



## *The Port of Long Beach*

November 3, 2009

David Pettit  
Director, Southern California Air Program  
Natural Resources Defense Council  
1314 Second Street  
Santa Monica, CA 90401

Dear David,

As a resident of the Westside of Long Beach, I am offended by your irresponsible statement in your October 28 letter that the Port of Long Beach's settlement with the American Trucking Associations (ATA) violates the Port's duty "to enforce environmental, security, and safety measures in the harbor area" and protect the surrounding community from "harmful truck impacts." It is just not true. As you know, on April 29, 2009, the Federal District Court struck down various provisions of the Port of Long Beach and Port of Los Angeles concession agreements, including the provision that required all trucking companies to modernize their trucks by retrofit or replacement and to comply with the Clean Trucks Program. The new Long Beach Registration Agreement *restores* the ability of the Port of Long Beach to ensure "full compliance with all federal, state, municipal, and Port environmental regulations pertaining to the provision of drayage services at the Port, including but not limited to Port of Long Beach Tariff Number 4 and its implementation of the Clean Trucks Program restrictions on truck emissions."

You have stated before that the Clean Trucks Program has already reduced truck air pollution by at least 50%. After the January 1, 2010, truck ban, the program is expected to be close to the goal of 80% reduction, nearly two years ahead of schedule. Your recent criticism of the Long Beach program hinges on your term "sustainable trucking system:" a euphemism for the Port of Los Angeles employee mandate which was also enjoined by the court on April 29. Instead of admitting that we have the same goals but different strategies, you are attempting to mislead and scare Long Beach residents.

The settlement does not delegate authority or give ATA "veto power" over anything. Like any agreement, it takes both parties to amend the agreement. Nevertheless, Long Beach has everything it needs in the registration agreement to enforce environmental, security and safety measures relating to trucks. Furthermore, Long Beach can make any necessary changes to the Clean Trucks Program through the tariff and these changes become immediately enforceable through the registration agreement.

Your disdain for the Port's willingness to work with industry groups is misplaced. The marine fuel incentive program was underutilized. We then worked with the shipping lines and amended the fuel incentive tariff to incorporate their suggestions. Similarly, our engagement with the ATA allowed us to restore the environmental commitment to the registration agreement despite the pending injunction.

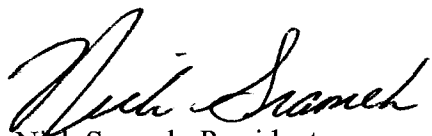
Your October 28 letter also characterizes the settlement as an "unlawful and unwise back room deal." Again, you may differ about the wisdom of the deal but there is nothing unlawful about it. The ATA litigation was on our agenda at every meeting for the last three months and the fact of settlement discussions was widely reported in the media. Not once did you appear at our meeting to express your views on settlement with ATA. Like any settlement, on advice of counsel, the agreement was voted on in closed session. The complete settlement and the vote were immediately reported in open session following the closed session, as required by the Brown Act. Under the Long Beach City Charter, no further approval is required. As you know, the Ninth Circuit and the Federal District Court found several provisions of the concession agreements unlawful. The registration agreement, by contrast, was approved by the District Court.

The final bullet in your letter makes vague allegations that the settlement violates various laws and Middle Harbor mitigation commitments. These allegations are just a thinly veiled threat to filibuster Port projects and hold hostage the livelihood of all the people associated with the Port unless Long Beach accedes to the employee mandate.

You claim that the Port is violating its "contract with Long Beach residents" in the Clean Air Action Plan (CAAP). In reality, it is the NRDC that is selling Long Beach residents short as a result of the NRDC's back room deal with the Teamsters. The CAAP, on page 66, defined a list of "fundamental elements" in its clean truck measure. The Port of Long Beach has always adhered to these fundamental elements. The CAAP also explored various ways to address low wages and "quality of life" issues for truck drivers. There was never any consensus on how best to address these issues and the employee mandate was never a "fundamental element" of the CAAP truck measure.

I hope we can soon resume working together on the vast majority of issues on which we agree instead of trading barbs on the one issue on which we do not. The health and quality of life of my neighbors and friends depends on it.

Sincerely,



Nick Sramek, President

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