No Coal in Oakland submits this memo to refute the ten falsehoods in Mark McClure’s Open Forum Opinion published on March 14, 2016. Accompanying this memo are five Letters to the Editor also published by the SF Chronicle refuting McClure’s misinformation.

False statement #1: “The planning and development of [OBOT] has been an open and transparent process.”

Fact: CCIG in its newsletter promised that they had “no interest or involvement in the pursuit of coal-related operations at the former Oakland Army Base.” When CCIG, Mr. McClure’s company, applied for a lease on the former Army Base, they still publicly maintained that they did not intend to ship coal. It was only a year ago when a newspaper in Utah broke the story of Utah’s $53 million investment in the project that Oakland residents even learned of plans to ship coal through our city. Emails between Oakland developers and Utah financiers for the proposal emphasized that “the script was to downplay coal” and “less press is best.” There is nothing open or transparent about the way CCIG tried to sneak coal into OBOT.
False statement #2: “[T]he future operations and financing of the Oakland export terminal becomes more difficult—if not impossible—where there are political threats to block coal that amount to a taking of vested rights.”

Fact: In its Development Agreement, the City of Oakland retained the right to regulate the terminal in order to limit health and safety risks. CCIG agreed to this clause. There is no taking of vested rights if the City exercises that right as defined in clause 3.4.2.

False statement #3: “Further, the assertions that public funds are being used to fund the terminal are untrue.”

Fact: OBOT is part of a development that relies heavily on funding from the state of California, and the attempt to use the terminal for coal is linked to public funds from the state of Utah. The California Transportation Commission (CTC) invested $242 million in the horizontal infrastructure needed to develop the former army base property. Without this funding, OBOT would not be possible. Regarding Utah funds, see the next section.

False statement #4: “Recent press has focused on port funding activity in the Utah legislature. We have had nothing to do with that.”

Fact: Public records show that McClure personally went to Utah last April to ask its Community Impact Board to invest in OBOT. Whether or not CCIG dreamed it up, the Utah legislative action is an attempt to salvage the investment for which CCIG has lobbied. Exporting coal requires public funding because the private market is shunning coal investments in the wake of multiple coal company bankruptcies.

False statement #5: “Coal is now exported through California’s major ports and travels by rail through Oakland…. Like other products, coal already is transported through Oakland in open railroad cars on a regular basis already with no measurable impact.”

Fact: Coal is not transported through Oakland “on a regular basis.” In fact, there have been only two or three sightings of coal trains in the past 12 months coming through Oakland. Those highly unusual instances were due to the Richmond terminal running out of space and separate dispatcher error. Even if all Richmond coal came through Oakland, it would be one-tenth the amount projected for OBOT. The “measurable impact” of a pollutant increases when the quantity of that pollutant increases.

False statement #6: “Per federal regulation, coal is not a hazardous material. Of the more than 900 substances that appear on California’s Proposition 66 list of materials that pose a hazard to human health, coal is not one of them.”

Fact: The claim that coal is not regulated as a hazardous substance by the federal government is patently false. Coal dust is on the Occupational Safety and Health Administration’s list of “Toxic and Hazardous Substances.” https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=standards&p_id=9994 See also https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=25082 (“Coal dust is listed in 1910.1000 Table Z-1 and is automatically considered as a hazardous chemical for the purposes of hazard communication.”). The Proposition 66 list is a list of chemicals that are hazardous to human health, and does not purport to list all “substances” or “materials” or “minerals” that pose health or safety issues. Neither rat poison nor dynamite nor plutonium appears on the list. Toxic chemicals contained in coal dust—such as arsenic—are on the list. See http://oehha.ca.gov/prop65/prop65_list/Newlist.html.
**False statement #7:** “A recent Obama administration Federal Surface Transportation Board, Office of Environmental Analysis, Environmental Impact Statement in the Pacific Northwest confirmed that there are no health and safety impacts from the transportation of coal by rail.”

**Fact:** A Washington Times article dated April 17, 2015, reported on this, stating that “Federal regulators have released a draft study of the potential environmental impacts of the proposed Tongue River Railroad and found it could have minor to highly adverse impacts on transportation, climate change, noise, water and historical resources.” [Emphasis added]

**False statement #8:** “Project opponents ... have framed the terminal development as a choice between jobs or health.”

**Fact:** We are not “project opponents.” Our opposition is only to coal. No Coal in Oakland supports construction and operation of the bulk commodities terminal project; some NCIO activists have been involved in helping convert the Oakland Army Base into a global trade and logistics center for years.

We have never framed the terminal development as “a choice between jobs or health.” With other commodities, workers can have jobs that don’t threaten their health. There are 15,000 other bulk commodities that could be shipped through OBOT. These include many California agricultural crops, which represent jobs for Californians. Shipping less toxic commodities, in fact, may create more jobs than the handling of coal.

**False statement #9:** “After announcing it with much fanfare, the Sierra Club quietly dropped its California Environmental Quality Act lawsuit last year. The city withdrew an item to fund its ‘health and safety’ analysis in February. Why? Could it be that all of these politically motivated actions regarding the transportation of coal would never stand up to legal or scientific scrutiny?”

**Fact:** The item funding ESA was withdrawn from the Council’s February 16 agenda, as the mayor put it, “so that we may further evaluate other, potentially more effective options”—not because the evidence wouldn’t withstand scrutiny.

Similarly, the CEQA lawsuit was withdrawn without prejudice, in order to work collaboratively with the City. Rather than “quietly drop[ping]” the suit, Earthjustice issued a press release. They explained, “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.”

**False statement #10:** “It is easy to reduce complex arguments to soundbites that play well in a 24/7 news cycles. This leads to an environment where narrowly focused special interest groups revel in their righteous judgment over those who don’t agree with them.”

**Fact:** McClure and his partners are mistaken if they think the opposition to coal is coming from “narrowly focused special interest groups.” The ranks of those who are opposed to their plan to sell out Oakland to the coal industry comprise a wide swath of religious, labor, community, health, and neighborhood groups and other city residents. A partial list of those who have signed letters opposing coal can be accessed at https://docs.google.com/document/d/18PvxxHL3k3JSpP4QKgpYjAgGVMg8r2geEBnwbfFxQ-Y/edit.