Generally, the Louisiana Civil Code provides for the prospective application of substantive changes to the law.²² The principle of prospective application, however, allows 3 exceptions:

- laws that suppress or lessen penalties
- laws that are interpretive of existing legislation, and
- laws that the legislative expressly or impliedly declared to be retroactive.²³

In *General Motors Acceptance Corp. v. Anzelmo*, the court held that Article 8 of the Civil Code contemplates substantive laws from procedural laws or remedial laws.²⁴ Remedial laws, in absence of language showing a contrary intention will be given a retroactive effect.²⁵ A peremption statute is by its nature remedial.²⁶

Nonetheless, in Broussard, et al. v. Aviara Energy Corp. et al. the Court held that LRS 9:2772 does not apply retroactively.27 Consequently, the statute did not bar plaintiffs' claims against the defendant, and, as a result, the earlier 10-year peremptive period applied to a claim arising during the effective period of the 1997 amendment (10-year peremption), but filed after the 1999 amendment (7-year peremption). When the amendment was enacted, the legislature provided that "provisions of this Act shall give prospective application only and shall apply only to contracts entered into on or after the effective date of this Act. Section 2 of Act 1999." Once the defendant completed its work on the actuator valve, the 10-year period was in effect. The Court ruled that since the statute should be give prospective effect, the older version of the statute applied to the circumstance where, even though suit was filed the same year of the statute's amendment, the older statute applied.

Similarly, in *August v. Grand Lake Construction*, the Court held that the statutory amendment reducing the peremptive period had prospective application only.²⁸ As a result, the peremptive periods for a homeowner's action, which arose in 1994, had not yet expired when suit was filed 7 years after the contractor performed allegedly faulty work. Rather, the 10year peremptive period was held applicable.²⁹

(Continued on Page 26)

The 2003 amendments: Prospective or retroac-

After the installation of the Branch officers for the 2006-2007 administrative year in September, the Board resumed its regular meeting schedule for planning the year. The main goal identified by the Board is to provide the Branch members with high quality technical programs that will best support their continuing education needs. In addition, the Board will focus on continuing and improving the Branch's public outreach program and encouraging attendance during the Branch membership meetings.

The first Branch membership meeting for 2006-2007 administrative year was in November. Donna Sentell, the Executive Secretary of Louisiana Professional Engineering and Land Surveying (LAPELS) Board, was the guest speaker. She presented a very informative and interesting topic "LAPELS Board and Ethics for Engineers." Her presentation inspired a good turnout and the members in attendance showed great interest that was reflected in the question-and-answer session and the discussion that followed her presentation.

The program for the December Branch membership meeting featured Dee Stanley, Chief Administrative Officer of the Lafayette (cityparish) Consolidated Government, as the guest speaker. He made an excellent presentation explaining the voters' recent disapproval of a local sales tax proposal to increase the revenues for infrastructure improvements. It was another great turnout for this meeting. On behalf of the Board, I would like to thank the Branch members who attended this meeting and actively participated and demonstrated keen interest in the subject.

The Board appointed Past President Dax A. Douet, PE, to chair the Branch Public Outreach Committee. He will continue the Committee's ongoing work in developing and executing Phase II of the previously developed Public Outreach Committee program. Phase II is intended to expose junior- and senior-level high school students to the substance of civil engineering work and the career opportunities in the civil engineering profession. Dax plans to launch Phase II of the program in January with a series of scheduled presentations using the Powerpoint presentation developed as part of the Committee's Phase I work. The Powerpoint presentation was designed by the previous Public Outreach Committee under the leadership of its chair, Kenneth L. McManis, PE. On behalf of the Branch, I would particularly like to express its appreciation for the planning and effort made by the Branch Outreach Committee that led to the

timely completion of Phase I of its program during the previous administrative year.

The Branch is planning to sponsor a technical seminar to be scheduled this Spring. The technical seminar planned for the Fall of 2006 during the previous administrative year had to be cancelled due to lack of registered participants. This was apparently due to schedule conflicts with other seminars being offered and a narrow technical specialty being presented that limited the breadth of interest and participation among the Branch membership. This year's proposed Branch-sponsored seminar is being tentatively considered to be scheduled in the first or second week of April. This is to avoid a conflict with the Section's Annual Spring Meeting and Conference in March that is being hosted by the Shreveport Branch in Shreveport. The planning for the Branch-sponsored seminar is still in its early stages.

The Branch celebrated its 25th anniversary of service to its members and the civil engineering community with a renewal of its strong commitment to continue its service in the community with renewed energy to seek constructive, responsive and innovative means to further its mission.

Happy New Year!

NEW ORLEANS ______ By Christopher L. Sanchez, PE, President

As we begin a new calendar year, it's time for the Branch to kick it into high gear. The Board has set a goal to have our first normal, post-Katrina, administrative year. This will be a difficult goal to achieve considering that the typical workloads outside of our volunteer efforts in the ASCE are far greater than normal.

We are looking forward to the Branch membership meetings and luncheons over the next few months with presentations from engineers in the Branch community who will share their post-Katrina experience with their project work. This will be an excellent opportunity for us to enlarge our professional archives on lessons learned, sharpen our problem-solving talents and incidentally earn the PDHs required to maintain our engineering licensure.

The Branch Structures Institute will continue to plan and offer evening seminars on various structural topics. Simultaneously, the planning for the 2007 Louisiana Civil Engineering Conference and Show that is sponsored by the Branch, and the Louisiana Section of the American Concrete Institute; and for the 2007 Section Annual Meeting that is hosted by the Branch are now underway. The Conference is tentatively scheduled for September 13-14 with the Annual Meeting scheduled for September 14. You can look forward to attending this great Conference with an opportunity to earn up to 12 PDHs.

The Branch is continuing its outreach programs to support local high school competitions such as the science fairs and the middle school children's MathCounts competition. The Branch plans to continue to sponsor a children's booth at Jazzfest for elementary school age children.

The Branch will continue its support of the Tulane University and University of New Orleans ASCE Student Chapters. The student chapters at both universities have plans to compete in the concrete canoe and steel bridge competitions during the 2007 Deep South Regional Conference in Ruston this spring.

For you who may not be aware, the last classes of civil engineering students that will be able to graduate from Tulane are in the cycle as the Civil and Environmental Engineering Department closes due to financial issues associated with Hurricane Katrina. As a result, the Tulane University ASCE Student Chapter will cease to exist at the close of this academic year and this is the last chance for the members of the Chapter to compete in these great events.

The closing of the Tulane University Civil Engineering program is a tremendous loss to our

community and it marks the end of an era for us. The Tulane student chapter's presence in our community will be a lasting memory through its alumni who continue their practices in the Branch and through the Chapter's current members who intend to go out in grand style.

Across town, the UNO civil engineering program suffered hurricane losses that destroyed the tools used by the student chapter to construct their competition concrete canoe and steel bridge entries for the annual competitions. It had taken years of evolving experience to assemble these lost assets. The chapter will be rebuilding their tool chests from scratch as they prepare for this year's competition. Please give your support to these programs. Either choose your favorite or hedge your bets and support both of them!

The Branch leadership has a lot on its plate at this time and it can use additional member support. The Branch still has several of its traditional committee leadership positions open that need your service to help the Branch to serve your fellow members. Please help us help you and at the same time discover the rewards of service as I have. If you are interested in active service in the New Orleans Branch, please contact a Board member on line or during any Branch function.

BATON ROUGE ______ By Brant B. Richard, PE, President

Membership events

There was a membership meeting and luncheon held November 16. The guest speaker was Professor Andrew Whittle of Civil and Environmental Engineering at the Massachusetts Institute of Technology (MIT). His topic was "What caused the collapse of the Nicoll Highway in Singapore." In April 2004, this catastrophic failure of a 30-meter-deep braced excavation for the new Circle Line led to the collapse of the adjacent Nicoll Highway and 4 fatalities among the construction workers. Whittle detailed the forensic investigations that specifically addressed the underlying causes of the failure. This was a very interesting topic and the feedback from the members in attendance was that this presentation was one of the best they had attended.

The technical nature and length of this presentation qualified it as a one-hour PDH credit. It is a goal of the Board to schedule more such presentations following the luncheons of the monthly Branch membership meetings that will qualify for PDH credit. This would be value added to the Branch membership meetings that already feature an excellent meal, an opportunity to network with fellow members and an opportunity to keep informed about current Branch events and issues.

There was no regular Branch membership meeting scheduled in December. We do not normally have a Branch membership meeting in December because the Branch hosts its annual Christmas Party.

Christmas party

The annual Christmas Party was hosted December 1st at the Bocage Racquet Club in Baton Rouge. This event, typically scheduled for the first Friday of December, is basically a *thank you* to Branch members for their patronage and stewardship that contributes to its success. It is a special social event that is particularly intended to include spouses, and it is during the special time of year that brings out a broader if not a different spectrum of members. This provides the opportunity for more intensive networking and allows the younger members to more effectively interact with the seasoned, longtime members of the Branch. There were almost 100 guests in attendance including the spouses and as always a good time and great food was experienced by all.

SPAG awarded to Branch

As previously discussed, the Baton Rouge Branch through the Section was recently awarded a *State Public Affairs Grant* (SPAG) from the

(Continued on Page 10)



East elevation of West Tiger Stadium improvements viewed from the parking area.



View of Tiger Field from the bleachers of the West Tiger Stadium improvement.



View from the ground level general dining area of the staircase and the landings providing additional seating.



View of general dining area at ground level in West Tiger Stadium improvement adjacent to the stairs leading to the upper levels of the stadium.

SHREVEPORT ______ By Elba U. Hamilton, EI, President

With the beginning of a new year, I am reminded of my commitment to you, our Branch members, to finish the rest of the administrative year strongly. I am thankful for your help and support during the first half of this year and am very excited about the upcoming events that we have planned for you. I am particularly excited about the 2007 Annual Spring Meeting and Conference we are hosting this year at the Clarion Hotel in Shreveport. Please make sure to

read the information concerning the Conference in this issue and posted on the Shreveport webpage and make plans to attend.

Part of my commitment to you is to identify leaders who will continue to serve you as officers in the years to come. In April, we will elect the officers for the Branch Board of Directors to serve for the 2007-2008 administrative year. During the rest of January and all of February, the Board will be seeking nominees willing to serve the Branch. Nominations will be closed the last day in February. The names of nominees will be published and the election held as part of the business of the April membership meeting announced in the March issue of the Branch newsletter.

I would like to advise you that according to the Branch Bylaws all of the officers on the Board are subject to election each administrative

(Continued on Page 13)



Jarred Corbell delivers the goods to Providence House.



From right, Rusty Cooper, Cody Goodwin and Jarred Corbell man the registration table during Branch Chritmas Party.

(Continued from Page 9) —

national ASCE. The SPAG is part of a national program intended to selectively pass additional ASCE national membership dues back to the sections that propose and execute public affairs programs that effectively address the issues that the national organization deems consistent with its goals. The Branch proposal for the grant is to purchase high visibility billboard advertisements during the month of February in conjunction with the celebration of Engineers Week (February 18-24).

In the Baton Rouge area, there are two billboards located along the Interstate corridors that were identified and reserved for the month of February. Both billboards are owned by LAMAR — one a standard vinyl message board located on I-12 East on the left near Sherwood Forest Boulevard, and the other a high profile digital image, variable message board located on I-10 East on the right near College Drive.

The variable message board was not funded by the SPAG but it will be fully funded with approximately \$3500 of Section revenues. Because of its unusual high intensity and dynamic, variable message display that clearly distinguishes it from among the many standard billboards and clutter near the interstate right of way, the variable message board is considered the most effective in the proposal. Heavy congestion on this high volume urban segment of interstate highway slows traffic during the rush hours resulting in low speed and the added time for automobile passengers to view the entire cycle of advertisements on this sign. Also the daily passage of commuters at higher speed during the less congested periods gives them approximately 20 opportunities to pass this billboard that all together will likely expose them to the full cycle of its advertisements.

The billboard advertisement graphic designed and planned is featured on the cover of this issue. The message, *Civil Engineers Make a World of Difference* is a modification of the Engineers Week slogan with the addition of the word "Civil" to its beginning. If you are traveling east in these corridors during February, be on the lookout for these billboards and tell your fellow civil engineers to do the same. Special

thanks to Board member **Jeffrey L. Duplantis**, PE, for his leadership, hard work and dedication in developing and executing this Branch program.

Editor's Note: The October Baton Rouge Branch membership meeting was hosted by LSU Facilities Services on campus followed by a visit to the recently completed Upper West Tiger Stadium project. This was reported in the Baton Rouge Branch news entry in the November 2006 issue. The visit was documented by these late arriving photographs that did not make it into that issue.



Billboard located in Baton Rouge on I-12 near Sherwood Forest Boulevard.

STUDENT CHAPTER NEWS

SOUTHERN UNIVERSITY_ By Deirdra Boley



Deirdra Boley and Tynekia Hampton, volunteering with Habitat for Humanity, scrape paint from a Scotlandville home.



Brandon DeJean and Brandon Johnson follow applying a fresh coat of paint to the home.

Our Chapter objectives are to

• promote the academic vitality of our members,

• promote the professional development of our members and

• ensure that the chapter has a positive impact on the university, community and beyond. Last semester's activities were conducted with these objectives in mind, and the chapter enjoyed a great deal of success as a result.

Our chapter conducted a community service project in conjunction with Habitat for Humanity. An elderly woman's home was not in the best condition, so we helped to bring it back to working order. Our chapter focused on the outside. We scraped peeling paint from the walls, primed the wood and painted her home. When we arrived at the home, we could see that the owner had several physical limitations. It would have been impossible for her to perform the activities needed for proper upkeep of her home. One of our officers commented, "Having a student chapter located in a close-knit community tucked in Scotlandville allowed us to utilize our manpower and volunteer in the area." This experience helped us to appreciate what we have and how we should be thankful and give back to the community.

In support of our professional development objective, we had two major activities — attending a meeting of the Baton Rouge Branch and an Order of the Engineer induction ceremony. A few of our members attended the November Branch membership meeting and luncheon, during which there was a very informative presentation demonstrating the need for holding paramount public health, safety and welfare.

Andrew Whittle, a professor at

Massachusetts Institute of Technology, gave an in-depth evaluation of the problem that caused the catastrophic collapse of the Nicoll Highway in Singapore in 2004. The collapse occurred while a tunnel was being excavated for a nearby subway. Because the soil conditions were not properly analyzed, the bracing system was designed improperly and failed. Whittle stressed the importance of having engineers design and review projects thoroughly, as opposed to just running analyses on software without interpreting the results. His presentation provided a frightening glance into what can happen when engineers do not do all that they can to ensure the safety of the public. Engineers must always check and double check their calculations and physical construction processes for accuracy and safety.

(Continued on Page 12)

The Chapter had 2 meetings during the Fall of 2006. Dax A. Douet, PE, the past president of the Acadiana Branch, was invited as the guest speaker for the first meeting. He gave a presentation about the ASCE organization and the overall goals and activities of the different state and regional units. For the second meeting Mark Zappi, Dean of Engineering, made a presentation on Chemical oxidation priming for enhancing pollutant removal in soils by biological treatment. During both meetings, chapter president, Jared Veazey, encouraged the involvement of all Chapter members in the preparation for - and participation in — the upcoming 2007 Deep South Conference meeting and related competition to be hosted in Ruston.

The Chapter leadership met with academic and alumni advisors to discuss innovative ideas

and opportunities to increase the involvement of civil engineering students in our Chapter activities. During this meeting, there was a brief review of the Chapter's achievements over the past semester and the planned Chapter activities for the next semester were identified and outlined as follows:

• Identify students willing to serve in the Chapter's future elected leadership.

• Seek ideas and experiences from other student chapters in improving freshman and sophomore student participation in chapter activities.

• Find and select the times best suited to improve attendance during Chapter membership meetings.

• Prepare for — and participate in — the upcoming 2007 Deep South Conference.

• Prepare for — and participate in —

Engineers Week activities.

• Volunteer to help clean and maintain the civil engineering teaching laboratories.

The Chapter's officers managed an on-campus po-boy sale as a fund-raiser. Many of the civil engineering faculty and private practitioners in the civil engineering community supported the Chapter by purchasing po-boys. While the poboy sale brought some revenues into the Chapter treasury, the Chapter's leadership was successful in soliciting the additional funds from local engineering firms that were needed to balance the planned budget. The gratitude of the Chapter is hereby expressed for the outstanding support provided by the civil engineering community in the Acadiana Branch.

In November the Chapter's members participated in *Up Till Dawn* at Louisiana Tech University, to raise money for St. Jude's Hospital to support cancer research and awareness. The December Chapter membership meeting welcomed Guest Speaker Jeff Feaster from NCI Building Systems from Houston, Texas. In January the Chapter membership meeting featured a presentation by Kurt M. Nixon, PE, with Coyle Engineering of Bossier City.

We are looking forward to the remainder of the academic year that is marked by some very significant events planned by the Chapter:

 Annual Louisiana Tech Civil Engineering Banquet scheduled for February 13th will feature guest speaker William F. Marcuson III, PE, the ASCE National President. We will be honoring our outstanding students for their academic and service achievements, and presenting the Chapter's civil engineering faculty awards; the *Professor of the Year* and the *Crying Towel*.

- The Deep South Conference of ASCE student chapters is scheduled to be hosted by the Chapter in Ruston March 22nd through March 25th on Louisiana Tech University campus. For more information or if you would like to be a Conference sponsor please contact Mary Lou Schwaller, the Conference chair, at <u>chair@deepsouthconference.com</u> and check out the Conference website at <u>www.deepsouthconference.com</u>.
- The Chapter has a planned field trip in April to be hosted by the Louisiana DOTD. It is to visit the site of the Ouachita River Bridge at Sterlington on state route LA 2.
- The Chapter is planning its Hacker's Classic Golf Tournament for early May to be held on the Louisiana Tech University Golf Course. This is our annual fund raiser. Please look

for the announcements/flyers and plan to participate. For more information about the tournament, please contact Michael Rister at mcr015@latech.edu.

The Chapter is going strong led by its officers

- Nathan Linhardt, President
- Michael Rister, Vice President
- Jim Ellingburg, Treasurer
- Hailey Prince, Secretary
- Paul Will, Community Service Chair
- William Watson, Marshall
- Mary Lou Schwaller, Conference Chair
- Brittney Rojas, Conference Vice-Chair and

• Rachel Hicks, Conference Vice-Chair For more information or if you would like to meet with our student chapter, please email Nathan Linhardt at nli002@latech.edu.

(Continued from Page 11) -----



Celebration following the Order of the Engineer induction ceremonies. From left Patrick Carriere, Chair, Department of Civil and Environmental Engineering, joins the celebration with inductees David Nash, Alexis Carter, Krystal Tatney, Alexander Serrano, Brandon DeJean, Victoria McPhaul, Ineaka Carbo, Ernest Muhammad and Jacques Gilbert.

Our chapter established a link of the Order of the Engineer in 2005, and held our second induction ceremony in November 2006. The Order was established in 1970 in the United States "to foster a spirit of pride, individual integrity and responsibility in the engineering profession, to bridge the gap between training and practice and to present to the public a visible symbol identifying the engineer" (http://www.order-of-the-engineer.org/history.htm). During the ceremony, the inductees accepted the Obligation of the Engineer by pledging to uphold the integrity of the engineering profession, to use their skills to serve humanity and to conduct their business according to the highest ethical standards. They were then presented with a stainless steel ring, which is worn on the fifth finger of the writing hand as a reminder to the inductees of their obligations to society and a symbol to the public identifying the individuals as engineers.

In the midst of all of the professional and service activities, we still made time for fun! We really enjoy each other's company, so we try to get together apart from school and work as much as possible. One member even stated that this was the only organization of which she is a member that she felt was a family. Another member stated that the weekly outings helped him to relieve stress, relate better to his peers, and basically just provided a time for relaxation outside of the classroom. These activities provide just what is needed to help students complete their matriculation successfully.

Our chapter has also put on several events like a freshman-engineering mixer, which was held to shed some light on the different fields of engineering for incoming freshmen. Often times, students pick an engineering field with lit-



Chapter members take a minute to pose after a great night of bowling. From left and front are Victoria McPhaul, Jacques Gilbert, Brandon DeJean, Alexis Carter, Brandon Johnson, Tynekia Hampton, Ineaka Carbo and Alexander Serrano.

tle or no reason behind their choice. This provided them with an opportunity to make a good decision as to what field of engineering to pursue, as well as an opportunity to meet the deans of the department and associate with their peers.

As a whole, our chapter is being taught what is involved in being an engineer whether it is through questions discussed about school, a guest speaker at chapter meetings, or from actual experience in handling business affairs for our chapter. We have learned from community service the value of giving to others. A well-known quote states that there is more happiness in giving than receiving. We have definitely reaped the fruit of our labor; the pleasure resulting from seeing someone benefit in a way that will make his or her life easier, far outweighs the effort put forth to see it come about.

2007 Annual Spring Meeting and Conference

The Shreveport Branch is our host for the Section 2007 Annual Spring Meeting and Conference in Shreveport for which the registration form and the tentative agenda are published on the following 2 pages for your information and convenience. The Branch has been energetically planning a series of excellent technical sessions and other conference events as is revealed in the tentative agenda. By strategically planning the dates of the Spring Conference to overlap with the dates of the Deep South Regional Conference of student chapters being hosted by the Louisiana Tech University Student Chapter in nearby Ruston, the Branch is offering the Section members who may be interested the opportunity to attend portions of both conferences — a little lagniappe. You can find the tentative agenda for the Deep South Conference online at <u>http://deep-</u> southconference.com.

This year, the Section's website (http://www.lasce.org) provides access through its Home page to downloadable images of the Conference registration form and the tentative agenda that are published on the 2007 Conference page of the new Shreveport page (htpp://www.lasce.org/shreveport). This allowed the opening of Section-wide registration for the Conference in mid-January when the January issue of the Shreveport Branch newsletter was also published with the Conference registration form and the tentative agenda for the Shreveport Branch members.

This is the first year the Spring Conference registration form and tentative agenda have been

published online allowing the Section-wide opening of registration before this publication of The Louisiana Civil Engineer. By next year it is planned to implement a mass email facility to all Section members who maintain their current email address in the national ASCE membership database. At this time next year, these Section members will receive an email announcing the opening of registration for the Conference with the URL for the online, downloadable images of the Conference registration form and the tentative agenda. If you suspect that your contact information is out of date, you can easily update it online with the remainder of your membership information that is retained on the Society's national database.

See you in Shreveport!

(Continued from Page 10) —

year. Typically each Branch officer agrees to be nominated to the next office in the succession. In the event that there are no competing nominees, each Branch officer from the previous administrative year essentially "graduates" with the new nominee for the office of Secretary. I encourage you to seriously consider nominating yourself for Secretary. This is a great opportunity to serve the civil engineering profession and our members in north Louisiana. If you have questions concerning the position, please feel free to contact me (ehamilton@afjmc.com).

I would like to announce that the Shreveport Branch has a new webpage recently implemented on the Section website. With this asset, general information about our Branch is published and in particular the information about the 2007 Annual Spring Meeting and Conference is available on the Shreveport page (<u>http://www.lasce.org/shreveport</u>). It is also accessible from the Welcome page of the Section

Global dominance:

According to an article in the *New York Times 5/3/04* the United States is quickly losing ground in its international scientific research standing. It has fallen behind Europe and Asia in the number of doctoral degrees awarded, papers published in scientific journals, Nobel Prizes awarded, and patent citations. Globalization and increasing standards of living in other countries are given as the fundamental reasons for the shift, as foreign countries produce more scientists and foreign science students in the U.S. choose to return home. There is also the loss of intellectual capital as foreign workers in the U.S. leave to start companies in their own countries.

China is also drawing away American industrial research dollars as major U.S. firms, such as General Electric, set up research facilities in that country. The impetus is not just low costs, but also the abundance of scientists, according to Industrial Research Institute President Ross Armbrecht.

A number of political leaders and organizations in the U.S. have raised "alarms" about the website by clicking on the Shreveport Branch area of the map of the Louisiana Section.

Now that registration is open for the 2007 Annual Spring Meeting and Conference, you can download the registration form and the tentative agenda that are posted on the Shreveport page. In addition, each current issue of the Branch newsletter will be immediately posted on the website along with several previous issues. Please visit the Shreveport page and let us know your thoughts and how we can improve it as a service to you.

I would like to thank you for supporting all the activities that we organized at the end of last year, including monthly meetings, community outreach, and the Christmas party. Our November membership meeting hosted in the Association of General Contractors Building was very informative. Our own Barbara E. Featherston, PE, was the speaker. Barbara briefed those attending on the Environmental

- Observations -

situation. Is *alarm* an appropriate response? Is global scientific, military, economic, etc. dominance of the U.S. necessary? ...desirable? Would *competitiveness* be an acceptable global standing? Can the U.S. afford to resist the world finally rising out of the ashes of World War II and the third world nations emerging from poverty, ignorance and resentment often leading to terrorism? I don't think so. - *Editor*

Globalization:

The crunch resulting from the outsourcing of the production of goods and services — including engineering — by U.S. companies to foreign countries via Internet communications, the movement of their infrastructure abroad and their use of a domestic alien labor force — legal and otherwise — all at substantially lower costs may be contributing significantly to corporate profits and the aura of prosperity in the stock market. It may be at the expense of the domestic labor force, but maybe not. While U.S. companies, their captains and investors should continue to enjoy with confidence the interim prosperity from the increased Protection Agency's Long Term 2 Enhanced Surface Treatment Rule. This is a newly enacted rule that applies to all surface water treatment plants and ground water systems that are under the direct influence of surface water.

The Branch's traditional Thanksgiving canned food drive to benefit Providence House was a great success. On behalf of the Branch, I want to thank **Jarred Corbell** for organizing this event, making arrangements to collect the contributions, and personally delivering them to the Providence House. Also on behalf of the Branch, a special thanks to all the companies that participated in this event and made it possible.

The Branch hosted its second annual Christmas party at the University Club. It was truly a networking/social event where members came to enjoy the food and visit with fellow engineers. Congratulations to those who won the door prizes — gift certificates to local restaurants and stores.

profits realized from their lower cost operations, it results in the loss of domestic jobs — including engineering - across much of the economic spectrum. The resilience of the U.S. labor market due to technological innovation and business development, and the resulting job creation, has arguably kept pace with or modestly exceeded the domestic loss of jobs due to outsourcing. However, the uncertainty of job loss and creation may explain the uncertainty reported among the domestic labor force/retail consumers. As global competition stiffens and the economic conditions in those countries with the lower income workers and standards of living improve rapidly by benefitting from the outsourcing by U.S. companies, there will be a *relative* decline or slowing of the economic conditions in the U.S. until this global trend changes. While in this trend, it appears that either deflation, stagnation or a more painless slower-than-otherwise growth of the U.S. economy can be expected and the ability to create the jobs to maintain low unemployment under these conditions will become even more uncertain.

- Editor

REGISTRATION FORM 2007 Annual Spring Meeting and Conference March 22-23, 2007 Clarion Shreveport Hotel • Shreveport, Louisiana

Item	No.	Cost	Total	
<u>Registration Fees</u> [*] : Member Registration by March 1		@\$150.00	¢	
Member Registration by March 1		@\$150.00	ቅ	
Member Registration after March 1		@\$175.00	۶ <u> </u>	
Non-Member Registration by March 1		@\$160.00	\$	
Non-Member Registration after March 1		@\$175.00	\$	
Student Registration		@ \$15.00	\$	
Luncheon Admissions (Thursday and Friday):				
Conference Registrant		no charge		
General Admission Thursday Luncheon		@ \$15.00 each	\$	
General Admission Friday Luncheon		no charge	T	
Student Admission Thursday Luncheon		@ \$10.00 each	\$	
Award Banquet** Admissions (Thursdav):				
General Admission		@ \$35.00 each	\$	
Life Member honoree and a quest		no charge	т	
Award Recipient and a quest		no charge		
Student Admission		@ \$10.00 each	\$	
TOTAL PAYMENT ENCLOSED:			\$	
* Registration fee includes admission to the Thursday and Friday luncheons, the exhibits and the technical sessions.				
** Award Banquet Entrée Choices: Prime Rib of Bee	ef Au Jus	Chicken Florentine	e	
Name:	Bra	anch:		
Spouse's / Date's Name (if attending banquet of	or a lun	cheon):		
Company Name:		ASCE Member No	p:	
Address:		_ City, St, Zip:		
Phone: Fax:	E-ı	mail:		

Please make checks payable to ASCE - Shreveport Branch and mail with this form to:

ASCE - 2007 Conference Post Office Box 3994 Shreveport, LA 71133

<u>Registration and Information</u>: To register or obtain additional information, by telephone please call Elba Hamilton at 318-425-7452. To register by facsimile, send the completed registration form to Elba Hamilton at 318-425-4622.

<u>Overnight Accommodations</u>: For Conference hotel reservations, call the Clarion Shreveport Hotel at 800-321-4182 by March 1 to receive the special Conference group rate of \$76.00 per room.

Conference Agenda (Tentative) 2007 Annual Spring Meeting and Conference March 22 - 23, 2007 Shreveport, Louisiana

••• Conference Agenda Thursday, March 22, 2007 •••			
Time	Technical Session 1	Technical Session 2	
Location	Room No. 1	Room No. 2	
7:30 am - 8:30 am	Conference Registrat	tion in the Hotel Foyer	
8:00 am	Exhibit A	rea Opens	
8:00 am - 8:50 am	Water hammer and transient modeling Frank K. Smith, III Pipe Tech, Inc.	(No concurrent session scheduled)	
9:00 am - 9:50 am	Control valves Frank K. Smith, III Pipe Tech, Inc.	Trenchless Technology Research Update Michael E. Baumert Trenchless Technology Center Louisiana Tech University	
9:50 am - 10:10 am	Break in the	Exhibit Area	
10:10 am - 11:00 am	Transportation issues facing Louisiana and the United States Kam K. Movassaghi, PE C.H. Fenstermaker and Associates	Precast concrete bridge solutions Oliver S. Delery, Jr., PE Hanson Pipe and Precast	
11:10am - 12:00noon	Effective utilization of subsurface utility engineering Jeffrey Vick Gorrondona and Associates, Inc.	SafeLight / SafeSpeed Lafayette, Louisiana Tony R. Tramel, PE Lafayette Consolidated Government	
12:00 noon - 1:15 pm	Luncheon with I	Keynote Speaker	
1:30 pm - 2:20 pm	Application of activated carbon absorption and ozonation for treatment of contaminated waters Mark Zappi, PE University of Louisiana at Lafayette	Plans management at DOTD Hollis Ward Louisiana Department of Transportation and Development	
2:20 pm - 3:00 pm	Break in the Exhibit Area		
3:00 pm - 3:50 pm	Identification, modification and construction with/on expansive soils Billy R. Prochaska, PE Soil and Foundation Engineers, Inc. (Retired)	Life-Safety Code (Part 1) W.K. Matlock State Fire Marshal's Office	
4:00 pm - 4:50 pm	Soil Conservation Service curve number estimates of runoff: Hidden uncertainties and lack of scientific basis puts many practitioners in some jeopardy Steven C. McCutcheon, PE University of Georgia	Life-Safety Code (Part 2) W.K. Matlock State Fire Marshal's Office	
6:30 pm - 9:30 pm	Awards Banquet wi	th Keynote Speaker	
	••• Conference Agenda Friday, March	23, 2007 •••	
8:00 am	Exhibit A	rea Opens	
8:00 am - 8:50 am	ASCE 501 c(6) Initiative E.R. DesOrmeaux, PE and Norma J. Mattei, PE E.R. DesOrmeaux, Inc. University of N.O.	(No concurrent session scheduled)	
9:00 am - 9:50 am	Porous concrete to eliminate runoff in parking sites Aziz Saber, PE Louisiana Tech University	The role of civil engineering in coastal restoration Donald Hayes, PE University of Louisiana at Lafayette	
9:50 am - 10:00 am	Break in the	Exhibit Area	
10:10 am - 11:00 am	Treatment of wastewater from interstate rest areas Dixie M. Griffin, Jr., PE Louisiana Tech University	Thickness design jointing and reinforced concrete pavements and slabs on grade (Part 1 and Part 2) H. Rolfe Jennings, II Concrete Boinforcing Steel Justitute	
11:15 am - 12:15 pm	Ethics Bobbie E. Price, PE	Concrete Reinforcing Steel Institute	
12:15 pm - 1:30 pm	Luncheon and Section General Membership Meeting		
1:30 pm - 3:30 pm	Section Board of Directors Meeting		

Section News and Information

Highlights of the January Board of Directors meeting

President Timothy M Ruppert, PE, presented a first draft of a vision statement, mission statement and goals and objectives for the Section for the consideration of the Board. The opening discussion for the development of these statements was on the agenda of the previous Board meeting at which time they were briefly discussed without making any significant progress. To better facilitate discussion and progress in developing a vision statement, mission statement and goals and objectives for the Section, Ruppert independently authored a first draft for the Board and branches to consider.

Rather than immediately beginning to develop consensus wording, a very productive discussion ensued about the relationship between the Section and the branch governing bodies and the need for a vision statement, mission statement and goals and objectives for the Section. Considering the disparity in the perceptions of the Board members concerning the relationships, both appear to be very important issues that must be clearly understood before consensus wording can be effectively developed. Ruppert asked the branch representatives on the Board to bring the draft back to their branch boards of directors for their review and further input.

The basic *relationship* that has evolved in the wholly volunteer environment of the Section organization between the section or the branch officers; between the section and the branch boards; between the boards and their individual officers and their appointed committees is not and cannot be one of command and control. Instead, it must be founded on mutual agreement, respect and cooperation. The only practical *discipline* in this environment is and has been the exercise of effective communication, personal integrity, the power of persuasion and ultimately the replacement of the ineffective and/or uncooperative volunteer.

These basic relationships form what may described as a loose *partnership* in the Section's organizational structure. It is, therefore, only as effective as the mutual interest and personal integrity of the participating volunteers brought to bear on a mutually defined direction. Given the nature of this relationship, it clearly extends to the entire political spectrum of the Section the section and branch boards of direction, their officers, their committee members and the general membership.

It becomes more clear once the relationships are understood that the means to give flesh to the motives for — and effectively focus the energy of — the effective relationships in a volunteer organization is an *active* vision statement, mission statement and goals and objectives. To be active, their annual review becomes the primary means for the organization and its leadership to reach a meeting of the minds from which the mutual agreement, respect and cooperation of its volunteers emerge through their selection and a jointly established direction. It was observed that the Section Board has a long history of expending substantial energy in developing and approving the Section's annual budget. This is done with no predefined goals and objectives for the Section. Further, the belief was expressed that if some portion of this energy expended on the Section budget was devoted to an annual review and/or renewal of the vision statement, mission statement and goals and objectives of the Section, the budget should be much more easily developed.

Ruppert stated that his primary concern in instituting a vision statement, mission statement, and goals and objectives was to seek an effective way to select and motivate the Section leadership and to define programs that will meet important commitments. This is predicated on his desire to end what appears to be a history of erratic if not unfocused leadership and no perceptible activity among most of the Section's standing committees.

The Section regained control of its Fidelity investment accounts that have a current value of approximately \$48,000. While there was limited access to the status of the account, there was no access to the funds contained in the account for approximately 3 years. This occurred as a result of a discontinuity in the elected leadership on the Section Board. Assessing the poor experience and/or difficulty in dealing with Fidelity led to the decision to consider moving the subject assets to certificates of deposit at Whitney Bank where the Section has the remainder of its assets and its checking account. To maximize liquidity and yield of the subject funds, a strategy was considered to purchase long-term CDs in reasonable units with staggered maturity dates intended to minimize early withdrawal penalties in the event immediate access to a portion of the funds is necessary.

The purpose and the wisdom of maintaining financial assets in the Section were discussed at length. It is appreciated that the maintenance of a sufficient cash reserve is prudent in the event that substantial unanticipated expenses occur during a fiscal year that would exceed the Section's budgeted assets. Otherwise, there should be no other significant accumulation of wealth in the Section beyond meeting this need. This is because it is viewed as an inappropriate use of Section assets derived from membership dues that are intended to be expended on membership interests and services. Excess accumulated assets imply that either membership programs are inadequate or membership dues are too high.

Editor's Note: It is believed that the origin of most if not all of the \$48,000 in the investment account is not membership dues but the unspent volunteer contributions and the accrued interest in a special fund established by the Section's host committee for the last national ASCE convention in New Orleans. The funds were loosely set aside for the use of the Section in the event that another hosting opportunity for a national convention would occur. It did not occur and given the current circumstances it is not reasonable to assume that it will occur in the distant future. In the interim, about 5 years ago \$10,000 were withdrawn from this fund as seed money for a charitable event. It was not recovered and therefore it was not replaced.

The Board acted to select Robert W. Jacobsen, PE, as its representative to participate in the national ASCE Annual Leadership Training in Government Relations program held in Washington, DC. It is also known as the Congressional Fly-In.

The surplus funds of the Section were distributed to the branches in December according to established policy and in the following amounts:

- Acadiana Branch \$2854
- Baton Rouge Branch \$4491
- New Orleans Branch \$4665
- Shreveport Branch \$1536

Due to recent concerns that some of the surplus funds previously distributed may be accumulating indefinitely in some branch accounts, the branches were asked to develop and provide plans to the Section Board for the effective use of these funds. The Section acted to provide \$3500 to fund the portion of the Baton Rouge Branch State Public Affairs Grant proposal that was not funded by the grant money.

Jerome M. Klier, PE, the ASCE member of the nominating committees for the Southeast Louisiana Flood Protection Authority-East and the Southeast Louisiana Flood Protection Authority-West, presented oral and written reports to the Board concerning the recent actions of the two committees including the joint organizational meeting of the committees. A summary of the status of the committees' activities appears elsewhere in this issue.

A proposed formation of a separate political arm and organization of the ASCE to allow the ASCE to direct and expend unlimited funds in lobbying Congress is opposed by the Board. An appropriate resolution will be crafted for consideration.

The Section Nominating Committee reported that its nominations for the scheduled election of Section officers during the Annual Spring Meeting were incomplete. There were no other standing committee reports.

* Quotes *

Integrity: Integrity has no need of rules. - Albert Camus, Essayist

Communication: ... if I have made myself clear I have misspoken.

- Alan Greenspan
- Chairman of the Board of Governors of the Federal Reserve System

4SCE

Nominations and election -

The election of Section officers and directors to serve on the Section Board of Directors for the 2007-2008 administrative year is scheduled as part of the agenda for the Section Annual Spring Meeting scheduled March 23, 2007 at 12:15 pm in the Clarion Shreveport Hotel in Shreveport, Louisiana. It is in conjunction with the Section 2007 Annual Spring Meeting and Conference hosted this year by the Shreveport Branch.

Listed here is the slate of nominees that will be offered to the Section's members by the Section Nominating Committee during the Annual Spring Meeting after which nominations from the floor will be opened for the Section offices subject to election. Once the nominations from the floor are closed, the election of Section officers and directors will ensue.

The office of President will not be subject to election but to succession by the current President-Elect, E.R. DesOrmeaux, PE. Similarly, the office of Past President will not be

Branch attracts grant -

The Section was notified December 4, 2006 that it had successfully attracted a \$3680 grant from the ASCE State Public Affairs Grants (SPAG) program to partially fund a billboard advertising program with an estimated budget of \$7180. The proposed program from the Baton Rouge Branch is intended to raise the public's awareness of the civil engineering profession in the Baton Rouge region. The Louisiana Section — as is customary — will provide the additional funds to cover the Branch's budgeted amount.

Proposal

The events of August 2005 changed the face of southern Louisiana in many ways. From a civil engineering perspective, Hurricanes Katrina and Rita devastated the infrastructure of the Gulf Coast region. The perception of infrastructure failure is mostly founded in the obvious levee breaches. However, substantial infrastructure problems extend from the least visible subsurface utilities to the most visible and used roads and bridges.

The dislocation of the population in the south Louisiana region following these storm

Did you know...

...that paper-based archiving of text has a life expectancy of 500 years while the archiving of digitally created files may have a life expectancy of only 5 years? This is a result of the built-in obsolescence of digital technology through rapidly evolving computer media, languages and operating systems.

...that one project being envisioned is a trans-Atlantic — New York-to-London — neutrally buoyant, vacuum tunnel submerged 150 to 300 feet below the surface and anchored to the seabed? It would provide the means for a magnetically levitated train to reach speeds upward of 4000 mph and traversing the Atlantic in a litsubject to election but succession by the current President, Timothy M. Ruppert, PE. Two of the Directors-at-Large, Christopher G. Humphreys, PE and Dax A. Douet, PE, will continue to serve out the second year of their 2-year term and 2 Directors-at-Large will be subject to election for a 2-year term.

The 2 Assigned Branch Directors are not elected but appointed to staggered 2-year terms by the Baton Rouge and New Orleans Branch Boards of Directors. Yvette P. Weatherton, PE, will continue to serve out the second year of her term as the Assigned Director of the Baton Rouge Branch. The slate of nominees to be offered by the Section Nominating Committee is

- Ali M. Mustapha, PE, President-Elect
- Christopher P. Knotts, PE, Vice President
- Not available, Secretary-Treasurer
- C. Eric Hudson, PE, Director at Large
- Jeffrey L. Duplantis, PE, Director at Large

events led to Baton Rouge becoming the largest city in Louisiana by population. This population increase has required a complete rethinking of the perspectives and priorities in the development of the operations, design, construction and planning of the City's infrastructure. In the middle of this expedited effort is the local civil engineering community. The individuals and businesses in the civil engineering community are playing a significant role in this transformation as they have in the historical development of Baton Rouge.

As part of the Baton Rouge Branch program to improve public awareness of the civil engineering profession, an area-wide advertising program was considered. Initial research determined that one of — if not the — largest audience available was the drivers and passengers on the urban interstate system in Baton Rouge. It carries the largest volume of traffic and thereby the largest population of both local residents and travelers passing through Baton Rouge. On this basis, it is proposed that billboard advertising the most effective option — be undertaken.

tle less than an hour. Its estimated cost is between \$25 million to \$50 million per mile, and safety is an issue. Given is the premise that humans are driven to build on a grand scale requiring substantial resources and organization and provided the technology is available. When such extreme engineering projects are visualized they often give insight into the cultures that come up with them. - *Popular Science 4/04*

...that women are earning 20 percent of the engineering undergraduate degrees — the lowest percentage of women graduates in any profession — and they make up 11 percent of the engineering workforce? - *EEE Spectrum 10/04*

Section appoints Mattei

Past Section President Norma Jean Mattei, PE, was nominated December 15, 2006 by the Section Board of Directors to be reappointed to serve a full 3-year term as the Section's Region 5 Governor. Mattei had been previously appointed by the Section Board to serve a 1-year transition term as the first Louisiana Section Governor to serve on the newly established ASCE Region 5 Board of Governors and she expressed interest in continuing as the Section's Governor for a full 3-year term. The ASCE Regions are the results of a constitutionally adopted plan of governance that replaces the ASCE Districts and Zones to reorganize and separate the governance of the technical institutes, sections and branches from that of the national ASCE.

Correction



Yvette P. Weatherton

The roster for — and presentation of — the new Section officers published in the November issue incorrectly indicated that André M. Rodrigue, PE, was serving in two positions on the Section Board of Directors - a Director-at-Large and the Assigned Director for the Baton Rouge Branch. André was elected to serve as a Director-at-Large. However, Yvette P. Weatherton, PE was appointed by the Baton Rouge Branch Board of Directors to serve as its Assigned Director — a 2-year term. Yvette also serves as the student chapter correspondent for this journal, the Faculty Advisor for the Southern University Student Chapter and she is the Chair of the Section's Younger Member Committee.

* Quotes *

Globalization: Globalization — more than terrorism, the end of the Cold War or any other phenomenon — represents the dominant change in world affairs.

- Fred Bergsten, Director

Institute for International Economics

Levee board appoinments

Baton Rouge dateline 12/31/06 — Governor Blanco appoints members to new consolidated levee board and submits the names of the appointees to the office of the Attorney General to ensure they meet statutory requirements.

Louisiana's statutory levee reform moved forward today with the Governor's tentative appointment of the members to the Southeast Louisiana Flood Protection Authority - East. This expeditious implementation is the result of Act 1 of the First Special Session in February 2006 to reform and consolidate New Orleans region levee boards in combination with Amendment 3 to the State Constitution overwhelmingly approved by Louisiana voters in September 2006. This created the Southeast Louisiana Flood Protection Authority - East. and the Southeast Louisiana Flood Protection Authority - West.

The membership of the new levee board will by law consist of several "professional" appointees schooled in the necessary technologies to effectively manage the hurricane flood protection systems in south Louisiana. Largely touted to "take the politics out of flood protection," the new boards unlike the ones they replace are expected to devote their attention and the resources available to effective flood protection measures that are focused on the safety of the homes and communities affected.

The members of the levee boards are nominated by a committee whose members consist of appointees from statutorily designated organizations representing a cross section of pertinent academic, professional and civic entities of which the ASCE is one. The ASCE appointment to the committee is Louisiana Section member, Jerome M. Klier, PE. The nominations made by this committee are submitted to the Governor to

be considered for appointment and then to the Senate to be considered for confirmation.

To reasonably assure that the new board would be in place by January 2007, the first meeting of the nominating committee with a statutory deadline of January 30 was pushed up to December 25. The nominating committee was expected to send the Governor the list of candidates according to this shortened time line. After a review of the candidates submitted by the nominating committee, the Governor tentatively appointed the following nominees to the Southeast Louisiana Flood Protection Authority - East:

Category 1, engineers or professionals in a related field - 5 members including 1 civil engineer and 1 hydrologist or geologist

- Louis Wittie, civil engineer, Hammond
- Larry McKee, civil engineer, Baton Rouge
- George Losonsky, geologist, Baton Rouge Stradford Goins, civil engineer, Poplarville,
- Mississippi a Louisiana graduate who works in Louisiana.

Before appointing the 5th member to the board in this category, the Governor is seeking the opinion from the office of the Attorney General as to the acceptability of these 4 appointees.

Category 2, other professionals - 3 members including 1 who is either a resident of St. Charles Parish or St. John the Baptist Parish located on the east side of the Mississippi River

- Dave Barnes, meteorologist, Slidell
- Timothy Doody, Certified Public Accountant, Arabi
- Abril Sutherland, attorney, LaPlace

Category 3, at-large — 3 members including 1 who is either a resident of St. Charles Parish or St. John the Baptist Parish located on the east side of the Mississippi River

Hammett appointed secretary

Section member and former State Representative Bryant O. Hammett, Jr., PE, has been appointed by Governor Kathleen Blanco as Secretary of the Louisiana Department of Wildlife and Fisheries replacing Dwight Landreneau who resigned in August this year. This is following Hammett's recent service on the Governor's disaster recovery team where he led efforts to restore state and local government infrastructure compromised by Hurricanes Katrina and Rita. He had resigned his seat in the House to accept the position in the Office of Community Development in the Louisiana Division of Administration from where he was leading the \$15 billion infrastructure restoration effort.

Hammett, a civil engineer and an environmental engineer licensed in Louisiana and the owner of the engineering firm, Bryant Hammett and Associates in Ferriday, accepted the office of Secretary September 30th, and he is scheduled to begin in service December 4th. As a member of the Louisiana House of Representatives, Hammett served on the Natural Resources

Committee and was the chair of the Ways and Means Committee. He also chaired the House's Rural Caucus.



Bryant Hammett

John Barry, author, New Orleans

• Tom Jackson, engineering consultant, Metairie

Sara Lee St. Vincent, chemical engineer, Destrehan

The law requires that the appointments for the Southeast Louisiana Flood Protection Authority - East shall include no more than 1 person from each of the 7 parishes it represents St. Bernard

- Orleans
- •
- St. Tammany
- St. John the Baptist
- St. Charles
- Jefferson and
- Tangipohoa

An organizational meeting of the board is planned for sometime in January 2007.

Preparations are under way to nominate and appoint the members to the Southeast Louisiana Flood Protection Authority - West. However, there are questions regarding the residency requirements for the appointments to this board. As a result, the Governor has requested an opinion from the office of the Attorney General in advance of plans that will proceed once this question is resolved. In the interim the Western levee district and staff will remain in place and continue operations until the new board is in place.



4SCE

- Career Benchmarks -

Section member **Charles R. Turner**, PE, recently earned his professional engineering license in Louisiana. If you are in contact with him, please offer your congratulations on his accomplishment.

Louisiana residents Jules M. Darden, PE, Jeffrey J. Falati, PE, Heather L. Fontenot, PE, Bradford N. Frischhertz, PE, Timothy B. Hassenboehler, PE and, Kent J. LeBlanc, PE, recently earned their professional engineering license in Louisiana and they are not members of the ASCE. A copy of this issue of the journal is sent to them as an informal introduction to the Section. If any of them wish to join and/or find out more about the ASCE, they are hereby invited to visit the ASCE national website, <u>http://www.asce.org</u>. If you are in contact with any of these engineers, please consider formally introducing them to the Section by inviting them to attend a branch meeting as your guest.

Governor Blanco tentatively appointed the members to the Southeast Louisiana Flood Protection Authority - East subject to the approval of the office of the Attorney General and confirmation by the State Senate. For more details, see the article in this issue. Among the appointees are Larry A. McKee, PE, of Baton Rouge and Thomas L. Jackson, PE, of New Orleans who are both members of the ASCE Louisiana Section. Also appointed were civil engineers Louis E. Wittie, PE, of Hammond, Louisiana, and Stradford A. Goins, PE, of Poplarville, Mississippi. All of the appointees are licensed civil engineers in Louisiana. Tom Jackson was elected president of the Authority during its inaugural meeting.

Thomas L. Jackson, PE retired as Senior Vice President and Chief Engineer for DMJM HARRIS | AECOM after 46 years' engineering experience in master planning, design and construction management applied to a broad variety of civil engineering work. Jackson earned his BS and ME from Tulane University, and he is a licensed engineer in Louisiana and several other states. Jackson, a member of the ASCE, has

Kyle C. Jones dies

Kyle Curtis Jones, PE, died December 1, 2006 at the age of 50. He was the Deputy Director of Port Development for the Port of New Orleans where he had been employed for the past 17 years. Prior to joining the Port, Jones served as a project engineer for the New Orleans consulting firms of Linfield, Hunter and Junius, and N-Y Associates. His expertise was in civil, structural, port, and transportation engineering. Jones was a licensed engineer in Louisiana. Most recently he served as the senior project manager for the Erato Street Cruise Terminal and the Napoleon Avenue Container Terminal projects.

Jones earned his BS in Civil Engineering from the University of New Orleans and was a graduate of the International Program for Port Planning and Management. He received two commendations from the United States government for his work with the damage assessment teams of ports in Haiti, Honduras, and Nicaragua



Thomas L. Jackson



Larry A. McKee

extensive service on its committees and in its elective offices at the local and national levels including a term as its national President. He also holds memberships in the Louisiana Engineering Society, the National Society of Professional Engineers, National Academy of Water Resources Engineers, the Society of Tulane Engineers and other organizations. Jackson is the recipient of several awards including the ASCE William H. Wisley American Civil Engineer Award recognizing his outstanding practice and service.

Larry A. McKee, PE, is currently President of L. Abraham McKee Engineers and Contractors Inc. Of his 48 years of engineering experience, 27 were with Professional Engineering Consultants Corporation, the firm he established. McKee earned his BS from LSU, and he is a licensed engineer in Louisiana and several other states. McKee's experience is over a broad range of engineering practice in project development and he has served as the engineer in charge of major municipal and federal projects. His experience includes highway design, water and wastewater facilities, flood control structures, aerial mapping, raw water intake and transmission facilities, water treatment and distribution facilities, sewage collection, pumping and treatment facilities, environmental impact statements and flood studies. McKee has been an active member of the ASCE, the Louisiana Engineering Society, the National Society of Professional Engineers, the American Consulting Engineers Council. He has served in the elected leadership of most of them. He was appointed to serve a term on the Louisiana State Board of Registration for Professional Engineers and Land Surveyors. (Continued on page 20)

Editor's note: There are three disciplines that are licensed by the Louisiana Professional Engineering and Land Surveying Board and that may be considered closely related to civil engineering. They are the environmental, structural and architectural engineering disciplines. As of June 2006, the active engineering licenses conferred by the Board were approximately 5937 in civil, 741 in environmental, 58 in structural and 8 in architectural.



Kyle C. Jones

in the aftermath following their hurricane devastation.

Jones was a member of the ASCE, the Society of American Military Engineers, and the American Society of Testing and Materials where he served on the Marine/Waterfront Task Group for Plastic Composite Fender Systems. He was a past member of the Advisory Board for the Civil and Environmental Engineering Department at the University of New Orleans, and was recognized with the Outstanding Government Civil Engineer for 2001 by the ASCE New Orleans Branch.

A scholarship fund is being established in Jones' name for civil engineering students attending the University of New Orleans. Those interested in obtaining information about the scholarship fund or making a contribution to it may contact Deborah D. Keller, Director of Port Development, at kellerd@portno.com.

Membership

By James C. Porter, PE

Thriving on neglect

In recent memory, there has been no apparent interest, initiative or effort expended on an active membership function at the Section level in terms of formally recruiting, retaining, promoting; developing ASCE Section membership. Does this mean it is not important? I believe that membership in the ASCE can be very important to the quality of the professional life of every civil engineer in the profession. The Louisiana Section and its members are a microcosm of the national organization to which the same premise can be made. These membership functions are in the context of regularly communicating with the rank-and-file members and potential members through personal contacts - written and face-to-face. I believe that they are most important in promoting and developing community through - and the perceived and substantive worth of — the ASCE membership among Section members and the civil engineers resident in the Section who may not be ASCE members.

The Section indirectly promotes these very issues through member services in the context of offering technical seminars in conjunction with branch and Section-sponsored membership meetings, special seminars and conferences. General communications through branch newsletters and this journal also regularly but again indirectly promote the same issues. Simply stated, the Section and its branches to various degrees are effectively "walking the walk" but not "talking the talk." Is it fair to say that the more important thing is being done? I suggest the answer is, No! I believe the one effort is no more and no less important than the other in the effective development and the quality of the professional life that the ASCE contributes to the civil engineering community in Louisiana

What functions are missing? The mushy, silly, personal relationship thing ...

- actively recruiting new ASCE members
- actively encouraging ASCE members to • maintain and advance their membership
- proactively soliciting interest and participation in ASCE service and functions
- developing and testing new opportunities to expand member participation
- etcetera, etcetera, etcetera....

The most poignant relationship analogy that I can clearly draw from would be parenting. If, for example, certain parents would choose for one to stay at home to raise their child and both exercise all of the nuturing, devotion, caring and loving they can reasonably provide in attending to their child's needs for

- nourishment
- affection
- health
- education
- etcetera, etcetera, etcetera....

Suppose all of these loving and caring services are effectively rendered save one... Simply saying to their child the obvious and reassuring words, "I love you." Will this make a difference





in their relationship with their child ... in the quality of their child's and their family's life? I believe so.

Are not we in the Section's leadership elected or otherwise — in a similar way neglect-ing our professional — rather than family relationships and thereby ill serving the quality of the professional lives in our community? Are we not talking-the-talk - professionally nurturing each other and thereby forming a more cohesive professional community. Are we not ignoring our rank-and-file members and essentially treating each other with an indifference to the extent that an ASCE member cannot tell he/she is a member except for an annual dues statement? Considering the effort it takes to plan and execute the technical seminars or conferences. I believe that given the same priority and focus on formal membership development, the effort needed for an effective program would be very small by comparison.

Who are we?

Part of who we are as a Section of the ASCE may be characterized by the distribution of our members by age. The distribution can - but not necessarily will - provide inferences over time about what may be

- the unique needs of the Section's members
- the effectiveness of the mushy silly things we do to promote membership
- the varying size of the population of civil engineers from which the ASCE draws
- the receptiveness of civil engineers to become ASCE members and
- the effectiveness of the Section's member services, recruiting; retention for examples.

Take a look at the distribution chart of the Section's membership by age developed from a recent Section membership database. What message do you get considering that the Section is and has been essentially in a do-nothing mode relative to membership development?

(Continued from Page 19) -

Fenstermaker and Associates C.H. announces that two of its employees, Karim Kheiashy, PE, and David J. Girouard, PE, have



Karim Kheiashy

recently earned their licenses to practice engineering in Louisiana.



David J. Girouard

Call for investigation of levee failures _

A New Orleans-based group, Levees.Org, started a petition drive calling on the 110th Congress to launch a 9-11 commission-style investigation into the failure of the levees of the flood protection system in the New Orleans region during Hurricane Katrina. The proposed commission is being referred to as the 8-29 commission referencing the date Hurricane Katrina struck the Gulf Coast. The group posted an online petition on its website <u>www.Levees.Org</u> and to accommodate those without Internet access, hard copy petitions are available at locations throughout the New Orleans region. The petition logged over 500 signatures in the first few hours.

The proposal has garnered support from both Republicans and Democrats in the Louisiana congressional delegation. Sen. Mary Landrieu D-LA has adopted the idea and is moving forward with it. Sandy Rosenthal, the founder and executive director of Levees.Org, stated that "On November 30, which happened to be the closing day of the 2006 hurricane season, my colleagues and I conferred with Sen. May Landrieu. She felt an 8-29 commission is a feasible initiative in the 110th Congress."

Rep. Bobby Jindal R-LA, who represents part of the storm-devastated region, has expressed vocal support. Other members of Congress who have publicly expressed support of the goals of Levees.Org include Senator Russ Feingold D-WI, Senator David Vitter R-LA, Representative Richard Baker R-LA and Representative Charlie Melancon D-LA.

* Quote *

Education: Why do Americans do so badly on international educational (testing) comparisons and yet support an advanced economy?... One reason U.S. students (in the school system) rank low globally is that many do not work hard.... The American learning system has, I think, two big virtues. First, it provides second chances... Second, it is job-oriented... Up to a point... this system is hugely wasteful... teaching kids in college what they should have learned in high school - and in graduate school what they might have learned in college... (The legitimate objection that it is hugely wasteful misses) the larger point: The American learning system accommodates people's ambitions and energies when they emerge... This fragmented and mostly unplanned learning system compares favorably to other countries' more controlled governmental systems... (and) partially explains how a society of certified dummies consistently outperforms the (expectation of the) test scores... In the 1830s, Alexis de Tocqueville observed Americans are addicted to practical, not abstract, knowledge. That is still true.

- Robert J. Samuelson, Columnist The Advocate 9/6/06 The stated mission of the nonprofit grassroots group is to "...hold the U.S. Army Corps of Engineers accountable for its work..." alleging that the investigation conducted by the Interagency Performance Evaluation Taskforce and led by the Corps is "inadequate." It is contended that since the Corps is the sole agency responsible for the design, construction and performance of Greater New Orleans flood protection system, the Corps-led investigation represents a conflict of interest because the Corps was essentially in charge of investigating itself.

Additionally, since the report of the findings of the Corps-led investigation was released June 1, 2006, three independent levee investigation teams

- National Science Foundation/U.C. Berkeley
- National Academy of Engineering and

• Team Louisiana have criticized the report as being incomplete and technically inaccurate. Despite this criticism, it is alleged that the potentially flawed findings of the Corps-led investigation are being used as a basis to repair and fortify the south Louisiana flood protection system that is intended to protect the lives and property of 1.5 million people.

"Clearly, a fresh analysis is needed to assure that critical vulnerabilities in the levee system are addressed and all possible opportunities for improvement are considered," says Rosenthal. She adds that, "Taxpayers need a full return on the investment dollars that Congress authorizes and the citizens of south Louisiana need the best protection possible."

A related issue being pressed in the courts concerns the scope of the flood exclusion in insurance policies. The flood, if not from a storm event that exceeds the presumed capacity of the levees, may be from the premature breaching of the levees during a lesser event. The issue is, does the flood exclusion in the insurance policies

(Continued on Page 22)

_	– Calendar of Events –	
March 14-16, 2007	ASCE Seminar * Structural Design of Buildings and Industrial Facilities for Bomb Blast Loads and Accidental Explosions, Houston, Texas.	
March 15-16, 2007	ASCE Seminar * Low Impact Development, New Orleans.	
March 15-16, 2007	ASCE Seminar * Design of Metal Buildings: Avoid Pitfalls in Specifying and Procuring, Atlanta, Georgia.	
March 21-23, 2007	ASCE Seminar * Structural Vibration Analysis, Design and Troubleshooting, Houston, Texas.	
March 21-23, 2007	ASCE Seminar * Streambank Stabilization for Restoration and Flood Control Projects, Atlanta, Georgia.	
March 22-23, 2007	ASCE Seminar * Structural Design of Residential Buildings Using the 2003 International Residential Code, Memphis, Tennessee.	
March 22-23, 2007	Louisiana Section Annual Spring Meeting and Conference, Shreveport.	
March 23-24, 2007	Deep South Conference of ASCE student chapters meet- ing hosted by Louisiana Tech University, Ruston, Louisiana.	
March 29-30, 2007	ASCE Seminar * Progressive Collapse Mitigation: Practical Analysis Methods and Proven Solutions, Atlanta, Georgia.	
March 29-30, 2007	ASCE Seminar * Low Impact Development Applications for Water Resource Management, New Orleans.	
March 29-30, 2007	ASCE Seminar * Preparation of Contract Documents and Specifications for Engineers and Technical Staff Members, Texas.	
March 29-30, 2007	ASCE Seminar * Probabilistic Design, Orlando, Florida.	
April 9-12, 2007	Association of State Flood Plain Managers workshop on mitigating gulf coast flooding "MissionMitigation" New Orleans. For more information go to www.floods.org.	
May 13-17, 2007	ASCE Conference * Coastal Sediments, New Orleans.	
*For more information, call ASCE toll free at (800)548-2723 or visit the ASCE web- site: <u>www.asce.org</u> .		
For the schedule and registration for the ASCE webinar continuing education reg- ularly offered: Visit the ASCE website / continuing education / distance learning / live interactive web seminars.		

Newlywed finance: What to think about before the wedding

By Thomas R. Thurmond

When your beautiful wedding and honeymoon are over and real life together has begun, you will be much happier if you have put effort into planning the marriage of your finances.

Two people — one team

Presumably you are marrying someone who shares your values and goals. But it is also important to know how compatible you are in matters of finance. Let us say your joint goal is to save a lot of money. Ask each other why? One of you may value security, while the other values status.

Consider that when you wed you are also uniting 2 opinions about money, 2 patterns of managing money, and 2 family backgrounds with differing assets, attitudes and assumptions about money. How you grew up and even where you grew up has a huge impact on forming your financial habits and feelings. How you manage your finances can get tangled up with emotional complexities driven by love, power, envy, status, family, selfishness and fear.

Agreeing on goals — building a life

Counselors say that 75 to 80 percent of marriages that break up do so over money issues. Long before the wedding, take time alone with each other to ask yourselves some hard questions. If avoided or left unanswered, these questions might reappear in unnecessary conflicts later.

You can begin by noting the similarities and differences of each of your parents' attitudes toward money. For example

- Are your parents cautious about debt?
- Do they fight over money?
- Do they donate to charity?

•

- Do they save and set aside money for vacations?Do they have money secrets?
- Have they had financial problems for a long time?
- Do they keep separate checking and investment accounts?
- Do they pay bills on time?
- Is one of them a spender and the other a saver?
- Do they use money to control or punish one another?

Honestly answering these questions will uncover surprising differences and help start discussions between the 2 of you about your own feelings and ideas.

Common sense — committed discipline Take heart. Financial problems can be

Take heart. Financial problems can be avoided with some common sense and committed discipline.

- Find the courage to continue communicating transparently and patiently about money.
- A budget is a necessity, not an option. Make it simple and do it together. You must know where your money is coming from and where it is going. Monitoring your cash flow is critical, so that you do not lose control of your expenses and accounts. Software pro-

grams are available, although a notebook and pencil can work just as well. A budget is a road map to help you achieve your goals. Be open to changing your budget as your goals, priorities and family change.

- File, do not pile. Establish a simple method of record keeping and filing. You need folders for taxes, debt, credit cards, 401(k) or IRA, investments and so on.
- Decide who is in charge of what. Division of labor gives each spouse a valuable role to play and helps ensure teamwork. Regardless of who pays the bills, both partners should have ready access to the billing records and review the budget together monthly.
- Establish how you will use credit and debit cards. One person may consistently pay the full balance every month and the other may pay only the minimum and seem unbothered by interest and late fees. Look at each other's credit reports together. Did one of you bring debt to the union and the other bring assets? Work out your plan for handling this now, not later.
- Set aside an emergency fund of at least 6 months' expenses and decide at the beginning what constitutes an emergency.
- Make personal savings a fixed item in your budget. Contribute what you reasonably can to your 401(k) at work, especially if your employer matches part of your contribution. What you keep is more important than what you make. Your best opportunity for a financially secure life rests on what you do now, at an early age. Every dollar saved and invested is money working for you.
- Discuss and agree on the basics. For example, do you want to take advantage of direct deposit for your paychecks? How much insurance do you need? How do you want to finance and manage your mortgage?
- Beware of get-rich-quick shortcuts like hot stock tips or promises of easy money. If you

(Continued from Page 21) -

have questions, get professional advice in managing your money and building your future.

Remember that money is a means to an end, not an end in itself. Find out what your financial *values* are for each of you so that you can set compatible goals. Be brave enough not to hide money matters from your partner and learn to forgive. Encouraging each other and holding one another accountable will deepen and strengthen your relationship. A team of 2 who truly partner together have a powerful opportunity to build wealth and a wonderful life over the years. There is too much at stake to not get professional advice in managing your money and building your future.

Thomas R. Thurmond, Senior Vice President, Wealth Advisor with Morgan Stanley in New Orleans, Louisiana. He may be contacted by email at thomas.thurmond@morganstanley.com or by telephone at (504)587-9669 or (800)659-0009. Any particular investment should be analyzed based on its terms and risks as they may relate to your circumstances and objectives. Information and data in this article were obtained from sources considered reliable and published for general information and educational purposes. Their accuracy or completeness is not guaranteed and the giving of the same is not an offer or solicitation to sell or buy any securities or commodities or participate in any trading strategy. Investments and services are offered through Morgan Stanley DW Inc., member SIPC. Morgan Stanley does not render advice on tax or tax-accounting matters to clients. This material was not intended or written to be used, and it cannot be used by any taxpayer, for the purpose of avoiding penalties that may be imposed on the taxpayer under U.S. federal tax laws. Consult your tax or legal advisers before making any tax- or law-related investment decisions.

apply only to flooding from a *natural* event exceeding that which was anticipated and engineered for rather than a *manmade* event resulting from the premature failure of the engineered flood protection system during a lesser event.

Editor's Note: Most of this article was extracted from randomly selected Internet spam and the Levees. Org website. It is not intended to represent what I believe is an informed source for representing the engineering issues and the relationship between the various investigative sources into the Hurricane Katrina-related flooding. It is, however, intended to represent the disparity between what I believe are the "informed" realities circulating in the engineering community and what is circulating in some segments of the lay public and among our politicians. Portraying what I thought was criticism between various independent/dependent investigative authorities working in "partnership" and doing what partners do to solve complex

problems is interpreted as evidence of possible incompetence and misfeasance. It demonstrates the chronic public relations problem from which the engineering profession suffers. It seems that 99.9... percent of the time engineered facilities are constructed and perform reasonably well over their expected service lives. This is the way it is supposed to be and it goes without notice or appreciation. There is no "good" press for the exemplary service of a profession so well remunerated for it. However, when a catastrophic failure occurs — particularly when it takes lives and culpability can be attributed to the engineering - there is plenty of "bad" press to go around as well it should be when it is responsible and authoritative. This is a conundrum engineers have yet to master, if it can be mastered. The 8-29 commission being considered can benefit the engineering profession if the politicians can be guided past their primary instinct to pillory each other and appear regal at the same time.

4SCE

Editor's Journal By James C. Porter, PE Information technology-

Peter M. Curtis, associate professor of facilities operations and management at New York Institute of Technology, discusses the evolution of a problem for which civil engineers would do well to pay attention to his concerns. The problem is the effective operations of *mission critical facilities* or facilities that are required to operate continuously. Until recently, the gains in facility and equipment (such as electrical and mechanical) enhancement were mostly through design and manufacturing research resulting in improved efficiency and reliability. All was well until the *mission critical workforce* recently began changing in character.

Employee turnover precipitated by the loss of the paternalistic attitude of business toward employees and the corresponding loss of employee loyalty has decimated the ranks of long-term employees who have decades of often parallel experience in the same area. With the previous large body of similarly experienced employees, there was little emphasis on — or need for — formal documentation and training.

The greatly improved equipment efficiency and reliability through improved technology resulted in proportionately more maintenance

Changing the face of the ASCE –

In my estimate, the ASCE has been a moderate success as a technical society and a moderate failure as a *political* (sometimes misrepresented as *professional*) society in serving the breadth of the interest of its membership. Now it appears that the ASCE aspires to emulate its ne'er-dowell cousin, the National Society of Professional Engineers, by following its formula to mediocrity and stagnation. The basic formula is to become politically more active.

In mid-2005, ASCE's Board of Direction created a Task Force on Political Involvement to examine the Society's involvement in political activities, both current and future endeavors. During the past year the Task Force has evaluated our current activities and also looked at ways to increase the Society's public policy and political involvement. The Task Force is preparing to recommend to the Board the establishment of a parallel 501(c)6 organization, thus allowing increased lobbying and political activity on behalf of the membership of ASCE.

This effort may have begun by the ASCE hiring an expert — an ex-NSPE staffer as its Executive Director — intentionally or unintentionally to lead it into becoming NSPE's evil twin. This will be done by enabling the ASCE to expend considerably more resources to serve the political interests not of the ASCE general membership but of the same narrow and powerful segment in the NSPE — the engineers in private practice. If this happens, I believe that it will be — as it already is with the NSPE — to the detriment of many ASCE members and more imporand operation lapses caused more often by human error. This was compounded by the inadequate experience and training of the larger population of short-term employees and/or their lack of access to accurate data and information applicable to an effective response to crisis situations.

It was recognized that there is a significant loss of intellectual assets in terms of the investment in knowledge and skills that leaves with the experienced employees and it does not usually return with the new, inexperienced employees. To compensate for this loss, *mission critical* engineers now realize the needs to

- organize system information
- document critical data
- · establish effective education methods and

• train new *mission critical employees*. These needs are exacerbated by the increased complexities in the advanced *mission critical technology*, the little emphasis that is placed on *mission critical systems* management and the specialization of mission critical engineers that hampers their communications and mobility.

Mission critical employees need to effectively share knowledge (information and experience) by establishing an accessible, common and comprehensive knowledge base. Online technology provides instant access to information worldwide and browser technology provides accessibility and dependability while reducing reliance of paper documentation, training and obstructions to effectiveness.

Having developed professionally in an organization side-by-side with many experienced, long-term employees and gaining some degree of experience myself, I am not confident that easy accessibility to critical data by - and training of - inexperienced, short-term employees is immediately equivalent to the experience of long-term employees. I believe that there will remain missing the intuition and critical thinking gained through experience because they do not develop overnight. This intuition often aids in extending knowledge and it is more likely to inspire an effective response to an unanticipated or undocumented crisis situation. However, the methods intended to compensate for the lack of experience may well serve as the means to more rapidly and desirably facilitate the process of gaining experience.

tantly potential members. The chief assumption appears to be that the ASCE members who will be abused by ASCE's expanded political activities are *stupid* and will continue to blindly support the ASCE with their dues. As the ASCE begins as it has in the past to more effectively act on behalf of the political interest of a narrow part of its membership but with substantially more resources, I believe that there will be a "realignment" in its membership between those served and those abused.

This strategy has worked well for the NSPE — the professional society — by attracting mostly the constituency that is served by its narrow political aims. The NSPE has a \$6 million budget with 50,000 members who are either attracted to — or are not concerned about — its political aims and who are recruited from the total population of 1.45 million professional engineers in the United States. This compares to the ASCE — a technical society — that has a \$50 million budget with 139,000 members recruited from among the population of 0.24 million civil engineers.

If the ASCE is successful in emulating the NSPE's formula for successful stagnation and decline as a professional society, I believe that its membership will prove to be no more stupid than the larger population of professional engineers that opts out of the NSPE. If so, the ASCE may move toward a lower bound of a national budget near \$3 million and a membership of around 9,000 that is attracted more or less to its narrow political aims. This may be modified upward if the ASCE's technical services can remain attractive enough to overcome its political alienation

of a large segment of its membership and it does not give rise to competing societies that effectively and exclusively serve the technical interest of civil engineers who are otherwise politically disenfranchised by the ASCE.

Two-faced positions like favoring the indiscriminate outsourcing of all in-house government engineering services to private practice services because they allegedly cost less and opposing the outsourcing of all private practice services overseas because they do cost less except when the services are not domestically available does not ingratiate me to the ASCE or the NSPE as an engineer in government service. I believe that the ASCE leadership suffers a major disconnect in logic by claiming not to understand the consequences of overtly supporting the political interests of engineers in private practice in California with \$100,000s - a lower than expected portion of engineers in government among their membership. If the ASCE proceeds to marginalize itself as the NSPE has in service to something other than the whole civil engineering profession, it may boil down to who really may turn out to be stupid.

Did you know...

...that more than 1400 documented technologies have benefitted American industry from the research and development driven by the NASA over its last 30 years in existence? It has also produced 1000s of spinoff benefits in areas like national security, economy and productivity.

Professional relationships/obligations -

There have been questions raised recently about the professional relationship/obligation that news reporters have to their news organization/employer in light of the Valerie Plame "affair" and the part the news media played in publically leaking her CIA undercover identity. This discussion seems to hinge on the incarceration of Judith Miller, a *New York Times* writer, for contempt of court for failing to reveal her confidential sources in this news story. Public criticism of the military establishment by recently retired general officers seriously raises questions about the professional relationship/obligations they have as trusted professional servants.

The issue the news reporter's professional relationship/obligation centers around is their judgment to inform their editor about the vital confidential information they obtain and the source of that information in a timely manner. It has many parallel issues that we experience in the practice of civil engineering relative to our relationship professional with our employers/clients. While freedom of the press is guaranteed in the bill of rights of the Constitution, there is no law that protects news reporters who give their word to informants to not divulge their identity as anonymous sources. This anonymity is offered in exchange for information that could otherwise put at risk the informant's life, safety, career, significant others, relationships, etc. if the informant's identity is known.

This long-established practice of a news reporter agreeing to protect the anonymity of an informant was discussed in some depth by columnist Jules Witcover in his essay titled "Woodward reflects writer conflict" — 12/1/05 Advocate. This practice is apparently considered an important part of the lifeblood of the news-gathering process. It often enables important information to be acquired that would otherwise not be available. This information can be somewhere between hard news and partisan gossip

that is usually acquired and reported based on maintaining the confidentiality of the source.

The apparent first order obligation of a news reporter is to divulge the newsworthy, confidential information and its source to the news organization/employer in a timely manner. This leads to a potential conflict of interest for the news reporters who also write books outside of the news organization. The news reporter may be inclined to withhold confidential, newsworthy information from the employer to use exclusively in a book to improve sales. This may result in a partial failure of the news organization/employer to meet its obligation to its customers to provide news in a timely manner and cause it to suffer a loss of credibility and/or competitive edge.

The professional judgement of the news reporter is apparently trusted to distinguish what confidential information is vital news and information that should be divulged to the news organization/employer in a timely manner for its consideration to publish. This is — I believe an integrity issue at the heart of the meaning of professionalism and the trust it demands.

Witcover proposes that it should be the responsibility of a news reporter to indiscriminately divulge to his/her employer *all* news gathering activities including agreements with informants to protect their anonymity. In return, the employer would collectively bear the responsibility to protect the anonymity of informants rather than leaving it with the individual news reporter. With collective responsibility, it is uncertain who in the news organization — the reporter, editor, publisher, owner... — may be individually held in contempt of court for failure to divulge the identity of an informant.

Does the news organization really want to go to the wall for a reporter's judgment to offer confidentiality to an informant providing news/gossip even though it chooses to publish it? If my instincts are correct here, Witcover's proposal because of the consequences — would appear to make the news organization management responsible for and thereby more discriminating about what it chooses to publish. For this reason alone, I surmise that his proposal is dead on arrival.

Professional engineers can find themselves — though rarely — negotiating with a news reporter as a confidential source in the act of whistle blowing or providing sensitive information vital to public discourse and decision making. This act of anonymously and publically divulging information may be contrary to the orders of an employer/client, or contrary to an employment agreement. The conflict of interest in such an act is measured in the subtle hues of professional judgment and the engineer's higher public obligation.

The professional engineer is under an obligation to act as a faithful servant/agent in the best interest of the employer, and to also act in the best interest of the health, safety and welfare of the public — the higher obligation. This is an integrity issue that is also at the heart of the meaning of professionalism. The judgment of the engineer is trusted by the employer and the public to decide when the best interest of the health, safety and welfare of the public is compromised and in conflict with otherwise serving the apparent best interest of an employer. It is the responsibility of the engineer to recognize, avoid and resolve such conflict confidentially. A public act of whistle blowing should be a highly improbable and desperate act of last resort. The professional character of the individual who commits such an act would be measured by the conditions that initiated it.

The military's generals are considered loyal professional servants of the military institution. They overtly swear an oath of allegiance to their nation and have an obligation to the military institution to provide their loyal professional service. The significance of any *professional* service is easily defined by what it is not. It is *(Continued on Page 25)*

Elegant journey -

Sitting in a series of sessions during a conference for transportation engineers and listening to the buzz of the presentations and the following discussions, it occurred to me that we engineers in transportation are truly among the busiest worker bees of society. We accomplish much. To do this, it would appear that we struggle daily with the details of what I would suppose has become an attempt to transform nature to effectively facilitate the activities of man while at the same time preserving nature's important elements with as little compromise as possible. It seems to me that in the heat of the moment there is often a loss of contact with a deeper purpose such as this. Whether the deeper purpose is what I suppose here or something else — one thing is sure — it will not be achieved well or at all if it is not kept in focus.

Do we think clearly or continuously about a deeper purpose as we forge ahead with the problems to be solved in all their detail — where the solutions really are? Do we actively seek the deeper contextural understanding of our problems in the process of solving them? It would seem to me that we should be encouraged to do so — even if the only encouragement comes from within our own psyche. I believe that there is a need to continuously strive to better understand, to question, reevaluate our solutions in the context of a deeper purpose.

Inasmuch as the need for — and scope of engineering services are often perceived and initiated by clients then narrowed by others and then again by regulations long before we proceed to provide them, the final solutions and the direction they may take are not that constrained. With all of the constraints, the direction and the elegance of a solution are still significantly affected by the contribution of the engineer's own genius and sweat.

It would appear that in an ideal democracy constituents would typically seek out and elect experienced and trusted leaders who have a compelling direction in which they want to go and they are capable of effectively articulating it. However, I believe that the true service and success of the elected leader in a democracy is to be perceptive enough on the fly to lead their constituents where *they* — the majority of their constituents — want to go. Similarly, engineers, particularly in public works but in industry as well, must also be perceptive enough to lead their clients where *they* — the clients — want to go.

Part of leadership is inevitably defining and effectively articulating a clear path with anticipated consequences as best as one's experience and acumen will allow. This is because where constituents want to go and can go will ultimately be defined by trusted and experienced leaders through their professional knowledge applied through the effectiveness of the relationship they establish with their constituents. In both cases — politics and engineering — success is measured by and in the elegance of the journey and the solutions — consequences — that come from capable, attentive and focused leaders.

4SCE

Nature of technical literature -

Cathy Bazáán-Arias, EIT, was recently quoted on an Internet website expressing her concern about the nature of the technical literature available on the Internet. The recent PhD noted that some of this technical literature seemed to be in various degrees little more than a regurgitation of previously developed works or simply not original or seminal thought. I am uncertain if this was intended as a criticism of sorts or just an observation. It has been my modest experience in researching literature in both the digital and the paper jungle that the literature published appears to conform to the description she gives.

Nowadays, there are a relatively large number of technical articles that are accessible through electronic venues. However, the impressive amount of data does not imply that all of those articles provide new or relevant information... In some instances, the information conveyed seems to be a regurgitation of other articles. It has become increasingly difficult, I think, to identify the publications that really contribute to the improvement of engineering.

My initial knowledge of a subject I am researching affects the way my research will proceed. If I have little knowledge of the subject, I immediately look for a regurgitation — prefer-

(Continued from Page 24) —

not menial service to be provided with unquestioning obedience. Professional service is provided to achieve good quality results that require the specialized knowledge, skills and abilities of the professional servant. To do this, the professional servant must develop an effective *peer* relationship with the employer to the extent that the results of professional services are mutually understood and acceptable to both. This surely requires an intimate meeting of the minds between the employer and professional servant concerning their roles in the process and a strong and active participation in the process by *both*.

Whether either or both the civilian (employer) and military (servant) leadership in the Pentagon failed to perform their respective roles or not, one thing appears clear — the unprofessional way some recently retired generals have

Experience -

As anyone with work experience should know, pursuing work with the motive to do well and to do right does not always translate into results that appear to be consistent with doing well or doing right. The work that emanates from well-intended motives leading to success or failure or more typically somewhere in between — barring overt incompetence — is important to experience gained. One of the most valuable experiences for an engineer can often be found in the success that is ripped from the jaws of a potential failure.

How experiences are conscientiously processed and used to make better, less naive choices in the future are, I believe, the principal ably in an easy-to-read summary — to get into the subject. Depending on what I need to know, I may stop here, or I may refer to an easy-to-read but a more authoritative regurgitation. If necessary, the last stage is to the seek refereed literature that tends to be original works that provide the formal references that usually lead one almost immediately to the original works.

The cutting edge practice/thinking in technology is sometimes not in the reporting of formally developed research and thought processes that lead to a successfully published paper in a refereed journal. It may be as messy as are the typical means that lead to original thought and discovery. The sources - though sometimes in the conclusions and recommendations for future research in refereed papers - for me appear to be more often found in the discussions of refereed papers, conference papers and presentations, informal articles, technical news items, letters to the editor, or even in informal peer conversations. Discerning the speculative and/or actual value of the information from these sources that is often not rigorously founded will depend heavily on the experience and knowledge and sometimes the attentiveness and imagination of the researcher. Formal applied research efforts are often initiated on the premises of confirming the

violated their role of trusted professional servants. They may have failed or may have been part of a failure to form an effective relationship with their employer. Instead they chose to seriously compromise the trust and credibility they may have had by publically airing their peevishness in retirement. Thereby, they may have seriously impugned the trust and credibility — effectiveness — of the successors they left behind. As previously posited, the professional character of a general who commits such an act is ultimately measured by the conditions that initiated it.

Conflict between the employer and the professional servant is not a taboo. It is a natural part of any effective professional servant/employer peer relationship that depends substantially on a collaborative partnership and the specialized knowledge used by the profesoriginal thought in these aforementioned sources. The results published in a refereed journal are often in the form of the scientific proof *which was to be demonstrated* — QED (quod erat demonstrandum) — not the discovery of a original thought or idea.

It may be "...increasingly difficult ... " to identify the literature being sought because there is so much more of it and not because there is a wide spectrum of seminal, not-so-seminal and purely regurgitated literature that must be fathomed by the researcher based on how authoritative the needs of the research are. From my experience, I believe that the spectrum if not the volume of the literature available was present long before the Internet and the Internet simply reflects its nature. However, in digital or paper form, I believe that the nature of the problem of discerning and locating the literature sought from what is available is pretty much the same as it has always been. It should not be an unexpected frustration, it is just part of the literature search in conjunction with a research project. It should be exhaustive and done in a workmanlike manner as any other part of the research. It is not uncommon that it is done poorly. Sometime to the extent that research is duplicated and duplicated poorly.

sional servant to effectively provide professional services desired by the employer.

The circumspect behavior of the professional servant to keep any conflict in perspective and effectively resolve it confidentially inasmuch as it is possible is particularly the professional servant's obligation in the relationship. As a result, it would appear that part of an important judgment that must be made early on by a professional is to evaluate the temperament and culture of a prospective employer as to whether or not it can support an effective relationship with a professional servant. If the answer is no, the best advice is, "Don't go there!" If it is too late, find a way to... "Get the hell out of Dodge!" before it is really too late.

part of the quality of the experience applied in engineering practice. *Experience* in engineering practice comes from knowing success and failure, and studying the success and failure of others; and continually learning from — and building on — the lessons they offer and effectively applying what is learned to future work. Experience in engineering practice leads to personal improvement and professional development — growth that is a measure of the inherent value of the individual who possesses it and the market value of the services he/she provides.

How well one is able to appreciate, process and share what can be gleaned from successes and more importantly failures and then profit from the experience in his/her ongoing practice defines the *quality* of experience. This was once made clear when an engineer was overheard grousing about being passed over for a promotion by another with less experience. The feedback received was that he had 20 years of 1 year's experience — professional development or growth — that was not acceptable for the work to be done at the next level in the organization. Said more concisely, tenure is not the same as experience.

Because of its inherent public health and safety issues, the practice of engineering does

(Continued on Page 26)

PROFESSIONAL LISTINGS

Outstanding Section & Branch

Newsletter Award

of Civil Engine

Louisiana Section



PROJECT DEVELOPMENT • PLANNING • DESIGN • PM/CM • OPERATIONS and MAINTENANCE An AECOM Company

 1555 Poydras Street Suite 1860
 2833 Brakley, Suite B

 New Orleans, LA 70112
 Baton Rouge, LA 70816

 (504) 529-4533
 (225) 293-5757

 www.dmimharris.com
 (225) 293-5757

(Continued from Page 25) -

not and should not typically entail high risk, individual decision-making that results in a high risk/frequency of failure. Engineering is more typically practiced in a collaborative, regulated environment and the work tends to become more demanding in application — consistent with the engineer's incrementally gained experience.

Engineering internship is intended to shelter the initial practice of an inexperienced yet technologically competent graduate engineer. It typically involves the practical application of conventional technology under the tutelage of experienced, practicing engineers. The intern's shel-

(Continued from Page 7) -

These cases indicate that a contract confected before the 1999 amendment is subject to a 10-year peremption, and those confected after 1999, at least until 2003, have a 7-year peremptive period. The law after 2003 is less clear, however, as the "prospective application" language has been deleted. Thus, arguments can be made that the 2003 five-year preemptive period applies retroactively.

Most recently, in In Re Katrina Canal breaches Consolidated Litigation, the Court examined the retroactive nature of LRS 9:2772.30 The plaintiffs averred that this statute was not retroactive in nature and that their claims were not perempted by the 5-year period afforded by LRS 9:2772. Rather, plaintiffs asserted that their claims were timely filed because the former 7-year peremptive period applied.³¹ The plaintiffs, further, claimed that even if the 5-year period was applicable, the statute was unconstitutional because a "vested" right was taken away.32 The Court disagreed and held that LRS 9:2772, which was remedial in nature, was retroactive.33 The Court further held that plaintiffs' rights were not violated because plaintiffs' injuries were not incurred until after the 5-year period ran. As a result, the plaintiffs' cause of action was not "vested" as their claims were perempted and no longer existed.³⁴ As this is a recent Federal decision, this matter is still unresolved and will most likely be an area of the law that may continue to be litigated in 2007.

Conclusion

The unfortunate reality is that some of you will find yourselves defending a lawsuit during your professional careers. When this occurs, please remember that you may be able to utilize tered practice is intended to provide the experience necessary to independently practice engineering. The process of incrementally gaining and then applying experience in engineering practice is consistent with the low frequency of failure experienced.

The low frequency of failure experienced should be expected regardless of an engineer's career path. This is because it is consistent with the engineers' individual — personal and professional — recognizance to work within the limits of their competence. This is stipulated in the principles of practice historically exacted in state

CALI & LAPLACE ENGINEERS,LLC 300 ST CHARLES, ST. BATON ROUGE, LA 70802 58 CYCAS STREET

KENNER, LA 70065



LANCE LAPLACE PRINCIPAL / VICE PRESIDET EMAIL: LLAPLACE@CLENGRS.COM

PHONE: 225-388-9500 FAX: 225-388-9110 CELL: 225-405-0643

licensing laws that regulate engineering practice. Oddly enough, there was a low frequency of failure when the practice of engineering — regulated by the same principles of practice — lacked the burdens of mandatory minimum internship (circa 1960) and the tedium of continuing professional development (circa 1990). Some will attribute this to a combination of responsible professional and consumer behavior, and therefore, consider the later mandatory requirements unnecessary and inconsistent with a public trust previously demonstrated and won.

your friend, LRS 9:2772, and if applicable, may have a basis to dismiss the lawsuit. A good defense, however, is only as good as its support. Thus, to properly utilize LRS 9:2772, make sure to keep detailed records of all contracts, work performed and dates of completion so that an accurate commencement date can be determined. These proactive measures will save you time and effort should the need to use LRS 9:2772 arise. In addition, keep a calendar close — 5 years and counting.

References

1. Lauren Plaza Ass'n, Ltd v. Gordon H. Kolb Develop, Inc., 853 F. Supp. 941 (E.D.La. 1994).

- 2. Bunge Corp. v. Gatx Corp., 557 So. 2d 1376,
- 1379 (La. 1990).
- 3. Id at 13 78.
- 4. Harris v. Black Clawson Co., 961 F. 2d 547,
- 551 (La. 1992).
- 5. 12 La. Civ. L. Treatise, Tort Law § 15.33.
- 6. Bunge Corp, 557 So. 2d at 1378, 1979.
- 7. Guidry v. Sunset Recreation Club, Inc., 571
- So. 2d 870 (La. App. 3 Cir 1990), writ den. 577
- So.2d 14.
- 8. Lauren Plaza Ass'n. at 944.
- 9. *Harris* at 552.
- 10. Id. at 551.
- 11. Id. at 554.
- 12. Guidry at 872.
- 13. Lasseigne v. Schouest & Sons, Builders, So.2d 371, 371 (La. App. 1 Cir. 1990).
- 14. Id. at 372.
- 15. Academy Park Imp. Ass'n v. City of New
- Orleans, 469 So.2d 2, 4 (La. App. 4 Cir. 1985).
- 16. Id. at 3.
- 17. Id.
- 18. Id. at 4.

19. Bunge at 1378.

20. 562 So.2d 112 (La. App. 4 Cir. 1990).

21. The previous Section A of this statute provided that as action must be brought within 7 years from the date of filing of the acceptance of the work, if no acceptance is filed within 6 months of occupancy, the date the owner has occupied or taken possession, in whole or in part of, the improvement, or if the land surveying service were not rendered preparatory to construction or if the other enumerated services.

22. See La. Civ. Code Ann. Art. 8 (1999) which provides that if "a law can only provide for the future, it can have no retroactive operation . . ." 23. *Ardoin v. Hartford Ace. & Indem. Co.*, 360 So. 2d 1331, 1334 (La. 1978).

24. 64 So. 2d 417, 420 (1953).

25. See, Stipe v. Neyrey Gen. Contractors, Inc., 385 So. 2d 568, 570 (La. App. 4 Cir 1980) (where the court used that philosophy in concluding that a statute of establishing a burden of proof in malpractice actions clearly is procedural and applied to pre-existing acts and relations, should be given retroactive effect).

 Reeder v. North, 97-0239 (La. 10/21/97), 701 So.2d 1291, 1296 (citing Lott v. Haley, [370 So.2d 521] at 523-524.

- 27. WL 1473998 at 3 (W.D.La. 2005).
- 28. 837 So. 2d 78, 80 (La App.5 Cir. 12/30/02).

29. Id. (See also, Exxon Corporation v. Foster Wheeler Corporation, P 16,253, 2000-2093, (La.

App. 1 Cir. 12/28/01), 805 So.2d 432, 438.

30. Berthelot v. Boh Bros Const. Co., L.L.C., 05-4182 (E.D. La. 2006); 2006 WL 3627749.

- 31. *Id.* at 4.
- 32. *Id.* 33. *Id.* at 6.

24 Id

34. *Id*.

PROFESSIONAL LISTINGS



For ASCE member address corrections, call (800) 548-2723 or visit <u>http://www.asce.org</u> For listing and advertiser address corrections, call (337) 239-0404 or e-mail: <u>erd@erdesormeaux.com</u>



SERVICES AND SUPPLIERS



(225) 293-1111

(318) 425-0889

(504) 831-2251

THE LOUISIANA CIVIL ENGINEER

Journal of the Louisiana Section-ASCE E.R. DesOrmeaux, PE P.O. Box 52194 Lafayette, LA 70505-2194 NONPROFIT U. S. POSTAGE PAID BATON ROUGE, LA PERMIT NO. 1911