

BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON TRANSPORTATION AND
INFRASTRUCTURE
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT
SUBCOMMITTEE ON RAILROADS, PIPELINES AND
HAZARDOUS MATERIALS

JOINT FIELD HEARING ON

CONFRONTING FREIGHT CHALLENGES IN
SOUTHERN CALIFORNIA
FEBRUARY 20, 2009

TESTIMONY OF

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TESTIMONY

**Chuck Mack, Director, Port Division and International Vice President
International Brotherhood of Teamsters**

**Committee on Transportation and Infrastructure's
Subcommittee on Highways and Transit
Subcommittee on Railroads, Pipelines and Hazardous Materials
Joint Field hearing titled, "Confronting Freight Challenges in Southern California"**

Thank you, Mr. Chairman and members of the Sub-Committee on Railroads, Pipelines and Hazardous Materials and the Subcommittee on Highways and Transit for the opportunity to present testimony regarding freight challenges in Southern California. My name is Chuck Mack and I am an International Vice President of the International Brotherhood of Teamsters and Director of the union's Port Division.

There are many ways to define the freight challenges facing Southern California. Most stakeholders in freight transportation – both business interests and public entities like ports – will define these challenges almost exclusively in terms of bricks and mortar, the physical infrastructure needed to move freight by truck, train, ship or plane. Too often, unfortunately, the challenges facing the workers who actually move the freight and residents who live in impacted communities are neglected and left out of the equation. While investing in critical infrastructure is vital to the future of this country, prioritizing physical infrastructure projects assumes and depends on their efficient use by the transportation companies utilizing that particular mode (i.e., rail, ports, highways, airports). In other words, inefficient freight operations – that generally also push externality costs like pollution, security and road safety onto communities and workers – can contribute to poor infrastructure decision-making.

For example, the lack of any meaningful trucking regulation has produced a fragmented, largely non-asset based industry that relies on many more trucks than is necessary to efficiently do the work. The result is more congestion and pollution while demand for more highways continues to grow. To explain, let's start with the business model for short haul drayage. Port trucking relies on "independent contractor owner operators" to haul freight, producing only one driver per truck. As a result, the industry needs more trucks because companies cannot slip seat and put multiple shifts of drivers in each truck because the trucking companies do not own the trucks and equipment under their operation. The absence of regulation has brought standards down across the board. Earnings for truck drivers has plummeted by over 30 percent over the past 30 years while overall employment has increased by 75 percent. This is not surprising since the Teamsters represent ten percent of trucks drivers today in this country, down from over sixty percent before deregulation.

Still, the Teamsters represent hundreds of thousands of transportation workers across the country who depend upon the movement of freight for their livelihood. Without a robust and vibrant freight system, our members who drive trucks, are rail employees, or work in warehouses would be out of work. But in recent years we have become acutely aware that the health of our members, their families and the communities they live in are at risk because of the deadly diesel pollution spewing from dirty trucks, ships, cranes and other equipment. Unless port operations – particularly port trucking – and our whole global supply chain is made environmentally sustainable, our global economy will be at risk and transportation workers

will suffer disproportionately from poor health, asthma, cancer and other respiratory illnesses.

Based on our analysis and experience in the industry and work with public health and environmental justice groups, we believe that the road to clean air and a sustainable freight system begins with good jobs. The transportation sector accounts for one-third of greenhouse gas emissions. Trucking alone accounts for five percent of greenhouse gas emissions. Exhaust from diesel equipment (i.e., ships, trucks, cranes, and trains) used for goods movement is responsible for over 3,700 premature deaths annually in California alone. For example, areas within the Inland Empire (mainly located in the Riverside and San Bernardino counties of Southern California), which is the largest concentration of warehouse facilities in the country, have some of the worst air quality in the world, let alone the country. Our participation in the Coalition for Clean & Safe Ports with the Natural Resources Defense Council and over 30 other local, state and national organizations, many of whom are here with us in the audience today, like the Sierra Club, the American Lung Association, the Coalition for Clean Air, the Long Beach Alliance for Children With Asthma and others has produced a sophisticated understanding of what needs to be done to create a sustainable transportation system.

All ports, including LA and Long Beach, with few exceptions need to concentrate on establishing more on-dock rail. The Port of Tacoma may have the highest percentage of on-dock rail with an estimated 70 percent of imports going directly onto rail, greatly reducing the number of trucks needed to serve the port. Still, the 300 plus trucks that do serve Tacoma are

as dirty and decrepit as the ones serving LA and Long Beach because the business model is the same.

Since the dirty port trucking industry is the most challenging impediment to growth, I would like to go through why the Port of Los Angeles' recently enacted Clean Trucks Program is so important, and why the American Trucking Association's lawsuit against both LA and Long Beach to block their programs is so wrong headed, disappointing, and reveals how they will oppose any real effort that will hold them accountable for the pollution their trucks create.

Port trucking is a dirty diesel business because for too long, trucking companies and their shipper clients have been allowed to squeeze out more profits on the backs of over 20,000 workers across California who keep our global economy moving. The result is the oldest trucks on the road end up at the ports. In fact the average port truck is nearly fifteen years old and poorly maintained and produces at least ten times the diesel pollution as a new, properly maintained 2007 diesel truck. And the 2000 port trucks that were made before 1989 produce at least 60 times the pollution as a new truck. Just ten percent of the port trucking fleet puts the equivalent of 120,000 new diesel trucks on the road. No wonder data from the California Air Resources Board shows that pollution from port trucks kills two people each and every week. Failure to clean up port trucks will cost the region nearly \$6 billion in premature deaths, hospital admissions, respiratory illnesses and lost school and workdays over the next ten years.

Here's why – port drivers are currently required to own their truck in order to get hired by a trucking company. But so-called trucking companies at the port currently skirt their responsibilities as legitimate employers and cheat the state out of millions in payroll taxes by hiring these owner operators as “independent contractors.”

But let me be clear: Port drivers are not small business owners. They are severely underpaid workers who must sign leases that usually force them to haul for only one company, with no ability to negotiate rates, a fact that has led the attorney general to launch an industry-wide investigation. In fact last week, California's attorney general filed complaints against two companies for illegally classifying their drivers as independent contractors and denying them workman's compensation, unemployment insurance, and coverage of wage and hour and health and safety laws that protect employees in this country from abuse by their employers. Their misclassification pins them with all the responsibility to buy and maintain trucks. They receive no health care, no social security, not even worker's compensation. They are paid only by the load, not the trip, traffic, or time, and only bring home on average \$29,000 a year. Fuel, insurance, road taxes and routine maintenance eat up half to seventy percent of their earnings.

It should come as no surprise that labor unrest is a pervasive feature of the port economy throughout North America, particularly here in southern California. In the nearly three decades since deregulation, drivers in US ports have struck, staged convoys and shut down the ports to protest their conditions related to the legal fiction that they are independent businesses,

not workers. This frequent unrest adds additional costs to business, workers and the community, costing port stakeholders millions of dollars.

Los Angeles and Long Beach were the sites of two major strikes that lasted several months in 1988 and 1995, involving thousands of misclassified drivers who halted all economic activity. With diesel costs soaring, more recently hundreds of drivers parked their trucks in protest in Oakland. There have also been several “wildcat” strikes involving hundreds of drivers over the past few months here in the San Pedro ports.

The Los Angeles Clean Trucks Program is the only comprehensive, sustainable program that economists and environmentalists agree will clean the air in the long term and will better equip the industry for today’s rapidly changing global economy.

Fundamentally, what the Port of LA is trying to achieve with their Clean Trucks Program is to minimize the amount of equipment and hardware by maximizing the use of labor. Only a company-based system that enables the Port to hold trucking companies accountable for their operations is capable of achieving this fundamental objective. If companies are responsible for the costs of owning and maintaining the trucks operating under their authority, they will have economic incentives to maximize the hours each truck is in service. An owner operator system prevents these efficiencies from occurring because the owner of the truck is limited in the number of hours he can work, notwithstanding that the owner operator system makes drivers akin to sharecroppers on wheels.

Minimizing the number of trucks serving the port by maximizing their hours of service will reduce the number of trucks, reduce congestions and wait times, increase operational efficiencies through more load matching.

Finally, the ports need a program so they can achieve a greater level of security at the port. The Transportation Worker Identification Credential has taken years to get off the ground, and it is unclear when it will actually be operational. In the meantime, the ports need to be able to identify who the drivers are in case there is a problem. The Clean Trucks Program will enable them to register drivers and require trucking companies to be held responsible for their workforce.

Not surprisingly, industry lobbyists are trying to block any meaningful regulation. In particular, the American Trucking Association has sued LA and Long Beach to block continued implementation of the ports' Clean Trucks Programs. The ATA also successfully urged the Federal Maritime Commission to use its powers under the Shipping Act for the first time by also suing both Southern California ports in an attempt to enjoin key elements of the programs. The Teamsters Union urges this Committee to provide whatever support it can to ensure the successful ongoing implementation of the Los Angeles Clean Trucks Program for the health of our communities, the workers at the ports, and for the future health of our economy.

Port trucking is one important link in the global supply chain; it may also be the chain's weakest link. Port trucking's weaknesses demonstrate how our freight challenges extend far beyond the need for physical infrastructure

investment to the needs for freight transportation companies to meet higher environmental, safety, security and labor standards. The Port of LA is setting an example for how we can meet our freight challenges not just in Southern California, but across the country. In order to meet our freight challenges, we hope this Committee will look into ways of establishing national standards for freight transportation operations based on the Port of LA model.