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## **U.S. Judge Says Public Health is No 1 in Upholding LA Clean Trucks Program, Denies FMC Motion to Shelve a Critical Clean Air Model Needed in Ports of New York and New Jersey**

LOS ANGELES & NEWARK – In a victory for the movement to clean the air and create good green jobs at our nation's ports, over 100 organizations united in the Coalition for Clean & Safe Ports in California and the Coalition for Healthy Ports in New Jersey and New York celebrated U.S. District Judge Richard J. Leon's denial of the Federal Maritime Commission's (FMC) motion for a preliminary injunction that would have threatened Southern California's Clean Trucks Programs.

Judge Leon issued the denial on Wednesday based on the federal agency's failure to demonstrate that the LA and Long Beach Ports' differing "concession" models would cause irreparable harm to – or create anti-competitive conditions for – the goods movement industry. The Clean Trucks Programs (CTPs) aim to reduce diesel truck pollution by 80%, deliver \$5 billion to the regional economy, and create stronger safety and security enforcement. The Coalition for Healthy Ports is pushing for the Port Authority of New York and New Jersey to adopt a Los Angeles-style program to reduce diesel truck emissions at the Ports of Newark and Elizabeth.

The FMC has the ability to take action against agreements in the ocean shipping industry that it believes are likely by a reduction in competition to unreasonably raise rates and decrease services, but Judge Leon (appointed by George W Bush), in his opinion, noted the Ports "are implementing ambitious, multi-faceted programs to reduce high levels of air pollution while also striving to improve the Ports' safety and security and to enable future development... Given the protracted and public deliberative process that led to the development of the CTPs and the responsibility the [Ports] have for improving the area's public health and managing the Ports' efficient operations, the Court finds that the public interest, at this point, favors denying the FMC's motion" for a preliminary injunction.

"A judge in Washington DC has confirmed one thing for residents of New Jersey who face health impacts from diesel soot that cost nearly \$4.8 billion annually," said Amy Goldsmith, Director of the NJ Environmental Federation and the Clean Water Fund. "No longer can officials and elected leaders turn a blind eye to the public health crisis in our communities caused by the broken, toxic port trucking system."

The opinion comes just as the *Los Angeles Times* reported that a broad public health, environmental, community, labor and faith-based coalition has called on Members of Congress to continue to help protect the Los Angeles model for port trucking nationwide. The blue-green alliance is bracing for the possibility that industry clean-air opponents that brought a separate suit may succeed in creating roadblocks to the life-saving programs during an upcoming hearing on April 27.

"The trucking industry should no longer be allowed to get away with forcing truck drivers and taxpayers to shoulder [the public health] burden" wrote Rep Jerrold Nadler (D-NY) in a recent op-ed in the Daily News. "The Port Authority, along with Gov. Paterson and Mayor

Bloomberg, should push for new regulations that would require the trucking industry to absorb the total labor and environmental costs of doing business in our region.”

“Protecting the public health is at the heart of this program we also need here in New Jersey, and it is paramount to all other concerns,” said Deborah Kim Gaddy, Co-Chair, North Jersey Environmental Justice Alliance. “The only way to get dirty trucks off the road once and for all is to make well-capitalized companies – not low-wage workers – responsible for a new, clean-burning fleet.”

The LA policy requires trucking firms to apply for concessions and take responsibility for new vehicles by legitimately employing their drivers. The comprehensive plan also includes generous subsidies funded by cargo container fees for truck purchases, along with powerful incentives that will help jump start a new alt-fuel market. The Long Beach Port also utilizes concessions, but has come under fire by environmental groups because the burden of replacing thousands of old diesel trucks remains on the backs of individual “independent” haulers who average \$29,000 a year, rather than companies who are in a financial position to replace and properly maintain clean-fuel trucks.

The nation’s largest trucking lobby opposes both plans, and successfully argued to a 9<sup>th</sup> Circuit Court of Appeals panel that their desire to maintain a deregulated industry outweighs the public interest in clean air that Judge Leon relies on in his opinion. Despite the Virginia-based American Trucking Association’s maneuvering, many of its local and national members comprise the nearly 1,000 trucking companies large and small that signed up to become concessionaires and purchased thousands of trucks in a clear signal of readiness to grow in a 21<sup>st</sup> century asset-based market.

President Barack Obama has endorsed the environmentally and economically sound LA Clean Trucks Program. Speaker of the House Nancy Pelosi, along with CA Senators Barbara Boxer, Dianne Feinstein and the entire Democratic California delegation to Congress have previously written to the FMC, urging the agency to not interfere with the innovative business model that would bring “overwhelming public benefits” and would “actually strengthen competition within the port trucking industry as well as between port trucking and their retail clients.”

Each day nearly 10,000 truck trips are generated as a result of Newark and Elizabeth port commerce, exposing drivers, residents and commuters to diesel air pollution. One in four school-age children in Newark have asthma, which is double the national and state average. Facing similar statistics, the Port of Oakland commissioned an independent economic impact review of its options to reduce deadly diesel emissions. The study, released last month, strongly favors the LA employee model over Long Beach’s to address critical inefficiencies and meet upcoming air quality regulations.

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*The Coalition for Healthy Ports is the sister organization of the Coalition for Clean & Safe Ports in LA, Oakland, and Seattle ([www.cleanandsafeports.org](http://www.cleanandsafeports.org)) and is a broad coalition of environmental, labor, faith, community, environmental justice, and business organizations that seek to create sustainable ports in New York and New Jersey. The Coalition is committed to a lasting solution to clean the air and stimulate good, middle-class jobs for surrounding port communities, and includes the following organizations: Environmental Research Foundation (Rachel.org); Environment NJ; Future City, Inc.; Garden State Alliance for a New Economy (GANE); GreenFaith; Haiti Solidarity Network of the North East (HSNNE); International Brotherhood of Teamsters; ILA Local 1588; Ironbound Community Corporation; Jubilee Immigrants' Rights Task Force; NJ Environmental Federation; NJ Environmental Justice Alliance; NJ Sierra Club; NJ Work Environment Council; Clean Water Fund; United Food and Commercial Workers Local 1360; United Nations Association USA, NJ Division; Urban Environmental Institute; Change to Win*