

# Blocking the Port

## *A new lawsuit seeks to impede the Port of Oakland's ability to regulate dirty trucks*

By Melody Parker

June 3, 2009 -- A lawsuit filed against the Los Angeles and Long Beach ports is impeding the Port of Oakland's ability to regulate dirty trucks.

In April, a U.S. District Court sided with the American Trucking Association (ATA), placing a preliminary injunction on both ports' clean truck programs and prompting ports across the nation to amend their clean truck programs to avoid similar lawsuits.

Meanwhile, the Oakland Port Commission was expected to vote on whether to approve a Comprehensive Truck Management Program for the Port of Oakland at its June 2 meeting, which would ban trucks that do not comply with new state air quality regulations and require trucking companies to register with the port.

The Coalition for Clean and Safe Ports (see "The polluting Port," 3/25/09), a mix of environmental, labor, interfaith, and community-based organizations, criticizes the Truck Management Program for falling short of a more comprehensive policy, but blames the shortcomings on the legal injunction secured by ATA. "The litigation has really tied their hands," says coalition director Doug Bloch, who helped organize a June 2 protest against what his group characterized as the trucking industry's "obstructionist tactics."

Rather than targeting clean air regulations, ATA has focused its attack on a ban on low-salaried independent drivers from the port. Proponents of the ban argue that that an employee driver-based system would be more effective than the current system of independent drivers, because the cost burden of emissions upgrades would then fall onto trucking companies rather than independent contractors who often cannot afford emissions retrofits. "Truck drivers are scrambling" to afford retrofits required by stringent air quality regulations that become effective Jan. 1, Bloch notes. While the new rules will help alleviate West Oakland pollution, "they aren't sustainable if the people responsible for meeting them can't pay," he says.

The Port of Oakland commissioned an economic impact study by Beacon Economics, which favored an employee driver-based trucking system over independent drivers for similar reasons.

David Bensman, a labor studies and employment relations professor at Rutgers University in New Jersey, has studied port trucking extensively. "Deregulation created a hypercompetitive industry where truckers have no bargaining power," Bensman says. The result is a sort of race to the bottom. If the drivers refuse to accept a substandard rate, workers look at the long line of semis waiting, engines running, and see many others willing to work for that low rate. "The American Trucking Association is defending an industry model that is broken," Bensman asserts. "The system is not able to put trucks on the road that are clean and efficient."

ATA, however, believes that forcing truck companies to take on more employees will harm the entire industry's competitive edge. Independent drivers have power and flexibility over their business practices, according to Clayton Boyce of ATA. "They are an independent business because they want to be an independent business. Anyone can give that up and become an employee if they wish," he says. "If they can't run a business and buy the health insurance for themselves and maintain their trucks, then they shouldn't be in that business."

At the Port of Oakland, however, 83 percent of truck drivers are independent, and only 17 percent work under truck companies. A report by the East Bay Alliance for a Sustainable Economy found that 62 percent of 1,500 truck drivers in the Port of Oakland do not have health insurance or the means to buy cleaner trucks. The proposed Comprehensive Truck Management Program does include a provision that would assist independent truckers with emissions retrofits, but the \$5 million allotted doesn't begin to cover the estimated \$200 million price tag calculated by Beacon Economics, according to Bloch.

The Port of Oakland's Maritime Committee passed a resolution supporting the findings of the Beacon Economics study and urging the adoption of an employee-driver system, but little can be done to move forward with it until after the Southern California injunction has been lifted. The Port Commission was also scheduled to vote on that resolution June 2.

The American Lung Association estimates that one in five children in West Oakland has asthma. According to a report by the Natural Resources Defense Council, diesel pollution is five times higher in West Oakland than in other parts of Alameda County.

*Rebecca Bowe contributed to this report.*

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