

Long Beach City Hall
333 W. Ocean Boulevard
Long Beach, CA 90802

August 18, 2014

Re: City Council Hearing No 14-0613 on August 19, 2014

Dear Honorable Council Members:

My name is John Moreland and I am a resident of the 7th District (3710 Cerritos Avenue). I work in real estate development, specializing in entitlements and California Environmental Quality Act (CEQA) compliance. I have worked for both private firms and public jurisdictions, so I understand the difficult decision before you regarding the agreement between the Port of Long Beach and Oxbow Energy Solutions, LLC. The benefits of this agreement include more jobs at the port, allow energy-efficient upgrades to the Pier G dry bulk facility, and increase the Port's revenue. The downside of this agreement is the exporting of coal and petroleum coke (coke) is counter to the Port's Strategic Plan and can increase the environmental impacts beyond the existing agreement slated to terminate in 2016. I believe the negatives outweigh the benefits of this project and I am against this project. Furthermore, I believe the Harbor Department did not adequately analyze the new environmental impacts of the new agreement and it did not address impacts not analyzed in previous environmental documents for the facility.

The first goal in the Port of Long Beach Strategic Plan is to "implement practices that minimize or eliminate the environmental impacts and health risks of Port operations and development" (The Port of Long Beach Strategic Plan, 2009 Update, Page 8). It is common knowledge that the burning of coal and coke are major contributors to greenhouse gases. Within the past decade, CEQA documents are now required to include greenhouse gases and estimate their impact on the environment. Therefore, a major contributor to greenhouse gases, such as coal and coke, would impact the environment. Although the Port is not producing the coal or coke, it is promoting the export of these materials. A reasonable person would consider that exporting these materials would be a part of the Port's operation. Therefore, approval of this agreement would be counter to the above-stated goal.

The Staff Report indicates that coal and coke would still be exported out of the Port. However, continuing existing practices when they are contrary to the Port's goals is not a way to conduct business. The appellants assert that the Port should stop all coal and coke exports immediately. That would also not be practical as the Port would be in breach of multiple contracts. However, it should not enter into new agreements that are contrary to their 2009 Strategic Plan goal.

As mentioned above, coal and coke are major contributors to greenhouse gases. The Staff Report indicates that the cause of greenhouse gases was known for some time and that case law indicates that a more detailed analysis is not necessary. However, the existing environmental documents do not address greenhouse gases at all. Since greenhouse gases have been regularly analyzed in CEQA documents since 2006, an Addendum or new environmental document should be prepared to analyze these impacts.

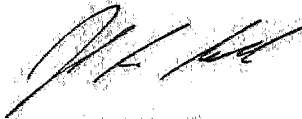
It is my understanding that the existing environmental documents only analyze impacts for the operation through the current agreement (ending 2016) and for the facilities at the port. I agree that the existing documents adequately cover the operations of the port facility in perpetuity. However, the existing environmental documents fail to address the environmental impacts of coal dust being lost through rail transport. The Staff Report indicates, "All incoming coal arrives by rail. Throughout the history of the Facility, the trains delivering coal have arrived uncovered. The Surface Transportation Board is the entity that has jurisdiction over how the railroads transport this commodity" (Page 6). This does not address a significant environmental impact. There are significant concerns regarding the environmental impacts of coal dust in uncovered trains. Coal dust has been known to travel up to a mile from the rail lines and could impact local waterways and be inhaled by residents living near a rail line. Page 5 of the Ultramar Material Safety Data Sheet, included in Attachment B to the 2003 Negative Declaration (in the Staff Report), states that "repertory tract cancers may result from repeated exposure" to the coal dust (see Attachment 1 to this letter). Even a major rail operator, BNSF Railway, acknowledges that "coal dust poses a serious threat to the stability of the track structure" (see Attachment 2 to this letter). Although the existing Negative Declaration discusses about minimizing coal dust at the loading facility, there is no discussion about coal dust impacts related to the uncovered transport of coal and coke. This needs to be analyzed.

Since the existing agreements run to 2016, it can be assumed that environmental review was appropriately conducted on that agreement. According to the Staff Report, the new agreement would allow up to an additional 2.35 million tons of coal and coke export per year for 15 years than currently allowed. That is a maximum of 35.25 million tons throughout the duration of the contract. Sincere there are no known coal extraction sites within urban Southern California, it can be easily assumed that all of this coal will be transported through the Alameda Corridor. I agree that the coal and coke would be exported from the United States if not approved by the City of Long Beach; however, the coal would likely be routed to a port in a different state. Therefore, an Addendum or new environmental document should be prepared to analyze the impact on residential, businesses and rail lines in the Alameda Corridor. CEQA requires that mitigation measures should be considered to reduce the environmental impacts of 35.25 million tons of coal and coke being transported through the Alameda Corridor (i.e. requiring treatment on the coal, covering of train cars, etc.) Even if the rail lines are regulated by a different agency, the applicant and Port should work with that agency to reduce environmental impacts. The goal of CEQA is to reduce environmental impacts of an action, not continuing existing practices without mitigation because it is too difficult to coordinate.

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I understand that there are a number of environmental groups are opposed to this agreement. In my opinion, the CEQA Categorical Exemption only applies to the work within the Port facility and does not address the additional 35.25 million tons of coal being transported through the Alameda Corridor or the green house gases. To me, I would not want the City of Long Beach to be involved in a costly lawsuit that has little chance of winning due to the deficiencies in the categorical exemption. Those hundreds of thousands of dollars could be used for some other public benefit.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Moreland', written in a cursive style.

John Moreland
jrmoreland@gmail.com

umar, Inc.

MS Number: U8024

Product Name: Petroleum Coke

1. TOXICOLOGICAL INFORMATION

Chronic inhalation of high levels may result in a mild lung fibrosis. A two-year study was conducted on rats and monkeys which were exposed to 10.2 or 30.7 mg/m³ petroleum coke dust. No significant toxic effects were observed in monkeys at either exposure level. Rats exhibited inflammatory responses in the lungs at 10.2 mg/m³, and metaplastic changes at 30.7 mg/m³ after 18 months. The changes were nonneoplastic. Respiratory tract cancers may result from repeated exposure to the polynuclear aromatic hydrocarbons which may be released under certain conditions.

For more detailed information, contact MSDS Assistance at (210) 592-4593.

12. ECOLOGICAL INFORMATION

For detailed information, contact MSDS Assistance at (210) 592-4593.

13. DISPOSAL CONSIDERATIONS

Shipment, storage, disposal, and cleanup actions of waste materials are regulated under local, state and federal rules. Contact the appropriate agencies if uncertain of applicability. Waste product and contaminated material having a flash point below 140°F is considered a hazardous waste. DOT Hazardous Waste Number D001 applies. Consult 40 CFR 262 for EPA disposal requirements. Keep all sources of ignition away from spill or release.

14. TRANSPORT INFORMATION

DOT PROPER SHIPPING NAME	NA
DOT HAZARD CLASS*	NA
DOT PACKING GROUP (PG)	NA
LD. NUMBER	NA
REQUIRED LABELING	NA

15. REGULATORY INFORMATION

TSCA (Toxic Substances Control Act) Inventory

Petroleum Coke is listed in the TSCA inventory.

SARA (Superfund Amendments and Reauthorization Act) TITLE III

This product is reportable under SARA Title III, Sections 311 & 312 as a hazardous substance.

Hazard Categories Applicable under 40 CFR 370.2 (SARA Section 311):

Acute Health	Chronic Health	Pressure	Fire	Reactive
Yes	No	No	No	No

Components listed under 40 CFR 312.65 (SARA Section 313):



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Home > Customers > What Can I Ship > Coal > Coal Dust FAQs

BNSF Railway Statement on STB Coal Dust Decision

Coal Dust Frequently Asked Questions

- What are BNSF Railway's coal dust mitigation requirements?
- Why is BNSF concerned about coal dust in the Powder River Basin?
- BNSF's Coal Loading Rule requires that shippers load cars in compliance with the "Load Profile Template"—what is that?
- Why does BNSF's Coal Loading Rule require mitigation measures in addition to proper load profiling?
- How do you know that these measures will be effective in the PRB?
- How will a shipper know if it is in compliance with BNSF's coal dust mitigation requirements?
- Who decides what topper agent will be applied at the mines?
- Are shippers allowed to adopt other mitigation methods?
- Has BNSF's Coal Loading Rule been approved by the Surface Transportation Board?

What are BNSF Railway's coal dust mitigation requirements?

Item 100 of BNSF Price List 6041-B contains BNSF's coal dust mitigation requirements (the "Coal Loading Rule"). The current Coal Loading Rule has been in effect since October 1, 2011. The Coal Loading Rule specifically requires all shippers loading coal at any Montana or Wyoming mine to take measures to load cars in such a way that ensures coal dust losses in transit are reduced by at least 85% compared to cars where no remedial measures have been taken. The Coal Loading Rule also has a "safe harbor" provision stating that a shipper will be deemed to be in compliance with BNSF's Coal Loading Rule if it loads cars in compliance with BNSF's published Load Profile Template, and either (i) applies an approved topper agent to the loaded cars in the specified manner, or (ii) uses another method of coal dust suppression that, together with profiling, reduces coal dust losses in transit by the required 85%.

The Surface Transportation Board (STB) issued a decision in Finance Docket No. 35557: *Reasonableness of BNSF Railway Company Coal Dust Mitigation Tariff Provisions* in which the STB affirmed the reasonableness of the Coal Loading Rule and upheld its enforceability. This affirmation was subject to BNSF making a minor modification, which is now reflected in the current rule.

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Why is BNSF concerned about coal dust in the Powder River Basin?

Since 2005, BNSF has been at the forefront of extensive research regarding the impacts of coal dust escaping from loaded coal cars on rail lines in the Powder River Basin (PRB), which is located in Wyoming and Montana. From these studies, BNSF has determined that coal dust poses a serious threat to the stability of the track structure and the operational integrity of our lines in, and close to, the mines in the PRB. The STB, our regulating agency, has confirmed that coal dust is a harmful contaminant of rail ballast. Tests have shown that dusting events from untreated cars occur with the most frequency close to the mine loading points in the PRB and materially decrease as the railcars move further from the PRB.

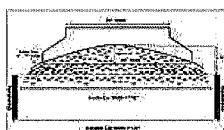
BNSF does not believe that any commodity should be permitted to escape from its shipping container and foul the railroad's roadbed. Shippers are responsible for securing their freight for transit by rail. Studies and experience have demonstrated that shippers can take steps in the loading of coal cars using existing, cost-effective technology that will substantially reduce coal dusting events.

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BNSF's Coal Loading Rule requires that shippers load cars in compliance with the "Load Profile Template"—what is that?

BNSF has found that coal dust releases can be partially reduced by loading coal cars with a modified loading chute. Proper use of the modified loading chute will produce a rounded contour of the coal in coal cars that eliminates the sharp angles and irregular surfaces that can promote the loss of coal dust when cars are in transit. BNSF has established a load profile template that is currently being used by PRB coal mines. The profile is included in the Appendix to BNSF Item 100 of BNSF Price List 6041-B, and appears below:

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Load Profile Template
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Why does BNSF's Coal Loading Rule require mitigation measures in addition to proper load profiling?

While loading coal cars in conformance with BNSF's load profile template reduces the amount of coal dust exiting the coal cars, shippers must take additional measures, such as the application of a topper agent or surfactant to the surface of the loaded coal, to effectively mitigate the loss of coal dust during transit. The Coal Loading Rule requires that coal dust losses in transit be reduced by at least 85% compared to cars where no remedial measures have been taken. Testing has demonstrated that profiling must be combined with additional measures to meet the 85% reduction requirement. In addition to proper load profiling, topper agents can be sprayed over the loaded coal by the shipper or its mine agent at the mine origin to keep the coal in place during transit.

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How do you know that these measures will be effective in the PRB?

Since 2005, BNSF has been conducting studies in the PRB of coal dust and various measures available to reduce the release of coal dust from loaded cars. These studies have confirmed that the proper application of certain topper agents, along with proper load profiling, can reduce coal dust levels by at least 85 percent. Also, during a seven month period in 2010, BNSF undertook a large-scale field trial ("Super Trial") of coal dust mitigation measures so that shippers could obtain more information on the effectiveness of various mitigation measures. The trial involved participation by vendors as well as several mines and coal shippers. Different topper agents were tested in the laboratory and in the field on operating coal trains to determine the effectiveness of different products and services in reducing coal dust releases. The Super Trial confirmed that the application of certain topper agents, when used in combination with a modified loading chute, can reduce coal dust losses by at least 85%.

Read additional information on the Super Trial.

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How will a shipper know if it is in compliance with BNSF's coal dust mitigation requirements?

The Coal Loading Rule contains a "safe harbor" provision stating that a shipper will be deemed to be in compliance with BNSF's Coal Loading Rule if it loads cars in compliance with BNSF's published Load Profile Template, and applies one of five approved topper agents to the loaded cars in the manner specified by the topper manufacturer. In addition, the Coal Loading Rule provides that a shipper may use another method of coal dust suppression if the shipper can demonstrate that, together with load profiling, the other method reduces coal dust losses in transit by the required 85%.

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Who decides what topper agent will be applied at the mines?

The shipper and its mine agent decide on the topper to be applied to the shipper's coal. The safe harbor provision in BNSF's Coal Loading Rule identifies several topper agents that have been shown to reduce coal dust losses by at least 85% when used in conjunction with coal load profiling. A shipper and its mine agent may choose to use any one of the five approved topper agents. As detailed below, a shipper may also seek approval for the use of additional topper agents if the shipper can show that use of the additional topper agent, along with coal load profiling, achieves at least an 85% reduction in coal dust losses.

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Are shippers allowed to adopt other mitigation methods?

BNSF has been conducting scientific studies of coal dust for several years that show that there are practicable methods of substantially reducing coal dust releases in the PRB, and such methodologies are currently being deployed at mines in the PRB and in areas outside the PRB. The most common measure has been the application of a dust suppression topper agent (e.g., surfactant) to the coal shipment at the time of loading. Topper agents have been used with positive results for several years in Canada, in the eastern United States, in Australia, and most recently in China.

Other coal dust reduction technologies are being explored and developed. As discussed in more detail below, BNSF has an established process and a demonstrated record of working with shippers, mines and third-party vendors to test new dust reduction technology. BNSF is confident that as coal

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shippers continue efforts to implement measures and develop best practices, the market will continue to respond with mitigation products and processes that are increasingly effective from a technological and cost perspective.

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Has BNSF's Coal Loading Rule been approved by the Surface Transportation Board?

BNSF's Coal Loading Rule has been in effect since October 1, 2011. When BNSF established its Coal Loading Rule, several coal shippers challenged the validity of that Rule before the Surface Transportation Board (STB). In a prior proceeding, the STB concluded that coal dust is a harmful contaminant of rail ballast and that it was appropriate for BNSF to prevent the loss of coal through appropriate coal loading rules rather than deal with coal dust after it has escaped from loaded cars through expanded maintenance of the rail lines. Recently, the STB issued a decision in Finance Docket No. 35557: Reasonableness of BNSF Railway Company Coal Dust Mitigation Tariff Provisions in which the STB affirmed the reasonableness of BNSF's specific Coal Loading Rule and upheld its enforceability, subject to a minor modification that BNSF implemented effective January 13, 2014.

BNSF expects that shippers will comply with these STB decisions and timely implement coal dust mitigation measures to effectively mitigate against the release of coal dust from rail cars in transit.

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