



September 2, 2009

Honorable James L. Oberstar
United States House of Representatives
2365 Rayburn House Office Building
Washington, DC 20515

Sent via Fax and E-Mail

Dear Chairman Oberstar,

This letter is in response to recent claims made in a joint communication to you by the Natural Resources Defense Council (NRDC) and the Sierra Club. These two organizations, the Port of Los Angeles and others are promoting a legislative initiative to amend the Federal Aviation Administration Authorization Act (FAAAA). These groups seek to broaden the ability of local governmental entities, such as port authorities, to regulate the port drayage component of interstate trucking services through locally mandated programs such as the Clean Trucks Plan (CTP) and Clean Air Action Plan (CAAP). For the reasons cited below, we oppose this initiative and strongly refute an accusation by the groups regarding our organization, The National Industrial Transportation League (League).

The League has been engaged in this issue since the CAAP's inception in 2007. Our over 600 member companies are engaged in the transport of all kinds of freight in both domestic and international commerce. Many of our members are importers and exporters that use our nation's ports and would be directly and negatively impacted by giving ports the ability to impose local requirements on trucking services that would restrict interstate commerce.

Contrary to the claims of the Sierra Club and NRDC, the League *never* opposed the CAAP's objectives of reducing vehicle emissions and fostering a cleaner environment. As you can judge from our June 7, 2007 letter to the Port of Los Angeles (<http://www.nitl.org/CAAPLaltr.pdf>) (a similar letter was sent to the Port of Long Beach), the League clearly expressed its support for the clean air goals of the CTP. Our opposition has been narrowly confined to the manner in which the ports sought to achieve those goals, namely, through a concession program that imposed burdensome economic regulations on trucking companies that pick up and deliver import and export cargo. We remain deeply concerned that local regulation of port truck operations will result in a patchwork of inconsistent local regulations that will unnecessarily increase operating costs and restrict commerce. Even more troubling was the anticompetitive proposal of the Port of Los Angeles which banned small independent truck drivers from serving its port.

We have consistently opposed the Los Angeles port's requirement that all drivers be employees of trucking establishments rather than independent owner-operators. It was and remains our position that restricting port access to employee drivers would not benefit the environment. This mandate would only result in significant restrictions on cargo flows and would drive hard working independent owner-operators to the unemployment lines.

We were not alone in this belief. While the Port of Long Beach originally proposed this same ban on owner-operators, they subsequently dropped this proposed requirement. While Long Beach remains committed to clean air, it does so in the apparent belief that there is no causal relationship between the independent driver ban and the environment. We strongly agree that clean air in ports is an achievable and desirable goal; the appropriate means is replacing trucks, not truck drivers.

To state as NRDC and the Sierra Club said in a footnote of their August 21 letter to you that the League "opposed the ports' Clean Air Action Plan" is a flagrant distortion of the truth. Indeed, many of our members have made substantial investments in new and cleaner trucks, which according to the Ports of Los Angeles and Long Beach have considerably improved the air quality in southern California. As an organization with over 100 years of service to the freight transportation community we are offended by this willful misrepresentation. In the final analysis we believe these tactics will do little in serving the needs of consumers and creating the healthy and clean environment which is necessary for our public health and future prosperity.

With respect to the proposed amendment to the FAAAA, we are strongly opposed to weakening the federal role in interstate commerce. State and local entities already have the ability to enact stricter air and environmental standards from those set by the federal government. We support this authority as the means to address local and regional air quality issues.

The organized effort to undermine federal preemption of local regulations impacting interstate trucking operations is simply an attempt to overturn recent federal court decisions that have correctly limited the regulatory authority of state and local entities in this area. To reverse these decisions through the legislative process would create a chaotic patchwork of local regulations that would make efficient and effective interstate transport impossible. We respectfully ask you to consider these consequences as you examine the arguments asserted in support of amending the FAAAA.

The issue of improving air quality in our ports is owed nothing less than an honest representation of the facts. We look forward to working with you on this important issue.

Sincerely,



Peter J. Gatti
Executive Vice President
The National Industrial Transportation League

cc: Peter Lehner, Natural Resources Defense Council; Allison Chin, Sierra Club