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## **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***

Two key developments in the past week 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 Wednesday, 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](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.

The news came on the heels of a September 5<sup>th</sup> announcement (<http://ag.ca.gov/newsalerts/release.php?id=1606>) by California Attorney General Jerry Brown against 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 21<sup>st</sup> 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,+said Diane Bailey, Natural Resources Defense Council scientist and Oakland Coalition for Clean & Safe Ports partner. %When that program goes into effect on October 1<sup>st</sup>, 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 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 adopting 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+said Doug Bloch, Director, Oakland Coalition for Clean & Safe Ports. %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.+

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*The Coalition for Clean & Safe Ports is an alliance of environmental, labor, faith, and community organizations promoting sustainable economic development at West Coast ports. We are working to clean up the port trucking industry, reduce environmentally harmful port emissions, and stimulate greater economic opportunities for surrounding port communities. To ensure a level playing field, the Coalition is organizing at the Ports of Oakland, Los Angeles, Long Beach, and Seattle, so that standards are lifted regionally and no one port is put at a competitive disadvantage.*