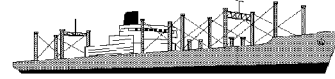




Rollin' On



An Electronic and Facsimile Newsletter for the Transportation Industry

Volume XIV, Issue 9

Copyright © 2008

September 2008

METRO, RECYCLING, WITNESSES, AND STOCK MARKET

Metro, recycling & being vertical: Processing before dumping

As of the first of the year, the local commercial, industrial and business community will be the recipients of new recycling requirements. Metro, the regional governmental entity that regulates the disposition of solid waste (garbage), passed an ordinance last year which will require that before loads are taken to a landfill, they must first be processed at a material recovery facility (MRF). The goal is to increase recycling rates to 64 % from the current approximate rate of 55 %.

This new regulation does not come cost free. It is cheaper to dump a load at a landfill than it is to have it "mrfed", since equipment needs to be purchased and personnel hired in order to process the load. So while the first 55 %, the low hanging fruit, is recovered at a modest cost, the extra 9 %, if that additional percentage is actually obtained, will be recovered at a much higher cost which will in most instances be passed along to the generator or shipper.

Of some interest is the fact that Metro has chosen to exempt itself from its own ordinance. Not a bad deal for Metro which competes with the other disposal facilities. So the regulator leaves itself unregulated.

If you're vertically integrated, where you own the equipment and the disposal facility, you've got a pretty sweet deal. You get to charge for the transportation, then you get to charge for the processing. If you also have a landfill, then you've got the whole enchilada.

Better yet, the public may not know the real identity of the players – make

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

that player – since the national conglomerates frequently operate under the name of the local mom and pop company that may have been acquired years ago, to make everything warm and fuzzy for the local government and uninformed citizens.

Voluntary witness: Fitted for exotic shoes

Years ago, I had a federal court case of major significance involving the transportation of solid waste. It involved activities in Oregon but affected operations in the western states.

Just a few days before the trial was to begin, one of my most important witnesses called said that he could not make it. When asked why, he said that he could do without the midnight knock on his door. Since he was a voluntary witness, I could not subpoena him and force him to testify.

The concern was not justified, since (to my knowledge) there is no, to use an old expression, underworld group of nefarious individuals operating in the vicinity. Still, he had a family and may have watched too many Soprano episodes or wise guy type of movies. In any event, he wasn't in the mood to be fitted for cement shoes.

Stock market and Washington, D.C.: Transportation gauge

Everyone who has a retirement account, 401K, IRA, stocks or mutual funds, or who has a spouse or partner who has any of these items, has been and still is on a roller coaster for the past few months, with some exciting ups and downs (mainly downs as of this writing) in the recent past. Of

particular concern is that whereas the financial capital of the country (indeed, world) has always resided in New York City, it has recently been moved to Washington, D.C. That move has thus far occurred not by the transportation of freight by motor carrier, but instead has been of the electronic type. The freight transport aspect will occur later and will make the city by the Potomac even larger.

And scarier, not in the personal safety arena – the Metro in D.C. is one of the cleanest and safest public transportation systems you'll ever see – but in the government-is-watching-your-money sense. Anytime politicians get together, and they do so frequently, we taxpayers and account holders should be nervous.

Meanwhile, the economy is tanking. According to freight tonnage figures for the recent past, the future does not bode well. Transportation activity and tonnage are frequently good substitutes for the crystal ball when it comes to trying to figure out what lies ahead (as opposed to beneath). Tonnage is down at a time that it usually ramps up for the holiday season.

The credit crisis is exacerbating the problem. And it's not the bank to bank or bank to business credit problems that hurt transportation the most. Instead, it is the unavailability of credit to consumers that has them pulling in the reins, thus reducing consumption. The one thing that has helped transportation is the reduced capacity. Of course that only helps the survivors.

As fears have heightened, some people have assumed one or two positions: cash and/or fetal.

That's it for now. Until next time, keep the cargo *rollin'*!

Short Bio

Admitted to the state bars of Oregon, Alaska, Florida and Massachusetts. Practicing law for over 30 years and emphasizing transportation law, business law and related litigation

The Obligatory Disclaimer

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