Community Groups Dismiss Oakland Coal Exports Case While Working with City to Exclude Coal from Project

Legal action helped clarify information in the City’s review process; the next step is to continue advocacy efforts while the City proceeds in good-faith

Oakland, CA – Today, Earthjustice, representing Communities for a Better Environment, the Sierra Club, San Francisco Baykeeper and the Asian Pacific Environmental Network, dismissed its case in Alameda County Superior Court against the City of Oakland and a group of developers led by Prologis CCIG Oakland Global LLC, challenging the City’s failure to conduct environmental review for the developers’ proposal to build California’s largest coal export terminal on the Oakland waterfront.

This dismissal comes after the City disclosed new information during the litigation process about its role in the terminal development and its expected process for evaluating and approving construction on the proposed terminal. The dismissal is without prejudice, preserves the groups’ right to re-file at a later date.

As the City continues its review of the health and safety effects of the proposed coal export terminal, and exercises its oversight over the
proposed coal terminal, these community client groups will continue advocacy work to fight the unchecked development of a coal export terminal on the Oakland waterfront. Based on statements made by the City in the litigation, the groups wish to allow the City to proceed with its decision making in good-faith while keeping open the possibility for future legal action should it become necessary.

Statement from Earthjustice Attorney Irene Gutierrez, attorney for petitioners:

“We sued to protect the rights of Oakland residents to access information, detailing how developing California’s largest coal terminal on the Oakland waterfront would affect their health and environment. We believe it is in the best interest of our community client groups to continue advocacy efforts and work in good-faith with city staff to achieve a mutually acceptable solution. We remain vigilant in supporting this community’s efforts to safeguard itself from dirty coal and trust that the City of Oakland’s leaders will exercise oversight over the proposed development, including whether coal is or is not part of the project.”

In papers filed by the City of Oakland during the litigation, its lawyers stated that:

- Developer Prologis CCIG Oakland Global had pursued project funding from the Utah counties “without City support, knowledge or involvement.” (City of Oakland Demurrer at p. 2)(emphasis in original.)

- “[T]he City has not taken an official position on whether Real Parties’ project approvals entitle them to transport coal.” (City of Oakland Demurrer at p. 3.)

- “The City is evaluating discretionary decisions it may take in the future with respect to Real Parties’ project (e.g., additional permit requirements), or which will apply to Real Parties’ project (e.g. new legislation that would
apply to the project), and the scope of additional environmental review, if any, that it may require in connection with any such decision(s), consistent with its existing contractual obligations.” (City of Oakland Demurrer at p. 9, fn8.)

These statements provided Petitioners with new information about the City’s role to date with the coal export terminal, and its expectations for further oversight of the project. The City is currently assessing the health and safety concerns generated by the proposed coal export terminal, with further action expected by February 2016.

Background: After years of assurances that coal would not be transported through a bulk terminal on the former Oakland Army Base, in April 2015, community members learned that the project developers had cut a secret funding deal with four Utah counties that would bring coal into Oakland. In exchange for $53 million in project funding, the developers promised the Utah counties shipping rights to at least 49 percent of the bulk terminal’s 9–10 million ton annual shipping capacity, which would make the terminal California’s largest coal export terminal. On October 2, 2015, community groups sued the City and developers for the City’s failure to conduct the environmental review of the proposed coal terminal required by the California Environmental Quality Act.