

Office: 510-908-6270
Fax: 510-338-6306

June 27, 2016

City of Oakland
City Council /Public Ethics Commission
1 Frank H. Ogawa Plaza, Rm. 104
Oakland, CA. 94612

Re: Response In Opposition to Oakland City Council Proposed ban on storage and handling of coal within the boundaries of the city of Oakland.

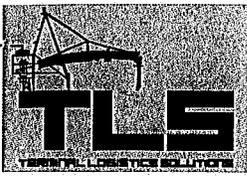
The Oakland City Council has no authority to ban the storage and handling of coal within its City limits. The Council is ignoring the economic and social well being of its citizens for its own personal environmentally flawed agenda.

The following factors should be considered by the council before it approves this ill advised proposal:

- The Bulk Commodities Terminal at the old Oakland Army Base was approved by the Council.
- The Council entered into agreements with the developer of the bulk commodities terminal and its operator.
- The EIR provided for mitigation of air quality from construction of a bulk commodities facility and for the operation of a bulk commodities terminal.
- The EIR was well aware that bulk commodities facilities always deal with many products all of which have an impact on air quality such as grain, sugar etc. and coal and accounted for such air quality impacts and their mitigation at inception and for periodic reviews to provide improvement on mitigation measures.
- The EIR was approved by the Council after many reviews and revisions and public hearings.

Under these circumstances the Council's belated proposed ban exposes the City and the council members themselves to liability. Instead of providing jobs for its citizens and receiving tax dollars generated by the bulk commodities terminal, the council's current action would delay or completely destroy the development of the old Oakland Army base.

While the City of Oakland is allowed to regulate its terminals it can only do so if it does not run afoul of federal or state preemption. In this respect, it should be noted that coal is not a hazardous material. The mining, handling, transporting, and storage of coal are not illegal. States and corporations within those states are allowed to mine this resource and to transport and resell it. These activities are protected by the commerce clause of the United States, Admiralty law and all the transportation regulations enacted by Congress to protect interstate

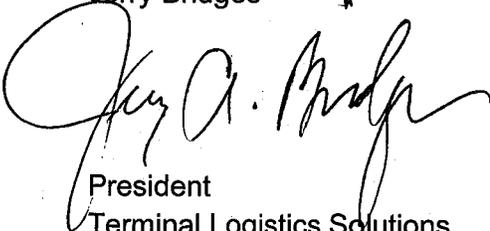


Office: 510-908-6270
Fax: 510-338-6306

commerce. Whether the preemption is considered express, implied or as arising from the commerce clause, it is clear that a complete ban that applies to only one legal commodity is a direct interference with commerce. This ill conceived ban supported by flimsy quasi science cannot overcome the clear adverse effect it produces on commerce.

This proposed ban will not withstand legal preemption action and as such will subject the City and its council members to liability for their interference with the business relations of the coal mining companies, the railroad companies, shipping companies, trucking companies and the bulk terminal operator.

Jerry Bridges



President
Terminal Logistics Solutions