



Recent Legal Action Shows L.A. Port Program Model is the Way to Clean Air in Oakland

Judge Denies Industry Association Attempt to Halt Clean Trucks Program; CA Attorney-General Cracks Down on Tax-Cheating Companies who Misclassify Port Workers

Dear Supporter,

Two recent key developments at the Los Angeles and Long Beach Ports are likely to play a big factor in the "Clean Truck" business model proposed in the Bay Area.

The news hits as the Port of Oakland and its commissioners prepare for a key economic analysis to guide their clean-up goals to stabilize the workforce, improve security and reduce deadly public-health impacts stemming from the broken port trucking industry.

On September 10th, a U.S. District Court judge dismissed the nation's largest trucking lobby's motion for a preliminary injunction to stop implementation of clean air plans at Los Angeles-area ports. The American Trucking Association has claimed they had a "slam-dunk case" but in issuing her ruling (http://docs.nrdc.org/air/air_08090901A.pdf) that gives the green light to a community-environmental-labor backed port program to reduce diesel emissions by 80 percent, Judge Christina Snyder stated that "the balance of hardships and the public interest tip decidedly in favor of denying the injunction."

The Clean Trucks Programs, which go into effect October 1, require trucking companies doing business at the Ports to enter into concession agreements as the basis to replacing thousands of dirty, diesel rigs with an environmentally-friendly fleet. Stakeholders widely speculated that if the ATA succeeded in arguing irreparable harm, it would put a stop to clean-up programs in other ports such as Oakland; however, the ATA's obstructionism failed in both a tentative and final ruling this week. Furthermore, the ATA's own member companies such as Swift and Knight Transportation are eagerly signing up for concessions, another blow to the trucking association's case.

According to a press release

(http://www.oakland.cleanandsafeports.org/fileadmin/files_editor/news_091208ctpmayor_FMC_request_for_info_.pdf) issued by the Port of Los Angeles, by mid-September,

the L.A. Port had received 163 concession applications from companies that operate more than 6,100 trucks. Another Twenty-two companies with more than 5,000 model year 2007 USEPA-compliant trucks submitted letters of interest as a result of the 2007 - Compliant Incentive Program.

LA Port Executive Director Geraldine Knatz, Ph.D reported to the L.A. Harbor Commission that the early infusion of 2007-compliant trucks means immediate and significant emissions reductions -- well ahead of the progressive truck ban deadline. For specific nitrogen oxide and particulate emission reduction amounts see the Port of L.A. September 11, 2008 press release.

www.portoflosangeles.org/newsroom/2008_releases/news_091108ctpdeadline.pdf

The news came on the heels of a September 5th announcement (<http://ag.ca.gov/newsalerts/release.php?id=1606>) by California Attorney General Jerry Brown that he is cracking down on L.A. and Long Beach port trucking companies that abuse their workers by denying them basic employee rights and protections. Brown filed a set of lawsuits and promised more legal action and investigations were coming, saying in a press release that, "These companies engage in cost-cutting schemes that take advantage of their workers and avoid California taxes. They unlawfully classify their workers as 'independent contractors,' circumventing state employment taxes and labor laws that guarantee workers compensation, disability benefits and the right to a minimum wage. These are low-paid truck drivers working long hours under onerous conditions who are not getting the benefits they deserve."

The Los Angeles Clean Trucks Program in particular would in effect end this employer misclassification, as it is moving to a 21st century, asset-based system that would require companies to legitimately employ drivers who will be hauling cargo in the new clean trucks they must purchase.

The Port of Long Beach remains vulnerable to widespread misclassification violations, as harbor commissioners there adopted a concession model but failed to adopt the employee-mandate that both environmental and labor groups have insisted is critical: Only capitalized companies - not an underpaid, exploited workforce - can assume responsibility for purchasing and maintaining the cleanest vehicles.

This legal victory underscores the fact that the Port of LA clean truck model is the best approach to reduce public health impacts that could pave the way for the ports to grow in a sustainable manner. When that program goes into effect on October 1st, air pollution will be cut by 50 percent literally overnight. The Port of Oakland should quickly follow suit to get these diesel-spewing trucks that cause cancer and asthma off of Oakland's roads for good.

In late July, Mayor Ron Dellums took the stage with LA Mayor Antonio Villaraigosa near

Jack London Square and pledged to cheering port drivers and their clean-air advocates that Oakland would be next in line to adopt the comprehensive clean-trucks model that ends the independent contractor scheme and would give employee drivers the freedom to unite for improvements on the job.

It's time for trucking companies that cheat on taxes and gain an unfair competitive advantage by denying drivers wages, benefits and the rights they deserve to hit the road. The LA model will end this race to the bottom that forces communities and the environment to suffer. We are eager for the Oakland Port to schedule a vote following the completion of their economic impact study.

Sincerely,

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