



# Rollin' On <sup>®</sup>



An Electronic and Facsimile Newsletter for the Transportation Industry

Volume VIII, Issue 7

Copyright © 2002

July 2002

## **Nuclear Waste, Recyclable Materials, and Wall Street**

### **Nuclear Waste:**

#### **Sliding into recyclable materials**

As has been reported, Congress has overridden the governor of Nevada's veto of the establishment of a nuclear waste dumping facility at Yucca Mountain. The vote was only possible due to a unique provision in the law that allowed any senator to call for the vote, going over the head of the Democratic leadership. Of course, notwithstanding this vote and the administration's eventual signing off, it will be an eternity before the facility is up and running, if in fact it ever occurs at all. There will be more governmental permitting and maneuvering and bickering, and the whole thing will go on and on and on.

Who transports the nuclear waste? Those persons with the proper licenses and insurance. It's easier to obtain authority to transport a truckload of nuclear waste from Maine to Nevada than it is to obtain authority to transport a dropbox of mixed recyclable materials in the State of Oregon (excluding most of Portland and Multnomah County) a distance of one mile or less. This anomaly is due to the insistence of our local governments to carve up their geographic areas into various parts, followed by the award of exclusive, noncompetitive franchises with noncompetitive rates. The local government pockets their portion of the take, which is extracted from Oregon businesses.

Many of you are victims of this feudal system, but you're in a bad spot to express your opinion since a consequence of this mindless governmental action is that the franchisees frequently provide abysmal

**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](mailto:larry@rollin-on.com)  
[www.rollin-on.com](http://www.rollin-on.com)

service which, almost unimaginably, could get worse if you complain. The local governments choose not to utilize the tonnage tax which is used by the City of Portland, which has received national recognition for its recycling efforts. Meanwhile, you see your mixed recyclable loads get landfilled instead of recycled, since many of these franchisees own their own landfill. They thus get paid twice, once for the haul and once for the dump. It's always more fun to get paid twice than once.

#### **... and so, what to do?**

Remarkably, many businesses hold this real weird belief that the American way, free enterprise, ought to determine who gets their business and enters upon their property to remove these mixed recyclable materials which are deposited into dropboxes by the businesses. A hauler client, also motivated by this belief, challenged this practice in federal court, where we won. However, the esteemed Ninth Circuit Court of Appeals in San Francisco recently reversed and ruled in favor of the local governments.

We have thus filed a petition with the United States Supreme Court to accept review of this case. The odds are against us, since the Supremes take only a fraction of the cases that are laid at its doorstep. Still, we had come this far, and you don't get what you don't ask for. Also, a few years ago the Supremes reversed 27 out of 28 of the Ninth Circuit cases that it accepted. Now there's something to raise your comfort level if you live in the western U.S. of A.

#### **... back to nuclear waste ...**

Meanwhile, while not common knowledge and not Yucca-bound, nuclear waste and radioactive materials are being transported around the country, by both truck and rail. Just don't put the stuff in dropboxes in Oregon and outside of Portland or you'll have your local county commissioner or city council person knocking on your door.

#### **Wall Street Party: Why stop now?**

You've all heard by now that Pres. Bush recently journeyed to Wall Street to urge corporate honesty, well, at least in accounting and financial reports. However, he didn't promise much in the way of reform, and Wall Street punished investors by pushing the Dow lower by almost 200 points immediately following his speech. One of the big problems is that the administration is seen as one of them, them being the good ol' boy network. Bush has his own skeleton in the closet, and Cheney's skeleton has been removed, dusted off and filed in federal court in the form of a fraud action. Of course there is a lot of precedent for presidential folly, and we need look no further back than to the Clinton administration. The current SEC chairperson is a former attorney for Arthur Andersen and other corporate clients. So altogether now, let's hold our breath while we wait for him to do something about the mess.

#### **Switch to email**

Just email me your company name and fax number where **Rollin' On** is currently being received, and you'll be switched over.

That's all for now. Until next time, 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 25 years and emphasizing transportation law, business law and related litigation.