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15
16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION
19

20 OAKLAND BULK & OVERSIZED
TERMINAL, LLC,

21 Plaintiff,

22 v.

23 CITY OF OAKLAND,

24 Defendant.

25 SIERRA CLUB and SAN FRANCISCO
BAYKEEPER,

26 Defendant-Intervenors.
27

Case No. 3:16-cv-07014-VC

**JOINT OBJECTIONS TO EVIDENCE
INTRODUCED AT TRIAL**

Trial Date: January 16, 2018
Ctrm.: No. 2, 17th Floor
Judge: Honorable Vince Chhabria

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1 Pursuant to the Court's Order Setting Post-Trial Briefing Schedule (Dkt. 232), Defendant
 2 City of Oakland and Defendant-Intervenors Sierra Club and San Francisco Baykeeper hereby
 3 submit their joint evidentiary objections to testimonial and documentary evidence introduced at
 4 trial as follows:

5 I. Objections to Trial Testimony: Defendants object to the trial testimony identified
 6 below on the basis that it is irrelevant and extra-record, to the extent that it is admitted merely to
 7 contradict the record evidence before the City Council, or is not helpful to assist the Court in
 8 understanding the evidence in record before the City Council or the significance of such evidence.
 9 This objection, along with citations to supporting authority,¹ was previously asserted in the City
 10 of Oakland's Objection to Extra-Record Evidence to Contradict Record Evidence (Dkt. 224), and
 11 in the City of Oakland's Trial Brief (Dkt. 200, pp. 3-6). Any further objections (other than
 12 irrelevance as extra-record) are set forth in the "Further Objections" column.

Witness	Trial Transcript Page and Lines	Further Objections
Patrick Cashman	27:16-40:19	
Darin Ranelletti	43:8-43:21 44:9-54:23	
Phillip Tagami	58:3-5 58:12-17 58:21-61:14 61:22-64:24 65:6-67:6 68:4-72:18	

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 21 ¹ E.g., *W. States Petroleum Ass'n v. Superior Court*, 9 Cal.4th 559, 576, 578-579 (1995)
 22 ("extra-record evidence can never be admitted merely to contradict the evidence the
 23 administrative agency relied on in making a quasi-legislative decision or to raise a question
 24 regarding the wisdom of that decision"); *Coachella Valley Unified School Dist. v. State*, 176
 25 Cal.App.4th 93, 125 (2009) ("[E]xtra-record evidence amounting to nothing more than
 26 contradictory expert testimony designed to question the wisdom and accuracy of a public agency
 27 decision generally is not admissible."); *Fort Mojave Indian Tribe v. Department of Health*
 28 *Services*, 38 Cal.App.4th 1574, 1595 (1995) (To admit "conflicting scientific opinions created
 after an administrative decision would pose... a threat of repeated rounds of litigation, and
 uncertain, attenuated finality."); *Eureka Citizens for Responsible Gov't v. City of Eureka*, 147
 Cal.App.4th 357, 366-367 (2007); see also *Outfitter Properties, LLC v. Wildlife Conservation*
Bd., 207 Cal.App.4th 237, 251 (2012) (extra-record evidence may not be admitted to "call into
 question the wisdom" of the agency's decision).

Witness	Trial Transcript Page and Lines	Further Objections
	89:21-90:16	
Crescentia Brown	91:20-101:21	
Victoria Evans	106:8-136:12 250:24-264:16	
Sabrina Landreth	This testimony was provided by excerpts of a videotaped deposition that was played in open court on January 17, 2018— Defendants object to the entirety of this testimony as extra-record evidence.	
Douglas Cole	This testimony was provided by excerpts of a videotaped deposition that was played in open court on January 17, 2018— Defendants object to the entirety of this testimony as irrelevant extra-record evidence	There is no foundation that Mr. Cole was either a Rule 30(b)(6) representative or a manager of the City (he was neither) and therefore the video is hearsay and inadmissible
James Wolff	This testimony was provided by excerpts of a videotaped deposition that was played in open court on January 17, 2018— Defendants object to the entirety of this testimony as irrelevant extra-record evidence Defendants further object to OBOT's counter-designated deposition testimony played on January 19, 2018, specifically the following page/line excerpts from Mr. Wolff's deposition (these excerpts are attached as Exhibit A hereto): 178:4-7 239:5-9 239:11-12 239:14-18 154:14-15 154:18-22 154:25-155:1	Mr. Wolff offered testimony that constituted improper hearsay, lacked foundation, called for an expert opinion, and failed to adhere to the best evidence rule, among other such deficiencies. This testimony was on topics ranging from how well Bowie's coal travels, how cleanly the coal burns, to the average dust loss from rail cars carrying Bowie's coal to a mention of purported studies about Bowie's coal dust loss from rail cars that were never produced by Bowie or discussed at the deposition.
Mark McClure	275:3-282:21 282:24-284:7 284:20-285:10	
David Buccolo	288:9-304:25	Mr. Buccolo does not satisfy Rule 702. Specifically, there is a lack of reliability of the principles or methods in his underlying report and trial testimony, and he did not rely on sufficient facts and data. Nor did he have

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Witness	Trial Transcript Page and Lines	Further Objections
		<p>specialized knowledge on the particular coal dust or coal cover issues to which he testified.</p> <p>In addition, Mr. Buccolo’s testimony about a video and demonstrative picture purportedly depicting a covered rail car carrying coal lacked authentication, foundation, constituted improper hearsay, and was not the proper subject of expert testimony.</p>
Lyle Chinkin	317:21-381:4	Defendants further object to the testimony at 360:3-361:11 regarding statements by Mr. Moleski as hearsay (FRE 801-803).
Andrew Maier	386:13-400:6	
Ali Rangwala	410:17-429:16	
Claudia Cappio	468:6-484:6	

II. Objections to Documentary Evidence. The following table lists each exhibit introduced at trial, and for each sets forth Defendants’ objections or lack thereof (“N/A” if no objection).

Trial Ex. No.	Description	Objection and Explanation
4	Oakland City Council Ordinance No. 13385 C.M.S.	N/A
14	ESA Report on the Health and/or Safety Impacts Associated with the Transport, Storage and/or Handling of Coal and/or Coke in Oakland (B&W 154 pgs.)	N/A
19	Janna Scott email to Victoria Evans, Crescentia Brown, Tim Rimpo re Oakland: coal by rail-internal draft and attachment Health and Safety Report Outline 12/1/15	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.

Trial Ex. No.	Description	Objection and Explanation
24	Crescentia Brown Calendar Appointment to Brian Boxer, Jim O'Toole, Chuck Bennett, Victoria Evans, Tim Rimpo attaching draft Preliminary Scope of Work	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
25	Crescentia Brown email to Chuck Bennett, Tim Rimpo, Victoria Evans, Cory Barringhaus, Janna Scott, Jim O'Toole, Brian Boxer, Michael Manka, Jeff Caton attaching final Oakland Coal Effects Review Scope of Work	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
31	City of Oakland Agenda Report re Status Report on Coal from Claudia Cappio to Sabrina Landreth	N/A
32	Crescentia Brown email to Brian Boxer, Chuck Bennett, Victoria Evans, Cory Barringhaus, Jim O'Toole, Janna Scott, Shannon Stewart, Michael Manka, Jeff Caton re Oakland Coal Update, Oakland pulls resolution to hire ESA	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
34	Crescentia Brown Calendar Appointment to Brian Boxer, Chuck Bennett, Victoria Evans attaching draft Preliminary Scope of Work	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
42	Crescentia Brown to Victoria Evans, Cory Barringhaus, Chuck Bennett re OBOT Kick-off Prep #2	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
46	Heather Klein Calendar Appointment to Mark Wald, Esq., Kevin Siegel, Esq., Claudia Cappio, Darin Ranelletti, Crescentia Brown, Victoria Evans, Cory Barringhaus, Winnie Woo	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.

Trial Ex. No.	Description	Objection and Explanation
47	Victoria Evans email to Cory Barringhaus, Tim Rimpo, Crescentia Brown re OBOT - Health Impacts Conclusions example - INTERNAL ESA REVIEW ONLY	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
48	Steve Radis email to Cory Barringhaus, Victoria Evans re Privileged & Confidential: Combustion	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
53	Victoria Evans email to Barbara Toole O'Neil, Tim Rimpo, Cory Barringhaus re Privileged & Confidential AQ and use with BAAQMD	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
57	Victoria Evans email to Tim Rimpo, Cory Barringhaus re: covers & domes	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
58	Steve Radis email to Cory Barringhaus, Victoria Evans re Additional questions from Oakland	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
62	Professional or Specialized Service Agreement btw City of Oakland and Environmental Science Associates (ESA)	N/A
65	Army Base Gateway Redevelopment Project Lease Disposition and Development Agreement btw City of Oakland and The Oakland Redevelopment Successor Agency and Prologis CCIG Oakland Global, LLC (LDDA) (88 pgs.)	N/A
96	Army Base Gateway Redevelopment Project Ground Lease for West Gateway btw City of Oakland and OBOT (146 pages)	N/A

Trial Ex. No.	Description	Objection and Explanation
98	Doug Cole email to Zachary Wald, John Monetta, Claudia Cappio, Casey Farmer email re Train Route through Oakland	Objection, relevance; objection, lacks foundation (FRE 401-403, 602). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
103	Henry Hilken email to Doug Cole, Alison Kirk, David Vintze, Darin Ranelletti re Follow up on City's Sept. 21 Public Hearing on Coal's Public Health and/or Safety Impacts	N/A
108	Evaluation of Health and Safety Impacts of the Proposed Bulk Coal Terminal on the Former Oakland Army Base Adjacent to the Port of Oakland with various emails attached	N/A
128	City of Oakland Agenda Report re Supplemental Report re Army Base Rezoning & Development Agreement, attaching redline draft of same	N/A
131	Fully executed Army Base Gateway Redevelopment Project; Ground Lease for West Gateway, btw City of Oakland ("City") & Oakland Bulk & Oversized Terminal, LLC ("Developer") dated as of February 16, 2016	N/A
133	Mark Wald, Esq. email to Heather Klein. Crescentia Brown, Heather Lee, Esq., Claudia Cappio attaching handwritten edits to ESA City of Oakland Coal-by-Rail Effects Review Draft Approach and Preliminary Scope of Work January 8, 2016	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
135	City of Oakland Agenda Report re Public Hearing to Consider a Report and Recommendation for Options to Address Coal and Coke Issues, attaching final ESA Report on the Health and/or Safety Impacts Associated with the Transport, Storage and/or Handling of Coal and/or Coke in Oakland	N/A
136	Alison Kirk email to Darin Ranelletti, Heather Klein, David Vintze re proposed contract to study coal at OBOT	N/A
138	2012 Oakland Army Base (OARB) Project Standard Conditions of Approval and Mitigation Monitoring and Reporting Program	N/A

Trial Ex. No.	Description	Objection and Explanation
141	City of Oakland letter by Darin Ranelletti to Phil Tagami re Annual Compliance Review - Gateway Development / Oakland Global Project Development Agreement, July 16, 2016 to July 5, 2017	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
145	City of Oakland Agenda Report re Status Report on Coal and Authorization of a Professional Services Contract with Environmental Science Associates (ESA) attaching draft City of Oakland Review of Public Comments Received Regarding Potential Health and/or Safety Effects of Coal and Other Hazardous Fossil Fuel Materials Proposed at OBOT Draft Approach and Preliminary Scope of Work April 6, 2016	N/A
149	Phil Tagami and Jerry Bridges letter to Claudia Cappio re Responses and Information for City Follow-Up Questions to September 21 Informational Hearing	N/A
166	Phil Tagami letter to Claudia Cappio re Responses to Inquiries by ESA	N/A
213	City of Oakland Agenda Report re Coal's Public Health and/or Safety Impacts	N/A
214	City of Oakland Agenda Report re Coal's Public Health and/or Safety Impacts	N/A
216	City of Oakland Agenda Report re Informational status report on Coal's Public Health and/or Safety Impacts – No Action Required	N/A
217	City of Oakland Agenda Report re Status Report on Coal	N/A
221	Claudia Cappio email to Heather Klein, Mark Wald, Esq. re Ecofab response to Lora Jo Foo letter to council (and subsequent "No Coal in Oakland" article based on her letter) attaching Covers for rail transport of coal memorandum	N/A
264	Claudia Cappio to Phil Tagami, Mark McClure re 2 questions regarding OBOT plans on facility design and commodities	N/A
265	Heather Klein email to Victoria Evans, Cory Barringhaus. Mark Wald, Esq., Claudia Cappio, Crescentia Brown OBOT letter from Phil Tagami re responses to Inquiries by ESA	N/A
281	ESA Report on the Health and/or Safety Impacts Associated with the Transport, Storage and/or Handling of Coal and/or Coke in Oakland (Color 154 pgs.)	N/A
286	Claudia Cappio email to Sabrina Landreth, Christine Daniel attaching draft letter from Mayor Schaaf and Lynette Gibson McElhaney re ACTC funding for Oakland Army Base Wharf Improvements	Objection, relevance; objection, lacks foundation (FRE 401-403, 602).

Trial Ex. No.	Description	Objection and Explanation
371	City of Oakland Agenda Report re Report on the Request for Qualifications (RFQ) Process to Select a Master Developer for the Central Gateway Development Area of the Former Oakland Army Base	N/A
372	Redevelopment Agency of City of Oakland Agenda Report re Resolution Authorizing the Agency Administrator to Negotiate and Enter into Exclusive Negotiating Agreement for a Term of 360 Days from Agency Approval	N/A
388	Oakland Global News article from December 2013, Issue 4	N/A
431	Victoria Evans email to Tim Rimpo, Cory Barringhaus re AP-42 Recalc	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
432	Victoria Evans email to Cory Barringhaus re draft Emissions Quantification attaching Draft Emissions Calculation and Emissions Quantification Blurb	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
433	Emission Calculation Excel spreadsheet	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
435	Miscellaneous Sources section 13.2.5 Industrial Wind Erosion	N/A
440	Earthjustice letter to Oakland City Council re Proposed Oakland Coal Export Terminal	N/A
448	South Coast Air Quality Management District Rule 1158 – Storage, Handling, and Transport of Coke, Coal and Sulfur	N/A
453	Rule 1158. Storage, Handling, and Transport of Coke, Coal and Sulfur	N/A
454	Victoria Evans C.V.	N/A
463	Dr. Nadia Moore working files with Federal Register, Vol., 78, No. 10, Part II Environmental Protection Agency, 40 CFR Parts 50, 51, 52, et al. (995 pgs.)	N/A

Trial Ex. No.	Description	Objection and Explanation
466	Federal Register, Vol., 78, No. 10, Part II Environmental Protection Agency, 40 CFR Parts 50, 51, 52, et al. (203 pgs.)	N/A
478	Millennium Bulk Terminals - Longview SEPA Environmental Impact Statement, SEPA Coal Technical Report Coal Dust Emissions, Coal Spills Analysis, and Sulfur Dioxide and Mercury Emissions Analysis by ICF	Objection, relevance; objection, lacks foundation; objection, hearsay (FRE 401-403, 602, 801-803). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
479	Connell Hatch – Queensland Rail Limited, Goonyella, Blackwater and Moura Coal Rail Systems, Final Report Environmental Evaluation of Fugitive Coal Dust Emissions from Coal Trains Executive Summary	Objection, relevance; objection, lacks foundation; objection, hearsay (FRE 401-403, 602, 801-803). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
515	PowerPoint presentation entitled BNSF Railway - Coal Dust Mitigation Update, Surface Transportation Board - RETAC September 10, 2009	N/A
516	Summary of BNSF/UP Super Trial 2010	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
522	HDR Excel spreadsheet - OBOT Switching Time Diagram - Parallel Commodity Unloading Pit Layouts	N/A
571	Opening Expert Report of Andrew Maier	Objection, relevance; objection, hearsay. Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S. Moreover, this exhibit constitutes inadmissible hearsay. FRE 803(18).

Trial Ex. No.	Description	Objection and Explanation
584	Development Agreement by and between City of Oakland and Prologis CCIG Oakland Global, LLC Regarding the Property and Project Known as "Gateway Development/Oakland Global"	N/A
593	City of Oakland Agenda Report re Status Report on Coal and Authorization of a Professional Services Contract with Environmental Science Associates (ESA)	N/A
594	City of Oakland Agenda Report re Status Report on Coal	N/A
596	ESA Report (B&W 163 pgs.)	N/A
604	2012 Oakland Army Base (OARB) Project Standard Conditions of Approval and Mitigation Monitoring and Reporting Program	N/A
608	City of Oakland Agenda Report on Status Report on Coal	N/A
612	OAB / OHIT Rail System Area Calculations schematic; drawing number X-1944 drawn by V. Bribiesca	N/A
630	City of Oakland Agenda Report re Oakland Army Base Development	N/A
635	OAB Milestones timeline; C1 Project Milestone timeline	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
639	Index of Legislative Record (see Trial Ex. 640)	N/A
640	Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S. (contained on USB flash drive)	N/A
657	Response to Follow-Up Questions from Residents and Non-Residents (compilation)	N/A
660	Letter from Alameda County Health Care Services Agency Public Health Department to City Council President Lynette Gibson McElhaney, subject: "Coal's Public Health and Safety Impacts"	N/A
661	Memorandum from Lora Jo Foo, No Coal in Oakland, to Claudia Cappio, the Oakland City Council, and City Attorney Barbara Parker, subject: "Covers for rail transport of coal"	N/A
736	Dr. Andrew Maier C.V.	Objection, hearsay (FRE 801-803).
738	Oakland Global, CCIG, Port of Oakland PowerPoint presentation to Mayor Libby Schaaf, Project Briefing, December 15, 2014	N/A
814	Agenda Report from Fred Blackwell to Deanna Santana, Subject Oakland Army Base Development	N/A

Trial Ex. No.	Description	Objection and Explanation
815	Agenda Report from Fred Blackwell to Deanna Santana, Subject Oakland Army Base Development Supplemental Report	N/A
842	Project Aerial photograph	N/A
844	Photograph of Levin Terminal in Richmond, CA	Objection, relevance; objection, hearsay; objection, lacks foundation. (FRE 401-403, 602, 801-803). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
845	Photograph of Port of Stockton in Stockton, CA	Objection, relevance; objection, hearsay; objection, lacks foundation. (FRE 401-403, 602, 801-803). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
848	Rail Commodity Movement Through Oakland photograph (1 of 4)	Objection, relevance; objection, hearsay; objection, lacks foundation. (FRE 401-403, 602, 801-803). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
900	NFPA 68, Standard on explosion protection by deflagration venting.	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
915	Carnahan, R., Reza, A., Dracup, B., Ross, B., and Christiansen, E., A case study of two shiploader fires in a coal and pet coke facility. Fire and Materials Conference, 2007.	N/A

Trial Ex. No.	Description	Objection and Explanation
930	Dungan, K.W., Storage and handling of solid fuels, fire protection handbook, ed. A.E. Cote. Vol. 1. 2003: National Fire Protection Assoc.	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
960	Letter from Public Health Advisory Panel on Coal in Oakland and attachment, An Assessment of the Health and Safety Implications of Coal Transport through Oakland	N/A
961	Chafe Z. (2016) Analysis of health impacts and safety risks and other issues/concerns related to the transport, handling, transloading, and storage of coal and/or petroleum coke (petcoke) in Oakland and at the proposed Oakland Bulk & Oversized Terminal. Report prepared for Councilmember Dan Kalb of the Oakland City Council, Oakland, CA, June 22. Available at http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak059408.pdf .	N/A
968	Ferreira A. D., Viegas D. X., and Sousa A. C. M. (2003) Full-scale measurements for evaluation of coal dust release from train wagons with two different shelter covers. Journal of Wind Engineering and Industrial Aerodynamics, 91, 1271-1283, doi: 10.1016/S0167-6105(03)00077-1.	Objection, relevance; objection, hearsay (FRE 401-403, 801-803). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
972	LSA Associates, Inc., (2012) 2012 Oakland Army Base project initial study / addendum. Report submitted to the City of Oakland, Oakland, CA, by LSA Associates, Inc., Berkeley, CA, May. Available at http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035079.pdf .	N/A
976	Cappio C. (2016) Public hearing to consider a report and recommendation for options to address coal and coke issues. Agenda report prepared for the Oakland City Council, Oakland, CA, June 23.	N/A
982	Axetell K. and Cowherd C. (1984) Improved emission factors for fugitive dust from western surface coal mining sources. Prepared for Industrial Environmental Research Lab, Cincinnati, OH, March.	Objection, relevance; objection, hearsay (FRE 401-403, 801-803). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.

Trial Ex. No.	Description	Objection and Explanation
991	Minutes and Steve Bobb Presentation, Rail Energy Transportation Advisory Committee, September 10, 2009. https://stb.dot.gov/stb/docs/RETAC/2009/September2009/Minutes%209-10-09.pdf .	N/A
1069	Crane C.M., English P., Heller J., Kirsch J., Kuiper H., Kyle A.D., Ostro B., Rudolph L., and Shonkoff S. (2016) An assessment of the health and safety implications of coal transport through Oakland. Report prepared for the Oakland City Council, Oakland, CA, by the Public Health Advisory Panel on Coal in Oakland, California, June 2016.	N/A
1083	Draft for internal discussion only.	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
1084	June 2016 "Chapter 5: Health Effects" OBOT Health and Safety Effects (Draft Report).	Objection, relevance (FRE 401-403). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
1085	Muleski G.E. (1985) Coal yard wind erosion measurement at the [redacted]. MRI Project No. 8162-L, March 22, 1985	Objection, relevance; objection, hearsay (FRE 401-403, 801-803). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
1207	Phil Tagami email to Libby Schaaf CC: Tomiquia Moss and Mark McClure re: Stop all mention of coal now	N/A
1225	2012 Oakland Army Base Project Initial Study / Addendum	N/A
1229	Kinder Morgan PPT Presentation: Setting the Standard for Terminal Storage and Handling Services in North America: An Overview of our Network and Services	Objection, relevance; objection, hearsay (FRE 401-403, 801-803). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.

Trial Ex. No.	Description	Objection and Explanation
1238-1261	Basis of Design Supporting documents – Potential Commodities NFPA 704 (color)	N/A
1267	Attachment 15 to Army Base Gateway Redevelopment Project Lease Disposition and Development Agreement btw City of Oakland and The Oakland Redevelopment Successor Agency and Prologis CCIG Oakland Global, LLC (LDDA) (241 pgs.)	N/A
1272	Printout of City of Oakland Website, File # 15-0977 (stipulated)	N/A
1273	Transmittal sheets dated May 4, 2016, May 9, 2016, and September 8, 2015 from CCIG and TLS to Doug Cole, Heather Klein, Mayor Libby Schaaf, and "Mayor and City Council members" (stipulated)	N/A
1274	Dr. Fernandez-Pello C.V.	N/A
1277	Wayback Machine (archive.org) printout	Objection, relevance; objection, hearsay (FRE 401-403, 801-803).
1278	Video played by Plaintiff on January 18, 2018	This exhibit contains the video deposition excerpts for the depositions of Wolff, Landreth and Cole played by Plaintiff. Defendants object to this exhibit to the same extent they object to the testimony of these deponents as described in the table above setting forth their objections to trial testimony.
Dkt. 213-2	Plaintiff Oakland Bulk & Oversized Terminal, LLC's First Set of Interrogatories to Defendant-Intervenor Sierra Club	Objection, relevance; objection, hearsay (FRE 401-403, 801-803). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.
Dkt. 213-3	Defendant-Intervenor Sierra Club's Objections and Responses to Plaintiff Oakland Bulk & Oversized Terminal, LLC's First Set of Interrogatories	Objection, relevance; objection, hearsay (FRE 401-403, 801-803). This exhibit constitutes evidence outside of the City's Legislative Record related to Ordinance No. 13385 C.M.S. and Resolution 86234 C.M.S.

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Dated: February 9, 2018

BURKE, WILLIAMS & SORENSEN, LLP

By: /s/ Kevin D. Siegel

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CITY OF OAKLAND

Dated: February 9, 2018

EARTHJUSTICE

By: /s/ Colin O'Brien

Colin O'Brien
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SIERRA CLUB and SAN FRANCISCO
BAYKEEPER

ATTESTATION

I, Kevin D. Siegel, am the ECF user whose ID and password are being used to file this "Joint Objections to Evidence Introduced at Trial." Pursuant to Civil Local Rule 5-1(i)(3), I hereby attest that Colin O'Brien has concurred in the filing of this document.

DATED: February 9, 2018

/s/ Kevin D. Siegel
Kevin D. Siegel