

Statement of
Wayne Gaumer
President
Lightning Transportation
Before the
Federal Maritime Commission
At the
Mid-Atlantic and Northeast Port Congestion
Forum
Baltimore, MD
October 1, 2014

Commissioner Doyle, Commissioner Lidinsky. I want to thank you for the opportunity you have given us today to discuss with you **port congestion** and other port issues and the growing negative impacts on the port drayage industry.

My name is Wayne Gaumer, and I am the president of Lightning Transportation of Hagerstown, MD. I have been in the trucking industry for 48 years. Our company serves the ports of Baltimore – Norfolk – Charleston – Savannah plus inland at Charlotte. We are currently running approximately 265 trucks in those operations. Our company has been in business for 28 years mostly in the drayage business using strictly independent contractor drivers.

My comments today are not intended to be negative toward any of the parties involved. I chose to speak today out of concern for our drivers and our industry. Hopefully by listening and working together we can make the industry better for the drivers who handle the Final Mile of the Supply Chain. Without drivers the Supply Chain will not function.

I have tremendous concerns both short and long term about driver shortages. I am concerned about how we will bring drivers into the drayage business and especially about the number of drivers who will continue to exit the drayage business if they have to continue dealing with major delays at certain ports.

There is a severe and growing shortage of drivers in all modes of trucking. The American Trucking Association predicts a shortage of 239,000 drivers by 2022. Projections say with retirements – churning – etc., the need will be 100,000 a year. There have been major changes to our industry such as hours of service, restart rules, etc. that port delays can have a major impact. If conditions do not improve for drivers doing drayage those drivers will continue to leave the drayage business and will not have a problem getting jobs in other types of trucking. We are receiving more requests for our services than ever before. I feel that stems from additional business but more importantly from the decreasing availability of drayage drivers. The time drivers spend delayed at ports is a major reason.

Truck Gate/Wait Times

There are Ports where we operate that the total turn time (including wait time before entering the gate) on an average day is normally one hour or less. Another port a daily average total turn time is approximately 1 ½ hours or less. At another Port the time from gate arrival until the driver leaves the gate averages 3-4 or more hours. In some cases many more hours. Many of the delays happen before the trucks enter the gates. Long delays can make it difficult to service our customers within the guidelines of the DOT depending on the length of haul.

We have been losing drivers at ports that have lengthy delays. Delays need to be measured from the time a driver arrives in line at the gate until that driver exits the gate. I talked to one of our drivers at a port which has driver delays recently. His comment, "I am delayed 15-20 hours a week, half or close to half of most peoples normal work week". He is an independent contractor and is not compensated for this time. If drivers need to terminate empty containers at one port or an offsite location and then go to another port to pick up their next load, that all increases the

amount of time a driver must spend in the ports. Saturday and or Sunday gate hours can be helpful but drivers on longer runs who have been delayed each day may well be out of hours by the weekend. Weekend gates do not help those drivers.

In order to keep drivers in the drayage business we must get the total time spent at a port down, including time spend getting through the gates, to an hour or less. If this does not happen drivers will continue to exit the port drayage business because they can go to another job where they are getting paid for all the time they are working. .

A long term fix is not enough, there must be short term solutions in order to keep drayage drivers. Until satisfactory total turn times are realized the drivers need to be compensated for their waiting times. Being compensated for delay time could possibly keep some drivers in the drayage business until delay times improve to a satisfactory level.

Ocean Carrier Arrival "Bunching" Impacts on Port/Gate Congestion –additional free time would help

Bunching has become a major issue for trucking. For instance last week at one port we service, some vessels that were to arrive on Thursday were delayed until the weekend. Because of the delays half our drivers didn't have work Thursday and Friday. Then with the bunching over the weekend there is more work this week than we can possibly handle when containers released. If the bunching would not have happened we would have had an even work load for our drivers and no potential demurrage issues because of so many containers arriving and discharging at the same time. Why should truckers not be given extra days of free time on port when vessels are delayed? All the pressure gets pushed off on truckers to get everything off port when several days worth of containers arrive at the same time. In the case of drop and pick customers, bunching can also result in per diem charges because empty containers aren't returned to the port until new containers are available to exchange for empties. If more free time were allowed on and off port it would allow more days to move the cargo off port. Why can't the multiple container rule apply as a standard at all ports?

Why are we charged for per diem and demurrage on days when ports are not open, especially weekends?

Inelegant weather in areas distant from a port may make it impossible for a driver to make port safely within free time. Additional free time would be beneficial when inclement weather areas do not allow trucks to run safely.

Chassis Ownership and Deployment - "Gray Pool" Development

The "Gray Pool" model can be beneficial and help with port congestion. If a provider does not have enough chassis to cover all of a line's containers who are still providing chassis, this could mean delays for drivers.

Where shortages of chassis exist the drivers have the following options. One option for a driver is to get a red tagged chassis if no good order chassis are available. The driver must spend time getting repairs done before they can exit the port. Red tagged chassis repairs should be the

responsibility of the provider and repairs done timely by the chassis provider. The job should not be pushed onto the drivers to go to M&R thus causing driver delay.

The second choice is to wait until a driver shows up who is turning in a poole chassis. Those delays can be lengthy. Again, that is time that a driver does not get compensated for and further frustrates drivers.

A "Gray Pool" where all providers can be used would allow many more chassis' to be available. According to information provided by the pool provider at one port we service, the average number of 40' chassis available at the beginning of each day from September 2 – September 25 was 46. August's average was even worse at 39 per day. With possibly 1300 or more containers a day moving out of this port and rail locations, you can see the problem truckers are dealing with when lines require the pool provider to be used for all chassis'.

Infrastructure

From the viewpoint of our drivers the infrastructure at some ports is not sufficient to handle the volumes. At some of the ports where we have delays drivers feel there is not enough help or productivity or machines to handle the volume. Also when a ship is working the truckers may wait until the machines needed to unload the ships are finished then they come back to the trucks. This backs up the truck lines.

Trucker Gate "Appointment" System

The most efficient ports we service do not use appointment systems. At one port it seems the appointment system at one port has not solved delays, especially lines getting into the port.

Thank you again for this opportunity to share our concern for our industry overall and the plight of the drayage industry.

Port of Virginia

Truck/Wait Times at NIT

The biggest problem at the port is loss of hours waiting in the Port, due to not enough equipment and people to service so many trucks. It is my guess there are 2500 to 3000 trucks in and out in a day.

When we had the Motor Carrier Task Force in May, we had people from every segment of the terminal. It was amazing how every group, pointed out the exact problems. It goes to show you how much all sections of the port connect an, affect the other sections. The Task Force offered up possible solutions to make most areas more efficient. A large amount of the solutions did not cost any money except for the labor to accomplish the task.

The In terminal Segmentation Group all agreed that there was an insufficient amount of straddle carriers for the current north and south zones. It was agreed by all, there was a need for at least 20 straddle carriers in each zone. This has not happened on a daily basis.

Even this would not be enough. When you have 57 lanes in the South Zone and 46 in the North Zone, it takes a straddle carrier, a while to take export container and drop in stack, then, locate requested import container, come back to the lane and mount to truck. When they have the GPS for location of containers, the turn times will decrease. The projection for having the GPS in operation is December this year. Facts are, we might start at 8:00 A.M with 20 stradds. We know we will lose at least 6 from each zone to work ships. That leaves maybe 14 in each zone.. It would reduce a lot of congestion if we could start our day at 5 AM when the port opens. It would give us a head start on what we have now. We start with maybe 7 strads. They are added in increments, up until 8 A.M. when all strads are dispatched. If these strads were all in place at 5:00 AM, we would start our day three hours ahead of where we are today. There are a lot of moves, that could be made in three hours.

We need enough straddle Carriers to work both, the ships, rail and trucks at the same time

We have about 112 available stradds per day. Many are not operational and need maintenance. They are old and the tires are bald and have cords showing. Our drivers, talked about the danger of this equipment moving among them, with the tires. If all were repaired, Our needs still will not be covered. We will continue to see this Congestion, until the time we purchase and receive the equipment and labor required to operate them.

Congestion is being blamed on Peak Season. Yes it is peak now. We have had congestion for several years now. I BELIEVE THAT THIS IS THE NEW NORMAL. We seem to see more congestion, with all the changes that have been made in the last nine months. Changes that are made and then discontinued can cause confusion.

We as truckers welcome the amount of freight we are experiencing. However the long turn times which are, at least 3 to 5 hours, including, time waiting in line, plus, as many as 9 hours on import Reefers. This time is eating up our hours of service. These turn times include the time spent to get into and out of the pier. All of the truckers have lost several trucks and drivers and customers. It is very hard to make a living when you go from 4 to 6 round trips per day down to 1 and ½ trips per day

There is a tremendous amount of Local customers in and around our port. We go to the port starting at 5:00 am to start our day. There are two hundred trucks in line and we are given 7 Stradds to service us. At 6:00 we get maybe 3 more and needless to say, that is not enough. By 8:00 we get 4 more and by then there are 800 trucks in line. We have asked that all 20 stradds be ready at time of opening. This alone would reduce a large amount of congestion. THIS HAS NOT HAPPENED.

The customers do not understand our trucks in line at 5:00 am and not arriving at the warehouse until after lunch. Local Driver has lost one half of his 12 hours. The driver will finally depart the port and in most instances, the local drivers will service the local customers within 3 hours and return to the port, if he can be ahead of the 2:00 traffic. If he gets in the traffic he will not make it back to the port prior to 4:00 there is no way He will not get out in time to be able to deliver his outbound container. It will be delivered the next morning, because he is out of hours. Remember he has been on duty since 4:00 am and they are departing the port as late as 9:30 at night. We have to leave the port. We are not allowed to stay on the port or any of the surrounding areas which are commercial or residential and driver will be towed. He has to return to home or to the truck terminal. He has nowhere to rest.. Yes we know we are in violation and we log the violations. .even though we are fined. We have to pick up our next container while on the port in order to prevent demurrage If left on last free day .the lines would charge us for the container and there is also a charge for the chassis being out too long. We would just be starting over .Local trucks have lost at least 4 round trips per day and that is half of what they were making 2 years ago. Port

We know this will get better with time. but we just don't have time to wait. We are losing tucks and Drivers every week.

Port Draymen are different from domestic trucks.

We don't control our pick up or return times or hours waiting to load or unload at ports

Many of the drivers are regional: they make a trip 100/150 miles and return to port as early as 3:00 p.m. The receiving gate will close at 6:00 pm. If the truck is inside the gate before 6:00 p m they will be serviced. The problem is sitting in lines so long. They will be out of hours and cannot legally return to the terminal. The hours we waste in the port just sitting, have cost this industry a fortune. Customers don't understand about being out of hours. The steamship lines on the average. allow us four days to get all of the freight off the ship and out of the port in that short time. The demurrage is unbelievable. We try to explain the facts, if we go in the port twice in one day: we have lost 6 to 8 hours of nonproductive on duty time. Many times, we end up and still do not get the container out. The driver loses 8 of his 14 hours with no pay. Customer loses a day at the warehouse I

and the trucker has to pay the money to get the box released again. That will take 4 hours in the morning to get it so we can start all over again and try to get to the customer a day late. Nobody wins. I have attached the Individual Lines list of charges behind the letter for your info.

Truck/Gate appointment system.

The appointment system was put in place for a short time. The new software N4 has a few flaws that have to be fixed. It would not accept an appointment for an inbound Export and outbound Import on the same chassis, as one move. It also does not recognize a single inbound chassis or outbound single chassis. This is a major problem. No way to monitor the chassis. We also found that if the system had to reboot for any reason it would kick out some of the containers that were being brought for Export. They shut the system down. When it was shut down, there were no statistics on the number the number of trucks that could be received in an hour. The window was an hour and okay to arrive 30 minutes before or 30 minutes after. If you missed this window you were sent 2 miles down Hampton Blvd to the North gate. The truck was to sit there until there was a gap in the windows. He was notified to return to main gate for entry. It was possible to get lost in that process, not to mention the waiting time to get in.

There was a good appointment system at the now VIG terminal. When you made appointment, you chose which of the three hour windows you wanted to come it. It works well. We still use it. I believe it will be merged in with the new one when it comes back on line. That is projected to be in November, to the best of my knowledge.

The new automatic gate for NIT is supposed to open September 30 2014. This should make it easier to get in and out of the port. This will probably be a test. We can only hope

Free Time Impact on Truckers and Customers.

It has been published that we have 40 Ships docking a week, between the two main terminals.

These vessels have the three biggest lines in the world docking at VIG. These ships are very large and take longer to unload. These large ships have the equivalent cargo of 3 regular ships. They also have several smaller ships in the same week. When the ships are working, the trucks do not get serviced. The bunched arrivals overload the equipment, which is also the labor in this case. VIG is an automated terminal. The Robots are used to unload the ships. With the bigger ships come more containers. When a shipper brings a large quantity of containers and the Line gives us Day in (which we can't get out anyway) plus 2 it becomes impossible. due to the tuck congestion inside the terminal. We wait in lines until it is our time to go to the gate. They let a certain amount inside and the rest sit at the gate to wait for the trucks ahead of them to be serviced. At the same time there are incoming trucks that are sent to the lines that are waiting at the cul-de-sac at the end of the road. VIG can work around 120 trucks at one time, when they do not stop to work the ship. This could take up to 3 hours to get in the gate. The good news is if

you get in gate you will be serviced. VIG is open until last truck is serviced. Lately 9:30 to 10:00 PM. That is good, however most of the trucks that were in line at 4:00 are now completely out of hours. This creates another problem. These trucks are not supposed to move but cannot be left on the port or port property. Now you see the problem in trying to get all of a customer, containers in two days. The last few weeks VIG has had major volumes. The demurrage has to be paid no matter what the reason. We up front the money and wait in long lines to retrieve the container. We have begged for more time due to the congestion. None of the lines will work with us, no matter the reason The trucking community has to wait for the reimbursement and the pay for the move for a few weeks. Some of the customers believe we are responsible for not getting it out of the port on time and will not pay.

We have a choice, pay or lose the customer,. Needless, to say the impacts are heavy on all of us.

Chassis;

The Port of Virginia is about 3000 chassis short, to service the trucks in the port. There are a lot of damaged chassis here and the mechanics are working as hard as they can. For every chassis repaired, there is a truck waiting to pick it up. . At this time there is no way, the chassis can be ready for the road. in time to have them pre staged in an area.. There are huge amounts of mechanics working 10 hours a day to repair all of the damaged chassis, even, as these damaged chassis continue to arrive all day. This has always been a good pool. It is hard to operate a facility that is already short every day, and there does not seem there are any available chassis that the port can rent or buy to relieve the shortage at this time.

The Port is opening another one of our closed terminals, PMT which will be a wheeled terminal. They need to have 400 chassis on PMT the week of October 1st.

A wheeled terminal will cause more problems for the pool.

I will give the Chassis pool credit. They are doing the best they can with what they have to work with.

Infrastructure

Our infrastructure is in need of more roads . Being surrounded by water does create problems. . There is no space. We have a portion of an interstate 64 and it really goes about 20 miles on the Southside of Hampton Roads. The Patriot Crossing, that was shot down, for money reasons, would connect us with all of the ports, and keep the majority of trucks, out of every day local traffic...The three ports are within 7 miles of each via the midtown tunnel. The largest Port is adjacent to the biggest **Naval Base in the world**. The new connector road will be close to the North gate and will dump the trucks onto the Interstate 64 . into all the base traffic that starts in shifts at 2:00 in the afternoon. This traffic is four lanes wide and bumper to bumper all the way to Suffolk, which is approximately 40 miles. .In between there are colleges, hospitals and shipyards. Much more commercial traffic and residential people coming from Newport News, Norfolk, Chesapeake and Portsmouth. We would get off on 464 to come to the other ports or our

terminals. That would replace the current 14 mile round trip to around 50 miles round trip. We have a toll on the tunnel between the ports and even paying the tolls is cheaper than going around. Hampton Boulevard is the best and shortest way for the trucks to maneuver within all three ports. Hampton Blvd. is a Federal highway 58. The city of Norfolk put restrictions for trucks on this highway. They shortened the hours we could drive on 58 to 6:00 AM to 4:00 PM. This works for us and is a reasonable cost.

I have great respect for people not liking truck noise; however the port has been there since the early seventies. Most of these people were aware it was a busy street when they purchased their homes. Most of the complaints are from people that live on streets behind Hampton Boulevard.

If it were returned to its commercial original use, It would save a lot of money to the truckers and the customers that use the products that these trucks haul would be a lot cheaper. The Interstate cannot handle any more traffic.

We live in an area prone to Hurricanes. We have only 64 and 264 to get out of danger. Military has to be evacuated before the rest of us. We have three navy bases and one army base in Virginia Beach, By the time these facilities are evacuated, it is too late for the rest of us.

At this time, it is an hour drive 15 miles to my home in Virginia Beach. on 264. We need new routes. We have 1,704,854 people in the Hampton Roads area. 447,000 live in Virginia Beach. After 2:00 every place. is bumper to bumper until around 7:00 P.M The north Gate exit might be rethought.

Our Task Force

Our task force submitted items that needed attention and submitted possible solutions. Today not one of the points, have been put in place. **A few minor things that were not discussed were implanted but the Important Points are pending** We continue to have a lot of meetings and very little progress. We all know that you have to spend money to make money. You have to have good equipment and enough equipment, along with enough experienced labor to build a Global Port. We have always had a reputation of having the best communication in any of the ports. **We no longer have communication**

When we prioritize our problems and can do less than one hour turn times, then and only then we can reach our goal

These ports are not trucker friendly. There are not enough facilities to support the long lines. No Porter Potties. No Vending Machines and you cannot use your phone on the port. This is a change we need. during our congestion.

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Submission of the International Longshoremen's Association, AFL-CIO for the Mid-Atlantic and Northeast Port Congestion Forum

Introduction

Port congestion is a major issue, particularly in the Mid-Atlantic and Northeast ports where thousands of people toil daily to transport numerous tons of cargo to ensure that consumers and businesses throughout the world receive their shipments. This congestion is not limited to a single area of each port. Rather, the congestion plagues the water, the access roads, the railroad connections, the terminals, and the gates. Alleviating port congestion is important for all industries involved because if ports are less congested, more cargo will be transported through those ports, and all parties will witness greater profits.

Although the International Longshoremen's Association ("ILA") is greatly affected by the congestion in ports in which its members are employed, the ILA has limited ability to alleviate the debilitating congestion that afflicts numerous ports. The ILA can assist in the efforts by working as efficiently as possible to handle containers, detecting bottlenecks in the ports, and providing suggestions to resolve problems.

Currently, the ILA has three suggestions based on recent observations of the congestion in ports in which the ILA's members work. First, federal, state, and local governments must make improvement of transportation infrastructure a top priority. Second, terminal operators must address inadequate terminal infrastructure. Third, employers must train the ILA workforce to ensure the efficient movement of containers.

Federal, State, and Local Governments Must Improve Transportation

Infrastructure

A major cause of congestion is vehicle and rail traffic. Many of the access roads and major thoroughfares within the immediate vicinity of the ports were constructed many years ago, when ships were smaller and transported less cargo. While ships are now much larger and carry much more cargo, the road and rail infrastructure necessary to transport cargo to and from the terminals remains, in so many instances, either unimproved or minimally improved.

Unless additional roadways are built or alternate designs are implemented to handle or divert traffic, congestion due to the increased number of trucks and containers is inevitable. The ILA believes that if the federal, state, and local governments use highway use taxes, gasoline taxes, and other transportation taxes to improve the road and rail systems surrounding the ports, these improvements will alleviate much of the congestion caused by the transportation of cargo. Not only will people who work in the ports benefit from this traffic reduction, but also local citizens who travel regularly on the surrounding roads and rails will profit from this decrease.

Terminal Operators Must Improve Terminal Infrastructure

In addition to issues with transportation infrastructure outside the terminal, there are also problems with terminal infrastructure, which contribute to port congestion. Although infrastructure changes are beyond the ILA's control, terminal operators are in the optimum position to examine their terminals' infrastructure and direct their attention towards areas in which improvements are necessary.

One shortcoming that the ILA has noticed is in the training of workers in back up areas. Adequate training is necessary to allow these workers to process the documents required to permit the gate moves to proceed swiftly and smoothly. If there is no delay due to the processing of documentation, one bottleneck contributing to the congestion of the port will be eliminated.

Terminal operators could also implement a gate appointment system to regulate the flow of the terminals' truck traffic. This system has been implemented already in the Port of Hampton Roads, Virginia. Although a gate appointment system is unlikely to succeed in a port such as the Port of New York and New Jersey, this type of system may be of substantial use in smaller ports.

As ships become increasingly larger, terminals must adapt to accommodate the increased volume of cargo passing through the ports on a daily basis. Equipment that was once sufficient to handle the cargo is no longer adequate. Ports on the West Coast have already begun to modernize their terminals to remain competitive with Canadian terminals, which have been updated to accommodate larger ships and the surge in the amount of cargo that passes through the ports. The Port of Seattle announced plans to extend the rail system on which the port's cranes operate, an improvement that would allow the cranes to operate simultaneously.¹ Further, in addition to modernizing the equipment used at the ports, terminal operators must ensure that they employ enough workers to maintain the equipment so that it is in prime working condition. Regardless of the equipment's age or advanced features, any equipment that does not work properly is

¹ *Port of Seattle Gets \$20 Million to Boost Terminal Productivity*, Journal of Commerce, Sept. 10, 2014, http://www.joc.com/port-news/us-ports/port-seattle/port-seattle-gets-20-million-boost-terminal-productivity_20140910.html.

useless equipment that threatens not only the safety of everyone present at the ports, but also slows down the speed at which cargo can pass through the port.

Even though many of these improvements are expensive, several ports have recognized the importance of making these improvements and have obtained federal funds to assist with the great cost that accompanies terminal modernization. The Ports of Virginia and Seattle recently received Transportation Investment Generating Economic Recovery (TIGER) grants from the United States Department of Transportation.² The Department of Transportation awards these grants to fund projects that it considers to have a substantial effect on the United States, a region, or a metropolitan area.³ Because many of the most congested ports are also the most crucial ports in the country or a region, terminal operators may consider the possibility of applying for TIGER grants to assist with their modernization efforts.

Employers Must Train ILA Workforce for Efficient Movement of Containers

The most significant way the ILA can assist in alleviating port congestion is by working as efficiently as possible to handle containers. However, to maximize efficiency, the longshore workers need proper training. Therefore, the ILA believes that employers must strive to ensure that the ILA workforce is trained adequately to facilitate the prompt and seamless movement of containers.

Although the implementation of new technology in various ports has made many tasks easier, technology cannot operate on its own. Humans are still necessary to control this technology to ensure that it fulfills its function and operates at its maximum capacity.

² *Id.*; *Port of Virginia Snags \$15 Million Grant for Terminal Gates*, Journal of Commerce, Sept. 9, 2014, http://www.joc.com/port-news/us-ports/port-virginia-snags-15-million-grant-terminal-gates_20140909.html.

³ *Id.*

Therefore, management must consider the role of the longshore workers and ensure that the ports are staffed adequately with workers who are trained to use the new technology and who can make sure that the technology achieves its intended purpose.

Conclusion

Although alleviating port congestion is an ongoing task, the ILA is committed to participating in a dialogue and contributing to the efforts to allow the ports to operate as efficiently as possible. Obviously, port congestion affects many more people than the parties directly involved with it. However, those parties directly involved are the ones that are in the best position to find and implement solutions to the problem.

9/28/2014

Federal Maritime Commission

Public Forum – US Port Congestion: Direct affect on Port NY/NJ
Independent Drivers

Statement of Hector R. Alvarez

Owner: HMA Transportation

Public Relations Representative for Port Drivers of NY/NJ

October 1, 2014

Baltimore, MD

Mr. Commissioner I thank you for the opportunity to speak and take part in this forum.

My name is Hector R Alvarez and I am the owner of HMA Transportation, as well as the Public Relations Representative of Port Driver, a social network site that represents over 3000 members. I have over 30 years of experience in the trucking industry, working for multiple companies during my career. I have won multiple safety awards and have participated in multiple State sponsored activities promoting safety, and proficient driving skills. As the PR representative of Port Driver, I have a thorough understanding of the distinct needs and concerns of the Port Drivers, whom rely on the ports of NY and NJ to support their businesses. Below are some of those issues (both import and export) that I wish to address today.

Problems Within the Terminal Limits

- Long Wait Times – Wait times frequently surpass 3 hours which impact the overall efficiency and cost of those deliveries. Some of the drawbacks experienced have been:
 - ⊖ Excessive fuel expenditures
 - ⊖ Additional wear on vehicles
 - ⊖ Undue driver stress
 - ⊖ Local traffic congestion
 - ⊖ Additional expenses due to the delays absorbed by the drivers
- Ineffective Port Management – Because of the results of the way that the current port traffic is managed, drivers are skeptical about the supposed efficiencies that would be gained by implementing an appointment system and would like to see pilot programs in smaller numbers with measurable results illustrating the benefit of the proposed new system.
 - Some of the concerns that have been voiced within the organization have been:
 - Do I call to confirm an appointment?
 - If there is a long line at the gate, will I be able to bypass everyone just because I have an appt?
 - What if I get stuck waiting in line and miss my appointment, will I have to reschedule?
 - What if I get there in time with my appointment and my container isn't here?
 - Will I then have to reschedule for another appointment?

- Terminal Space Mismanagement - Lanes assigned for the movement of vehicles are often blocked during the staging of containers, causing the inability of the driver to get to the location designated to pick up his or her container. These blockages have often been so disruptive that it forces the shutdown of the port until the port management and security, who are frequently understaffed, can alleviate the logjam. This also results in loading delays due to driver turn-away, therefor compounding the issue.

Problems with the Chassis at the Depots

- Shortage of Chassis – There is a dearth of out of service and/or non-federally compliant equipment within the port. This adds, not only to the delays in shipment pickup (up to 2 hours), but increased liability for the drivers, and unjustifiable increased risk to the general public utilizing the same roads.
 - At times, 300 or more chassis sit out of service waiting to be brought up to standards which represents upwards of 70% of the total equipment on site on any given day.
 - These chassis, when being brought back into service, often sit on defective “recap” tires. Those tires have lost chunks and even blown out within 30 miles of leaving the port
 - The University of Michigan Transportation Research Institute conducted a study of blow outs for the United States Department of Transportation. 181 cases were identified where a driver swerved to avoid debris. This amounted to 0.16% of the 111,853 fatal crashes from 1995-1997. Another report submitted by the Dunlap Corporation challenged this percentage to be **up to 0.52% of crashes involving a fatality where caused by debris on the road due to a blowout.** (Since the vehicle causing the debris is normally long gone, police reports usually call it just debris and not tire debris)
 - Drivers are forced to bear the burden of liability for the subpar equipment provided by the port and are far too often having to choose between safety on the road and timely delivery of cargo.

Mr. Commissioner, I appreciate the opportunity to make a statement on behalf of Port Driver.

Port Driver is a comprehensive system of communication via social media that maintains a free and open line of communication between all of its members. With over 3000 standing

members, Independent Drivers, Company Drivers, Registered Companies, Legislators, Unions and shipping terminals in the northeast, Port Driver strives to support and be the voice of its members throughout the industry.

COMMENTS AT FMC LISTENING SESSION BALTIMORE, MD

OCTOBER 1, 2014

FMC PORT CONGESTION FORUM

Thank you Commissioner Doyle for the invitation to speak today at this forum and to share North America Chassis Pool Cooperative's (NACPC) view on the most efficient chassis deployment and ownership model which we believe will contribute to reducing motor carrier delay time at the port.

Since the FMC's broad regulatory oversight responsibilities include...**“Providing a forum for exporters, importers, and other members of the shipping public to obtain relief from ocean shipping practices or disputes that impede the flow of commerce”**, we believe the Commission can exercise a very constructive role in identifying problems and facilitating discussions among port stakeholders and other government entities that ultimately could lead to solutions which could reduce or eliminate the growing economic harm caused by the current port congestion crisis especially when it comes to the chassis provisioning model at our ports.

In our view, the chassis model adopted at each port must allow maximum opportunity for market place competition. We believe strongly that the free market will provide the proper environment to allow the best model to evolve while at the same time insuring an adequate supply of properly equipped and maintained chassis at the lowest price. Sadly, that is not the case today in any of the existing models. The restrictions in today's market that prevent the trucker from being able to choose their chassis provider, even when they pay

the bill, leaves the daily rental charges subject to little or no competitive rate pressures.

In fact, NACPC was formed because the non-competitive market that was initially created by the evolution of chassis ownership was unacceptable. A market where:

- Marine carriers were selling their chassis to the chassis leasing companies and dictating to motor carriers that when moving their boxes **that** leasing company had to be used for the chassis even when the motor carrier paid the bill.
- In this controlled market, in many cases the sale of the chassis was for a price above fair market value.
- The sale included termination costs of \$500-\$750 per chassis for leased chassis that had to be terminated.
- It included a favorable rate, maybe even below cost, for marine carrier when they paid for chassis use.
- And in some instances the sale included free on terminal use for the marine carrier.

In return for these generous concessions, the marine carriers signed agreements guaranteeing the leasing companies 100%, exclusive use of their chassis. In this closed market, these sale terms drove up the daily use rate charged to the motor carrier and ultimately paid by their customer. The lack of free market competition facilitated the adoption of these terms because the end user had no chance to negotiate price or interchange terms. It was this environment that lead to the creation of NACPC. In an effort to challenge that closed market environment

and to create an alternative choice, 12 motor carriers formed NACPC, and, applied for and received, pooling authority from STB.

NACPC mission:

- First, we believe that the chassis should continue to be a utility and provided in the market with transparent "at cost" daily use rate. But to enable NACPC to enter the market and to grow, there must be open, free market competition and those who pay for the chassis must have the chance to select their chassis provider 100% of the time. Because of the current market restrictions, NACPC is unable to enter every market. We believe daily chassis rate competition can be encouraged by ensuring that motor carriers have the ability to select their chassis provider each time that are paying the chassis use bill.
- Second, NACPC's mission is to insure there is an adequate supply of chassis in the US to meet future needs. Only with open market competition will chassis providers be encouraged to provide the investment necessary to accomplish this. Also only with open market competition will NACPC be able to obtain a national footprint.
- Third, to insure that chassis are modernized to include radial tires, LED lights, ABS, and auto inflation. This will serve to address the current problems with OTR violations which still threaten motor carrier CSA scores. Brakes, lights and tires make up the overwhelming majority of Roadability violations. Chassis with LED lights, ABS, and radial tires will eliminate most roadside repairs and CSA violations. If motor carriers can choose their

chassis provider, motor carriers will choose a provider whose chassis have these components on them.

- Fourth, NACPC strongly believes that chassis should be interchanged according to the UIIA interchange rules. The UIIA is a multi-modal negotiated interchange agreement and serves as the standard interchange document for most intermodal interchanges **except** for chassis. Chassis leasing companies force motor carriers to sign their proprietary interchange agreements.

NACPC's vision is to accomplish these objectives within a model that insures:

- A gray chassis pool within each port which will greatly improve efficiency. An important objective of NACPC is to preserve the existing "gray pool" low cost chassis pool model previously established by the ocean carriers under their FMC approved agreement with OCEMA.

Contributory "gray pools", such as those managed by CCM, allow users to draw any chassis from the pool regardless of ownership. The contributory pool model eliminates duplicate costs and maximizes the use of limited space at port by eliminating the need for a contributor to have its own chassis storage facility. It also ensures an adequate supply of chassis for all users. Pool managers oversee chassis logistics, billing, inventory supply, maintenance, repair and the repositioning of the chassis but usage arrangements are determined between the chassis contributor and its users. Gray pools thus foster an environment for improved competition by including more than one chassis provider in a particular pool, **as long as**, the marine carrier allows the motor

carrier to exercise choice. Pool to pool interchange, facilitated by the recent DOJ decision, would allow all of the chassis within a port area to be gray even with multiple pool managers. Pool managers would be able to settle costs for over/under use among themselves.

- Second, NACPC vision is that the model must also allow motor carriers to designate their preferred chassis provider at one place and at one time for the entire port area.
- The model must allow motor carrier to pick up a chassis at any location.
- The Interchange terms must be according to standard industry negotiated UIIA interchange rules.
- The motor carrier must be able to use the chassis for any marine box.
- And return it to any location.
- Finally the model must provide for the inclusion of all of the OTR repair expense in the daily rate charged by chassis provider. Current OTR repair model is broken and has driven up costs for everyone. This will create a new model, where the equipment provider can control all of its costs and the quality of the repairs that are made OTR and put the cottage used tire industry that has sprung up, out of business.

NACPC vision for NY/NJ alternative model:

- All chassis in port area must be gray.
- Allow continuance of separate, competitive pool management options. Pool to pool interchange can insure chassis contributor is compensated for asset.
- Allow end user to nominate their chassis provider(s) for all of their chassis needs in port market at one place and at one time.
- All M&R work to be done by ILA mechanics.

In this model, NACPC would:

- Obtain footprint in NY/NJ market by net leasing chassis from leasing company with existing user base.
- Contract with one, or more, of the existing pool managers to manage equipment to include use of ILA labor for M&R work.
- Bill chassis user a transparent "at cost" use rate for daily chassis use. Costs include, asset cost, chassis management costs bill by pool manager, insurance costs, OTR repair costs (motor carrier would not get bill for roadside repairs if use NACPC OTR vendor) and fee for reinvestment in equipment.
- Market NACPC option to all marine carriers, motor carriers, and BCOs.

- If strategy proves successful, we would support growth by adding chassis using net leases from leasing companies and/or acquire new chassis. If successful, fleet would gradually be converted to more and more chassis being net leased by NACPC and provided to all users "at cost".

We see four Absolutes that should be required for the chassis operating environment:

- First absolute is a Gray pool - any chassis can be used for any box at any location.
- 2nd 100% motor carrier choice - motor carrier must be able to designate their chassis provider one time for entire port area. Marine carrier cannot be allowed to continue dictating chassis provider when someone else is paying the bill. Granted existing contracts may have to be honored, but they should not be allowed to be renewed by leasing companies offering incentives to marine carrier to limit choice.
- 3rd absolute, there must be free market competition for pool management and chassis supplying. This is the only incentive for investment in upgraded/new chassis. Don't force any of current participants into dictated solution. Simply insure there is free market competition and may the best model win.
- And finally, the UIIA must be used to govern interchange rules.

In closing, we recommend the Commission use its review and monitoring activities to ensure that the transfer of chassis provisioning from the traditional one mode (ocean carrier) model to the emerging multimodal (motor carriers, leasing companies, ocean carriers) model is

· accomplished within an **economically transparent, responsible, predictable, and safety oriented** framework that preserves and promotes competition.

Statement of

**Curtis E. Whalen
Executive Director**

**Intermodal Motor Carriers Conference
Of the
American Trucking Associations**

Before the

**Federal Maritime Commission
At the**

**Mid-Atlantic and Northeast Port Congestion
Forum
Baltimore, MD**

October 1, 2014

Commissioner Doyle, Commissioner Lidinsky, members of the Commission, I very much appreciate the opportunity to participate today in the **Mid-Atlantic and Northeast Port Congestion Forum**. As I advised when I provided a truck congestion update during the Commission's June 18 business meeting, because of the Federal Maritime Commission's (FMC) broad regulatory marine transportation oversight responsibilities, the intermodal motor carrier members of the American Trucking Associations (ATA) believe that the Commission could exercise a very constructive role in identifying problems and facilitating discussions among port transportation stakeholders and other government entities that ultimately could solve or at least mitigate the growing economic harm caused by what most believe is the port congestion crisis. We are therefore most encouraged that you have fully embraced this proactive leadership role by having or conducting **4 Congestion Forums by early November**.

My name is Curtis Whalen and I am the executive director of the American Trucking Associations' (ATA) Intermodal Motor Carriers Conference (IMCC). The IMCC is an affiliated conference within the ATA and is open to all ATA member companies engaged in intermodal truck transportation or businesses and services supporting intermodal transportation. ATA is a federation of affiliated state trucking associations, conferences and organizations that includes more than 37,000 motor carrier members representing every type and class of motor carrier in the country. I am also representing today the **North America Chassis Pool Cooperative, LLC (NACPC)**, a motor carrier owned chassis provider that was formed by a group eleven U.S. motor carriers. NACPC is not affiliated with ATA or the IMCC.

Over the last year there has been an increase in port congestion levels in many locations which, unfortunately, appears to be systemic in nature and contains diverse operational elements that on initial review do not appear to present a readily identified process or focal point for developing needed solutions. Indeed, maritime transportation stakeholder groups and various industry, local, state and federal entities are now in what seems to be constant formal and informal discussions on how best to address and mitigate port congestion effects that are becoming all too common at a growing number of America's port. As recently as last week at the annual Intermodal Association of North America's (IANA) EXPO hundreds of executives from major maritime transportation companies and organizations met to identify and discuss possible congestion solutions which included: better, more accurate and efficient gate entry data processing; more labor and dock related equipment; trucker appointment or reservation systems; staggering ship arrivals; extended hours for terminal operations and weekend operations, etc. In addition, it now seems apparent to most that solutions to address port congestion are also very much tied to the long neglected and until recently not generally even discussed **intermodal chassis** that provides the pivotal link between the truck driver and the international freight container.

From an intermodal trucking perspective, effective management of port congestion will also positively impact and help mitigate key port truck drayage industry concerns regarding both driver compensation and driver shortages. As identified in a recent study by the Tioga Group, port trucking drayage related delays are costing the industry \$348 million, 14 million hours and 9 million gallons of fuel annually, and adding 103,000 tons of GHGs unnecessarily to the ports' emissions' footprint.

And very much exacerbating the search for port congestion solutions is the fact that chassis ownership is undergoing a rapid evolution whose final structure is not yet certain but whose resolution must be reasonably assured before port related congestion solutions (extended gates hours, trucker appointment/reservation systems etc.) can be successfully deployed. Given that the basic ocean carrier owned chassis deployment model has been used for over 50 years and we are now totally changing the system on the fly in a few years, the issues presented are often complex, confusing and the legal and contractual details and requirements are often evolving even as they are being developed and defined. Compounding the situation, Federal Motor Carrier Safety Administration (FMCSA) regulatory operational mandates for truckers and chassis concerning Hours of Service (HOS), Compliance Safety and Accountability (CSA) and Chassis Safety-Roadability very much impact and potentially restrict port and terminal operational flexibility but are in varying degrees beyond the control of port/stakeholder management decision makers.

Gate Congestion - Truck Waiting Lines and Turn Times

Port congestion is most often visibly marked by long lines of idling trucks waiting to enter port terminal complexes. Such congestion is not only a very real business concern for the international freight shipping sector but also presents a quality of life consideration for the communities that are situated adjacent to these facilities. Long truck lines and the resulting hours of non-productive, non-revenue waiting delays for the port driver community are becoming routine enough that port drivers are leaving the drayage business or refuse to take loads to those terminals with consistently long wait times. For example, I have been advised by the New Jersey Motor Truck Association, an ATA and IMCC member, that many New Jersey motor carriers who serve the NYNJ port complex have lost 20% of their driver work force over the last year. Similar impacts are being experienced at the Port of Virginia. This fact should not come as a surprise since with the all too common terminal gate delays drivers cannot generate adequate revenues by making only 1 or 2 container pickup and delivery "turns" a day for which they are paid. And, as we enter the container "peak season" leading up to the Christmas-holiday season, projected container traffic volume increases and the resulting congestion are expected to only get worse!

Some terminals attempt to address the negative financial impacts of "excessive" trucker wait times through tariffs filed with the FMC. Unfortunately, most of these efforts like those in the NYNJ Port complex intended to provide some compensation to drivers for excessive gate delays are at best ineffective. Often these tariffs **do not commence until the driver reaches the gate** - "first point of processing" and in today's NYNJ port dray daily marketplace, **drivers are often forced to enter long lines and wait many hours BEFORE they reach the gate**. Moreover, given the narrow streets and large volume of trucks in and around terminal gates, the trucker wait time frustration is exacerbated because once the truck enters the long waiting queues, the driver is in effect captive-there is no space or configuration available to pull out and abandon the line...you are in it for the duration.

While the "when and where the gate line starts" has historically been a subject of much debate between the truckers and the terminals, with today's available modern technology being deployed, objective/accurate data answering that key question as is now readily available and is already being used in LA and Long Beach. As of January 2014, NYNJ terminals now require all

trucks entering the port to have RFID tags. As a result, terminals could now capture accurate waiting queue data - which would fairly establish wait times that should be eligible for offsetting compensation - by simply placing RFID readers at strategic points **outside the gate**. This readily available solution could be done cost effectively and thereafter provide more equitable tariff based financial relief for “excessive wait time” compensation for drivers who are now bearing the lion’s share of escalating port congestion costs.

The importance of establishing equitable and realistic “excessive” trucking wait time tariffs is further underscored by the impacts of the FMCSA’s Hours of Service (HOS) restrictions setting strict limits on driver work and rest hours. Port congestion/terminal delays already serve to reduce driver total work hours thereby reducing the number of revenue paying turns/loads the driver needs to make to “pay the bills”. HOS work-duty restrictions put additional strict parameters on the amount of time drivers can be “on duty” which includes the time drivers are waiting to get into the port or and waiting for equipment to be located and loaded. This imposed regulatory work hour limitation obviously adds urgency to the need to better track and manage truck movement in and around the port complex and provide a more equitable excessive wait time compensation for port dray drivers.

In addition, the wait time and federal HOS regulations clearly will impact and limit a port’s effort to address overall system delays i.e. congestion solutions like extended gates hours or Saturday operations may well not be feasible if the drivers have already legally run out of hours while waiting to get into and out of the port.

Finally, concerning the issue of better use of data to address/manage port congestion, it should be noted that data streams currently generated by the deployment of RFID tags could be routinely made available to motor carriers in real time and would help truckers avoid more congested gates and routes as they make their driver dispatch decisions. Unfortunately, this is not being routinely done most ports and motor carriers are not able to utilize available data sources which would allow them to maximize driver use of on duty hours and provide ports terminals with some additional flexibility in the search for congestion mitigation solutions.

- **We therefore urge the Commission to review the efficacy of tariff filings covering excessive wait time compensation and to encourage terminals to make RFID and other real time traffic and gate congestion information available to motor carriers so they can maximize driver use of on duty hours including available data from readers positioned outside the gate.**

Container Facility Overload

Key facts to consider in understanding and potentially mitigating the growing instances of port congestion are: ocean vessels are getting larger; shipping alliances are being formed; and greater volumes of containers are being delivered on a single port visit or within a very narrow time frame. Shipping alliances are now particularly being identified as exacerbating the port cargo congestion problem by causing a fragmentation in freight delivery destinations which lowers efficient movement density particularly for intermodal rail movements.

Vessel arrivals also continue to often be **bunched** which results in thousands of containers being discharged for truck transport in a very short period of time. Under current operational procedures, once the vessel(s) have been off loaded and the freight discharged, the container "free time" clock (example: 4 no charge "free days" to remove container from the port) negotiated between ocean carriers and cargo owners starts, and serves to produce/force a trucker and equipment scramble to identify, load and remove the containers before late fee demurrage related charges are levied.

Obviously with the rush to avoid fees and move the cargo off premise in a set number of days, truckers forced to line up and wait in long lines for many hours to pick up the containers and chassis are now often "late" due to congestion impacts that are beyond their controls. Nevertheless, cargo owners are being assessed late charges by the terminals, truckers are being harassed and blamed by their customers for being late, and sometime truckers have to pay the late fees themselves or perhaps lose a customer.

Moreover, container volumes today often exceed the volumes that the terminals' equipment and labor resources can actually move off the dock before free time expires. Under current operating procedures described above, however, most terminals collect late fees even though they know in advance that they cannot clear the cargo within the free time constraints. And in an ever growing number of instances truckers cannot make the required pickups on time because slow terminal gate processing has produced long lines outside the gate that effectively prevents on time container pickup.

In addition, gate congestions also prevents truckers from returning empty containers within post-delivery free time allowances which then trigger exorbitant/excessive per diem charges which are paid by the motor carrier to the ocean carriers.

- **From our truckers' perspective, we ask the Commission to review the efficacy of this "free time" process and its impact on the flow of containerized cargo. We certainly believe that terminals should not be allowed to collect fees when the terminal does not have the ability to actually move the cargo prior to free time expiration and not when slow gate processing and long waiting lines prevent the trucker from picking up a container, nor should the ocean carriers access late per diem fees when terminal gate congestion prevents on time container returns by the motor carrier.**
- **We likewise recommend that the Commission consider ways to encourage ocean carriers to spread out arrival times so that cargo volumes do not overload terminal capacity.**

Chassis Ownership and Deployment

The chassis as an intermodal utility has been and continues to be essential to the movement of freight supporting U.S. global container commerce. Since the introduction in 1956 of containerized intermodal shipping in the United States, foreign based ocean carriers providing regularly scheduled liner service generally provided chassis for importers and exporters and their motor carrier transporters that pick up and deliver container cargo at ports and inland intermodal terminals. In this historic chassis provisioning model motor carriers/truckers thus utilized ocean

carrier provided chassis and were not charged daily chassis rental fees - the use rate for the equipment was basically included in the containerized freight delivered price negotiated between the ocean carriers and their customers/shippers.

Beginning in 2009 / 2010, however, ocean carriers began to individually announce that, as of a date certain they would no longer furnish chassis for cargo shipments. One ocean carrier thereafter split off its chassis operation and began charging motor carriers a daily rental fee for chassis use. Other ocean carriers issued releases advising motor carriers that its chassis were sold and henceforth motor carriers should use chassis provided by the specific purchaser and the chassis rental rate was also already set and provided in the announcements. These "getting out of the chassis supply business" announcements were and continue to be made in a random fashion and include many operating and rate exceptions by geographic locations, trade lanes, common carriage, contract carriage, store door service, intermodal and port to port service.

Historically, terms and charges for the use of the container and chassis were specified in liner tariffs and/or service contracts between the ocean carrier and the shipper. For motor carrier transport, most ocean carriers utilized the intermodal industry's standard interchange agreement - the **Uniform Intermodal Interchange and Facilities Access Agreement (UIIA)** with added addendums covering specific terms for free time and per diem filed by individual ocean carriers when their terms and charges differed from the standard UIIA provisions.

In the still evolving new chassis ownership and deployment marketplace shippers and motor carriers are now confronted with a widely varying and confusing array of interchange and transport contracts that are complex, expensive and makes planning and billing accountability very difficult and operationally inefficient. Moreover, motor carriers often are confronted with no realistic options to obtain/provide their own chassis because in many wheeled locations (container is already mounted on a chassis when the trucker arrives) flipping the container to your own chassis instead of taking it already mounted on another chassis provider's equipment is costly/time consuming/not practicable. In addition, providing your own chassis is often not practicable because most intermodal motor carriers competing for cargo shipments are small or medium size firms that do not have the capital or resources necessary to acquire their own chassis equipment. As a result of this no real trucker "Open Choice" chassis supply reality, in many areas and intermodal facility locations daily rental charges the trucker must now pay are subject to little or no competitive rate pressures.

In order to proactively address the otherwise limited options available to motor carriers in the emerging chassis supply model, the **North America Chassis Pool Cooperative, LLC (NACPC)** was incorporated on October 3rd, 2012. The Company formed by a group eleven U.S. motor carriers received approval from the **U.S. Surface Transportation Board (STB)** on January 22nd, 2013, to commence operations as a joint venture chassis pool cooperative. With its STB authority NACPC has begun to acquire or lease intermodal chassis from ocean carriers and or chassis leasing companies and contribute these chassis into various existing chassis pools in the U.S. **NACPC's mission is to establish an effective chassis supply utility that will be implemented on a national basis to support the U.S. intermodal container network with efficient chassis supplies, a modernized chassis fleet and a transparent set of economics and terms of use that will benefit all users.**

An important objective of NACPC is to preserve the existing "gray pool" low cost chassis pool model previously established by the ocean carriers under their FMC approved agreement with the Ocean Carrier Equipment Management Association, Inc. (OCEMA). These open pools are managed by Consolidated Chassis Management (CCM), a pool management company owned by OCEMA. Shippers, ocean carriers, railroads and motor carriers all have benefited from this initiative, which included CCM pool management services which are assessed on an "at cost" pass-through basis and serve to moderate the overall cost of containerized freight transport.

Contributory "gray pools" such as those managed by CCM allow users to draw any chassis from the pool regardless of ownership. The contributory pool model thus eliminates duplicative costs and maximizes the use of limited space at port and/or inland intermodal locations by obviating the need for a contributor to have its own chassis storage facility. It also ensures an adequate supply of chassis for all users. CCM manages the chassis in the pools (including logistics, billing, inventory supply, maintenance, repair and the repositioning of the chassis) but usage arrangements are determined between the chassis contributor and its users. CCM pools thus foster competition by allowing motor carrier users the ability to choose from more than one chassis provider in a particular pool i.e. to have "Open Choice".

As the evolution in the new chassis supply model has progressed, however, there is cause for concern that this successful gray pool model is being eliminated and replaced by unregulated chassis providers whose growing dominant control of equipment supply and interchange terms is serving to stifle the introduction of competitive chassis supply alternatives. Indeed, ocean carrier chassis sales in the last 2 plus years have been aggressively pursued by only a few well financed leasing companies and the resulting post-sale motor carrier chassis leasing terms are now highly restrictive with daily rental charges most often being dictated - not negotiated.

It is important to note that even though ocean carriers have decided to sell their chassis and not make them part of the container/freight delivery transportation contract, they still need to secure chassis to support their continuing containerized freight activities at marine terminals and intermodal rail operations. As a result, ocean carriers are often securing, as a part of their sales negotiations and arrangements with leasing companies or other buyers, a contractually assured supply of chassis for what is often very favorable or even below market terms. While from a business point of view this may appear to be a reasonable goal in the ocean carrier transition activities, motor carriers and shippers are concerned that the cost for these below market on terminal services are or will in fact transfer the differential costs indirectly to the motor carriers or other supply chain participants. Indeed, as referenced above, in some recent ocean carrier announcements motor carriers are advised that future chassis transport of their ocean containers must be with the leasing company / buyer designated by the ocean carrier at a rate already set in the purchase contract. Motor carriers that now must deal with these directives in most instances have no practical opportunity to select their chassis provider or shop for more competitive charges and terms.

We believe daily chassis rate competition can be sustained by ensuring that motor carriers have the ability to select their chassis provider and that the transfer of the chassis fleet from one mode

to another is accomplished in a manner that provides fair treatment for all stakeholders in the container transport sector.

- **We recommend the Commission undertake oversight initiatives to facilitate - help define and guide the new chassis supply and deployment model. FMC's review and monitoring activities now underway will help ensure that the transfer of chassis supply from the traditional one mode (ocean carrier) model to the emerging multimodal (motor carriers, leasing companies, ocean carriers) model is accomplished within an economically transparent, responsible, predictable, and safety oriented framework that preserves and promotes competition and does not decrease transportation services.**
- **The evolving multimodal chassis ownership and deployment model obviously presents federal jurisdictional challenges due to the non-traditional and cross functional nature of the new chassis deployment system. FMC could help bridge the jurisdictional issue by providing the forum for chassis oversight activities bringing ocean carriers, chassis leasing and management companies, motor carriers and potentially the FMCSA and STB together to facilitate system development and ensure that the emerging model(s) do not cause substantial increases in transportation costs or decreases in transportation services or equipment safety.**

Chassis Roadability

Coupled with the uncertainties surrounding chassis ownership discussed above, the regulatory implementation of the Chassis Safety-Roadability law (Section 4118 of the **Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)**) has unfortunately not yet resulted in assuring the availability of safe-roadable chassis in sufficient numbers to support the growing numbers of containers that must be efficiently moved through our ports' infrastructure. The IMCC has filed comments in various governmental proceedings and industry presentations which included the following:

- Overall program implementation has been slow and we believe that compliance with the key chassis safety mandates has not yet reached a level where the chassis that are moving on America's roads can be considered to be systematically maintained and repaired.
- The law's mandate that equipment providers provide safe "roadable" chassis for pick-up/"interchange" with truck drivers is not being complied with or enforced and causes drivers to wait while the chassis is being repaired before they can leave the facility.
- As a result of chassis being deployed that are not Roadable, intermodal truck drivers continue to be charged during roadside inspections under the **CSA program** with equipment violations that are on the **chassis-vehicle # 2** - that we believe should instead be assigned to the equipment provider who under the law is the responsible party for ensuring chassis are roadable.
- Intermodal drivers are effectively being forced to leave the port and terminal drayage sector because their **CSA scores** are being unfairly elevated by chassis violations that will ultimately make them unemployable.
- Lack of a sufficient and predictable chassis resource will hinder port and terminal efforts to address port congestion related issues.

We are continuing to press FMCSA to take more aggressive regulatory actions to ensure compliance with the chassis safety requirements of the law. But in the context of chassis

availability, it must be noted that in the short term increased enforcement could in some instances and at some locations reduce the number of chassis which can be legally utilized/deployed until chassis safety standards are met.

Another Roadability related issue involves organized Labor's assertion of a contractual right over chassis repair and maintenance (M & R) activities. Under the historic chassis model discussed above, chassis were owned by the ocean carriers and stored, repaired and maintained on port-terminal property by organized labor under contract. Under the evolving new chassis model, the ocean carrier/terminal/port/Labor contractual link is no longer prevalent – the equipment is more often owned by private third party leasing companies or motor carriers. Labor, however, still insists that it will repair and maintain the chassis equipment. Indeed, the International Longshoremen's Association (ILA) new master contract includes language that acknowledges their jurisdiction for chassis M & R and the west coast International Longshore and Warehouse Union (ILWU) negotiations which are underway likewise highlight chassis M & R repair jurisdiction.

While the large chassis leasing companies and pool operators have not generally sought to move their operations to nonunion M& R work (and there is plenty of repair work that is needed so that should not change anytime soon), in the future and even now for some smaller trucking company chassis owners off premise nonunion repairs are an issue. How this will ultimately play out is unknown but truck traffic flow through the gates will likely be slowed by the unions at times when they want to highlight their M & R claimed rights.

Thank you.

Before the

Federal Maritime Commission

Public Forum – U.S. Port Congestion: Examining Causes, Impact on Stakeholders, and Exploring Possible Solutions

Mid-Atlantic and Northeast

Statement of Gerard J. Coyle

Vice President

Evans Delivery Company, Inc.

October 1, 2014

Baltimore, Maryland

Mr. Commissioner, thank you for the opportunity to make a statement on behalf of Evans Delivery Company, Inc. I am Gerard Coyle, Vice President at Evans Delivery. Evans is a Pennsylvania based, national provider of container drayage services with annual revenue in excess of \$350 million. The company currently operates a fleet of approximately 2,200 independent contractor/owner operator drayage trucks and transports more than 550,000 intermodal containers, per year, from the Nation's ports and rail facilities. We currently serve all of the East Coast and Gulf Coast ports.

OVERVIEW

It is no secret that marine terminal congestion has, over the last few years, become a major issue in U.S. Ports in general and in the Northeastern U.S. in particular. The kind of marine terminal congestion that we have experienced has had a significant negative financial impact not only on Evans Delivery Company and our independent contractors but, on the trucking/drayage industry in general.

From the drayage carrier perspective we see the following items as significant contributing factors to the overall port congestion.

Limited marine terminal operating hours

Inconsistency of hours by terminals in the same port

Lack of measurement and reporting of truck time spent within the marine terminal

Lack of measurement and reporting of truck time spent waiting to enter the terminal.

Lack of available chassis needed to support container flow.

Shortage of ILA labor to adequately maintain efficient terminal operations

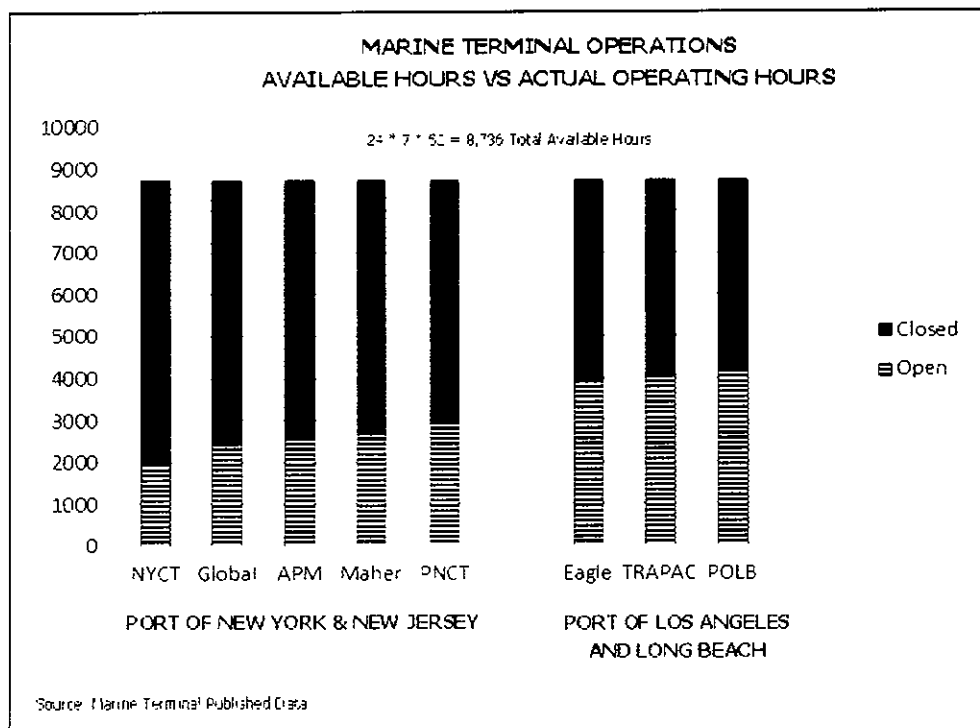
Shortage of ILA labor to ensure a sufficient supply of road-worthy chassis.

LIMITED MARINE TERMINAL OPERATING HOURS

Marine terminals, in most cases, have very limited operating hours. In the Port of New York and New Jersey, the percentage of open hours ranges from 22% to 28% of the total time available. This is contrasted with some of the West Coast terminals that have a more expanded availability. Their operating hours range from 45% to 48% of total time available. By extending the operating hours and opening at night, these marine terminals are shifting some of the truck traffic and putting trucks on the highways, at non-peak times.

While we are not suggesting that the East Coast marine terminals mimic the West Coast marine terminals by operating at night, however, we realize that uniform and expanded operating hours are needed in order to facilitate the increased container volume resulting from the larger ships and relocation/diversion of cargo from other ports.

The following chart graphically illustrates the open hours versus the closed hours.



In many cases, Marine Terminals are government owned and funded by taxpayers. In the case of New York and New Jersey Port operations are additionally funded by excessively high road

and bridge tolls. For example, for a tractor trailer, it currently costs \$85.00 to cross a PANYNJ bridge. In December of 2015 that charge will increase to \$105.00.

This means that currently the published rate for a truck to pick up a loaded container at New York Container Terminal in Staten Island and return the empty container to the NYCT terminal is \$85.00 (five axle rate) and \$51.00 (three axle rate) for a total of \$136.00. In December of 2015 this toll cost will be \$168.00 for the same trip. Needless to say, this cost is passed on to the customer and ultimately to the consumer.

Poor utilization of these assets does not serve the regional economy, the business community or the public interest. By forcing all of the truck traffic through a small operating window, the terminal operators are creating, not only increased traffic/highway congestion during peak traffic hours but, increased emissions from idling trucks, which result in reduced air quality and contributes to public health issues.

INCONSISTENCY OF HOURS BY TERMINALS, IN THE SAME PORT

In many cases, the operating hours of marine terminals within the same port, can vary greatly. From a trucking perspective, this makes consistency of operations and providing quality service, to the customer, much more difficult. Moreover, the hours can and do change on a day-to-day basis.

Lack of uniformity between terminals leads to more difficult planning, makes the supply chain more complex and ultimately results in higher costs and congestion.

Some of the marine terminal practices, with respect to operations, defy logic. For example, on September 9, 2014, New York Container Terminal sent out an announcement that beginning September 15, 2014; the terminal would be closing from 12:00 to 13:00 for lunch. Since, truck drivers are subject to tightly controlled hours of operation by Federal Motor Carrier Safety Administration hours of service rules a practice such as this only serves to make things more difficult for the drayage carriers.

The practice of closing a multi-billion dollar facility for "lunch" is difficult to understand, at best.

The following chart shows the operating hours, as published on their respective web sites, of the five terminals in the Port of New York & New Jersey.

PORT OF NEW YORK & NEW JERSEY							
DAILY HOURS OF OPERATION							
	Global	NYCT	PNCT	Maier	APM		
0500							
0530							
0600							
0630							
0700							
0730							
0800							
0830							
0900							
0930							
1000							
1030							
1100							
1130							
1200		CLOSED					
1230		FOR					
1300		LUNCH					
1330							
1400							
1430							
1500							
1530							
1600							
1630							
1700							
1730							
1800							
1830							
1900							

Source: Marine Terminal Web Sites

If you can't measure it, you can't improve it. - Peter Drucker

LACK OF MEASUREMENT AND REPORTING OF TRUCK TIME SPENT WITHIN THE MARINE TERMINAL

Marine terminal efficiency is everything. Not only to the drayage carrier which has to navigate through the terminals in order to get the product to the customer but to the cargo owner who may experience higher costs or significant product delivery delays due to terminal congestion.

The following are a few of some of the more egregious examples of actual turn-times experienced by Evans Delivery Company in the New Jersey marine terminals in 2013 and 2014. While the specific reasons for such delays are unclear, at this point, the fact of the matter is that our independent contractors were delayed for significant amounts of time as well as the cargo that they were attempting to pick up.

Examples of Actual Turn-Times Port of New York & New Jersey					
Marine Terminal	Date	Day of Week	Gate In	Gate Out	Elapsed Time HRS:MIN
Maher Terminal	6/12/2013	Wednesday	7:43 AM	3:54 PM	8:11
Maher Terminal	7/24/2013	Wednesday	8:42 AM	5:57 PM	9:15
Maher Terminal	10/1/2013	Tuesday	6:21 AM	8:15 PM	13:54
Port Newark Container	2/19/2014	Wednesday	6:22 AM	12:06 PM	5:44
Maher Terminal	5/1/2014	Thursday	4:52 PM	11:42 PM	6:50
Global Terminal	7/7/2014	Monday	8:44 AM	5:42 PM	8:58
APM Terminal	7/21/2014	Monday	8:11 AM	7:01 PM	10:50
APM Terminal	8/26/2014	Tuesday	8:39 AM	5:49 PM	9:10

The elapsed time does not reflect time spent, in the queue, outside of the terminal

Every marine terminal records the in-gate and out-gate information related to the trucks when they enter and when they leave the terminal. Further, in New Jersey, all drayage trucks are required to be equipped with an RFID tag which identifies the drayage carrier, the vehicle information and the truck owner. This program, while not yet fully operational, was funded through a Federal grant. In the future, drayage carriers will be required to bear the costs for replacement RFID Tags and additional RFID tags.

We believe that the drayage carriers need to receive the benefits made available by the use of this technology.

LACK OF MEASUREMENT AND REPORTING OF TRUCK TIME SPENT WAITING TO ENTER THE TERMINAL.

Queue time (time spent in the queue, waiting to enter the terminal) is important. On any given day the driver may have to wait for hours before entering the marine terminal gate. There is both an economic cost and an environmental impact and public health impact.

Currently, there is no system or methodology in place for the measurement of the amount of time trucks spend in the queue, waiting to enter terminals. This is an important component of making the marine terminals more efficient.

As an Example, this chart shows the estimated economic loss to the drayage carriers and the independent contractors who serve the port of New York and New Jersey.

Total Containers - Imports and Exports (2013) (a)	Hours Spent in the Queue outside of the terminal	Total Hours spent Idling	Economic Value of Time Lost in the Queue @ \$85.00 per hour (b)
3,169,835	0.5	1,584,918	\$ 134,717,988
3,169,835	1.0	3,169,835	\$ 269,435,975
3,169,835	1.5	4,754,753	\$ 404,153,963
3,169,835	2.0	6,339,670	\$ 538,871,950
3,169,835	2.5	7,924,588	\$ 673,589,938
3,169,835	3.0	9,509,505	\$ 808,307,925

(a) 2013 Trade Statistics reported by the Port Authority of New York & New Jersey
 (b) \$85.00 per hour is a standard rate for detention charged by most drayage carriers

With respect to the NY/NJ marine terminals, if we take an average of only two (2) hours waiting in the queue, the economic loss to the drayage community is in excess of \$538 million.

The following chart shows the environmental impact and public health impact of excess truck idling caused by truck in the queue.

Average Idle Emission Rates for Class 8 Heavy Duty Diesel Vehicles							
Port of New York & New Jersey							
Annual Number of Containers	Hours Spent Idling in the Queue and Marine Terminal	Gallons Consumed	Idling Hours	Emissions			
				CO ₂	CO	NO _x	PM _{2.5}
3,169,835	1	3,169,835	3,169,835	70,370,337	185,525	249,837	7,477
3,169,835	2	6,339,670	6,339,670	140,740,674	371,050	499,774	14,955
3,169,835	3	9,509,505	9,509,505	211,111,011	556,575	749,661	22,432
3,169,835	4	12,679,340	12,679,340	281,481,348	742,100	999,548	29,910
3,169,835	5	15,849,175	15,849,175	351,851,685	927,625	1,249,435	37,387
3,169,835	6	19,019,010	19,019,010	422,222,022	1,113,149	1,499,322	44,865
3,169,835	7	22,188,845	22,188,845	492,592,359	1,298,674	1,749,209	52,342
3,169,835	8	25,358,680	25,358,680	562,962,696	1,484,199	1,999,096	59,820
3,169,835	9	28,528,515	28,528,515	633,333,033	1,669,724	2,248,983	67,297
3,169,835	10	31,698,350	31,698,350	703,703,370	1,855,249	2,498,870	74,775

Source Publication: EPA420-F-08-025 Idling Vehicle Emissions (Heavy Duty Trucks)
Grams Per Hour (g/hr) Converted to Pounds

CO ₂	Carbon Dioxide (A Regulated Pollutant)
CO	Carbon Monoxide (A Regulated Pollutant)
NO _x	Nitrogen Oxides (A Regulated Pollutant)
PM _{2.5}	Fine Particulate Matter

Using the same two (2) hours, as above, the environmental and public health impact is in excess of 140 million pounds of CO₂ emissions 14,955 pounds of fine particulate matter (PM_{2.5}) 371,050 pounds of carbon monoxide (CO) and 499,744 pounds of nitrogen oxides (NO_x).

This chart does not reflect the emissions generated by idling vehicles while waiting inside the terminals. However, if we use the same two (2) hours for time spent within the marine terminals (gate-in to gate-out) and add it to queue time, the environmental/air quality impact would be 281 million pounds of CO₂ emissions 29,910 pounds of fine particulate matter (PM_{2.5}) 742,100 pounds of carbon monoxide (CO) and 999,548 pounds of nitrogen oxides (NO_x).

We realize that the Port of New York & New Jersey has been dealing with air quality issues for years but much of these emissions are entirely preventable through the efficient operation of the marine terminals.

LACK OF AVAILABLE CHASSIS NEEDED TO SUPPORT CONTAINER FLOW.

Beginning in 2009 ocean carriers began to fundamentally change the way that they dealt with intermodal chassis. They announced that they would no longer supply the chassis. While this has gone through several modifications and iterations since then, it has clearly complicated the process for drayage carriers. Now, drayage carriers, in many instances are required to rent the chassis, from the equipment provider and then invoice the customer and collect the funds. This process has placed an extraordinary administrative burden on the drayage carriers.

There is a chronic shortage of chassis at the New Jersey marine terminals. It seems, in the evolution of the new chassis model, no one is taking ownership of the issues surrounding chassis availability. The marine terminals say that it is not their problem and the ocean carriers say that it is not their problem.

Marine Terminals, Ocean carriers and Port Authorities are required to file tariffs with the Federal Maritime Commission and are subject to its oversight. The chassis providers have no such regulatory requirements and oversights.

All things considered, having only a fraction of the number of chassis needed to ensure the efficient flow of containers, from the port, is a significant factor in contributing to port congestion. In addition, it forces drayage carriers to hoard containers rather than to return them in a timely manner thereby exacerbating an already difficult situation.

Like any commodity shortage, this shortage is exacerbated by the hoarding of chassis in order to ensure a supply.

The following table shows the actual availability, of chassis, at the New Jersey and New York terminals during the week of September 15-19, 2014.

Chassis Availability New Jersey & New York Marine Terminals										
Direct Chassis Link, Inc. - 20' & 40' Chassis Availability										
	Monday		Tuesday		Wednesday		Thursday		Friday	
	9/15/2014		9/16/2014		9/17/2014		9/18/2014		9/19/2014	
	20'	40'	20'	40'	20'	40'	20'	40'	20'	40'
APM Terminal	94	554	28	271	26	194	15	72	4	65
Global Terminals	31	62	28	56	27	57	30	58	36	59
Maher Terminals	33	6	38	4	33	1	34	9	38	12
New York Container Terminal	90	135	98	140	94	152	90	130	90	45
Port Newark Container Terminal	-	13	-	15	-	17	-	17	-	21
Total DCLI 20' & 40' Chassis	248	770	192	486	180	421	169	286	168	202
TRAC Intermodal - 20' & 40' Chassis Availability										
	Monday		Tuesday		Wednesday		Thursday		Friday	
	9/15/2014		9/16/2014		9/17/2014		9/18/2014		9/19/2014	
	20'	40'	20'	40'	20'	40'	20'	40'	20'	40'
APM Terminal	62	56	55	49	54	4	12	-	3	1
Global Terminals	2	60	6	26	3	2	3	6	2	1
Maher Terminals	78	204	8	19	8	4	1	5	4	2
New York Container Terminal	65	36	70	10	63	4	50	-	15	1
Port Newark Container Terminal	54	237	54	262	51	281	40	266	31	258
Total TRAC 20' & 40' Chassis	261	593	193	366	179	295	106	277	55	263
Total DCLI & TRAC 20' & 40' Chassis Available										
	Monday		Tuesday		Wednesday		Thursday		Friday	
	9/15/2014		9/16/2014		9/17/2014		9/18/2014		9/19/2014	
	20'	40'	20'	40'	20'	40'	20'	40'	20'	40'
APM Terminal	156	610	83	320	80	198	27	72	7	66
Global Terminals	33	122	34	82	30	59	33	64	38	60
Maher Terminals	111	210	46	23	41	5	35	14	42	14
New York Container Terminal	155	171	168	150	157	156	140	130	105	46
Port Newark Container Terminal	54	250	54	277	51	298	40	283	31	279
Total DCLI & TRAC 20' & 40' Chassis	509	1,363	385	852	359	716	275	563	223	465

Source: Daily E-Mail notices published by the Equipment Providers

According to the statistics published by the Port Authority of New York & New Jersey, in 2013, the PANYNJ reported handling 3,169,835 containers. This means that, on average they moved approximately 12,900 containers each work day.

Based on these numbers, during the week of September 15-19, there was a daily average of 1,145 available chassis.

Please note, in the table above, that there were a number of days that there were fewer than 10 chassis (20's or 40's) available (highlighted) at a particular terminal.

As a drayage carrier, we need to know that when we arrive at the marine terminal to pick up a container for our customer, that there will be an adequate supply of chassis available and that the available chassis are certified to be road worthy and ready to depart the terminal.

ADEQUATE SUPPLY OF LABOR NEEDED TO SERVICE THE FREIGHT FLOW EFFICIENTLY

It is well publicized that the marine terminals in New Jersey have suffered from a chronic shortage of labor. No matter what type of business is operated, you need proper manpower levels in order to optimize the efficiency of the operation.

SOME TERMINALS INSPECT THE CHASSIS JUST PRIOR TO EXITING THE TERMINAL

Some of the terminals have a process that relies on the driver to inspect the chassis before hooking up to it. In many cases, when the driver is loaded and ready to exit the terminal, the chassis is re-inspected and if a defect is found, he is sent back to the "Roadability" Department" for a repair that he may not have been able to detect.

This practice only serves to slow down the process and leads to further congestion. When chassis are made available for pick up they should be tagged and ready to go on the public roads in a safe operating condition and require no further inspection.

OTHER ISSUES

MARINE TERMINAL DEMURRAGE

"Demurrage is defined as the daily charge assessed for the use of the land and services provided at the Steamship Line's load/discharge port, rail ramp or inland container yard when the cargo remains in such facilities beyond permitted free time."

While there have been some instances when marine terminals have extended free time regarding demurrage charges, there have been times when the marine terminals have charged and collected demurrage charges, from the customers, for container that they were unable to deliver to the customer due to a variety of reasons, including weather conditions such as snow and terminal congestion.

The practice of charging for demurrage when the marine terminal has actually caused the situation resulting in incurring the demurrage should not be permitted.

As you can see, from the following chart, these charges can be quite substantial. This chart shows the currently published demurrage rates for New Jersey marine terminals.

TERMINAL DEMURRAGE FREE DAYS AND DAILY CHARGES				
Global, NYCT, PNCT APM	Free Days	Day	Day	Day
		1 - 4	5 - 9	10 +
Rate Per Day - Dry Container	4	\$ 135.00	\$ 185.00	\$ 345.00
		Day	Day	
		1 - 3	4 +	
Rate Per Day - Refrigerated Container	2	\$ 350.00	\$ 511.00	
Maher Terminal	Free Days	Day	Day	Day
		1 - 4	5 - 9	10 +
Rate Per Day - Dry Container	4	\$ 164.00	\$ 219.00	\$ 374.00
		Day	Day	
		1 - 3	4 +	
Rate Per Day - Refrigerated Container	2	\$ 400.00	\$ 575.00	

Source: Marine Terminal Tariffs

PORT AUTHORITY OF NEW YORK & NEW JERSEY DRAYAGE TRUCK BAN

On January 1, 2011 the Port Authority of New York & New Jersey banned all drayage trucks with engines older than 1994. On January 1, 2017 the Port Authority of New York & New Jersey will ban all pre-2007 trucks from the marine terminals. By the Port Authority's own estimate, this may lead to a shortage of as many as 5,000 drayage trucks on a daily basis. Unless the PANYNJ can come up with a plan to replace these pre-2007 trucks, this self-inflicted wound, will create chaos.

Another issue is the use of the U.S. EPA verified technology in a situation where trucks are required to idle for extended periods of time. Diesel Particulate Filters (DPFs) were designed to operate at high temperatures. Excessive idling caused by marine terminal congestion defeats the purpose of this technology and may actually lead to greater pollution.

POSSIBLE SOLUTIONS

EXPANDED TERMINAL HOURS

It is not hard to see that marine terminals need to expand the hours of operations in order to accommodate the steady flow of cargo. This underutilization of assets is difficult to understand. In order to facilitate the efficient flow of freight through the Nation's ports, all stakeholders need to be involved in the re-design of the supply chain as it regards ports.

UNIFORM TERMINAL HOURS

From a drayage carrier perspective, it is much easier to plan and schedule trucks when there is a level playing field regarding marine terminal operating hours. Drivers are subject to stringent hours of service regulations mandated by the Federal Motor Carrier Safety Administration. Therefore, planning is critical to the overall efficiency of the logistics operation. The idea of marine terminals deciding to open on a Saturday, on an as needed basis, is unproductive because the drivers are not able to work due to Federal hours of service restrictions.

MEASURE THE QUEUE

Reducing queue time is critical to the solutions. Make use of the federally funded RFID systems. We are seeing more and more port mandated use of RFID tags on drayage trucks. In most ports, it would not be difficult to install RFID readers in logical locations so as to measure the queue outside the marine terminal. If drayage carriers were able to receive/view real-time information regarding queue time at each marine terminal they would be better able to make informed

TURN-TIME DATA TRANSPARENCY AND REAL-TIME REPORTING

Marine terminals should be required to report the turn-times within the terminal as well as the queue time outside the terminal. The results of this measurement should be made available, on a real-time basis to the drayage carriers and the public.

FREE TIME IS NOT FREE

The so-called free time is not actually free, the driver has to wait, without compensation. Currently the free time, per the NYTC Tariff, on a single move is two and one-half hours and on a double move it is three and one-half hours. This needs to be reduced significantly.

AUTO PAYMENT OF MOTOR CARRIER DETENTION CHARGES

Currently, a motor carrier must bill the marine terminal for detention charges, submit documentation and wait for payment. Sometimes this process can take several months before the motor carrier is paid. Since the marine terminals have the information regarding all gate-in to gate-out transactions, by truck and by motor carrier, a system of "Auto Payment" should be implemented so that motor carriers are automatically paid when the specified free time is exceeded.

PARITY IN CHARGES

Currently the New York Terminal Conference Tariff assesses a labor charge, to the drayage carrier, of \$122.45 to \$187.85 per hour. However the rate for terminal detention paid to motor carriers is only \$50.00 per hour. Motor carriers should receive payment of an hourly rate, for detention charges, that is comparable to the labor rate charged by the marine terminal.

WAIVE DEMURRAGE CHARGES

Marine Terminals should not be able to assess demurrage charges for any days when the turn-times exceed a certain standard. For example, one and one-half hours. This time would include the queue time.

REIMBURSEMENT OF PER DIEM AND CHASSIS RENTAL CHARGES

Marine Terminal Operators should reimburse the drayage carriers for all per-diem charges and chassis rental charges, if carriers are unable to return the container and chassis, within the allotted free time, due to congestion at the terminal. We believe that this is inherently unfair and there should be more parity in the charges.

PROVIDE ROAD-WORTHY CHASSIS

Chassis must be pre inspected and certified road ready (tagged) before making them available to the drayage carriers. There should be no need for an inspection at the exit of the terminal.

LABOR NEEDED TO SERVICE THE FREIGHT FLOW EFFICIENTLY

Marine terminals need to make sure that they have the proper level of manpower, on a daily basis, to ensure the efficient operation of the terminal.

TRUCK MANAGEMENT SYSTEM

There has been much discussion and controversy relative to managing the flow of drayage trucks through the marine terminals. We see systems, currently in place, both around the United States and around the globe. The management of this flow is critical to the efficient freight flow.

Stakeholders must be involved in the design and implementation of any such systems. There must be data transparency and the technology must be able to be used by the large drayage carriers as well as the smaller drayage carriers.

Comments of Ports America
Federal Maritime Commission – Port Congestion Discussion Forum
Port of Baltimore, October 1, 2014

Ports America is pleased to provide comments for consideration of the Federal Maritime Commission and attendees at the Commission's Port Congestion Conference.

Ports America commends the Commission for taking the lead in organizing these important sessions concerning a serious challenge to America's continuing economic growth and competitive position in the world economy, and for facilitating joint industry-government efforts that can produce successful approaches to the issues. We also extend thanks to the Port of Baltimore and World Trade Center for hosting the event, and for the Port's leadership efforts in the U.S. and East Coast transport infrastructure communities.

Ports America is the largest independent marine terminal operator and stevedore in the United States, providing marine terminal services, equipment, stevedoring, port labor, cargo handling and warehouse services at some 80 facilities in 42 U.S. ports on all U.S. coasts. The company currently handles 13M TEUs of containerized cargo, 89M tons of general cargo, 2.5M vehicles and 1.6M cruise passengers annually. The company is planning extensive new capital investment in the next few years. In contrast to most large competitors in the industry, Ports America is focused – and intends to stay focused – primarily on the U.S. market rather than globalizing its holdings.

In all aspects of its business, Ports America is committed to three basic principles:

- *Provide the highest quality customer experience in our industry.*
- *Create long-term value for our customers and stakeholders.*
- *Provide an excellent and safe work environment.*

The U.S. industry faces crucial competitive issues in 2014 and the immediately following years. All reports indicate the U.S. lags behind major European and Asian port nations in developing port infrastructure and introducing innovative cargo handling processes. AAPA studies confirm that throughput capability and cargo handling rates in the U.S. fall below those of other major economic regions. This situation is all the more critical as we brace ourselves for the advent of much larger and more capital intensive vessels, including 14,000 to 18,000 TEU containerships that will be arriving at U.S. ports in the near future. Drewrys predicts average global container terminal capacity utilization will jump from 67% today to 75% by 2018, in spite of relatively flat forecasts of overall economic growth, U.S. margins and return on U.S. terminal assets investments. Other commonly-cited current industry trends that add to the stress level include expansion of major containership line alliances, uncertainties on the financial investor side, aggressive new entrants in alternative ports markets, and the rapidly expanding pace of terminal automation.

As everyone knows from events during the most recent several years, the United States economy and our major trade relationships are integrally dependent upon the smooth flow of oceanborne commerce.

Port congestion is a serious concern. U.S. imports from Asia experience peak season flows

annually at our ports during the three months prior to the year-end holidays. Increased cargo flows are expected for the 2014 peak season, which will prove an added challenge in the next few months. When our ports experience circumstances that constrain cargo flows, the U.S. economy and jobs can quickly grow suffer catastrophic consequences. In October 2002, the ten-day West Coast strike crippled 29 U.S. ports, leaving hundreds of vessels stranded. In 2005, U.S. ports struggled to handle a spike in volume of Asian-origin traffic. In several recent years, unresolved labor issues at marine terminals created concerns during the pre-holiday peak season, with major shippers scrambling for alternative logistics arrangements. Interruption of smooth flow of cargo through U.S. ports would cost the U.S. economy some \$2.5 billion per day, according to a recently published study commissioned by the National Retail Federation and the National Association of Manufacturers.

Accordingly every stakeholder in the industry – shippers, carriers, terminal operators, service providers, ports authorities and federal and state regulators – need to keep their eyes on the ball. We all have the obligation to make wise long-range decisions, commitments to improving every aspect of this high-risk business, and to be well prepared to react quickly, rationally and decisively to threats that can loom up quickly just when things seem to be going well.

Even before its recently announced major investment in the ITS operations at Long Beach and Tacoma – which handle some seven percent of West Coast container traffic – Ports America has made major capital and human resources commitments to U.S. ports. New operating efficiencies and capital equipment projects planned by Ports America and K-Line at these two terminals are essential for improved terminal operations efficiency and productivity. These enhancements will enable all elements of the supply chain that rely on imports and exports to manage costs and avoid price increases that would stifle economic recovery and jobs growth during the immediate year-end season and over the long term.

Efficiency improvements such as those planned by Ports America are essential in order for our facilities to be competitive, offering favorable transit times and reduced inventory costs of shorter moves to interior U.S. destinations, and to improve environmental impacts of the logistics system. We plan to move ahead decisively with these improvements as we enter the 2014 peak shipping season.

Ports America is convinced that the industry can rise to meet the challenges. Key elements of a successful strategy will be innovative technologies, modernized cargo handling and terminal operating procedures, made possible by effective capital investment and new financing mechanisms, flexible and sustainable labor agreements and a smoothly-functioning regulatory structure.

The industry and government must be mindful that our ability to keep pace can be handicapped by unavailability of or disincentives to the most suitable financing arrangements. In the more than three dozen ports where our company operates, we observe a variety of public and private ownership structures, not all of which are conducive to attracting highly demanding capital market participants or private equity investment or the most effective forms of debt capital financing. In this regard we believe all stakeholders must be prepared to explore novel arrangements within the boundaries of existing law, regulatory structures and political environments.

In particular, in many instances Public Private Partnerships can allow for proper alignment of stakeholder interests. In other settings, some legislative and regulatory restructuring at the state level may be beneficial to future capital investment.

The Commission can play a critical role. Being uniquely positioned under the Shipping Act to protect and advance shipper interests, the Commission's goals are in step with those of the American economy on the subject of port capacity and efficiency. The Commission can also facilitate productive dialogue among carrier, terminal operator and other interests to pave the way for addressing regulatory issues with respect to new forms of PPP financing arrangements involving terminals, carriers, public sector participants and financial institutions.

We believe the Commission should focus specifically and energetically on assuring that PPPs in the ports sector can move smoothly through the Shipping Act process. This does not necessarily require dramatic steps such as Shipping Act exemptions or deregulation. The fact that PPPs are nearly always uniquely structured to fit specific circumstances, laws and politics makes it unlikely that the Commission could easily develop generic policies or guidelines for moving addressing these agreements under the Act. Rather, the objective should be an efficient and transparent process in which the Commission can assess the elements of PPPs that fall within Shipping Act scrutiny, and work with PPP parties to manage any regulatory constraints successfully at an early stage.

The Commission's staff has been helpful in working through issues with respect to application of the Shipping Act and regulations to novel forms of marine terminal agreements and investment arrangements. No doubt more of these will follow. It will be most important to develop clear understandings and guidelines as to what elements of these PPPs may be or must be filed. Antitrust immunity under the Act is an important issue but not necessarily the key element. Parties to private terminal financing and operations arrangements as well as PPPs can operate well within the requirements of existing laws and policies, but they need real-time responsiveness and advice at the front end of proposed deals to provide clarity and certainty of regulatory interpretations in order to proceed with large investments comfortably. We hope the Commission will continue to move in that direction.

From: Tim
Sent: Wednesday, August 20, 2014 3:29 PM
To: 'Secretary@fmc.gov'
Subject: port congestion forum baltimore

As a cargo owner that is located in the port of new York commercial zone (approx. 5 miles from APM, maher, pnct, etc) we are well aware of the problems of port congestion.

Of course there can always be some extra congestion in any business with this many moving parts, but NY is by far alone on the east coast with chronic congestion, charges, and excuses.

Here at lanca we are a BCO that buys, sells, and ships well over 3,000 container annually, mostly exports of disposable restaurant supplies.

It is tough enough trying to sell American goods globally as we are competing against countries that do not pay a living wage, health benefits, are subsidized by their governments, and lastly do not pay any duty (a lot of paper products) .

Since we will never be better on product price, all we have to offer is good quality product (which we do), great customer service (which we do), and lastly ship out on time and for a fair rate (which we are not doing when it comes to the port of new York).

Service levels have historically always been bad up here and sadly trucking companies view a two hour turn time as a "great day" at the terminals, these are even few and far between.

Last summer we had the maher meltdown on top of a labor shortage. Last winter we had the weather along with continues labor shortage. The end result was that every nickel of extra expense was paid for by the BCO cargo owners like myself and the trucking companies. The terminal still got paid to unload ships, and also collected millions in demurrage (would like to see some stats on what was collected). In addition, the steamship companies still charged cargo owners like myself for full per diem even though the terminals were often closed and productivity was cut in half.

Another issue plaguing the port is the chassis providers. If I had a dollar for every time trac lease claimed to have plenty of chassis available I would be a rich man. Again, here is another company that continues to profit while destroying the import / export community.

Currently global is experiencing record volumes which also means record revenue, if we can not get to the terminal because the port authority police have the exits closed, why should I be responsible for paying the trucker? Shouldn't global or the port authority? They both make money no matter what and do nothing to help

the cargo owners (the ones that actually pick and pay the trucker, steamship line, and terminal). What other business is there where the customer is never right and pays for their vendors mistakes?

Lastly, I am not a complainer and want to be part of the solution, the problem is there is a lack of leadership that does not act with selfish intent. The port performance task force is a step in the right direction but each day that goes by the port continues to struggle and I find myself sending more cargo south instead of through our facility that is 5 miles from the port, cost us \$2,000,000 and we pay \$80,000 per year in property tax.

Please contact me for additional information as I have kept this short and as "cliff notes)

All the best



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