



May 4, 2016

TRANSMITTED VIA ELECTRONIC MAIL
hklein@oaklandnet.com

Heather Klein
Planner III
City Of Oakland
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, California 94612

Re: Informational Public Hearing on the Health and/or Safety Impacts of Fuel Oils, Gasoline and/or Crude Oil Products

Dear Ms. Klein,

Terminal Logistics Solutions (TLS) holds an exclusive option to become the operator of the bulk and oversized commodity terminal at the West Gateway of the former Oakland Army Base (Terminal). While we have yet to exercise that option, our due diligence efforts continue in earnest. Based upon our ongoing interest in the Terminal, we felt it appropriate to respond to the City's Notice of Informational Public Hearing on the Health and/or Safety Impacts of Fuel Oils, Gasoline and/or Crude Oil Products and request for submittal of "information, testimony and other evidence," dated April 27, 2016 (Notice).

THE REVIEW IS PREMATURE AS NO FACILITY DESIGN EXISTS

As a threshold matter, the exercise of compiling all of this information strikes us as premature. As noted, we have yet to exercise our option to become the operator of the Terminal (and our option to do so is exclusive, so, for the time being, no other entity may become the operator either). With no committed and confirmed operator, there are no committed and confirmed commodity or commodities to be shipped through the facility.

The Terminal will be a purpose-built facility, meaning, it will be specifically designed and its operational standards confirmed based upon the commodity or commodities to be shipped. With those defining variables remaining outstanding, there has been no formal design or operational standards defined for the Terminal.

Given this preliminary status of the Terminal design and definition, it seems that evaluating the health and safety considerations of the yet-to-be defined facility would be speculative and hypothetical, at best. The appropriate time, if at all, to conduct a specialized review outside of the City's regular course would be once we submit a full proposal of the facility's confirmed design and operation for permitting review.

We also note that even had these variables been defined and any of the commodities at issue confirmed for shipping at the terminal, 15 days (April 27 to May 12) is a wholly inadequate period of time to compile the type of information requested by the Notice.



THE PROPER REVIEW WAS AND REMAINS THE TERMINAL'S ABILITY TO IMPLEMENT ESTABLISHED HANDLING PROTOCOLS, NOT COMMODITY-BY-COMMODITY STUDY

There is no way to define today the universe of commodities that will pass through the Terminal over its nearly 70 year life. And California law neither requires nor allows commodity-by-commodity re-regulation of the facility once it is permitted and operational. Instead, the appropriate consideration and analysis for governing agencies is review of the Terminal's ability to implement the appropriate suite of well-known and documented handling and operations protocols for the respective commodities that may be shipped through the facility at any given point in time. That is what happened when the City approved and vested the entitlements for the reuse of the Army Base in 2012 and 2013.

No one is reinventing the wheel here. Commodities potentially shipped through the Terminal are and have been shipped throughout the world. Government agencies, the railroads, and other transporters have adopted and implemented standard protocols for shipping, handling, and storing of the commodities. The Terminal can, must, and will adopt and implement all such provisions as particular commodities are confirmed for shipping. It is those handling protocols that will define the design and operations parameters at the Terminal. And as one commodity ceases to be shipped and another comes in, the protocols will shift accordingly. Additionally, as more than one commodity at a time is handled, that too will be addressed based upon known standards and best management practices.

To illustrate this operational reality for all bulk commodity facilities, not just the Terminal, we provide the City with just some of the design and operational standards commonly in practice today. These range from the United States Code of Federal Regulations codifying the United States Environmental Protection Agency's (EPA) mandates for the substances deemed "hazardous" by EPA to operations manuals for specific railroads and common carriers to commodity-specific regimes. The purpose of providing these materials is to illustrate the vast and confirmed body of handling standards for any bulk commodity facility and which the Terminal will implement. As has been repeatedly stated, the Terminal will be a world-class, state-of-the-art facility. It will not, however, reinvent the wheel. It will implement the already known safety standards as a minimum consideration and will build on them from there. (A comprehensive table of contents of all of the source materials provided in this regard is included as Exhibit A to this letter.)

Similarly, the City's review should not and cannot become an effective "regulatory re-start" every time a new commodity is proposed. The City must, and did, satisfy itself of the Terminal's capability and commitment to implement the appropriate safety and handling protocols. That it has done. When the specific building parameters come to the City for code permitting review, it is at that stage that the appropriate City officials (e.g., Fire Department) will satisfy themselves regarding the handling regime being implemented.

MATERIALS CURRENTLY TRANSPORTED THROUGH THE CITY AND PORT

With the new-found attention to the presence and transport of the Notice-focused commodities in and through Oakland, we felt additional data about what is already transported through the City and Port today and the universe of facilities already handling these commodities might be enlightening. Based upon sources including Datamyne database, rail traffic data from the Association of American Railroads, and known facilities in and around Oakland handling and dispensing fossil fuels. The table of contents attached as Exhibit A also includes all of this material. Additionally, comprehensive information on such commodity use, sale, and transport – both bulk and containerized – is available through iHS Piers Maritime Data Request, available at <https://www.ihs.com/products/piers.html> .



CONCLUSION

It is clear to us that the tremendous expenditure of time, money, and resources by us, the City, and the public at large to debate, fundamentally on political not evidentiary grounds, concerns regarding one commodity or another is both ineffective and counter-productive to the overall success of the Army Base reuse for the City, the developers, and, perhaps most importantly, the future jobs and workers to be employed from the local community. The City has approved the Terminal and vested its entitlements. Design of the specific facility will proceed on the appropriate schedule relative to confirmation of the operator and the commodities to be shipped. The City will have its opportunity to review for permitting and code compliance. This is how bulk shipping facilities in the state and nation are approved and remain commercially viable for the benefit of all stakeholders. We are no exception.

Respectfully, we ask the City to recognize this appropriate cadence of review and approval and assist the Terminal in moving forward accordingly.

Respectfully,

A handwritten signature in black ink, reading 'Jerry A. Bridges', is written over the typed name.

Jerry A. Bridges
President and CEO
TLS

EXHIBIT A

May 4, 2016

Terminal Logistics Solutions (TLS) - Information Submittal

RE: Informational Public Hearing on the Health and/or Safety Impacts of Fuel Oils, Gasoline and/or Crude Oil Products

Table of Contents:

Binder I

Liquid Fuel Products Commodity Data

Since demand for rail and shipping services arise as a result of product demand, US rail traffic and Port of Oakland import/export activity can be a useful gauge of broader economic activity, both for specific industries and for the economy as a whole.

- Oakland Imports and Exports Data, reported by Datamyne, dated May 4, 2016
- Weekly Freight Rail Traffic Data, reported by the Association of American Railroads, dated May 3, 2016
- Monthly Freight Rail Traffic Data, reported by the Association of American Railroads, dated May 3, 2016
- Petroleum Sales Locations in Oakland, reported via Google, dated May 4, 2016
- Liquid fuel related news articles

Rail Traffic Limitations at OBOT

In furtherance of the Oakland Global project, and to enable continued operation of the East Bay Municipal Utilities District Main Waste Water Treatment Plant (EBMUD MWWTP) the City of Oakland, EBMUD, and CCIG Oakland Global entered into a Memorandum of Agreement (EBMUD MOA). All rail activity associated with the Oakland Global project will be subject to the rail traffic limitations set forth in the EBMUD MOA, in order to prevent unreasonable blocking of EBMUD's main gate to the MWWTP via the railroad crossing at the existing or realigned Wake Avenue.

- Memorandum of Agreement Between The City of Oakland, The East Bay Municipal Utility District and CCIG Oakland Global, LLC, dated July 19, 2012

Binder II

Railroad Instructions for Handling Liquid Hazardous Materials

The United States Department of Transportation categorizes liquid fuel products as Class III Hazardous Materials, and moderates transportation of such materials through specific federal regulations and procedural guidelines

- Hazardous Materials Compliance Manual, prepared by the Federal Railroad Administration Office of Railroad Safety, dated December 2011
- Federal Railroad Administration and Pipeline and Hazardous Materials Safety Administration Hazmat/Crude Oil FAQ, prepared by the Federal Railroad Administration, dated February 28, 2013
- Instructions for Handling Hazardous Materials Form 8620 (PB-20800), prepared by Union Pacific, dated July 2, 2013

- General Code of Operation Rules Seventh Edition, prepared by the General Code of Operating Rules Committee, dated April 1, 2015
- Emergency Order No. 28, Notice No. 1, issued by the Federal Railroad Administration
 - FRA Emergency Order No. 28, Notice No. 1 Emergency Order Establishing Additional Requirements for Attendance and Securement of Certain Freight Trains and Vehicles on Mainline Track or Mainline Siding Outside of a Yard or Terminal, issued by the Federal Railroad Administration, dated August 7, 2013
 - Memorandum Re: Guidance on Emergency Order 28 Memorandum, prepared by the Federal Railroad Administration, dated August 21, 2013
 - FRA Emergency Order 28 August 2, 2013 Presentation, prepared by North County Transit District, dated September 2, 2013
 - 49 CFR Part 232 [Docket No. FRA-2014-0032, Notice No. 2] RIN 2130-AC47 Securement of Unattended Equipment, issued by the Federal Railroad Administration, dated July 27, 2015

Binder III (5 Volume Set)

Oakland Global Rail Enterprise (OGRE) Operation and Safety Procedures

- OGRE Hazmat Information Safety Manuals, prepared by OGRE, dated March 2016
- FRA Mandated Railroad Safety Programs, prepared by OGRE, dated March 2016
- Rail Operating Agreement Supporting Documents for Section 4.3, prepared by OGRE, dated March 2016