



# The American Companies

## "NEWS-UPDATE"

September 11, 2008

### Judge won't block LA-LB port truck plan

Updated September 8, 2008 5:02:47 PM - Bill Mongelluzzo / The JOURNAL of COMMERCE ONLINE

LOS ANGELES -- A federal judge on Monday denied the trucking industry's request for a preliminary injunction that would have prevented the ports of Los Angeles and Long Beach from requiring port drayage companies to secure operating concessions by Oct. 1.

United States District Court Judge Christina Snyder based her decision primarily on a security argument raised by the ports. She said the concession requirements would give the ports a way to keep weapons of mass destruction, narcotics, and other contraband out of the harbor.

The American Trucking Associations had sought an order blocking the ports from imposing the concession requirements. The ATA claims the concessions are an illegal local effort to pre-empt federal regulation of interstate commerce. Robert Digges, attorney for the ATA, argued that the concessions are unnecessary because federal law already provides ways to maintain security in the motor carrier industry. He said the ports' concession requirements would turn carriers into law enforcers.

Snyder said she will review the case before issuing her final ruling by Thursday, but that she probably will not change her view of the security issue. Her ruling Monday came after a brief hearing that included arguments from proponents and opponents of the concessions. Attorneys had received printed copies of her tentative ruling 20 minutes before the hearing began.

Digges said that if the judge's final ruling on the preliminary injunction is unchanged, the ATA will appeal to the 9th U.S. Circuit Court of Appeals. The ATA has filed a lawsuit challenging the concession rules, but a hearing on the merits of the ATA's case could be months away.

Although the judge refused to grant the injunction, she questioned the main arguments that the ports and environmental groups made in favor of the concession agreements. Snyder indicated that the argument that the ports are market participants and must therefore require concessions in order to protect their financial interests is doubtful. She also indicated there may be merit to the ATA's argument that the concessions are prohibited by federal law prohibiting states and localities from regulating rates, routes and services that are part of interstate commerce.

The concession requirements were part of a plan to encourage the replacement of old trucks as part of the ports' clean-air plan. To obtain operating concessions, trucking companies would have had to agree to requirements for hours of service, financial wherewithal, maintenance and repair.

Los Angeles also would require companies to switch from owner-operators to employee drivers -- a key goal of the Teamsters union -- during a five-year phase-in period beginning in 2009. The employee-driver requirement is not in the Long Beach plan. Safety requirements were a secondary consideration in the ports' concession plan. The chief safety requirement in the concession program would require drivers to possess a Transportation Worker Identification Credential by Oct. 1 instead of waiting until the federal government requires TWICs.

#### The American Companies

250 Moonachie Road (HQ Office - Full Service)  
Moonachie, NJ 07074 (201-478-4600)

400 Oceangate, Suite 1106 (Full Service)  
Long Beach, CA 90802 (562-435-2327)

881 Route 83 (Full Service)  
Bensenville, IL 60106 (630-860-0782)

Domestic USA Ground Operations  
Domestic USA Air Operations  
Asheville NC 828-974-3001

3PL Locations  
Fairview, NJ  
Santa Fe Springs, CA