

MANAGING LEGAL CHALLENGES IN THE PUBLIC PORT ENVIRONMENT

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I. Types of Legal Challenges

“EXTERNAL”

FMC Issues

- Maintain anti-trust immunity
- Avoid preferential treatment
- Beware exclusive dealings
- Follow Schedule absent lease

Leasing

- Who is your tenant?
- Are all the terms clear?
- Manage Risks
 - Indemnification/Insurance
 - Security
 - Environmental
- Incorporate Schedule
- What authority does your port have?

Dredging Issues

- Role of USACE
- Payment up front

Environmental Issues

- Indemnification – past; future
- Cost recovery

Security

- Security plan/training
- Commitments in federal grants

Litigation

- Winning takes time
- Beware of communications

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“INTERNAL”

Ethics Issues

- Conflicts of interests
- Gifts; Meals
- Appearances

Open Meetings/Public Records

- Plan ahead
- Privileges
- Email

Procurement

- Buying anything?

Finance

- Have it in writing; follow it

Discrimination/Harassment

- ADA; Age; Color; Race; Religion; National Origin; Sex
- Published policy & complaint procedure
- Role of Managers
- Impact vs. Intent

Terminations

- At-will
- For cause

II. Your Lawyer is Your Friend (Really)