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Clearing the Air at American Ports

By **STEVEN GREENHOUSE**

The [Teamsters](#) union and environmental activists have formed an unlikely and outspoken alliance aiming to clear the air in American ports, and perhaps bolster the Teamsters' ranks in the process.

The labor-green alliance is getting under the trucking industry's skin by asserting that short-haul trucking companies working in ports — and not the truck drivers, who are often considered independent contractors — should spend the billions needed to buy new, low-emission rigs that can cost \$100,000 to \$175,000 each.

The Teamsters union says seaport air is so dirty largely because port truck drivers earn too little to buy trucks that would belch out fewer diesel particulates, tiny particles that contribute to cancer and asthma. Working with environmentalists, the union helped persuade the Port of Los Angeles to adopt a far-reaching plan that bars old trucks from hauling cargo from the port and puts the burden of buying new vehicles on the trucking companies, not the drivers.

The battle has intensified as federal officials press ports to adhere to clean-air regulations. Seaports from Newark to Miami to Seattle are confronting the same issue: who should pay for the cleaner trucks?

“We think if you have the big trucking companies own the equipment and maintain it, the trucks will be cleaner,” said David Pettit, director of the Natural Resource Defense Council's Southern California Clean Air Program. Noting that both trucks and ships contribute to port pollution, he said, “we got involved because the ports of Los Angeles and Long Beach are the single biggest contributors to air pollution in the L.A. area, and that's because of diesel pollution.”

Environmental groups are happy to have the Teamsters' political muscle behind efforts to clean up the ports, while the union likes having environmentalists backing its goal: requiring port trucking companies to employ

their drivers directly, rather than as independent contractors because employees, unlike contractors, can join unions. The Teamsters are eager to unionize the nation's more than 40,000 port drivers.

The labor-green alliance achieved a major victory in late 2008 when it helped persuade the mayor of Los Angeles, [Antonio Villaraigosa](#), a former union organizer, and the city's port to require trucking companies to employ their drivers directly, making the companies bear the cost of buying new rigs.

Angry that this move increased their labor costs, trucking companies sued to block the policy. A federal judge on Thursday announced she would hold a civil trial beginning April 20.

Last April, the Federal District Court judge in the case, Christina A. Snyder, granted an injunction suspending the mandate while letting stand the ban on pre-1994 trucks. The judge said the suspended rules were pre-empted by a federal law that regulated trucking.

The American Trucking Associations, the industry group, wants to maintain the current structure in which most port drivers are considered independent contractors responsible for buying their own trucks. The group also wants the seaports to subsidize purchases of new trucks, whether by drivers or the companies.

The industry does not hide its dismay about the labor-environmental coalitions that have sprouted in various cities.

“A lot of these groups are just front groups for the Teamsters, and it's really horrible that they're attacking these drivers and saying they can't possibly finance newer trucks and don't know how to maintain them,” said Clayton Boyce, a spokesman for the American Trucking Associations. “That is a total falsehood.”

But Rafael Prestol, a truck driver at the Port of Newark, disagreed, saying he could not possibly afford a new truck. When he became a driver in 1978, his salary was \$425 a week, but some weeks, he says, he still nets the same amount — just \$425 — after fuel and other expenses.

“If we invest \$100,000 in a new vehicle and we're making \$2,000 a month or less, it doesn't make sense,” said Mr. Prestol, who blames trucking deregulation for pulling down drivers' pay. “And what guarantee do you have after you buy a new truck that you'll continue to get work?”

In addition to Mayor Villaraigosa, the Teamsters and environmentalists have lined up other backers, including Mayor [Michael R. Bloomberg](#) of New York, Mayor Corey Booker of Newark and other mayors, senators and representatives.

With a recent Rutgers study finding that port drivers earned \$29,000 a year on average (after paying for their trucks, maintenance, fuel and insurance), Mr. Bloomberg said, “Truck drivers simply can’t afford to buy expensive trucks. They’re barely earning enough to make ends meet in a job that should be providing them with a solid, middle-class living.”

The [Port Authority of New York and New Jersey](#), which runs the Port of Newark, has introduced an antipollution plan that includes \$28 million in grants and subsidized loans, totaling nearly \$50,000 a truck, that aim to enable 630 drivers to buy new rigs to replace the dirtiest ones. The industry likes the plan. But drivers like Mr. Prestol say the subsidies are inadequate, considering the cost of the rigs.

The Port of Los Angeles hired the Boston Consulting Group to help develop its ambitious plan.

That plan charges companies like [Wal-Mart](#) \$70 for each shipping container hauled by older trucks as a way to finance \$42 million in subsidies to buy cleaner trucks. With grants of \$20,000 a truck, that program has helped companies buy 2,100 new trucks, including 250 trucks powered by liquid natural gas. Both the ports of Los Angeles and Long Beach, the nation’s largest port complex, have banned pre-1994 trucks.

Port officials in Los Angeles channeled the grants to trucking companies, convinced that most drivers did not have the wherewithal to buy new trucks or maintain them adequately.

“I used to see a lot of people drive messed up trucks, badly maintained trucks,” said Carlos Santamaria, a driver in Los Angeles. “They often had to make a decision, ‘do I fix my truck or do I put food on the table?’ ”

Los Angeles officials wanted to make the port less of a free-for-all where trucking companies and drivers constantly undercut each other on price, leaving too little money for them, in the port’s view, to buy new trucks and maintain them.

John Holmes, deputy executive director of operations at the Port of Los Angeles, said some might describe the

port as perfect, free-market economics, but he described it as “cavemen economics.”

To transform the system, the port required that trucking companies treat their drivers as employees, arguing that this would ensure better, cleaner trucks because the companies, not the drivers, would be responsible for buying and maintaining the rigs.

As a result of the grants, the ban on pre-1994 trucks and the extra fees for using trucks from 1994 to 2003, the industry had bought more than 6,000 new trucks since the Los Angeles plan took effect in October 2008.

“We say emissions are down 70 percent since the program began,” Mr. Holmes said. “This program has probably been the most successful environmental program on the planet in terms of reducing emissions.”

Dismayed by the judge’s ruling partly blocking the plan, Mr. Bloomberg, Mr. Villaraigosa and Mr. Booker are pressing Congress to amend truck-deregulation law so that local ports would have greater power to adopt environmental and safety rules, including ones like the suspended employee mandate in Los Angeles.

The trucking industry opposes such legislation. “We need to keep trucking regulated by the federal government to prevent a patchwork of regulations across the country,” Mr. Boyce said.

Michael Fox, president of a trucking firm in Rancho Cucamonga, Calif., opposes any mandate that companies treat drivers as employees.

“It’s just a bad idea to dictate that you can only do business one way,” said Mr. Fox.

With the injunction in force, some companies that hired drivers as \$18-an-hour employees now employ them as independent contractors.

Once again, many drivers are rushing to haul as many loads as they can each week, although they often wait for two unpaid hours to pick up loads. Many say they now earn \$8 to \$10 an hour. Mr. Holmes and many environmentalists ask who will buy the next generation of trucks in five years if it is left to the drivers.

“You can’t get clean air on the backs of the drivers,” said Amy Goldsmith, executive director of the New Jersey

Environmental Federation. “They can’t possibly earn enough the way the system is set up, with the drivers required to buy gas, insurance and equipment.”

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