Institutional Structure: Trends in Public Port Governance and the Marine Terminal Industry

Bruce E. Cashon
Senior Vice President and Chief Commercial Officer
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Trends in port public port governance and the marine terminal industry

FUNDING – FINANCIAL SOURCES

• Canaveral: State Gives Port $24.4 Million to Finish Harbor Improvements
• Miami Port Secures New Foreign Trade Zone
• Palm Beach Receives $1.8M Security Grant - The Port of Palm Beach has been awarded a $1.8 million grant by the Federal Emergency Management Agency (FEMA) as part of the Department of Homeland Security’s Port Security Grant Program. The grant does not require supplemental funding from the port.
• Palm Beach Port Commission Again Votes Not to Levy Taxes - For the 36th consecutive year, the Port of Palm Beach District Commission has voted not to levy taxes against the citizens of the district. “In these tough economic times, the port has once again been able to sustain itself without reaching in to the pockets of our citizens,” said Port Commission Chairman Wayne M. Richards. “We continue to be an economic engine, not a burden, for our community.”
• Tampa Port Authority Receives ‘A2’ Rating, Stable Outlook by Moody’s Investors Service
• Moody’s Investors Service has affirmed an ‘A2’ rating of the Tampa Port Authority’s outstanding revenue bonds, with a ratings outlook of “Stable.”. Less than a year ago, Fitch Ratings came to similar conclusions with respect to the port authority’s bonds and financial outlook (Advisory, March 21, 2011).
• Long Beach: Standard & Poor’s Affirms Port Bonds' High Rating - Standard & Poor's has reaffirmed the long-term bond rating of the Port of Long Beach at 'AA' with a stable outlook. The firm also affirmed an 'A-1+' rating for the port's short-term, commercial paper.
• Los Angeles Refunds Bonds to Save $16.5 Million over Next 15 Years - The Port of Los Angeles has successfully refunded its $101.1 million 2001 Series A and B bonds, generating interest expense savings for the port of approximately $16.5 million, or an average of $1.1 million annually.
ENVIRONMENTAL PROGRAMS SPREAD WEST TO EAST

Long Beach Port Clean Air Programs Cut Pollution by 75% - Port of Long Beach clean air programs slashed air pollution from port-related sources for the fifth year in a row, including a 75% reduction in airborne diesel particulates, according to an analysis of key pollutants that compares 2011 to 2005.

GPA environmental effort moves ahead –(Aug 31, 2012 JOC Online- Press Release - Savannah, Ga. – August 31, 2012 – The Israeli scientists who installed a new type of fish-friendly concrete at the Port of Savannah are encouraged by the growth of aquatic plants and animals on panels tested at the Georgia Ports Authority’s (GPA) Garden City Terminal.

A New Standard for Cold-Ironing , Bill Mongelluzzo, Associate Editor (Aug 13, 2012) JOC Magazine - Shore-side power for ocean vessels takes a big leap forward, but only California is ready to plug in

NY-NJ Port Offers Incentives for Clean Ships, Peter T. Leach, Senior Editor (Aug 1, 2012) JOC Online - Financial incentives offered vessels reducing air pollutants and speeds. The Port Authority of New York and New Jersey will pay ship operators incentives to lessen their environmental impact over the next three years under a $4.875 million Clean-Vessel Incentive program.

Canadian Government to Invest in Shore Power for Ports - Denis Lebel, Canada’s minister of transport, infrastructure and communities, announced January 25 the launch of a Shore Power Technology for Ports Program by the Canadian government. "This C$27.2-million contribution program,” Minister Lebel said, “will help Canadian ports install shore power, which will reduce air emissions from ships, protect the environment and health of Canadians, and further Canada's economic prosperity."
DREDGING – THE BEAT GOES ON

• Philadelphia Port and Regional Government Officials Celebrate Channel-Deepening Progress - Chairman Charles G. Kopp of the Philadelphia Regional Port Authority (PRPA) welcomed Pennsylvania Governor Tom Corbett and about a dozen federal, state, and local legislators to the Packer Avenue Marine Terminal, PRPA’s largest cargo facility, on Tuesday, August 7, to laud recent progress of the Delaware River Main Channel Deepening Project, and to keep the project moving forward.

• Congress Hears Calls for New Approach on Port Funding , Peter T. Leach, Senior Editor (un 22, 2012) JOC Online - Army Corps of Engineers urges thinking outside the box to fund harbor dredging, locks and dams projects

• Georgia Governor Approves $46.7 Million in New Deepening Dollars – (Apr 25, 2012) JOC Online

• Dredging Projects Fast-Track in the East , Peter T. Leach, Senior Editor (Jul 30, 2012) JOC Magazine - A federal promise puts East Coast ports from New York to Miami on the fast track to deeper channels

• Charleston Dredging Project Beating Expectations , Peter T. Leach, Senior Editor (Jul 11, 2012) OC Online - Corps of Engineers expects work to cost less and be finished earlier
TERMINAL ACQUISITION DÉJÀ VU ALL OVER AGAIN

- **APM Terminals Bids to Take Over Virginia Terminals**, Peter T. Leach (May 23, 2012) JOC Online –
  APM Terminals Closes Deal to Lease Virginia Terminal, Peter T. Leach (May 13, 2010) JOC Online - Site would move to control of Virginia Ports Authority this summer. APM Terminals reached a tentative agreement Thursday to lease its showcase $500 million terminal in Portsmouth, Va., to the Virginia Port Authority for 20 years.

- **Galveston Port Privatization Falls Through**, Peter T. Leach (Apr 14, 2011) JOC Online. Hutchison Port Holdings, Carlyle Group joint venture withdraws proposal - A proposed deal to privatize the Port of Galveston fell through. Hutchison Port Holdings and the Carlyle Group formally withdrew their proposal to acquire the terminals at the Port of Galveston, according to BMO Capital Markets, which has been advising the Texas port on efforts to seek private investment. The port and BMO have been working together for more than a year to attract a private operator to invest as much as $500 million in its breakbulk, dry bulk and roll-on, roll-off facilities and to build a two-berth container terminal on the port's west end.
TERMINAL ACQUISITION DÉJÀ VU ALL OVER AGAIN
INCREASED INTERACTION WITH FEDERAL – STATE AGENCIES

• **GPA, CBP Agreement to Streamline Enforcement** (Jun 28, 2012) JOC Online - New station to expedite examinations, enhance safety.

• **Judge Rules Against Dismissal of Savannah River Dredging Suit**, Peter T. Leach, Senior Editor (Jul 10, 2012) JOC Online - The fate of the long-planned Savannah Harbor Expansion Project remains undecided after a federal judge ruled against the dismissal of an environmentalists’ lawsuit aimed at blocking a pollution permit for the $650 million deepening of the Savannah River shipping channel.
NEW PORT MODELS – WHERE DO WE GO NEXT........

More Cooperation Between Public Ports of Proximity?
- Joint planning for the financing, construction and leasing of new container facilities would reduce costly and unnecessary duplications.
- Joint marketing efforts would result in cost-saving simplifications.
- Joint planning would encourage logical port specialization that makes the most of each port's comparative advantages.
- Cooperative efforts by the public ports with important input from the Coast Guard, on environmental and safety/security issues.
- Just as the two ports share much the same physical environment they also share approximately the same global location and rely on many of the same overland transport systems.
- Joint efforts to finance and, in fact, allocate space for new facilities are likely to have more chance of success than would a divided approach.
- Joint efforts would give the two more clout in dealing with the major railroad systems providing transcontinental freight service for the two gateway ports.
- Past Examples - New York-New Jersey Port Authority, Virginia Consolidation, Vancouver Fraser Port Authority
- Potential Candidates - Tacoma Seattle, LA/LB, Port Everglades/Miami, Phil/SJPC/Wilm, Sav/Chstn (Jasper County)
Setting the Stage: Critical Issues Facing Public Ports and the Marine Terminal Industry

Bruce E. Cashon
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Ceres Terminals Incorporated
The Backdrop – National Freight Policy (lack thereof)

• Ports, and their respective intermodal landside connections move 90% of our country’s international trade.

• 2010, US waterborne freight totaled nearly 1.4 billion metric tons with a value of over $1.4 trillion.

• This shipping activity represents over 25% of the US Gross Domestic Product and provides over 13 million US jobs.
I actually laughed after reading that Sen. Lindsay Graham, R-S.C., viewed the recent release of an Army Corps of Engineers report on mega-ship preparedness at U.S. ports as “a significant step toward a national vision that has been lacking.”

I agree, and I am sure many others in the industry do as well, that a national vision is lacking. But to say the report, combined with the Obama administration’s decision last month to expedite the review process for expansion at five East Coast ports, is a step toward a “national vision” is, frankly, preposterous.
§ 22705. Content
(a) IN GENERAL.—Each State rail plan shall, at a minimum, contain the following:
(8) A review of major passenger and freight intermodal rail connections and facilities within the State, including seaports,
THE LAWS OF CONGRESS

- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), PL 109-59
- Transportation Equity Act for the 21st Century (TEA-21), PL 105-178 as amended by the TEA-21 Restoration Act (PL 105-206)
- Intermodal Surface Transportation Efficiency Act of 1991, PL 102-240
- Motor Carrier Safety Improvement Act of 1999, PL 106-159
- Amtrak Reform and Accountability Act of 1997, PL 105-134
- Vision 100 – Century of aviation Reauthorization Act, PL 108-176
- Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21) PL 106-181
- FY 2012 Transportation Appropriations (Status)
- FY 2011 Transportation Appropriations (Status)
- Consolidated Appropriations Act, 2010 (Transportation pp. 2-41)
FEDERAL INVESTMENT LAGGING
Trust Fund Surplus Skyrocketing

Sources: AAPA, Budgets of the United States, Energy and Water Development Appropriations Acts, MARAD, and the Corps of Engineers.
IMPORTANT RECENT EVENTS

- Increased Port’s inclusion in the TIGER discretionary program -- On June 22, 2012
- The June 20, 2012 passage of the MAP-21 (Moving Ahead for Progress in the 21st Century) maintains current funding levels through FY 2014, the bill mandates the creation of a national strategic freight plan, supported by state freight plans and freight advisory committees.
- Establishment of the White House Task Force on Ports, a task force to include Officials from five Departments including the USDOT, Department of Commerce and the Treasury Department to focus on reviewing the international competiveness of US ports.
- March, 2012 Executive Order Recognition by the White House that port projects are of national importance to the economy
- June 20, 2012 report U.S. Army Corps of Engineers (USACE) report regarding U.S. Port and Inland Waterways Modernization: Preparing for Post-Panamax Vessels.
- Romney’s Freight Policy Solidifies, But Questions Remain (Aug 30, 2012) ... Shippers wants freight infrastructure to play a larger role in election debates ... one of the six tops at the Oct. 3 debate . The National Industrial Transportation League on Aug. 23 requested the ...
- Democrats Push Infrastructure Spending at Convention (Sep 4, 2012) ... in Charlotte, N.C. , calls for the creation of a National Infrastructure Reinvestment Bank, a financing arm Obama pushed for ... A more in-depth story on Romney and Obama's freight infrastructure policies, and the role of the issue in the presidential ...
## Labor Profile USEGC

<table>
<thead>
<tr>
<th>Port</th>
<th># of ILA Employees on 9/30/08*</th>
<th># of ILA Employees on 9/30/11*</th>
<th>Total Manhours for Contract Year Ending 9/30/11**</th>
<th>Average Age of the Workforce as of 9/30/11</th>
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<tbody>
<tr>
<td>Boston</td>
<td>464</td>
<td>460</td>
<td>529,464</td>
<td>48.14</td>
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<tr>
<td>NY/NJ</td>
<td>3,579</td>
<td>3,367</td>
<td>9,941,030</td>
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<tr>
<td>Ports of Delaware River</td>
<td>1,900</td>
<td>1,364</td>
<td>1,248,167</td>
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<td>Baltimore</td>
<td>1,592</td>
<td>1,371</td>
<td>2,132,930</td>
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<tr>
<td>Hampton Roads</td>
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<td>1,781</td>
<td>2,897,502</td>
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<td>Wilmington, NC</td>
<td>703</td>
<td>525</td>
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<td>1,010</td>
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<td>Savannah</td>
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<td>Jacksonville</td>
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<td>1,139</td>
<td>985,672</td>
<td>50.12</td>
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<td>S. Florida</td>
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<td>2,136</td>
<td>2,242,070</td>
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<tr>
<td>Tampa</td>
<td>425</td>
<td>327</td>
<td>286,974</td>
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<tr>
<td>Mobile</td>
<td>493</td>
<td>386</td>
<td>361,439</td>
<td>49.98</td>
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<tr>
<td>New Orleans</td>
<td>1,530</td>
<td>1,234</td>
<td>1,052,604</td>
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<tr>
<td>West Gulf Ports</td>
<td>2,478</td>
<td>2,420</td>
<td>3,986,353</td>
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<td><strong>Totals</strong></td>
<td>22,166</td>
<td>19,797</td>
<td>30,138,285</td>
<td>49.73</td>
</tr>
</tbody>
</table>

* The # of ILA Employees included in the above count is based on an individual incurring at least 1 manhour of work which means all casual labor which is significant in some ports is included.

** the manhours reported are inclusive of container, ro/ro and breakbulk/bulk work.
About the Longshore Act

The Longshore Act provides medical and physical rehabilitation benefits and compensation for lost wages to covered employees for work-related injuries, illnesses and deaths. In 1927, Congress passed the Act in response to a 1917 U.S. Supreme Court decision (*Southern Pacific Rail Co. v. Jensen*) holding that the Maritime Clause of the Constitution prohibits state workers' compensation laws from covering workers employed over navigable waters.¹ In 1972, Congress extended jurisdiction landward of the water’s edge to “adjoining areas” used in “maritime employment.”
The Longshore and Harbor Workers’ Compensation Act was originally enacted in 1927 to fill a void in workers’ compensation coverage for maritime workers. Since then, numerous amendments to the Act have expanded coverage and benefits.

The Longshore Act has not been updated for more than twenty years. Meanwhile, state workers’ compensation programs have developed a whole host of best practices that would greatly benefit workers covered under the Longshore Act.

Congress now needs to modernize the Act and bring the program into the 21st century -- for the sake of workers, employers and the U.S. economy.
On a per claim basis, the Longshore Act is our nation's most expensive workers' compensation program and costs continue to rise. According to the National Council on Compensation Insurance, Inc. (NCCI), the average total cost for a Longshore claim rose 72 percent from 1993 to 2002. Private sector employers paid $595 million of Longshore Act claims in calendar year 2004, while taxpayers financed the federal administration of the program by the U.S. Department of Labor.
WORKERS' COMP COST DRIVERS

• Aging work force – more severe injuries requiring surgery
• Baby Boomers – pursuing more retirement claims
• Medicare set-aside requirements on retiree cases resulting in increase in settlement values
• PI litigation on hearing loss cases
• Fraudulent claims practice
• Inequities in claims liability
Average Cost Per Lost-Time Claim

Source: Annual Statistical Bulletin, the National Council on Compensation Insurance, Inc.
Average Medical Costs for Lost-Time Claims

Source: Annual Statistical Bulletin, the National Council on Compensation Insurance, Inc.
Longshore Act Coverage: A Much Higher Price Tag

Consider two freight handling workers doing essentially the same type of work in Connecticut. One worker is covered under the Longshore Act and the other is covered by the state’s workers’ compensation program. Covering the worker under the Longshore Act costs the employer $22.07 per $100 of payroll – more than triple the $6.86 rate it takes to cover the worker covered under the state’s workers’ compensation program, according to data from the National Council on Compensation Insurance (NCCI). For the same scenario in Georgia, the rate more than triples for Longshore coverage to $18.46 per $100 of payroll compared to $5.48 for state coverage.
Necessary Longshore Act Improvements At-A-Glance

- Improve injured worker access to high-quality medical treatment that boosts employee health and is more affordable to employers
- Improve program administration
- Strengthen return-to-work incentives and improve payment equity of post-injury wage replacement, survivor and funeral benefits
- Ensure claims are for work-related injuries or illnesses only
- Streamline claims adjudication
- Eliminate “double dipping” — the filing of claims with state and federal workers’ compensation programs for the same injury
- Discourage cost-shifting among employers in cases involving subsequent injuries and change the assessment for the Special Fund for second injuries used to subsidize these claims
- Strengthen fraud protections
- Reinforce exclusive remedy — that employers responsible for Longshore benefits are protected against additional liability for the same injury — while eliminating unnecessary litigation
Published by the Coalition for Longshore Act Reform (CLAR)
LINKS
http://www.dot.state.fl.us/planning/legislation/federal.shtm
http://www.mrsc.org/subjects/transpo/stateregiontrans.aspx