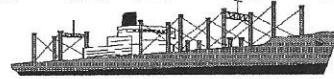




Rollin' On



An Electronic and Facsimile Newsletter for the Transportation Industry

Volume VII, Issue 8

Copyright © 2001

August 2001

PORTS, GOVERNORS EMPLOYEES AND PARENTS

Poor Authority, I mean Port Authority

We the citizens, through our bureaucratic representatives, have completed a nationwide search for a new Port of Portland executive director, in view of Mike Thorne's resignation. (Mr. Thorne reportedly intended to run for governor, but those plans have changed. More on that below). Several dozens of candidates were considered, many indeed from out of state. When the smoke cleared, two candidates, both from Oregon, were left standing. One is a politician, one a local businessman. Both presumably very fine people; let's get that part out of the way. Neither, however, has a lick of port experience, nor transportation experience except perhaps for collateral exposure. Those are our two finalists.

The justification that we hear is that the head honcho needs to deal with a lot of other stuff as well, like environmental issues, or business issues since it's a business, and people issues since there's a goodly number of people on the payroll. Of course, if the upriver dams are breached, there will be lots of issues but fewer employees since the port will lose business. You would think that if someone is in charge, the person would know the difference between port and starboard or pigs and cans or Lear Jets and King Lear. Can a person be a farmer or a lawyer or a baker or a scientist or a doctor because there's a good crew or support staff around? ("Hey buddy, can we put that container on end to save space?") OK, no jokes about our

LARRY R. DAVIDSON
Attorney at Law
1850 Benj. Franklin Plaza
One SW Columbia St.
Portland, Oregon 97258
(503) 229-0199
Fax (503) 229-1856
E-Mail: larry@rollin-on.com
www.rollin-on.com

president are allowed, he's out of season.

Meanwhile, the politician candidate is our governor's chief of staff. So we've got the governor's guy hoping to go to the port and the port guy hoping to go to the governor's house (looks like past tense) and the governor hoping to displace a senator who has upriver business and local constituents. Meanwhile, the rest of us are downstream from the selection process. That's frequently not a good place to be.

More government: Taking out the trash

As long as we're talking about government, Metro's in a little bit of a pickle right now. It's former hauler, Specialty Transportation Services, is in receivership. Metro allowed its affiliated company, CSU Transport (both are owned by Churchill Capital), to take over STS's operations. There's this little matter about CSU not paying the old medical bills for STS employees, who are now CSU employees. Churchill Capital claims that STS has the funds to pay those medical bills. But there's this little thing about STS having a receiver so those bills aren't getting paid. Metro prepaid STS over \$6 million bucks a couple of years ago, for which it received lower rates. CSU has agreed to the lower rates, whatever that is worth.

So what is Metro to do about having these employees, who are handling Metro's trash, stiffed on their medical bills not only by their former employer, but by the owner of that former employer? How would that work in the

real world? The parent company runs the sub into the ground, takes a powder on the sub's debts, then turns around and still has a contract with the entity that was doing business with the grounded sub whose employees are still employed and doing the same job on behalf, albeit indirect, of the parent. Lawyers can talk about piercing the corporate veil, but it seems that in this instance a swift kick in the butt might be more appropriate. All contracts have constructive (implied, not written) conditions, and one such condition should be that (1) a parent corp. can't allow its sub to flake out, then (2) turn over the failed sub's operations to a sibling, then (3) have the sibling declare that neither it nor its parent is liable for the medical bills of those employees who formerly worked for the failed sub and who now work for the new sub. That tactic smells even worse than the stuff they're handling.

Speaking of trash

The transportation of solid waste (garbage) is a big business. The U.S. Constitution prohibits states from refusing to allow the importation of waste. Oregon is the fourth largest importing state of trash, behind Pennsylvania, Virginia and Michigan, the latter which gets about half of its portion from Canada. There have been efforts in Congress to allow states to put some curbs on the interstate movement of garbage. Hold your nose, but not your breath waiting for Congressional action.

Rollin' On via Email

Switch to email. Just email me your fax number (company name also helps) and I'll switch you over.

That's all for now. Keep the cargo rollin'!

The Obligatory Disclaimer

This newsletter is for informational purposes, does not provide legal advice and does not create an attorney-client relationship.

Short Bio

Admitted to the state bars of Oregon, Alaska, Florida and Massachusetts. Practicing law for over 20 years and emphasizing transportation law, business law and related litigation.