

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

COMMITTEE ON WATERFRONTS

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HELD AT: Committee Room
250 Broadway, 16th Floor

B E F O R E:
MICHAEL C. NELSON
Chairperson

COUNCIL MEMBERS:
Michael C. Nelson
Gale A. Brewer
Peter F. Vallone, Jr.
Brad S. Lander
Eric A. Ulrich

A P P E A R A N C E S

David Bragdon
Director
Mayor's Office of Long Term Planning and
Sustainability

Andrew Genn
Vice President
NYC Economic Development Corporation

Kizzy Charles-Guzman
Policy Advisor on Air Quality
Mayor's Office of Long Term Planning and
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George Miranda
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Amy Traub
Director of Research
Drum Major Institute for Public Policy

Raul de la Cruz
Truck Driver

Victor Martinez
Truck Driver

Kirby Reyes
Truck Driver

A P P E A R A N C E S (CONTINUED)

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Urban Agenda

COUNCIL MEMBER BREWER: Good

afternoon, I'm Gale Brewer, City Council Member and member of this committee. We will soon be joined by Chair Mike Nelson; he's on his way. We're here today to discuss Resolution 414-A. This is a resolution that we've had oversight hearings on. Out of that oversight on this topic came this particular resolution, which the main sponsor is Council Member Brad Lander, who is also on his way.

We would first like to call up to the podium, and thank David Bragdon, who is the Director of Long-term Planning and Sustainability. For those of us who have been around for a long time, it's been called the new rendition and follow-up to PlaNYC.

We are very pleased that he is here because, apparently, mostly, administration doesn't testify in support or against or about resolution. So there is very great excitement that you are here today, and much, much thanks. I was told to tell you that and I'm emphasizing it.

I also want to say I enjoyed your speech recently at an MAS conference on similar

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2 topics, on the environment, at Columbia
3 University. I enjoyed hearing you there. I think
4 Andrew Genn is joining you, from EDC. He may not
5 actually be speaking, but can answer any
6 questions.

7 We've just been joined by Council
8 Member Brad Lander. Because I know there are some
9 time constraints, we look forward to your
10 testimony and please proceed. Thank you so much
11 for joining us here today.

12 DAVID BRAGDON: Thank you very
13 much, Council Member Brewer. I will try to live
14 up to the promise of excitement. I'm also joined,
15 as well as by Mr. Genn, who you mentioned, but
16 also by Kizzy Charles-Guzman from the Office of
17 Long-term Planning and Sustainability, who leads
18 our air quality efforts.

19 It's our pleasure to be here today
20 to testify in support of City Council Resolution
21 414, which calls on the United States Congress to
22 pass H.R. 5967, which, in turn, would update the
23 Federal Motor Carrier statute in the Federal
24 Aviation Administration Authorization Act of 1994
25 to empower state and local governments to

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2 implement and enforce innovative environmental
3 solutions for truck pollution at our ports.

4 In PlaNYC, the city set the goal of
5 achieving the cleanest air of any large American
6 city. Since then, we have made progress in
7 measuring air quality, regulating emissions from
8 school buses and for-hire vehicles, and reducing
9 pollution from ferries, private trucks and
10 construction vehicles.

11 Many of these actions have been
12 done in partnership with the New York City
13 Council, including the passage of Introduction
14 194-A by the City Council this summer, which
15 lowers the sulfur content of No. 4 heating oil and
16 requires a 2 percent biodiesel blend in heating
17 oil.

18 Increasing the use of alternative
19 fuels is an important component of PlaNYC's goals
20 to reduce greenhouse gas emissions, improve local
21 air quality, and diversify our energy supply.

22 While trucks at the Port of New
23 York and New Jersey make up less than 4 percent of
24 all trucks and less than 1 percent of all vehicles
25 on the regional roadways, for the neighborhoods

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2 immediately adjacent to Port operations, truck
3 emissions have a significant impact on local air
4 quality and public health.

5 In working to reduce port
6 emissions, the city has encountered several
7 challenges including a limited ability to directly
8 regulate maritime and port activities. Our goal
9 is to work with our partners in government and
10 other stakeholders to reduce emissions from the
11 ships and trucks which use our ports. Due to the
12 complex regulatory structure governing the port,
13 much of this effort can be accomplished only in
14 collaboration with our colleagues at the Port
15 Authority and the US Environmental Protection
16 Agency.

17 In PlaNYC, the City recognized the
18 need to work with the Port Authority to develop a
19 clean air strategy for its port facilities. Over
20 the past three years the Mayor's Office, working
21 with the NYC Economic Development Corporation and
22 the NYC Department of Transportation, the Port
23 Authority, the federal EPA, the States of New York
24 and New Jersey, and industry participated in an
25 unprecedented partnership to produce an actionable

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2 and transparent plan for reducing maritime
3 emissions.

4 In October 2009, the Port Authority
5 released its Clean Air Strategy. The strategy
6 adopts voluntary measures of the parties to reduce
7 greenhouse gas emissions from port activities by 5
8 percent a year and criteria pollutants such as
9 particulate matter by 3 percent a year. As a 10-
10 year strategy, this equates to a 30 percent
11 decrease in criteria pollutants and a 50 percent
12 decrease in greenhouse gas emissions from baseline
13 2006 levels regardless of port growth over the
14 next ten years.

15 Through the city's leases with
16 maritime industries and businesses which rely on
17 trucks to move their goods, the city has also
18 worked to encourage more fuel efficient and less
19 polluting vehicles. For example, the EDC
20 negotiated a mandate in its lease with Phoenix
21 Beverages at Pier 11 Red Hook to convert its
22 entire fleet of 80 trucks to compressed natural
23 gas within seven years. The conversion process
24 began this summer and is expected to result in two
25 truck conversions per month.

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2 These actions will help reduce
3 emissions and improve air quality in the
4 communities around the port. However, increasing
5 the ability of state and local governments,
6 including the Port Authority to develop local
7 strategies in collaboration with stakeholders
8 would enable us to do more to reduce the
9 environmental impact of our port activities.

10 The importance of our port system
11 to the city's economy has made it essential that
12 we find ways to reduce emissions from port
13 operations and improve the health of surrounding
14 communities so that we are not lead to the false
15 choice between economic development and
16 environmental sustainability.

17 The Port of New York and New Jersey
18 is a mainstay of the region's economy employing
19 269,000 people, generating \$12 billion in wages
20 and \$2 billion in tax revenue. In New York City
21 alone, the Port employs 32,000 people who earn
22 \$2.1 billion in wages.

23 A green supply chain requires that
24 cargo is brought as close to the consumer by water
25 or rail, then the proverbial last mile by truck.

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2 Optimizing the green aspects of each mode will
3 result in the emission of fewer primary pollutants
4 and greenhouse gases, the goals that are embodied
5 in PlaNYC. At the same time, as with all of our
6 efforts in PlaNYC, it is important that we enact
7 programs in a cost effective manner and find ways
8 to support existing businesses while upgrading our
9 infrastructure and reducing emissions.

10 Developing location-specific
11 strategies will give cities the flexibility they
12 need to work with their many partners as they seek
13 to reduce emissions from port facilities. We look
14 forward to working with you to ensure that our
15 maritime infrastructure remains competitive and
16 environmentally sustainable.

17 I would be happy to respond to any
18 questions that you have.

19 COUNCIL MEMBER BREWER: Thank you.
20 I know that Council Member Lander has questions.
21 I just have one overall, having spent some time
22 myself in Washington working for the city of New
23 York. What are we doing now to help pass the
24 legislation that this resolution supports? What
25 is the Washington office doing, or what are we

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doing in that regard?

DAVID BRAGDON: Council Member Brewer, I'm not aware of what their activities are. I don't know if they are staff from Intergovernmental Affairs here who might address that.

COUNCIL MEMBER BREWER: Okay, or later on. It's just something that I think we'd like to know.

DAVID BRAGDON: We'll get you the answer.

COUNCIL MEMBER BREWER: We've been joined, in a minute, by the great Chair of Waterfronts, Mike Nelson, but I know that Council Member Lander had questions.

COUNCIL MEMBER LANDER: Thank you very much, temporary Chair Brewer. Welcome to the chair and to my co-sponsor of this resolution, Mike Nelson. Mr. Bragdon, very nice to meet you. I didn't get to hear all the things that Gale said, but we've been hearing very good things about your work out on the west coast and are looking very forward to working with you here to continue the Council's partnership with the Office

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2 of Long Term Planning and Sustainability to really
3 green the city and address essential issues.

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5 I'm very excited to be one of the
6 co-sponsors of this bill, which I think helps us
7 take significant steps forward to do it. I
8 appreciate your being here to testify in support
9 of it.

9

10 I have a couple of questions. As
11 you know, the city is now doing the Vision 20/20
12 Waterfront plan. I think it's great that that
13 plan, that your arrival, that this effort to green
14 the port are all sort of coming at the same time.
15 I wonder if you could give us any sense of sort of
16 your broader thinking.

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17 Even beyond just the resolution
18 today of how those things fit together and how you
19 see the port fitting into your ambit of the Office
20 of Long Term Planning and Sustainability and
21 imagine over the long-term, building on both what
22 EDC has already done and then what comes out of
23 the Vision 20/20 plan to make sure that we
24 continue to green the harbor and green the port in
25 the years ahead.

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DAVID BRAGDON: Certainly, Council

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2 Member Lander. I think the strength of the Vision
3 20/20 really results from the process that's been
4 used to develop it. To me, it's a great model of
5 bringing multiple interests together.

6 Neighborhoods have been represented, recreation
7 interests have been represented, commercial
8 interests have been represented, both at sort of a
9 broad visionary level of recognizing the different
10 uses and importance that the waterfront has on a
11 sort of broad citywide scale down to the
12 neighborhood level. I think that's why it's been
13 a strong process.

14 Now, some people think that it
15 takes longer to do things in a collaborative and
16 inclusive way, but then they're more durable,
17 lasting sort of decisions because more people are
18 bought in and committed to it. So I think a lot
19 of good things will come out of the Vision plan.
20 It's been quite some time since the city updated
21 it. I think it will do a lot of good things for
22 the city, both on a broad visionary basis but in a
23 very detailed way.

24 COUNCIL MEMBER LANDER: Thank you.
25 This may be more of a suggestion than a question

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2 at this time, but I think one set of issues around
3 the waterfront really relate, not just to sort of
4 putting a plan in place but thinking about
5 governance and implementation as we move forward.
6 There are some recommendations in the plan about
7 that.

8 I know some of the questions around
9 the Office of Long Term Planning and
10 Sustainability are also there. There are some
11 things there that are really about putting a plan
12 down and there are some things that are about
13 changing the way we operate. Some of those have
14 neat homes in existing locations and some of them
15 don't. I just hope we'll have your help figuring
16 out how to do that. So we not only put a great
17 plan in place but really get issues of
18 implementation and operation and governance in
19 greening the harbor in particular in this
20 instance, but in general.

21 DAVID BRAGDON: Council Member

22 Lander, I agree. I think the implementation in so
23 far as it's in the hands of city agencies, I think
24 we have a fair degree of collaboration and shared
25 vision. In terms of obstacles, it's often the

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2 other levels of government that regulate us. In
3 the case of waterfront development, the state
4 agencies, particularly the Department of
5 Environmental Conservation, which has some
6 delegated authority on some matters from federal
7 EPA. Sometimes those can be obstacles.

8 So I think the collaboration that
9 exists among the city agencies is very strong and
10 very healthy. What we probably ought to do is
11 concentrate on getting some of the cooperation
12 that we need from state and federal levels, which
13 is part of this resolution is about.

14 COUNCIL MEMBER LANDER: As your
15 predecessor knew and as your colleagues know, I
16 hope you'll look on me as an ally there. I think
17 that what we need to do to get DEC to understand
18 that environmental conservation is not solely
19 about restoration, though it is somewhat
20 restoration, but is about making the greenest use
21 of the waterfront resources that we have and that
22 we've got to think broadly about what that means
23 and understand that bringing goods in and out by
24 ship and on green trucks is a very smart thing to
25 do from an environmental point of view.

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2 Now, one thing that I hope we will
3 have in place before the plan even comes out that
4 will help green the waterfront, even though it's
5 not specifically about trucks, is shore power at
6 the Brooklyn Cruise Terminal. I know we've been
7 hoping and moving forward and on the cusp. But
8 with you now in place, I hope you'll be helpful in
9 our efforts and EDC's efforts to wrangle every
10 partner to the table so that before the next time
11 we have a hearing with you, at least at the
12 Brooklyn Cruise Terminal, we have shore power and
13 soon can start to even move it out from there.

14 DAVID BRAGDON: Yes, we are
15 continuing to push on that.

16 COUNCIL MEMBER LANDER: Great.
17 Then my last question is you referenced the
18 Phoenix deal. To me, what's happening with
19 Phoenix and at ASI is a model for the kind of
20 thing we want to see happen through the port at
21 large. There's a date-certain plan to have all
22 the trucks use compressed natural gas. In that
23 case, the truckers are employees of the company
24 and are treated well. It really is, though it's
25 small, the model we're hoping for, for the port at

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2 large.

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I wonder how you are working with the Port Authority. This may be more of a question for EDC. How you're working with the Port Authority to push the entire port forward, the port's assets and your assets? Do you see Phoenix and that lease as a model? Are you hoping to do it more for the remaining EDC assets? Do you have some thoughts about how you can work with the Port Authority to bring them onboard as well?

DAVID BRAGDON: Sure. Council Member Lander, I mean the context is a little more clear cut in the case of Phoenix where it's one company that has a lease with EDC where there's a clear sort of contractual type of arrangement. So the situation is a little bit different in terms of operating a marine terminal that's open to sort of international traffic and common carriers, ocean carriers. So it's in that latter instance we'd be working with the Port Authority where we don't have a direct lease. I'd defer to Mr. Genn, if he wanted to add to that.

ANDREW GENN: I think that the key is having these aspirations embodied in lease

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2 agreements and making them enforceable. I think
3 that we are on the same page with the Port
4 Authority. We negotiated closely with them the
5 Phoenix lease.

6 COUNCIL MEMBER LANDER: Excuse me,
7 could you please mention your name?

8 ANDREW GENN: I'm sorry. It's
9 Andrew Genn from New York City Economic
10 Development Corporation.

11 COUNCIL MEMBER LANDER: Thank you.

12 ANDREW GENN: So I think that's a
13 key attribute. I think that whether it's embodied
14 in a lease or whether it's part of a larger
15 program like the clean air strategy, I think that
16 the agencies get it and we're working very closely
17 together.

18 COUNCIL MEMBER LANDER: Thanks
19 again for being here today and for supporting this
20 resolution. I look forward to working with you,
21 as Council Member Brewer said, and with the
22 administration to figure out what we can do to
23 actually advance the legislation getting passed in
24 Congress. Then once that happens, to working
25 together with EDC and the Port Authority to really

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2 move forward an ambitious and comprehensive clean
3 truck program. Thank you. Thank you, Mr.
4 Chairman.

5 CHAIRPERSON NELSON: Thank you, I
6 appreciate it. I just wanted to thank everybody
7 that showed the interest to come today, and for
8 the administration to be on the same side as us,
9 which is not always the case. I think that may be
10 the headline. I think we're all united in trying
11 to improve the environment. The damage that has
12 been done already, of course, is done, but we can
13 hopefully thwart future environmental negative
14 impact upon our citizenry as well.

15 How would you respond to the charge
16 that by allowing public seaports to set their own
17 environmental rules that we create a patchwork of
18 incompatible regulations across the nation and
19 that would interfere with interstate commerce?

20 DAVID BRAGDON: Chair Nelson, I
21 think part of your question is a legal question
22 with regard to interstate commerce and the
23 constitution. I'm not really equipped to address
24 that. Some of those issues have been raised.

25 CHAIRPERSON NELSON: Something we

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2 have to charge--

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4 DAVID BRAGDON: [interposing] Some
5 have been raised in court. Let me respond more
6 philosophically though. That communities that
7 choose to have progressive standards to protect
8 the health of their citizens and their air
9 quality, in my mind, ought to be able to apply
10 those principles in their local laws. Certainly,
11 there is competition among ports within our
12 nation. There is competition among ports among
13 different nations as well.

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I personally think that New York
City should stake its claim to competition on the
basis of efficiency and value rather than on lax
standards for trucks or fly by night operators of
trucks or by cutting corners in terms of the air
that our citizens breathe. I think that you can
compete on the basis of quality and efficiency
without degrading. Again, this is my personal
opinion.

Often, measures to protect public
health are critiqued on the assertion that they
somehow erode a community's economic
competitiveness vis-à-vis other places. I think

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2 quite often that's actually not the case.

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CHAIRPERSON NELSON: I agree with

you entirely. I don't expect a suit to come our

way, but at least there's a preparation involved

and the thought that how we would respond

immediately, if it should come. I believe

ultimately we'll be victorious with that. Thank

you for that. I believe Council Member Brewer has

another question.

COUNCIL MEMBER BREWER: This is

just my ignorance, but when you say trucks should

be green and so on, there are obviously different

kinds. Phoenix, I think, has the compressed. How

does one, or is this national decision, figure out

what is the correct green truck? Maybe I should

know this. Even in the city, having been to these

hearings for nine years, we're trying to figure

out what's the best taxi, what's the best

sanitation and so on. So I'm just wondering what

are we looking at here.

KIZZY CHARLES-GUZMAN: Hi. My name

is Kizzy Charles-Guzman from the Office of Long

Term Planning and Sustainability. I think that

our office has done a really good job of looking

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2 at green technologies as being just technology
3 neutral ways to get to much lower emissions than
4 the baseline. In this case, compressed natural
5 gas is much cleaner than old diesel trucks.
6 That's what we are replacing.

7 If we are sticking with diesel as
8 the model, the Environmental Protection Agency at
9 the federal level sets emissions standards for all
10 vehicles. Specifically for trucks, they are much
11 cleaner after 2007. So a lot of the models for
12 greening trucks is about replacing older versions,
13 older diesel vehicles with brand new trucks that
14 meet much more stringent emission standards and
15 therefore emit a lot less particulate matter,
16 consume less fuel. They run more efficiently as
17 an operation.

18 COUNCIL MEMBER BREWER: I know when
19 we had the sanitation and the mayor's plan and
20 blah, blah, blah, blah, the green trucks versus
21 the city trucks, they are going to be phased in by
22 the federal government. There's a 25-year span,
23 as I understand, for commercial garbage in the
24 city. So they wouldn't have to change as rapidly.
25 So what you're saying is if this federal

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2 legislation goes through, it would be those trucks
3 that are new that would obviously fit the new
4 guidelines.

5 KIZZY CHARLES-GUZMAN: Right.

6 COUNCIL MEMBER BREWER: But the
7 trucks that exist currently, what would be their
8 status? Would it be company by company, or how
9 does that work?

10 KIZZY CHARLES-GUZMAN: There are
11 two issues on this. So for example, when we
12 worked with the Council to do the school bus
13 legislation.

14 COUNCIL MEMBER BREWER: Right, that
15 I'm familiar with.

16 KIZZY CHARLES-GUZMAN: The goal
17 there was to get rid of the old school buses by
18 then requiring that all new buses that are
19 purchased are brand new buses and therefore much
20 lower emissions. But normally, these kinds of
21 mandates grandfather in the older vehicles. The
22 key there is to try to incentivize a faster
23 turnover so that when they're purchasing a new
24 vehicle, then we either subsidize a portion of the
25 cost, or some of the other ports outright ban

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2 certain model years, so that you have to have a
3 2007 EPA compliant vehicle in order to enter the
4 port. That's the model that L.A. has, for
5 example.

6 COUNCIL MEMBER BREWER: Thank you
7 very much.

8 CHAIRPERSON NELSON: Councilman
9 Lander?

10 COUNCIL MEMBER LANDER: Council
11 Member Brewer, also, just two things. First, the
12 resolution we're looking at today has two parts.
13 The first is calling on Congress to pass this
14 legislation, which would simply allow ports to set
15 their own standards, which they can't.

16 COUNCIL MEMBER BREWER: I
17 understand that.

18 COUNCIL MEMBER LANDER: I don't
19 think they're coming today, but Port Authority has
20 given us testimony on what their current programs
21 are.

22 COUNCIL MEMBER BREWER: I hear it.
23 I like to listen to the answer.

24 COUNCIL MEMBER LANDER: Yes. But I
25 also wanted, because the Port is not testifying, I

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want to point out that they have submitted testimony on what their current model years are. We're going to hear testimony that the Port's current program is not doing enough to move us to green trucks. It's part of why I wanted to kind of point out Phoenix. They're different kinds of trucks. Let's be clear, they're not over the road long haul trucks. But as a good standard, and one that I hope we'll keep pushing. You referenced the Los Angeles program, which I also think is the gold standard in terms of moving toward both better environmental quality and worker safety. We'll hear more about that as well.

CHAIRPERSON NELSON: No other questions from my colleagues? No other statements? Just for the record, the Port Authority of New York and New Jersey has submitted testimony for the record. Intermodal Motor Carriers Conference has submitted testimony for the record as well. We won't read this aloud, I imagine.

DAVID BRAGDON: Thank you.

KIZZY CHARLES-GUZMAN: Thank you.

ANDREW GENN: Thank you.

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2 CHAIRPERSON NELSON: Thank you so
3 much, appreciate you. Would Mr. Fred Potter, IBT,
4 Port Division Director please come to testify
5 along with Mr. George Miranda, President of the
6 Joint Council, Teamsters?

7 [Pause]

8 CHAIRPERSON NELSON: We've been
9 joined by Council Member Peter Vallone, Jr., and
10 Eric Ulrich also is with us. Thank you,
11 Councilman.

12 [Pause]

13 GEORGE MIRANDA: Thank you Chairman
14 Nelson, Council Member Lander and members of the
15 Waterfront Committee for the opportunity to speak
16 today. I am George Miranda, President of
17 Teamsters Joint Council 16, representing 32 unions
18 and over 120,000 members in and around New York
19 City. The Teamsters are proud members of the
20 Coalition for Healthy Ports working alongside
21 labor, community, and environmental advocates in
22 strong support of the passage of Resolution 414.
23 We are also here today in solidarity with the over
24 7,000 workers who haul containers to and from the
25 Ports of New York and New Jersey.

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2 As you may know, effective January
3 1st, 2011, our Port Authority will no longer allow
4 pre-1994 trucks onto the port property. Although
5 we welcome the effort to reduce toxic diesel
6 pollution from old port trucks, the plan as it
7 stands cannot address the fundamental market
8 failures of the port trucking industry or the
9 severe economic and environmental consequences
10 they cause.

11 And as you will hear from Raul,
12 Kirby and Victor today, banning these trucks will
13 place a severe economic burden on port drivers who
14 average \$10 to \$11 an hour and lack a safety net,
15 rather than engage the giant shipping companies
16 and trucking outfits that profit from the goods
17 that they move.

18 According to Rutgers University
19 Professor David Bensman, port drivers are on five
20 days a week, from ten to twelve hours a day,
21 earning an average annual income of \$28,000. As
22 independent contractors, port truck drivers do not
23 receive health care or any contributions to a
24 retirement fund. Independent contractors are
25 responsible for owning and maintaining their own

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2 trucks, which includes lease payments, fuel costs,
3 tire repairs, truck maintenance, road licenses,
4 taxes, insurance, tolls and traffic fines.

5 For too long truck drivers at the
6 ports have been forced to endure unfriendly
7 working conditions and wages that make it
8 incredibly difficult to provide for their
9 families. Fortunately, there is a solution that
10 can help us fix the pollution problem and help fix
11 the economics of the hardworking men and women at
12 the port.

13 You will hear today from
14 economists, drivers, environmentalists,
15 environmental justice advocates, labor leaders and
16 community groups, that they will all be stressing
17 three main points. First, that we all want clean
18 trucks to serve the ports of New York and New
19 Jersey.

20 Second there is a proven successful
21 example in L.A. for how to bring good jobs and
22 clean air to the port trucking industry and
23 finally they should bring that example here to the
24 New York/New Jersey region.

25 New York City Council Resolution

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2 414 calls on Congress to enact H.R. 5967 which
3 makes clear the Port's authority to enact programs
4 like the Los Angeles Clean Truck Program and calls
5 on the Port Authority to do so.

6 The International Brotherhood of
7 Teamsters supports the passage of Resolution 414
8 and we join with the New York City Council in
9 calling on the Port Authority to enact a Clean
10 Truck Program for the New York and New Jersey
11 region. Thank you.

12 CHAIRPERSON NELSON: Thank you, Mr.
13 Miranda. Mr. Potter?

14 FRED POTTER: Good afternoon,
15 members of the New York City Council Waterfront
16 Committee. Thank you for the opportunity to speak
17 to you today. My name is Fred Potter and I am the
18 Director of the International Brotherhood of
19 Teamsters Port Division and I'm also a Vice
20 President in the International Brotherhood of
21 Teamsters.

22 As it's director, I am very
23 familiar with the numerous efforts at cleaning up
24 the pollution at port trucking that are being
25 tried in locations all around the country. You

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2 will hear from Drum Major Institute about some of
3 the successes with the Port of Los Angeles' Clean
4 Truck Program.

5 But today the message we are
6 sending is for the Port Authority. New York
7 residents are suffering from the harmful effects
8 of pollution. And the port truck drivers in
9 particular are suffering from the health
10 consequences of these dirty trucks.

11 As I've said earlier, I've been to
12 ports all over the country: New York, Seattle,
13 Oakland and Long Beach. I have spoken to port
14 truckers in all of these cities. I have spent
15 time with families that live in these communities,
16 that live next to these giant port complexes. I
17 have worked with environmentalists to find
18 solutions to the problems of port pollution. I
19 have even testified before Congress about what
20 we've learned. Now I am here to tell you what
21 I've learned.

22 First, I have learned that we must
23 replace old, dirty rigs with fleets of new clean
24 trucks. The technology exists and people are
25 desperate for us to implement this technology.

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2 Second, we have found many clean truck programs at
3 our country's ports to be inadequate, like the one
4 at the New York/New Jersey port, both in terms of
5 its environmental achievements and in terms of
6 what bad programs do to port truck drivers.

7 In Oakland, for example, they
8 established a truck ban at the beginning of this
9 year. They provided financing for individual
10 truck drivers, and many of this was taxpayer
11 money, to assist them with the cost of retrofits
12 on their trucks.

13 And according to a survey by the
14 Public Welfare Foundation, 25 percent of the truck
15 drivers have since either filed for bankruptcy,
16 lost their homes to foreclosure or been evicted.
17 These drivers cannot afford the expense of the
18 industry to bring new technology and new trucks to
19 clean the air.

20 And unless the Port Authority
21 scraps their current plan, truck drivers here in
22 New York and New Jersey will end up in a similarly
23 disturbing situation. Under no circumstances
24 should we expect low-income workers to take out
25 large loans in order to keep their jobs and then

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2 expect that it will not lead to financial ruin for
3 those drivers. Who should bear the cost are the
4 trucking companies and the shippers that make the
5 profits in this industry and it should not be put
6 on low-income workers.

7 There is only one way to get the
8 clean trucks we need without putting hard working
9 port drivers and their families onto the streets,
10 and that is to change the system of worker
11 misclassification that keeps port driver in
12 poverty and forces them to own and maintain their
13 own trucks, the very tools that keep our ports
14 running.

15 At every port, and New York and New
16 Jersey is no exception, their motto is to
17 essentially be an economic stimulus and to create
18 good jobs. They have not created good jobs.
19 Truck replacement, ban programs, like the one
20 they've enacted will make bad jobs even worse.

21 The only effective model is the
22 EPA-award winning L.A. Clean Truck Program which
23 has put more 8,500 clean trucks into service at
24 the Port of Los Angeles and has begun to
25 restructure the system of port trucking so that

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2 drivers are classified as employees and not
3 independent contractors.

4 On behalf of the Teamsters and the
5 7,000 port drivers at the ports of New York and
6 New Jersey, I want to thank this body for the
7 leadership on this issue. We are here today in
8 support New York City Council Resolution 414 which
9 calls on Congress to pass the Clean Ports Act of
10 2010, and more importantly calls on the Port
11 Authority to enact a comprehensive L.A. style
12 Clean Truck Program.

13 I'd like to just address a couple
14 of things from the comments made earlier during
15 testimony. We've heard about this patchwork of
16 regulations. That is a myth. The fact is, the
17 ports have basically discretionary and
18 nondiscretionary cargo. There is just some cargo
19 that is impractical to move it from one port to
20 another, on the competition issue.

21 The other thing is, who knows best
22 about addressing pollution issues, trucking issue,
23 than the local authorities that handle that work
24 and who compete.

25 The same industry people that have

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2 been outspoken saying we don't need a patchwork,
3 reject the idea of having a national law that
4 would make the same playing field and the same
5 rules for everybody else.

6 So they say it in two different
7 ways. They're against any mandates, as you see as
8 New York/New Jersey has recently done, is make the
9 program voluntary because the New Jersey Motor
10 Truck Association threatened a lawsuit. This is
11 what the bill is about. This is what you're
12 supporting is about, to give New York and New
13 Jersey and other ports the authority to make
14 decisions in order to manage things to the best
15 interests of the community, the cities that
16 surround them and for the workers.

17 The other is, quite honestly, in
18 terms of what's the difference. The difference
19 between a 1996 truck and a 2007 truck is the 2007
20 truck is 60 times less polluting. Less diesel
21 particulate goes in the air. So for every 1996 or
22 older truck you take off the road and replace it
23 with 2007, that's 60 times. Take 10 trucks,
24 that's 600 times. That's the math. That's what
25 L.A. did. L.A. is a much cleaner city for it.

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2 The other is this is not long haul
3 work. There is very little long haul work at
4 ports, it's specialized traffic. Most of your
5 workers in the tri-state area, it's mostly trips
6 100 and 125 miles or less. Most of these drivers
7 do multiple trips, three or four trips a day,
8 because there are drop offs at warehouse locations
9 for later distribution.

10 So we think that the industry's
11 opposition to this is simply because they don't
12 want to foot the bill for greening the air and
13 making these good green jobs and allowing these
14 port drivers to work with dignity and having a
15 living wage. I thank you for the opportunity to
16 testify.

17 CHAIRPERSON NELSON: Thank you,
18 sir. Do any of my colleagues have any questions?
19 Council Member Lander?

20 COUNCIL MEMBER LANDER: First, I
21 appreciate the correction. I meant to say
22 container trucks rather than long haul trucks.
23 Thank you, Mr. Potter. Could you say a little
24 more in Los Angeles where they've gotten these
25 8,500 new clean trucks and where obviously the

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2 industry has stepped up? Who are the businesses
3 that are doing the employing? What are the fleet
4 sizes? It seems like they've managed pretty
5 effectively in that program to go ahead and move
6 forward to the kinds of trucks that we need in a
7 way that doesn't put the burden on folks making
8 less than \$30,000 a year. So tell us a little
9 more about how that works.

10 FRED POTTER: I've got to give you
11 two answers. I've got to give you pre-injunction
12 and post-injunction. Prior to the injunction, as
13 a result of the ATA lawsuit, you had a port that
14 not only was choking on the diesel emissions
15 there, but was unable to expand the port. Because
16 the lawsuits brought against them, like the China
17 shipping decision, they were unable to expand the
18 port, make infrastructure changes unless they
19 showed that they made improvements in the
20 environment. So they were hammered to even
21 expanding. So you talk about being
22 noncompetitive; that made them noncompetitive.

23 The City of Los Angeles and the
24 port authority developed a plan that said that we
25 need a long-term strategy. We have to have

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2 capitalized trucking companies that can afford not
3 only to buy the new equipment, but to maintain the
4 new equipment, because if you don't service these
5 trucks, just the dirty filter means it's 25
6 percent less efficient. And as technology comes
7 in the future, to be able to replace trucks on an
8 ongoing basis.

9 Another key component of their plan
10 was to get rid of these old trucks. Take them off
11 the road. The New York City program, the New
12 York/New Jersey program they put together doesn't
13 allow them to scrap the old trucks and to get
14 money for that. It simply allows them to sell
15 those trucks and they operate on your streets just
16 hauling a different product. It's not a
17 container, maybe it's groceries.

18 So that was it. It was because of
19 the employee mandate, trucking companies put up
20 capital money also. I believe there was \$44
21 million of public money put in to the port
22 authority in order to initiate a program that led
23 to new operators coming in, companies hiring
24 employees who were getting a living wage, health
25 insurance, social security. State taxes were

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2 being paid and they weren't using compensated
3 care, charitable care to get their health
4 insurance. They also got a clean truck, because
5 in the cab it's ten times more polluting than
6 outside the cab.

7 So what happened after the
8 injunction? The industry said we own the trucks,
9 the trucking companies, but we're going to lease
10 them back to the drivers. Worse than being an
11 independent contractor that owns his truck, we're
12 going to lease it back to you. You're going to
13 pay the full cost of the truck and you're going to
14 have all the responsibility but you're never going
15 to own it. You're not going to be able to pull up
16 your truck and go work for a competitor. You're a
17 sharecropper on wheels.

18 What's happened since then is the
19 plight of the drivers is probably worse. But the
20 good news is there's 8,500 clean trucks that's
21 helping the community. The problem is it won't be
22 sustainable. When you compare the \$44 million to
23 support it, this bill is going to come again
24 because these guys can't maintain this equipment.

25 GEORGE MIRANDA: They won't be able

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to maintain it.

FRED POTTER: If you compare the costs, looking at the New York/New Jersey plan now that at best is going to replace 700 trucks, they spent \$32 million. There's a big difference between 700 trucks, if you get there, and 8,500 trucks. Now, we've won the case. Now it's determined whether or not there's going to be a permanent injunction until the appeal is heard. There is going to be a hearing and everything is kind of in a state of where do we go from there.

GEORGE MIRANDA: Flux.

FRED POTTER: So getting the bill passed is important because it allows cities and allows port authorities like L.A. Port, in order to use their proprietary interest, their want to be able to compete, and to also provide lean green jobs in a green port, and also take away the lawsuits from the environmental organizations and public by saying you've got to address serious pollution issues before you can expand the port. So we think it's been a win/win for the port, a win/win for the drivers and a win/win for the community. In fact, it's also stimulated

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2 something else. While the rest of the country
3 couldn't sell a truck, truck sales in southern
4 California were up dramatically. So I hope that
5 answers your question.

6 COUNCIL MEMBER LANDER: Thank you.

7 CHAIRPERSON NELSON: Thank you. By
8 the way, Council Member Brewer, thank you so ably
9 for chairing the committee until I arrived. You
10 have a question.

11 COUNCIL MEMBER BREWER: I do. I
12 just wanted to know from you the status of the
13 legislation in Washington. I know you often have
14 your fingers on the pulse much more than others.
15 Thank you both for your testimony, it was
16 excellent.

17 FRED POTTER: I'm not sure we do.

18 COUNCIL MEMBER BREWER: Oh yes, you
19 do.

20 FRED POTTER: We don't always find
21 a pulse in Washington.

22 GEORGE MIRANDA: Try to find the
23 pulse.

24 [Laughter]

25 GEORGE MIRANDA: The pulse we're

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trying to find.

COUNCIL MEMBER BREWER: Well whatever pulse is there, you know what it is.

GEORGE MIRANDA: We're trying.

COUNCIL MEMBER BREWER: If you don't, Heather does. Go ahead.

FRED POTTER: First of all, New York's own Congressman Jerry Nadler has been a champion on this issue and has just done a terrific job of bringing this issue to the forefront. We had a terrific hearing May 5th in front of Chairman DeFazio of the Transportation Infrastructure Committee.

As a result of those, they also put together an investigation by that committee as well as the Labor and Education Committee into misclassification in the leases at the L.A. and Long Beach ports. We have currently 89 co-sponsors. We'll have 91 to 95 when they return to session. As you know, they can't become an official co-sponsor until they go back in session. We hope to soon have a senate version of the bill also in.

To be honest with you, a lot of

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this is the outcome of the November elections. We're looking to see what happens there and if there are any changes in committee assignments and leadership. But we're pretty confident because it's the right thing, and it doesn't cost the federal government anything. There are very few bills that people bring forward that doesn't cost the government or the taxpayers. So we're pretty confident. We're also confident that the White House looks at this situation and says misclassification, pollution, good jobs, these are all things that fit into the administrative.

COUNCIL MEMBER BREWER: Thank you very much.

CHAIRPERSON NELSON: Council Member Vallone?

COUNCIL MEMBER VALLONE: Thank you, Mr. Chair. I'm objective on this bill, so I want you to answer some questions that are raised by opponents to this bill. I don't intend to become an expert on the federal issue. If I can't be, then I'm going to stay out of this whole issue. Because we have a shot right now, but I don't know why we at this committee have to become experts on

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2 this very, very complicated federal issue.

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4 Let me ask a couple of questions
5 based on testimony that has been submitted to this
6 council by the American Truckers Association,
7 which apparently represents 85 to 98 percent of
8 the trucks that currently serve the ports, that
9 are independent owner/operators. They don't
10 support this. They're the ones who did the
11 lawsuit, I believe. Again, no expert. You can
12 correct me every time I'm wrong, and I'm sure I
13 will be many times.

14

15 FRED POTTER: Let me correct you on
16 this. They testified to that. In L.A. they
17 represented about 4 percent of the truckers. They
18 did file the lawsuit.

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20 COUNCIL MEMBER VALLONE: They
21 testified they represented 4 percent of the
22 truckers. They're saying that 85 to 98 percent of
23 trucks are independently owned, not that they
24 represent 85 to 98 percent of trucks. I may have
25 made that up.

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27 FRED POTTER: That I would agree
28 with, yes.

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30 COUNCIL MEMBER VALLONE: They are

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2 stating that in L.A. they were able to achieve 80
3 percent reduction in truck emissions three years
4 ahead of schedule while under an injunction and
5 not able to implement this program. Is that true?

6 FRED POTTER: That is true. The
7 program was three years ahead of schedule. They
8 expected in three years to reach that attainment.
9 I think the primary thing that we shake our head
10 about is we have the ATA who opposes the plan, who
11 said the plan works, so we don't need the law.
12 They filed a lawsuit against it.

13 ATA didn't create this plan and
14 didn't implement it. Who implement it was the
15 port authority. The port authority says in order
16 for this to be sustainable, in order for this to
17 work, we can't have a voluntary program. We have
18 to have a program that we can mandate. We don't
19 want to put up \$44 million every five years to
20 replace equipment. So what the law would allow us
21 to do and what we're hoping to do in winning the
22 lawsuit is to exercise our interests as
23 competitors in order to make sure that we have the
24 cleanest trucks and the lowest emissions in the
25 community.

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2 So the fact is that the program has
3 been a success, not because of the ATA but in
4 spite of the ATA.

5 COUNCIL MEMBER VALLONE: Let me
6 just jump in. Again, you know a lot more about
7 this than I do. But based on what I've been able
8 to just quickly read, they don't oppose the
9 program, they oppose the portion of the program
10 that mandates that every driver be a company
11 driver and can't be an independent driver from now
12 on. Without that portion, L.A. was able to get an
13 80 percent reduction already. Again, am I
14 misstating this? I may very well be misstating
15 this.

16 FRED POTTER: First of all, you
17 have to remember that most of the success occurred
18 before the injunction. The trucks were ordered to
19 be purchased. People prepared for the L.A.
20 program. That's number one.

21 Number two, what they choose to
22 ignore is the sustainability. What do you do when
23 the leases on these trucks expire? How do you
24 monitor that the trucks are being maintained? One
25 of the ideas for having capitalized trucking

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2 companies is they would have to be reporting. So
3 that you knew trucks were serviced regularly, that
4 they were meeting the standards, there was air
5 quality testing on the equipment, there would be
6 certifications to that. It's virtually impossible
7 to do it with 12,000 independent so-called
8 contractors.

9 The other part of it that L.A.
10 continues to say is the large defaults on these
11 loans and these leases for these drivers that say
12 that economically that this thing will collapse.
13 There have been a number of studies. There was
14 the Bensman study that was referred to here.
15 There were two other studies out in L.A. and other
16 independent studies that came to the conclusion
17 that the only way for you to have as sustainable
18 program to maintain the equipment and to do those
19 things is to have that. The ATA doesn't want any
20 regulations. They want all voluntary programs.

21 It's like here, New York/New Jersey
22 want to put stickers on the trucks so they can
23 identify which were pre-1994 and post-1994.

24 GEORGE MIRANDA: That doesn't work.

25 FRED POTTER: They said we're going

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2 to file a suit. This is what the ports are doing.
3 The fact is that ports, not courts, should
4 determine the programs that they have. The thing
5 I think that's interesting is what the law does,
6 it gives ports the authority. It doesn't mandate
7 an employee model.

8 New York/New Jersey could adopt a
9 clean trucks program that doesn't have an employee
10 mandate. If they really want a sustainable
11 program, we believe, and experts believe that they
12 would need an employee mandate and use of
13 capitalized trucking companies, but it doesn't
14 mandate that.

15 COUNCIL MEMBER VALLONE: That's
16 good to know.

17 FRED POTTER: It gives them the
18 authority.

19 COUNCIL MEMBER VALLONE: I didn't
20 realize that. You said that they don't support
21 what's happening here, but in their testimony it
22 says, "Our aim is not to block or hinder
23 implementation of truck retirement and clear air
24 portions of these programs that are similar to the
25 Port of New York/New Jersey's Clean Truck Program.

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2 We were part of the working group that brought
3 that together." It says that that program bans
4 pre-1994 trucks from accessing a port after 2011
5 and pre-2007 trucks after 2017. They support
6 that. Why isn't that going to be a success in
7 getting newer, cleaner trucks, the program that's
8 in place now here?

9 FRED POTTER: Well, here's what the
10 New York program does. The New York program
11 replaces pre-1994. So the drivers that can't
12 afford new trucks that own pre-1994 are going out
13 and buying 1995 or newer now, which pollute the
14 same. Selling it to somebody else who is still
15 riding them on the street and meet compliance
16 until 2017.

17 2004 is already old technology,
18 compared to 2007. 2010 or newer trucks are even
19 cleaner. So what this program does, it
20 potentially affects 700 trucks. They've got about
21 160 at most that have applied for it, and most of
22 them won't qualify because of bad credit.

23 Let's say you take those 700 trucks
24 off the road. What New York/New Jersey has said
25 is it's okay for 1995 trucks.

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2 COUNCIL MEMBER VALLONE: The 700
3 trucks are the pre-1994 trucks?

4 FRED POTTER: That's what they have
5 identified. The fact is that--

6 COUNCIL MEMBER VALLONE:
7 [interposing] Out of a universe of how many?

8 FRED POTTER: 7,000.

9 COUNCIL MEMBER VALLONE: Thank you.

10 FRED POTTER: The fact is, they
11 don't even know if those numbers are correct, and
12 you can ask them that. They did a sampling of 400
13 trucks, like a poll. Everyone knows that the real
14 poll is Election Day. The fact is, we can't find
15 700 of these trucks. We have staff on the ground.
16 We can't find 700 trucks that meet that
17 definition.

18 COUNCIL MEMBER VALLONE: What about
19 the pre-2007 trucks?

20 FRED POTTER: That's what just
21 about all of them are, except for a few
22 capitalized trucking companies that bought new
23 equipment.

24 COUNCIL MEMBER VALLONE: So by
25 2017, which admittedly is far off, the vast

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majority would have to be replaced.

FRED POTTER: Just about every one.

GEORGE MIRANDA: Every one of them just about.

FRED POTTER: Any independent contractor would have to replace. What you'd be settling for is ten-year old technology.

COUNCIL MEMBER VALLONE: I guess your other argument then would be it's also not as sustainable.

FRED POTTER: That's correct. Here's the best part of that. There is no plan underway in order to meet the 2017. To replace pre-1995, admittedly, they spent \$44 million. I got to be honest with you, I think if it becomes 600 trucks with them all, I forget what the numbers are, it's ridiculous what they're spending per truck. It's like \$250,000 for \$120,000 truck.

The fact of the matter is that this program, my own personal view is that this program was initiated in order to do something for the cry to clean up the environment and more afraid of getting sued. Passing this legislation will take the threat of being sued and allow port

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2 authorities to make decisive decisions to clean
3 the air and to make the promise of good jobs at
4 the ports.

5 COUNCIL MEMBER VALLONE: The
6 lawsuit, again, and I'm no expert, it does not
7 appear to be on the environmental aspects. This
8 appears to be on the employee mandate part of
9 this.

10 FRED POTTER: That's not factual.
11 We'll be more than glad, if you forward that
12 information--

13 COUNCIL MEMBER VALLONE:
14 [interposing] That's the part that was sustained
15 by the court.

16 FRED POTTER: No, the whole--

17 COUNCIL MEMBER VALLONE:
18 [interposing] And then overturned and now under an
19 injunction.

20 FRED POTTER: Under the lawsuit,
21 eight days of testimony, months and months of
22 deliberation, the fact is every part of the Clean
23 Trucks Program was sustained and considered to be
24 lawful because they exercised their proprietary
25 interest. The fact is the parking, the employee

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2 mandate, the actual truck replacement program
3 itself, the RFIDs in order to identify, all of
4 those are critical components of the program.
5 It's not just one component, it's a series of
6 components that makes the program work and be
7 sustainable.

8 COUNCIL MEMBER VALLONE: It's
9 clearly held up in the courts and our briefing
10 papers say that it's held up based on that
11 employee mandate part of it. But I don't need to
12 know any more about that. I'm not all that
13 concerned about that part of it, so it's okay.
14 I've got a lot more to learn about it. I
15 unfortunately don't have a lot more time today,
16 but I will continue to read everything that you
17 are able to supply me with.

18 FRED POTTER: Sure.

19 COUNCIL MEMBER VALLONE: Thank you.

20 CHAIRPERSON NELSON: Your lawyer
21 mind is getting in the way, Peter, I think.

22 COUNCIL MEMBER VALLONE: I hate
23 when that happens.

24 FRED POTTER: We'd be willing to
25 provide any documents you need.

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CHAIRPERSON NELSON: Thank you.

Just one quick thing before I hand it over to Council Member Lander. How do you respond to people who ask the question, shouldn't the burden be placed on the market participant who are causing the pollution, as opposed \$21 million from the fed or the PA and about \$7 or \$8 million from the feds?

FRED POTTER: We think it ought to be on the people that make a profit in this industry.

GEORGE MIRANDA: Absolutely.

FRED POTTER: The shippers, the Wal-Marts, the Costco, the Targets of this world that bring products to our country from overseas and make a profit on there. First of all, we could go into all the facts why these drivers are not independent contractors. The fact is we feel they're misclassified.

First of all, it's even foolish to think you can put on people that make \$28,000 a year the burden of bringing in new trucks and maintaining the technology. For those of you that don't know trucks, you know, I have a '64

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2 Chrysler, I can work on it. I have a 2010 Ford.
3 I open up the hood, the only thing I can do is
4 close it. These new trucks today and the
5 pollution systems that they have, the computer
6 monitoring, they have to be put on machines. You
7 can't diagnose it by listening to it and repair
8 it. The backyard mechanics have been eliminated
9 through the trucking industry with new trucks.

10 The fact is there's a cost to that.
11 Put them in these dealers and you tie your truck
12 up. They said that maintaining a truck was around
13 \$3,000. They say over a seven-year period on the
14 new trucks it's \$8,500 a year plus you have
15 additional downtime because you can't work on your
16 own on your off hours.

17 CHAIRPERSON NELSON: Councilman?
18 Asked and answered. Any of my colleagues have any
19 other questions? I guess just one more thing.
20 Why are independent owner/operators not able to
21 finance? Well, that was asked. That was asked
22 and answered.

23 FRED POTTER: The same reason I
24 can't buy--

25 GEORGE MIRANDA: [interposing] The

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2 same reason we can't buy--

3 [Crosstalk]

4 FRED POTTER: We can't afford it.

5 GEORGE MIRANDA: We can't afford
6 it.7 CHAIRPERSON NELSON: You have set
8 up for Ferrari. Thank you very much, gentlemen.9 FRED POTTER: Thank you for having
10 me.11 CHAIRPERSON NELSON: You're a
12 warehouse of information. I appreciate it. Amy
13 Goldsmith from Belmar, the Environmental
14 Foundation of New Jersey and Amy Traub, Drum Major
15 Institute for Public Policy. We have an Amy team.
16 That's a powerhouse.

17 [Pause]

18 AMY GOLDSMITH: Good afternoon,
19 Chairman Nelson, and members of the Waterfront
20 Committee. Thank you for this opportunity to
21 speak before you.22 My name is Amy Goldsmith. I am the
23 State Director of the New Jersey Environmental
24 Federation. We are a state chapter of Clean Water
25 Action. We're in 16 offices around the country,

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2 over a million members. I'm also the Chair of the
3 Coalition for Healthy Ports which represents many
4 organizations, environmental, environmental
5 justice, labor and public health advocates, truck
6 drivers, faith and community organizations on both
7 sides of the river.

8 I'm a native New Yorker and my
9 mother lives in Councilman Lander's district, just
10 so you know. I have a personal vested interest.
11 I've been to Red Hook and the neighborhoods many
12 times.

13 When the Port Authority of New York
14 and New Jersey announced its clean truck program
15 and ban and \$32 million in replacement money for
16 the replacement truck program, it included \$7
17 million of stimulus money. Stimulus money is
18 supposed create jobs, not eliminate jobs. You
19 should also know that about \$5 million of these
20 dollars is actually for the loan officers and for
21 the program designers and consultants. It doesn't
22 actually go into a single truck.

23 The Port Authority indicated that
24 this program was a first step and that a more
25 comprehensive program was on the way. We have not

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2 seen that comprehensive program. All we have seen
3 is maybe 110, 160, the numbers vary, of drivers
4 have gone through the system but only maybe 4,
5 maybe 6, maybe 11 truck drivers have had loans
6 approved. But not clear that any of those truck
7 drivers decided to take the option of buying a
8 2004 or better truck. Because maybe they decided
9 it was cheaper for them and better for them and
10 for their families economically to just buy that
11 1995 truck. It's not fault of their own that they
12 might choose to do that.

13 The Port Authority plan puts the
14 entire financial burden, as has been mentioned, on
15 upgrading the fleets on these independent drivers
16 who, as has been stated earlier, make about
17 \$28,000 a year with no benefits. The Coalition
18 continues to voice its opposition to truck program
19 of placing the costs on the backs of these
20 drivers. You should know that these trucks, even
21 the used ones are \$40,000 to \$50,000 at best. And
22 if you're buying a brand new truck, you're talking
23 about \$125,000-\$150,000. I don't know anybody who
24 makes \$28,000 who can afford to take that kind of
25 loan and be expected to pay them off.

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2 A recent article in Transport
3 Topics confirmed that the Port Authority has
4 intention to even backpedal on the current plan.
5 They have indicated that they will weaken the
6 further ban and financing plan by calling their
7 sticker program voluntary. They have actually
8 talked about having a state trooper or Port
9 Authority police officer at the gate where the
10 drivers will be exiting the terminal, after
11 they've already picked up their load. They will
12 then try and force the ban by looking at stickers
13 after the fact. And they will suspend the drivers
14 over time for violations. Again, putting the
15 burden. They can't work, they can't make their
16 money, they can't pay their loans.

17 It's a sham that the officials of
18 the Port Authority are not here to answer the
19 questions about their program. To our knowledge,
20 the Port Authority's \$32 million program, as I
21 indicated before, is only going to provide 6 to 11
22 loans at best. We know, again, that the state of
23 the art diesel engines are the late model 2007
24 engines or newer.

25 Ultimately, the trucking company

1
2 should take responsibility for both the equipment
3 and the workers that help keep the supply chain
4 moving in our region. Without this fundamental
5 element of a clean trucks program, clean air gains
6 will be negligible and short lived.

7 We see this already at the Port
8 Authority's program. It has limited participation
9 while the L.A. program, as was mentioned earlier,
10 has brought over 8,500 2000 or newer engine model
11 trucks in less than a year. Remember, the Port
12 Authority is only talking about loans to drivers
13 2004 or better, but drivers can purchase 1995
14 trucks and be in compliance through 2017.

15 So the financial burden on the
16 driver who can't sustain it, we get no clean air,
17 we get people out of work and people in default
18 with their families.

19 So I would like to say that that's
20 why we call on Congress to pass the Clean Ports
21 Act so that local port authorities can have the
22 clear legal authority to pass progressive programs
23 modeled after the US EPA award winning Los Angeles
24 truck program. In fact, the Port Authority has
25 written letters in support of the federal policy

1
2 changes, as has Mayor Booker in Newark and Mayor
3 Bloomberg here as well.

4 So, we would like to say that it
5 would make moot a case that is under appeal in
6 Ninth Circuit Court. It would affirm the district
7 court's judge's finding that the L.A. port has the
8 right to protect its economic interests as it
9 competes with other ports in implementing its
10 clean truck program and stops the shifting of
11 these costs to the underpaid workers.

12 Now is the right time for the Port
13 Authority and for the Council to take a more
14 aggressive and comprehensive approach to fix the
15 port trucking system on which virtually all goods
16 moved in the region depends.

17 We thank Councilman Lander,
18 Chairman Nelson and the Waterfront Committee for
19 sponsoring Resolution 414 that encourages Congress
20 to support 5967, the Clean Ports Act of 2010 and
21 also calls upon the Port Authority to enact the
22 clean trucks program modeled after the successful
23 one in L.A.

24 We celebrate the initial victory in
25 California. We are confident that it would be

1
2 upheld in the Ninth Circuit Court of Appeals and
3 bring much needed relief to the port trucks and
4 residents in the port adjacent communities in the
5 L.A. area. We call on the Port Authority of New
6 York and New Jersey to enact programs like L.A.
7 that will result in good jobs, clean air, quality
8 of life, health and competitive port economy in
9 the New York/New Jersey region, the third largest
10 port in the nation. Thank you.

11 CHAIRPERSON NELSON: Thank you, Ms.
12 Goldsmith. Ms. Traub?

13 AMY TRAUB: Good afternoon. I'm
14 the other Amy. My name is Amy Traub and I'm the
15 Director of Research at the Drum Major Institute
16 for Public Policy, a nonpartisan think tank based
17 here in New York City.

18 When I had the opportunity to speak
19 to you a few months ago to this committee, I
20 mentioned that one of our primary projects at the
21 Drum Major Institute is to highlight public
22 policies that have been successful at improving
23 people's lives and should be replicated in New
24 York and elsewhere. The Clean Truck program at
25 the Port of Los Angeles is one of the most

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promising and effective policies that we've found.

Resolution 414 is a positive and constructive measure. We urge the Council to pass this resolution calling on the Port Authority to adopt a program similar the successful Port of Los Angeles policy and calling on Congress to enact legislation that will embolden ports across the country to follow this very successful Los Angeles model.

In August, the US District Court lifted its injunction on the Los Angeles Clean Truck Program. Their judicial reasoning, I think, can do a great deal to inform good policy in New York. The court ruled that the program was not preempted by federal law because the Port of Los Angeles was acting in its own proprietary business interest to "sustain and promote port operations" rather than setting regulatory policy.

In essence, the Port of Los Angeles was making a prudent business decision, adopting the most efficient means to mitigate air pollution that jeopardized the Port's continued viability as a commercial enterprise, in the words of the court.

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2 Speaking at a Drum Major Institute
3 event in autumn 2008, Port Authority Executive
4 Director Christopher Ward acknowledged similar
5 business pressures at the Ports of New York and
6 New Jersey. Mr. Ward noted that if reducing truck
7 pollution was not part of the solution for the
8 port, and this is a quote from what he said at our
9 event, "we will have no growth and we will end up
10 losing the very engine that creates the jobs."

11 In other words, our ports here also
12 have a clear proprietary interest in measures like
13 L.A.'s employee-driver provision that create an
14 efficient and sustainable model for reducing truck
15 emissions.

16 When he addressed the Drum Major
17 Institute, Mr. Ward also vowed to take the lessons
18 learned that L.A. and Long Beach have provided.
19 Two years later, it's not clear that these lessons
20 have been learned in our ports.

21 The data provided by the Coalition
22 for Healthy Ports is powerful and it's been said a
23 couple of times this afternoon and I think it's
24 worth saying again. The Port of Los Angeles used
25 \$44 million in public funds to leverage private

1
2 investment and get 8,500 clean trucks on the road.
3 In New York and New Jersey, the plan is to use \$32
4 million in taxpayer funds to replace just 700 or
5 fewer trucks.

6 Without commenting on how far
7 advanced the Port Authority's program is now, and
8 I think that my colleague Amy had something to say
9 about that that was pretty powerful, it's clear
10 that the plan going forward represents a less
11 efficient use of public resources than we've seen
12 in Los Angeles.

13 The New York/New Jersey truck
14 replacement program is less efficient because it
15 dumps public money on top of a broken employment
16 model rather than restructuring port operations to
17 make the funds work most effectively. As a
18 result, we are trying to make thousands of
19 individual low income port truck drivers take on
20 the burden of improving air quality instead of
21 demanding accountability from the large companies
22 that profit most from the operation of our ports
23 the way that Los Angeles does.

24 Again, the recent District Court
25 case is illuminating. The judge notes that "the

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2 employee driver provision was designed to transfer
3 the financial burden of the administration and
4 record keeping onto the trucking companies instead
5 of the Port" and this is the decision, "to protect
6 the Port's investment in clean trucks." Who is
7 protecting our investment in clean trucks here in
8 New York and New Jersey? This key portion of the
9 Los Angeles model is not being replicated here.

10 It's significant that this
11 resolution specifically calls on the Port
12 Authority to replicate that part of the Los
13 Angeles Clean Truck Program, noting that "the
14 responsibility for cleaning the air near ports
15 should belong to the trucking companies who have
16 the financial stability to purchase and maintain
17 newer and cleaner trucks."

18 Let me close by saying that in the
19 wake of the federal court decision, Congress'
20 Clean Ports Act of 2010 remains a critical piece
21 of legislation. First, it will uphold ports'
22 ability to establish policies like the Clean Truck
23 Program in their public capacity as regulators,
24 not just entities that participate in the
25 marketplace.

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2 No less significantly, enacting
3 this federal law would bolster the political will
4 of ports, like those here in New York and New
5 Jersey, that have really been timid about
6 emulating the successful Port of Los Angeles
7 model. The fact that this resolution calls on
8 both Congress and the Port Authority to act is a
9 judicious step. Thank you for your time.

10 CHAIRPERSON NELSON: Thank you, Amy
11 2. It was very interesting. I'm glad you agree
12 with the direction that we're going and hopefully
13 the country is going as well. Do my colleagues
14 have any questions? Thank you so much for
15 participating. The next panel is three people,
16 Raul de la Cruz, Kirby Reyes and Victor Martinez.

17 [Pause]

18 CHAIRPERSON NELSON: Go ahead when
19 you're ready and just please begin by stating your
20 name for the record.

21 RAUL DE LA CRUZ: Good afternoon
22 everyone. My name is Raul de la Cruz. I live in
23 Brooklyn, New York and I've been a port truck
24 driver for the last six years.

25 Thank you for giving me the time

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today to speak to you about my life as a port truck driver and how the Port Authority truck ban is going to hurt hundreds of hard working truck drivers and their families.

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Please know, we want a clean truck.

I sit behind a big diesel engine for 14 hours or more every day. I breathe the pollution from my truck and from other trucks sitting next to me when we're waiting in line just to get into the port. Because of that, I developed asthma.

Because those trucks, they leave them running when we're waiting in line to get into the port.

That's why I need a clean truck because my two children want a healthy father and not a sick father.

But the Port Authority clean truck plan won't work because it's making individual port truck drivers like me to pay for the cost of a newer clean truck and not a trucking company.

Most port truck drivers are called "independent," but we are independent by name only. The company decides where to go, what time, how much they're going to pay you and we are allowed to work only for one company.

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2 I make about \$10,000 every month,
3 but I have to pay from that \$8,500 just to keep my
4 truck running every month. That is including my
5 truck payment, fuel costs, and truck parking.
6 That does not include mechanical or anything like
7 that.

8 Now the Port Authority wants truck
9 drivers with pre-1994 trucks to take out a loan
10 and buy a new truck or lose their job. The Port
11 Authority plan will hurt between 600 and 700 port
12 truck drivers when the truck ban is started on
13 January 4th. Those drivers, they're going to lose
14 their jobs. Because they are called independent,
15 they're not allowed to go to unemployment.
16 They're going to lose their job, they will have no
17 safety net and no means to provide for their
18 family.

19 The Port Authority is offering help
20 to truck drivers with granting loans, but that's
21 not enough. We need to improve the working
22 conditions for port truck drivers by classifying
23 correctly as employees, not independent
24 contractor, like they did in Los Angeles. They
25 classified everybody as employees. In Los Angeles

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2 they used to have the same problem before and they
3 found a better solution. It will make the job of
4 port truck driver and clean the air.

5 I believe the Port Authority needs
6 to make the changes in this program. We need
7 trucking companies to buy the trucks, not truck
8 drivers like me. Not because we don't want clean
9 trucks, it's because we cannot afford to pay for
10 those trucks. Thank you for your time and for
11 supporting Resolution 414.

12 CHAIRPERSON NELSON: Thank you.

13 VICTOR MARTINEZ: My name is Victor
14 Martinez. [Foreign language].

15 [Pause]

16 VICTOR MARTINEZ: (Through
17 translator) My name is Victor Martinez and thank
18 you for the opportunity to express myself in
19 Spanish. I have been a truck driver for 12 years.
20 I move containers from the ports of New York and
21 New Jersey through Staten Island, from Holland and
22 Staten Island. I am here to tell you a little bit
23 about my life as a truck driver and how it affects
24 me, my family and my two daughters.

25 First, let me tell you that I have

1
2 always wanted to be a truck driver. It requires
3 specific qualifications, this job. I am very
4 proud to be a truck driver. But the reality is
5 different from what I imagined. I am a
6 professional truck driver and I should be earning
7 just income. But it is very difficult for me to
8 comply with my obligations.

9 I am misclassified as an
10 independent contractor. The result is that I am
11 responsible for all of the costs of my truck. I
12 am also responsible for equipment that is not
13 mine. But I have to use this equipment to do my
14 job. The chassis where containers are put on are
15 usually many times old. Many times they're not
16 well maintained.

17 If I get a flat or if I get a light
18 that's not working, I have to pay for the repair.
19 If I was properly classified as an employee of the
20 company, for the one I've been working at for six
21 years, the company would be responsible for these
22 costs. But they've put everything upon my
23 shoulders, because I am misclassified as an
24 independent contractor.

25 For this reason, I do not have

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2 health insurance or other benefits, such as
3 unemployment, social security, or workers
4 compensation, that I would have if I was an
5 employee. I am also not a small business owner.
6 They tell me when to go to work, where I should
7 take the containers and how much they will pay me.
8 A true independent contractor would have the last
9 word of all the work that they are doing and that
10 they would be able to negotiate their prices and
11 the hours of work. But I can't. I have to either
12 take it or leave it.

13 Secondly, I am worried about my
14 health. I sit behind a diesel motor for 50 hours
15 a week. My family and I live in Newark, not far
16 away from the ports. I know that diesel is bad
17 for my health, for my family and for my community.
18 For this reason is why the trucks are being
19 replaced next year.

20 I recently sold my truck that was
21 from 1990 and I bought a new one from 2003. But
22 buying a new truck that has less emissions has
23 been much harder than I thought. My old truck was
24 already paid for. I could cover my expenses and
25 my obligations and sustain my family. But now I

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have a new truck and now I have these payments I have to make. I find myself in a tight situation to sustain my family.

We have seen examples here of ways that I could make the payments for my truck. I am telling you my story because this truck replacement is going to put a lot of truck drivers in a situation similar to mine, in a really hard situation like the one I am in. I think that everybody that works hard like us should be able to offer a good future for their families. The only way that this is possible is with your help. Thank you for your time.

CHAIRPERSON NELSON: Thank you. I think we've still got about seven people signed up to testify. So with respect, what we're going to do is start using our three-minute clock. That's with no disrespect to anyone. But if you can give us your testimony in about three minutes, going forward, that would be great. Thank you.

KIRBY REYES: Good afternoon. My name is Kirby Reyes. I am a resident of the Bronx. I'm a single father here to my daughter Ariagna.

1
2 I'm here because I've been a driver
3 for 13 years a truck driver at the ports of New
4 York and New Jersey. I have to provide support
5 for my daughter and me. The plan to the Port
6 Authority is about tearing up my life and my
7 future, because general first, my truck is allowed
8 at the port because I'm classified as an
9 independent contractor. At the year, I won't be
10 able to collect unemployment.

11 I have a Peterbuilt 1991 truck. My
12 truck is so nice, it's good. Sorry, because I
13 don't speak very good English.

14 CHAIRPERSON NELSON: We have.

15 KIRBY REYES: Yes, I know.

16 CHAIRPERSON NELSON: It's okay.

17 KIRBY REYES: The fuel costs in the
18 last 5 years is increment to more than double.
19 I've got an example here. My company used to pay
20 me \$150 for only trip pier to pier. Now he pays
21 me \$75. The fuel is more expensive. The toll is
22 more expensive. Everything is more expensive.

23 I don't see my future right now
24 because January 1st, I pass to the line to the
25 unemployment people in this world. I don't have

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2 money to support my daughter. I don't know what
3 is my future because the Port Authority says
4 they'll give me a couple of thousand dollars for
5 changes for making sure my truck. The reality is
6 I don't take that loan because I don't produce the
7 money. I do not produce for payment of this
8 money. I produce money now for paying my rent and
9 my bills. It's impossible to take a \$40,000
10 expense. I don't have money for that.

11 I prepare everything to speak to
12 not only like me, like my daughter and maybe more
13 than 800 people that January 1st that will not
14 have a job at the pier. Thank you.

15 CHAIRPERSON NELSON: Thank you very
16 much. It's very helpful to have your testimony.
17 It's wonderful to hear from all the organizations
18 but to have people who are directly grappling with
19 the problem is invaluable to us. So thank you for
20 very much for your time in coming down today.

21 RAUL DE LA CRUZ: Thank you.

22 KIRBY REYES: Thank you.

23 VICTOR MARTINEZ: Thank you.

24 CHAIRPERSON NELSON: Our next panel
25 will be Becky Schneider from the Metropolitan

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Waterfront Alliance and Matt Yates from ASI.

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[Pause]

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CHAIRPERSON NELSON: Go ahead when you're ready, and please state your name for the record.

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BECKY SCHNEIDER: Sure. My name is Becky Schneider. I'm a Program Associate at the Metropolitan Waterfront Alliance. We are a coalition of 430 groups working together to transform the New York/New Jersey harbor and its waterways into a world class resource for work, play, transit and education. I'd like to thank you the Committee and especially Chairman Nelson and Councilman Lander for proposing this resolution.

Metropolitan Waterfront Alliance applauds Resolution 414, which calls upon the US Congress to pass U.S. Representatives Jerrold Nadler's Clean Port Act and update the Federal Motor Carrier statute in the Federal Aviation Administration Authorization Act, thereby affirming the Port Authority's responsibility to enact comprehensive clean truck programs.

The Clean Ports Act of 2010 will

1
2 give local port authorities clear legal authority
3 to pass progressive programs and allow the Port
4 Authority of New York and New Jersey to take a
5 more aggressive and comprehensive approach to
6 fixing the port trucking system on which virtually
7 all goods' movement in the region depends.

8 Overall, MWA believes that
9 increased water transit and clean trucking will
10 play a key role in helping to solve the city's air
11 quality problems. We very much appreciate the
12 Council for drawing attention to these issues and
13 also for recognizing that waterfront and water-
14 dependent businesses can be a part of the
15 solution. Thank you for the opportunity to
16 testify today.

17 CHAIRPERSON NELSON: Thank you.

18 MATTHEW YATES: Thank you, Chair
19 Nelson and Council Member Lander and members of
20 the Committee on Waterfronts for allowing me to
21 testify today to express my support for the Clean
22 Ports Act of 2010, authored by Congressman Nadler
23 and for the New York City Council Resolution 414.
24 Frankly, our freight transportation system will
25 improve if ports are granted the authority to

1
2 enact and enforce programs that improve
3 environmental, safety and efficiency conditions
4 caused by the port trucking industry.

5 Our ports are the gateways that
6 enable leading transportation companies such as
7 ours to move goods in and out of the country.
8 Since most of the goods traveling to and from our
9 docks are hauled by a truck, we need an effective
10 and efficient port trucking industry. ASI is a
11 multi-service port operator.

12 Let me just skip through this
13 testimony for the purpose of time.

14 While many in the business
15 community may disagree on the solution, most agree
16 that the port trucking industry is a weak link in
17 our country's freight transportation system.
18 Compared to other freight industries such as ocean
19 carriers, marine terminal operators, long haul
20 truckers or railroads, port trucking is woefully
21 undercapitalized, operates old equipment, and does
22 not deploy modern technologies or innovative
23 strategies to match loads. In addition, it is no
24 secret that port drivers are poorly compensated
25 and have their rates imposed on them by much more

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powerful economic entities.

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Resolution 414 calls on Congress to pass the Clean Ports Act of 2010 so that local port authorities can have the clear legal authority to pass progressive programs modeled after the award-winning L.A. Clean Truck Program.

Finally, we value our employee workforce and are proud of the investments we have made in the equipment we use to haul handle the cargo and find no problem with port trucking companies being required to move to an asset-based system. We hope you will give careful consideration to Resolution 414. Thank you.

CHAIRPERSON NELSON: Great. Thank you.

MATTHEW YATES: Could I just say--

CHAIRPERSON NELSON: [interposing]
Sure, you've still got some time.

MATTHEW YATES: Just a couple of points. Firstly, we see these trucking companies day in and day out operating. It is an absolutely preposterous suggestion that these employees, these individuals that drive trucks can in any way operate as a small business. I mean, we've talked

1
2 about replacing trucks. There's insurances,
3 there's regulatory frameworks. There's no way to
4 disaggregate those things. This is a classic role
5 for a small business. Sure, maybe if you have ten
6 truckers that work together, that's a whole
7 different thing. But what we see is they're de
8 facto employees and we see it to be disgraceful.

9 Going to the issue earlier that I
10 think was raised which was the challenges around
11 this. I do not believe, from what we've reviewed,
12 and we've certainly looked at this and we're no
13 strangers to litigation, we think it would
14 certainly stand challenge. We ask that the
15 federal legislation be supported by the Council.

16 CHAIRPERSON NELSON: Thank you.
17 Very helpful, thanks to both of you for coming
18 today. For our next panel we have Soledad
19 Gaztamibide, Mina Roustayi and Rick Luftglass.
20 This is the Brooklyn Waterfront panel. Please
21 come on up.

22 [Pause]

23 CHAIRPERSON NELSON: Great to see
24 you guys all here representing Brooklyn. Thanks
25 for coming out. Go ahead when you're ready.

1
2 Good afternoon and thank you for
3 the opportunity to present before you today. I am
4 here representing UPROSE, Brooklyn's oldest Latino
5 community-based organization. Based in Sunset
6 Park Brooklyn, we work to heighten community
7 awareness, develop environmental strategies and
8 participatory community planning practices, and
9 promote sustainable development, governmental
10 accountability and environmental justice.

11 CHAIRPERSON NELSON: I'm sorry, can
12 you state your name for the record?

13 SOLEDAD GAZTAMBIDE-ARANDES:
14 Soledad Gaztambide.

15 CHAIRPERSON NELSON: Thank you.

16 SOLEDAD GAZTAMBIDE-ARANDES: We are
17 also part of the New York City Environmental
18 Justice Alliance and members of the Healthy Ports
19 Coalition.

20 We would like to thank all the
21 council members who submitted Resolution 414. An
22 amendment to federal law is absolutely necessary
23 in order for the Port Authority of New York/New
24 Jersey to implement a comprehensive program, like
25 the Los Angeles Clean Truck Program, that can

1
2 tackle the economic and environmental issues
3 created by the port trucking industry.

4 This resolution is grounded on the
5 fact that reducing toxic diesel emissions from
6 trucks is essential to improving air quality for
7 the health of port adjacent communities and of
8 truck drivers. It indirectly acknowledges that
9 the solutions currently proposed by the Port
10 Authority overlook the economics behind this
11 polluting industry and place the financial burden
12 on the so-called independent contractors who in
13 current conditions struggle to make ends meet.

14 We believe that trucking companies
15 should be the ones responsible for introducing
16 clean truck technology improving the environment
17 and the labor conditions of drivers.

18 Why is this important to UPROSE?
19 The history of Sunset Park is very much tied to
20 its working waterfront that for decades has
21 employed our residents and permits us to be one of
22 the largest walk-to-work communities in New York
23 City. Unfortunately, the community also suffers
24 from the negative health effects of having a
25 concentration of polluting infrastructure, most of

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it on or near the waterfront.

One of UPROSE's campaigns has centered on the ill public health and land use effects of the heavily congested, inadequate and always under construction Gowanus Expressway that crosses through Sunset Park and is a major truck route. The presence of the Gowanus Expressway, as well as other truck routes on 3rd and 4th Avenues, contribute greatly to Sunset Park's poor air quality affecting the health of this community.

There are many plans for the redevelopment and revitalization of Sunset Park's Waterfront. These plans have been produced by both community and city agencies; Sunset Park's 197a Plan, the New York City Economic Development Corporation Waterfront Vision Plan, and still in draft format, the Department of City Planning's Vision 2020.

Though these plans are different in nature, what they have in common is an agreement that this will continue to be an industrial and working waterfront and that we should encourage maritime uses. It is likely that one of the results will be the increase in trucks traveling

1
2 through our waterfront. There is also a
3 possibility of it becoming, in the near future, a
4 container port as well.

5 At a regional level, the efficient
6 use of our ports could reduce truck miles
7 traveled, potentially proving a more sustainable
8 way of transporting goods. Relying more on rail
9 and barge could help decrease overall
10 transportation related emissions.

11 Because I'm about to run out of
12 time, I will just say that we support these
13 general principles but demand that policy makers
14 and agencies be aware of local cumulative impacts
15 and ensure that new developments don't impose
16 additional environmental burdens to host
17 communities. We cannot ignore that port activity
18 is tied to the trucking industry.

19 I pretty much stated this last
20 paragraph already and you have it there for the
21 record. So yes, we support this resolution, both
22 an amendment to the federal law and that we should
23 have L.A. style.

24 CHAIRPERSON NELSON: Thanks to you
25 and thanks to UPROSE for all your great

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2 environmental justice work.

3

MINA ROUSTAYI: Good afternoon.

4

My name is Mina Roustayi. I am here on behalf of

5

the Columbia Waterfront Neighborhood Association.

6

I'd like to thank Councilman Brad Lander and

7

Councilman Michael Nelson for sponsoring

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Resolution 414-A. CoWNA represents one of the

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neighborhoods in Brooklyn that borders the Red

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Hook Container Terminal. Our sunsets are New

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York's best kept secrets, against the backdrop of

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wide open skies--

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RICK LUFTGLASS: [interposing]

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Don't tell anyone.

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MINA ROUSTAYI: --the Manhattan

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skyline and the Statue of Liberty, giant port

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cranes perform daily pirouettes.

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CoWNA believes the Red Hook port is

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a public and environmental asset for New York

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City. It provides good jobs and delivers goods

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that would otherwise be trucked in from New

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Jersey. However, diesel pollution from port

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trucks is taking a heaving toll on the health and

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safety of my bustling and growing neighborhood.

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The Brooklyn Greenway Initiative

1
2 has created a bike path, as well as a pedestrian
3 path right next to the port. A lot of people are
4 using it for health reasons, for recreation.

5 There are lots of parks around in the neighborhood
6 also. Every day, hundreds of people from all over
7 Brooklyn flock to the new Brooklyn Bridge Park.

8 Pretty soon, 41 families will move into a new
9 condo development just one block from the port.

10 Our poor air quality requires immediate attention.

11 As a member of the Coalition for
12 Healthy Ports, CoWNA believes the Port Authority
13 of New York and New Jersey should adopt a clean
14 truck program modeled on the one in Los Angeles.
15 We are not alone. Other Brooklyn organizations
16 endorsing the Clean Ports Act include Community
17 Board 6, the South Brooklyn Working Families Party
18 Club and UPROSE.

19 CoWNA heartily endorses Resolution
20 4I4-A. We are grateful that the Council is taking
21 up the issue of port pollution. We urge every
22 member of this committee and every Council Member
23 to vote yes and send a message to Congress and the
24 Port Authority. Thank you so much.

25 RICK LUFTGLASS: Good afternoon.

1
2 My name is Rick Luftglass, and I'm co-chair of
3 Economic Development for Brooklyn's Community
4 Board 6. I'm here representing the community
5 board to testify in support of City Council
6 Resolution 414-A, a resolution calling upon the
7 U.S. Congress to pass H.R. 5967, the Clean Ports
8 Act of 2010.

9 Our community district includes the
10 Brooklyn waterfront communities of Gowanus, Red
11 Hook and the Columbia waterfront. The Columbia
12 waterfront, in particular, is host to the last
13 remaining container port within the four counties
14 that are geographically part of Long Island.

15 Our community sees the importance
16 of preserving this maritime industrial use as a
17 vital part of the regional infrastructure which
18 enables continued water-borne transportation of
19 bulk goods.

20 American Stevedoring Inc., which we
21 heard from earlier, which operates the Port
22 Authority's Red Hook Marine Terminal, has taken
23 Red Hook's container volume to a high of over
24 65,000 containers and 45,000 tons of brake bulk
25 cargo, as well as 422,000 tons of bulk cargo. Our

1
2 streets were not designed to handle the equivalent
3 amount of truck traffic that would be necessary to
4 move this much freight.

5 Additionally, to the south of the
6 Red Hook Marine Terminal on our waterfront, the
7 City's Economic Development Corporation opened the
8 Brooklyn Cruise Terminal at Pier 12. This 190,000
9 square foot terminal processed an estimated
10 250,000 passengers on 43 cruise calls in 2009
11 alone. That's a lot of visitors and activity
12 taking place at our waterfront.

13 We strongly believe that maritime
14 and maritime-related businesses are an essential
15 component of our community and we want to see them
16 thrive. Yet, at the same time, thousands of
17 residents live across from and nearby the port and
18 it's important to us that commercial and
19 residential uses coexist and that residents are
20 protected from the environmental effects of port
21 activity.

22 The Economic Waterfront Community
23 Development and Housing Committee has been taking
24 a closer look at some of the ways in which we can
25 reduce the environmental impact of the bustling

1
2 waterfront. We've strongly advocated for
3 technology and electrical rates that would give
4 calling vessels the option of plugging into shore
5 power as an alternative to running their diesel
6 combustion engines. Shifting to shore power would
7 make a huge difference in improving ambient air
8 quality.

9 Likewise, were the land-based
10 trucks and equipment supporting our waterfront
11 industries converted to cleaner burning fuels,
12 high efficiency technology and alternative energy
13 sources, we could have a much cleaner, much
14 greener operating port that would continue to
15 provide economic benefits while decreasing the
16 environmental and health impact on adjacent
17 communities and on the workers themselves.

18 If the city of L.A. can do it, we
19 certainly can do it here in Brooklyn. In order
20 for our dream of a greener port to come to pass,
21 our local port authorities, like the Port
22 Authority of New York and New Jersey would need to
23 have their jurisdiction extended to cover
24 environmental regulation.

25 I won't finish because three

1
2 minutes are up. I have the written testimony. I
3 will make a personal comment. My grandfather
4 worked in Atlantic Basin in World War II for
5 Atlantic Basin Ironworks, which was doing
6 construction and repair of navy ships. He died of
7 lung cancer at the age of 68. He was immediately
8 adjacent to Pier 11. There are lots of factors
9 that come to bear in lung cancer. I have no doubt
10 that asbestos was one of them. I have no doubt
11 that diesel emissions from the trucks and from the
12 ships had a bearing on his death. So I want to
13 make a personal appeal for that. I also live four
14 blocks from the port. I just wanted to say that.

15 CHAIRPERSON NELSON: Thank you.

16 It's great also to have a panel of residents and
17 folks from the affected neighborhoods. It's not
18 always that workers and labor, that environmental
19 and broader environmental interests and then folks
20 from affected communities, including EJ
21 communities have found a way to sort of navigate
22 through the challenges to do something that
23 advances all of our interests. It's great to have
24 you here today.

25 SOLEDAD GAZTAMBIDE-ARANDES: Thank

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2 you.

3 MINA ROUSTAYI: Thank you.

4 RICK LUFTGLASS: Thank you.

5 CHAIRPERSON NELSON: For our final
6 panel, I will stay in that spirit of labor and the
7 environment, and with thanks for your patience,
8 invite Julie Stalder from the New York League of
9 Conservation Voters and Jameelah Muhammad from New
10 York Jobs with Justice Urban Agenda, if you're
11 still here, to come testify.

12 [Pause]

13 JULIA STALDER: Save the best for
14 last, right.

15 CHAIRPERSON NELSON: Absolutely.

16 JULIA STALDER: Good afternoon.
17 Thank you to the committee for giving me the
18 opportunity to present our position on this
19 legislation. My name is Julia Stalder and I'm the
20 Director of Civic Engagement for the New York
21 League of Conservation Voters. We are an
22 environmental advocacy and education organization.

23 Today, I'm here to express our
24 support for Resolution 414. The police
25 recommendations in this resolution represent an

1
2 important step toward greening New York City's
3 ports and improving our city's air quality.

4 Currently, New York City's ability
5 to control air pollution at its own ports is
6 severely hindered by federal law. The prohibition
7 on regulating trucking at ports for environmental
8 reasons severely constrains our city's ability to
9 regulate truck diesel emissions, a significant
10 source of pollution in and around our ports.

11 With the constant stream of dirty
12 diesel trucks in port-adjacent areas, diesel
13 pollution is having serious health effects on
14 residents near area ports. The numbers are simply
15 staggering. For 2010 alone, premature deaths from
16 diesel pollution are expected to reach 3,100 for
17 the metro area. Additionally, there were nearly
18 50,000 asthma attacks attributed to diesel
19 pollution for the metro area in 2010.

20 The proposals contained in
21 Resolution 414 represent a policy imperative for
22 New York City. As has already been said by
23 everybody else today, first, the resolution calls
24 upon Congress to pass the Clean Ports Act of 2010,
25 H.R. 5967. This would amend the Federal Aviation

1
2 Administration Authorization Act, thereby allowing
3 states and municipalities to regulate trucking at
4 ports and efforts to reduce environmental
5 pollution.

6 Second, Resolution 414 calls on the
7 Port Authority of New York and New Jersey to adopt
8 a clean truck program similar to the program
9 currently in use in Los Angeles. The Los Angeles
10 Clean Truck Program, implemented in 2008, has
11 already proven to be a resounding success. After
12 only two years, Los Angeles has already reduced
13 truck-related port emissions by over 80 percent,
14 drastically improving air quality in and around
15 the port. There are now 7,500 clean trucks
16 operating at the Port of Los Angeles.

17 Los Angeles has clearly
18 demonstrated the feasibility of implementing a
19 large scale clean trucks program. A similar
20 program here in New York City could drastically
21 improve air quality and public health, while
22 reducing the public health costs associated with
23 diesel truck pollution. For these reasons, the
24 New York League of Conservation Voters strongly
25 supports the policy objectives of Resolution 414

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2 and encourages their swift implementation. Thank
3 you.

4 JAMEELAH MUHAMMAD: Good afternoon.
5 My name is Jameelah Muhammad. I am an organizer
6 at New York Jobs with Justice and Urban Agenda.
7 I'd like to thank the Chairman and Council Member
8 Lander, and the rest of the members of the
9 Waterfront Committee for having me be here today
10 and have the opportunity to speak to you all.

11 New York Jobs with Justice and
12 Urban Agenda are both permanent coalitions of
13 community and worker organizations. We work in
14 strategic alliance to achieve a shared mission of
15 creating a more just, sustainable and prosperous
16 New York for all New Yorkers.

17 I am here today to testify on
18 behalf of Urban Agenda and New York Jobs with
19 Justice to urge the City Council to support
20 Resolution 414 and to advocate for a clean trucks
21 program for good green jobs and healthier ports in
22 the City of New York.

23 We are also urging the Port
24 Authority to address the significant problems with
25 the current truck replacement plan, which intends

1
2 to address the environmental impact of truck
3 fleets but does very little for improving wages
4 and working conditions of truck drivers.

5 New York City has some of the
6 highest incidents of income inequality and
7 disparities in the world. A recent report was
8 released that shows that New York City's income
9 inequality index is greater than Mexico, Sri Lanka
10 and France. The economic recession has had an
11 incredibly devastating impact on New York City's
12 poorest and lowest income residents.

13 There are things that we can do to
14 change this and create amore sustainable economy
15 for New Yorkers. The passage of a clean ports
16 truck program for New York and New Jersey, similar
17 to the L.A. program, would be an opportunity to
18 improve working and living conditions for many New
19 Yorkers.

20 In 2009, Urban Agenda launched the
21 Green Collar Jobs Roadmap, a blueprint for how New
22 York City could transition to a more sustainable
23 economy. The roadmap outlined recommendations for
24 developing a plan for the transformation of the
25 current transportation system and how the

1
2 necessary upgrades and retrofits to vehicles used
3 in the city could dramatically reduce pollution.
4 Without the execution of a comprehensive clean
5 truck program in the region, there would be
6 adverse impacts on the environment. But what is
7 equally troubling is the negative consequences in
8 continuing an economically and socially
9 unsustainable system for operating and maintaining
10 trucks.

11 We are not only advocating today
12 for cleaner greener communities, but also for
13 communities that are able to thrive economically.
14 This means removing the financial debt and burden
15 that currently exists for truck drivers when they
16 operate as independent contractors to provide a
17 better mechanism for truck financing instead of
18 the current proposal and system and requiring
19 shared responsibilities between employer and
20 employee when it comes to improving labor
21 conditions. When the burden of maintaining trucks
22 is the sole responsibility of the truck driver, it
23 proves to be an unsustainable situation for
24 communities and businesses.

25 In light of recent legal precedence

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for the Los Angeles Clean Truck Program, we find that New York and New Jersey ports do have the authority and responsibility to adopt a similar clean truck program and would be making a significant contribution to workers, communities and businesses by doing so. Urban Agenda and New York Jobs with Justice strongly encourages that City Council pass this resolution support the clean trucks program and support the federal legislation that would authorize them to do so.

Workers and their communities deserve the opportunity to be truly environmentally and economically sustainable. We believe that this program could be of great benefit to many of our partners and our stakeholders. Thank you.

CHAIRPERSON NELSON: Thank you very much. I want to thank you for your patience and for your testimony, to everyone who stuck around, and also say thank you to the council staff who have worked on this so far: Jeff Baker, counsel to the commission, Colleen Pagter, our policy analyst and to my policy director Michael Freedman-Schnapp. That will conclude this hearing. Thanks

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very much.

C E R T I F I C A T E

I, Donna Hintze certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.



Signature _____

Date November 23, 2010 _____