

## Klein, Heather

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**From:** Woo, Winnie  
**Sent:** Wednesday, June 15, 2016 1:32 PM  
**To:** Klein, Heather  
**Subject:** FW: 2 Questions Regarding OBOT plans

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**From:** Cappio, Claudia  
**Sent:** Wednesday, June 15, 2016 1:30 PM  
**To:** Woo, Winnie  
**Subject:** FW: 2 Questions Regarding OBOT plans

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**From:** Cappio, Claudia  
**Sent:** Wednesday, May 11, 2016 3:34 PM  
**To:** Phil Tagami  
**Cc:** Mark McClure  
**Subject:** 2 Questions Regarding OBOT plans

Hi Phil and Mark -- as we review the public record and other information in anticipation of the Council's s June 27 public hearing, our consultant's had the following 2 questions. I tried to relay the one about the anticipated volume when we met on Friday -- it is stated as question 2. I would appreciate your response as soon as possible. Thanks, C

### **Facility design.**

**Question:** Does the proponent have any update or additional information for the offloading, handling, storage and on loading activities at the proposed OBOT Terminal to add to BOD, dated July 2015 by Terminal Logistics Solutions (TLS) and submitted to the City of Oakland?

### **Commodities.**

**Question:** What is this correct throughput volume of commodities by type A and B?

- a. With respect to the plans for rail delivery of Utah coal to the future OBOT facility, is the estimated commodity throughput for coal as noted for Commodity A of 5.0 MMTPA (Million Metric Tonnes per Annum) in the BOD dated July 16, 2015, p. 5, Table 6-1, Terminal Throughput? This translates to 5.51 Million short tons per year of coal for export through OBOT.
- b. Throughput for Commodity B is listed as 1.5 MMTPA (1.6 M short tons) totaling 7.1 Million short tons in commodity throughputs. In CCIG/OBOT/TLS' response to the City' Question #6 dated 9/28/2015, this total is quoted as 7.5 Million metric tonnes of 2 bulk commodities; however

there is a 0.4 Million tonne discrepancy between these two total commodity numbers as quoted. Which is the correct number?



May 16, 2016

[VIA ELECTRONIC MAIL]

Ms. Claudia Cappio  
Assistant City Administrator  
CITY OF OAKLAND  
ccappio@oaklandnet.com

Re: Responses to Inquiries by ESA

Dear Claudia,

In response to your May 11 email forwarding inquiries from ESA for its analysis of an administrative record (which we note is still being compiled with the public comment period having been extended to this coming Monday, May 16), we will address the specific questions below. However, a few facts must be clarified first.

As noted in our May 3, 2016 comment letter to the City on the proposed ESA scope, the entire effort is premature and, consequently, will produce nothing but speculative analyses. The ultimate design for the terminal at the West Gateway has not been completed. As we frequently note, there is yet to be a confirmed operator for the terminal ( TLS is in a lease option period), nor has any particular commodity been confirmed ( we have kept you and the city staff apprised of a number of potential commodities contingent on a sublease, and concurrence from the class I rail roads. Thus the design for this purpose-built facility has not been finalized or confirmed. The ultimate design will be a multi-disciplinary effort by many experts so, among other things, it will be very expensive. It would be folly to make that effort and expend those funds in advance of knowing the type, number, and quantity of commodities to be handled. We simply are not there yet.

Accordingly, any analysis by ESA as to the presence or absence of a "condition substantially dangerous to [workers or surrounding residents'] health or safety" will be, at best, hypothetical and speculative. The analysis will have to be premised upon assumptions as to design, operations, surrounding conditions, and numerous other variables which will ultimately have to be pinned down, but as yet remain unknown. Accordingly, commensurate with its professional and ethical obligations, we trust that any future ESA analysis or report will fully identify all assumptions upon which it bases its purported analysis and that state and expressly disclose that any conclusions, summaries, analyses are wholly contingent upon the veracity, or lack thereof, of those assumptions.

As to the specific ESA questions you forwarded:

***Facility design.***

***Question:*** Does the proponent have any update or additional information for the offloading, handling, storage and on loading activities at the proposed OBOT Terminal to add to BOD, dated July 2015 by Terminal Logistics Solutions (TLS) and submitted to the City of Oakland?



No. This is a purpose-built facility and that “purpose” has yet to be defined with any degree of certainty. We have shared with the City that our expectation previously was for dry bulk commodities, but even that is not a certainty at this point. Thus, foundational and defining aspects of the ultimate design for the terminal remain unconfirmed.

As to the Basis of Design (BoD), we have been clear since its compilation on behalf of TLS, and indeed introductory pages in the document itself explain, what the BoD is and is not. It is a foundation of regulations and standards upon which any future design must be premised. Whatever is designed and proposed for the West Gateway will definitely comply with the BoD. That in no way, however, limits the universe of potential facilities that could be required on the West Gateway based upon whatever commodity ends up being confirmed. Whether soda ash, grain, wood pellets, liquids, coal, or break bulk, it will comply with the BoD. That fact gives neither us, the City, nor ESA any level of particularity from which to conduct a design and operations analysis that will be anything more than assumption-rich and speculative.

We look forward to meeting with the City and presenting TLS’ further refined design parameters, operations protocols, and proposed permitting approach once they have exercised their option and have made the requisite determinations and preliminary analysis. Again, they are simply are not there yet.

***Commodities.***

***Question:*** *What is this correct throughput volume of commodities by type A and B?*

- a. *With respect to the plans for rail delivery of Utah coal to the future OBOT facility, is the estimated commodity throughput for coal as noted for Commodity A of 5.0 MMTPA (Million Metric Tonnes per Annum) in the BOD dated July 16, 2015, p. 5, Table 6-1, Terminal Throughput? This translates to 5.51 Million short tons per year of coal for export through OBOT.*
  
- b. *Throughput for Commodity B is listed as 1.5 MMTPA (1.6 M short tons) totaling 7.1 Million short tons in commodity throughputs. In CCIG/OBOT/TLS’ response to the City’ Question #6 dated 9/28/2015, this total is quoted as 7.5 Million metric tonnes of 2 bulk commodities; however there is a 0.4 Million tonne discrepancy between these two total commodity numbers as quoted. Which is the correct number?*

The BoD used generic commodity designations (i.e., “Commodity A” and “Commodity B”) because there was no and remains no commitment to handle any particular commodity. The generic designation was purely for illustrative purposes of the very limited purposes of the BoD as explained above.

Of the dozens of potential commodities explored by TLS during its due diligence phase, there is no and has been no commitment or “plan” to ship “Utah coal” or any other commodity through the terminal. The quantity, source, state/locale, customer, nor ultimate destination have been defined.

Further, throughput volumes are also highly contingent upon numerous site configuration and logistics variable that have yet to be determined by OBOT, the yet-to-be-determined operator, the class I common carriers (rail lines), EBMUD, and others. These include capacity of the storage track as to both OBOT- and Port-controlled facilities, rail crossings, available back line storage, design size and speed of conveyance, loading equipment, shipping schedules, and then-of course present market conditions.

# OBOT

OAKLAND BULK AND OVERSIZED TERMINAL

And each of these undefined variables potentially evolves based upon the identified commodity. Dry or liquid? Powdery versus granular versus chunky versus break bulk. Each variable is potentially different based upon the commodity. Perhaps a matrices of all of the potential methods of conveyance could be created between unit train, manifest, bulk rail car or "ram" spreader technology. I would advise the figures be used as a ROM range based on available storage track.

The folly and speculative nature of this exercise is, hopefully, becoming apparent. To re-imagine a yet-to-be designed facility based upon an infinite number of assumptions on variables on a commodity-by-commodity basis produces, again, nothing but an endless stream of hypothetical and speculative musings. Whatever the final product may be, it will be anything but "substantial evidence."

So does that mean this is an impossible task, understanding and evaluating a bulk commodity terminal? Of course not. It is done all the time throughout the country and the world. Where the City is misguided is premising its timing and analysis on commodities. There is a universe of known, established, tested, and implemented protocols, best practices, and operations mandates for these facilities and operations. The Surface Transportation Board, Environmental Protection Agency, common carrier railroads, other industry partners, BAAQMD, and innumerable others provide the regulatory context for handling each commodity. Rather than reinventing the wheel by initiating safety reviews on a commodity-by-commodity and politically-driven basis, the issue instead is the facility itself.

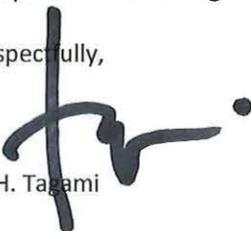
As the City has already determined and vested, the proper inquiry is whether the terminal facility itself can and will implement, at a minimum, the well established procedures and protocols required by the government and industry at all levels, regardless of which commodity happens to be in demand by the market at that particular point in time.

We recognize that these responses are likely to be of little assistance to ESA. However, to make speculative assumptions on variables yet to be confirmed or defined will do nothing to legitimize an effort that, again, has no potential to be anything but speculative.

Should ESA have further questions or inquiries, please compile them in a single set and we will be happy to consider them. We do not wish to engage in multiple rounds of circular questions based upon unknown assumptions and speculative premises. While we want to be helpful to the City, we cannot, in good conscience, ignore the obvious and inherent impossibility of this review producing substantial evidence regarding the design and operations of a facility that simply does not exist.

Of the 120+ "news" stories released by various outlets, most have repeated the same narrative to support a national political campaign, void of well documented facts known by you and your staff. The absence of factual accuracy as to the project and what we have been working on with Oakland city staff for the past several years in this process is troubling.

Respectfully,

  
P. H. Tagami