

Posted date: 10/26/2009

## Ports Drifting Further Apart

**TRADE: Long Beach settles trucker suit as L.A. digs in.**

By ALEXA HYLAND

LOS ANGELES BUSINESS JOURNAL STAFF

The crack that's formed between the ports of Los Angeles and Long Beach is growing wider.

The Long Beach port agreed last week to settle a lawsuit with the American Trucking Association over provisions in its plan to cut truck emissions.

In contrast, the L.A. port has not settled a similar lawsuit from the same association; in fact, it recently boosted its lobbying effort to change a federal law that ultimately could help truck drivers organize into a union – which irks the truckers association.

In short, the two neighboring ports – long viewed by shippers and truckers as something akin to one big cooperative – are seen by some of their customers to be diverging. Long Beach is now being viewed as more business friendly; Los Angeles as more union friendly.

“It looks like they are moving further apart, so we have to watch and see what develops next,” said Jack Kyser, chief economist for the Los Angeles County Economic Development Corp. “All the important decisions will be made back in Washington, D.C.”

Indeed, Los Angeles gained momentum on the national political front last week in its campaign to amend the Federal Aviation Administration Authorization Act, what's called F4A, which 30 years ago essentially deregulated the trucking industry. Specifically, the L.A. port wants to be able to require that truckers who drive into the port are employees of companies and not independent owner-operators or contract drivers. As employees, the drivers could be unionized; as independent drivers, they cannot.

Mayors Michael Bloomberg of New York and Cory Booker of Newark, N.J., voiced support Oct. 18 for L.A.'s plan. Mayor Ron Dellums of Oakland has already backed L.A.'s version of the program.

Darry Sragow, a well-known political consultant and partner in the downtown L.A. office of Sonnenschein Nath & Rosenthal LLP, said the L.A. port's efforts to change federal law has grabbed national attention partly because of the current political climate.

“You have an interested, receptive and arguably sympathetic president and administration,” Sragow said. “Those three ingredients would easily propel a discussion on how to handle trucks at the port of Los Angeles onto the national stage.”

The national attention came after a lobbying push by the port. The L.A. port Oct. 15 approved an additional \$55,000 to pay the Gephardt Group, a lobbying firm led by former congressman and presidential candidate Richard Gephardt, through January. The port has approved three rounds of funding for the lobbying group since July, totaling \$205,000 this year.

The L.A. port's executive director, Geraldine Knatz, has said that the facility wants to amend the law to allow ports to implement regulations that affect their security, congestion and environmental programs. Without the ability to more closely regulate truckers, port officials said, their big, expensive Clean Truck Program is left vulnerable.

However, trucking firms and shipping companies claim that L.A.'s main objective is to push for employee-drivers simply to make it easier to unionize them. Labor unions are big supporters of elected officials in Los Angeles.

Historically, the ports of Los Angeles and Long Beach have been considered by most as one large complex that is served by an estimated 900 small trucking companies shuttling containers in and out. And traditionally, the ports have worked together on matters relating to what is the nation's busiest seaport complex – including the Clean Trucks Program.

That program was designed to clean up the air around the port complex by replacing old, exhaust-spewing trucks with new cleaner burning ones that are subsidized by money the ports get from their customers. Both ports passed similar versions of the program, although a crack formed between the two when the L.A. port insisted on the employee-driver provision. Long Beach did not go along, saying it wanted to keep the focus on the trucks, not the drivers.

The trucking association sued both ports over different aspects of each program, although the most contentious point was over L.A.'s employee-driver provision. The truck association opposes the provision because it would wipe out hundreds of small trucking companies.

As the L.A. port escalated its fight with the truckers, Long Beach opted to shake hands.

Most of the points in the Long Beach settlement are fairly noncontroversial. For example, the Long Beach port agreed to wipe out a provision that would have required trucking companies to file financial reports. Instead, the facility can require trucking firms to sign a contract agreeing to comply with environmental, safety and security requirements to obtain access to the terminals.

What's more, companies must register their trucks and equipment with electric devices, including radio frequency and identity tags, so the port can verify that clean trucks are entering the facility.

"What we wanted to do, and what we have achieved, is taking a potential obstacle out of the way," said Chris Lytle, deputy executive director and chief operating officer for the Long Beach port. "It gives us a chance to continue to do what we've been working on, clean up the trucks and make sure we are focusing on our business."

John McLaurin, president of the Pacific Merchant Shipping Association, a San Francisco-based trade association that represents the ocean carriers and terminal operators that work at the port complex, said Long Beach's settlement with the truckers association is prompting the industry to think of the two ports as separate. And if Los Angeles prevails in getting the law changed, Long Beach could benefit from more business.

"Long Beach is clearly trying to differentiate itself from the Port of Los Angeles," McLaurin said. "And if the Port of Los Angeles were ultimately successful and were to move ahead and change the law in D.C., which allows it to impose the employee mandate, once that become a greater certainty, you would see a switch."