

THE HEARING EXAMINER OF THE CITY OF SEATTLE

MAGNOLIA COMMUNITY COUNCIL,	)	
MIKE APPEL, M. JEANNE COULSON,	)	
EDWARD R. COULSON, DEBBIE	)	Hearing Examiner File: MUP 21-016
MULLINS, JONATHAN E. MULLINS, and	)	and MUP 21-017
JANIS TRAVEN,	)	
	)	Department Reference: 3028072-LU
Petitioners,	)	
	)	MCC REPLY IN SUPPORT OF EX PARTE
v.	)	MOTION FOR ISSUANCE OF
	)	SUBPOENAS DUCES TECUM
CITY OF SEATTLE,	)	
	)	
Respondent.	)	
_____	)	

**I. INTRODUCTION AND RELIEF REQUESTED**

"The lady doth protest too much, methinks."<sup>1</sup> In *Hamlet*, Shakespeare for the ages captured the street wisdom that when someone is insisting too much about something, the opposite may be true. Oceanstar in its Reply perpetuates its unsupportable assertions that there is nothing that MCC has a right to in its appeal, neither a right to a protected view at UJV, nor the right to discovery. Oceanstar repeatedly cites lack of relevancy, totally exaggerated burdens, and numerous other roadblocks to deny MCC even the simplest forms of discovery, such as the production of corporate minutes or the deposition of a property owner. MCC submits that Oceanstar is protesting way too much in response to MCC's efforts to obtain discovery because the reality is that Oceanstar, its related entities and owners, and its

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<sup>1</sup> Shakespeare, W., *Hamlet*, Act III, Scene II, Line 219 (original work published 1604).

architects, have readily obtainable information relevant and necessary to prove MCC's claims in this appeal. MCC requests that: 1) the Hearing Examiner issue the requested subpoenas duces tecum, with one slight modification, without further expense and delay; and 2) that under HER 1.03(c) the Hearing Examiner incorporate CR 26(i) in this appeal to guide the parties' remaining discovery efforts.

## **II. AUTHORITY AND ARGUMENT**

### **A. The scope of the appropriate discovery permitted in these proceedings is broad.**

HER 3.11 allows for "appropriate prehearing discovery, including written interrogatories, and deposition" and HER 3.12 allows for subpoenas to require a person to appear and testify at a deposition or hearing or to produce specified documents. Discovery is defined in HER 2.02(l) as: [T]he disclosure by one party to another party of documents and information that are relevant to the subject matter of an appeal, or are reasonably calculated to lead to documents and information that are relevant to the subject matter of an appeal." The broad scope of this definition is similar to the well-known provisions of CR 26(b), which the Hearing Examiner may look to for guidance under HER 1.03(c).

CR 26(b)(1) allows for discovery "regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action..." Further, "it is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence."

Under HER 3.11, the Hearing Examiner may prohibit or limit discovery only "where the Examiner determines it to be unduly burdensome, harassing, or unnecessary under the circumstances of the appeal." As set forth in detail below, MCC's requested subpoenas duces tecum seek information relevant and necessary to prove the claims raised in MCC's appeal. This is particularly true given the circumstances of this appeal, in that almost all of the relevant documents to prove MCC's claims are not in the possession, custody or control of MCC, thus limiting the amount of specificity MCC can provide to identify those documents. The Hearing

Examiner has rejected Oceanstar's arguments that MCC's claims should be dismissed and should now rule that the subpoenas duces tecum should issue so MCC may fairly and efficiently obtain and present evidence to prove its claims at the hearing.

**B. Oceanstar's objections to Request 8 are "protest too much."**

Request 8 asks for:

8. All Documents, including without limitation, any written communications of any kind with the Landmarks Preservation Board ("Board") or others, that discuss or refer to Admiral's House status as a designated landmark or the impact of Oceanstar's construction practices to construct the Buildings on the Admiral's House and its designated landmark area on the Property.

As it did to the previous 7 requests, Oceanstar asserts Request 8 "is not relevant to the issues pending in this appeal or reasonable in scope." Response, p. 10. Oceanstar goes on to say:

The second part of the request, relating to the Applicant's **so-called** "construction practices to construct the Buildings on the Admiral's House and its designated landmark area on the Property," is also not relevant. The approved plans clearly show that the Project will not be constructed "on the Admiral's House" or indeed on any portion of the property that is designated as a landmark. Kaylor Declaration, Ex. A, Sheets A0.03, A1.01, L1.1 and L3.0 (showing limits of disturbance outside historic/landmark boundary). Therefore, there are no documents responsive to this request, **as worded**. Further, it is unclear what is meant by "construction practices" but this is an appeal of a CUP, not a building permit. Accordingly, "construction practices" are not a subject of the Decision and are not relevant to this appeal. (Response, pp. 10-11, emphasis added.)

Oceanstar then describes a parade of possible burdens that the request would create that "could easily exceed a hundred hours of consultant and employee time." *Id.* at 11.

As Shakespeare warned us, Oceanstar's response is protest too much, for two reasons. First, Oceanstar should not have been confused by the term "construction practices", as disingenuously implied by the use of the words bolded in the Response above. In its response to Oceanstar's motion to dismiss, MCC stated the shortcoming it was concerned about in its appeal:



While the completed proposed building may be outside the landmark area, Oceanstar submitted no information [to SDCI] regarding the impact of construction activities on the site.

**Construction practices** for equipment access, excavation and construction on this steeply sloped and environmentally critical site will undoubtedly require excavation and construction access to the landmark area to erect retaining walls, foundations and exterior walls. (MCC Response to Applicant's Motion to Dismiss, p. 11 (emphasis added).)

Oceanstar presumably read MCC's Response before preparing its Reply to its Motion to Dismiss, so it is disingenuous for it to assert now that it somehow doesn't know the meaning of "construction practices."<sup>2</sup>

Second, and more importantly, MCC's investigation indicates that Oceanstar and its representatives have in fact been communicating about "construction means" related to the Project for three or four years. MCC contacted the Historic Preservation Coordinator (Coordinator) for the Landmarks Preservation Board (Board) on July 6 in preparation for filing its initial witness and exhibit list. Declaration of Edward R. Coulson in Support of Ex Parte Motion for Issuance of Subpoenas Duces Tecum (Coulson Dec.), ¶ 15. As a result of that conversation, MCC sent a Public Records Act request to the Board for copies of records related to the Project. The Board responded on July 9. Among the documents produced was a September 30, 2019 email from the Coordinator to Oceanstar's attorney. Coulson Dec., ¶ 16, Ex. 7. The email states the Coordinator had been recently contacted by a member of the public following a public design meeting about the Project. The email refers to a meeting with Oceanstar's attorney "one or two years ago" and the Coordinator's thought that they would meet again before the Project moved forward. Since she now realized that the Project was moving forward, she recommended another meeting to discuss the Project in more detail. The Coordinator stated:

It appears that the two houses are intended to be built outside of the designated property boundary, but there may be some site

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<sup>2</sup> Construction "means and methods" is a well-known term in the construction and development industry, and often referred to as "construction practices" or "construction means."

alterations and/or **construction means** that directly impact the landmark. (Coulson Dec., Ex. 7 (emphasis added).)

In her July 9 transmittal email to MCC, the Coordinator indicated in fact a follow up meeting to her September 30, 2019 email took place on October 22, 2019 and that, although she had no notes, she recalled that Oceanstar's attorney confirmed that if the "project team" were to propose any alterations or changes to the landmarked site, they would communicate with her "to acquire any necessary approvals. To date they have not submitted any scope of work for me to review."

In her Order on Oceanstar's motion to dismiss MCC's claim that Board approval was required for the Project, the Hearing Examiner stated MCC's claim raised an issue as to whether mitigation should be imposed under SMC 23.42.042 and ruled that "The issue, as clarified, should remain." Order, p.4.<sup>3</sup>

Under the Order and the circumstances of this appeal, it's hard to imagine a document more relevant and necessary to the issues in MCC's appeal than the Coordinator's September 30, 2019 email to Oceanstar's attorney, nor a document more responsive to Request 8. Oceanstar's objections are "protest too much" and reflect a type of practice that unfairly flaunts the broad scope of CR 26 and the spirit and intent of HER 3.11, to the clear prejudice to MCC to prepare for and prosecute its appeal.<sup>4</sup> As a matter of common sense, there is a high probability that the Buildings, which are shown to be within three feet of the protected landmark area, will require construction practices or construction means, involving excavation, construction and equipment access, shoring, and the like that intrude into the landscape area and will thus require Board review and approval. MCC requests issuance of the subpoenas duces tecum without further delay.

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<sup>3</sup> The Hearing Examiner also cited SDCI's authority under SMC 23.42.042(C) (*Id.*, fn. 16), which allows SDCI to deny a conditional use if adverse impacts cannot be mitigated satisfactorily.

<sup>4</sup> MCC's fear is that Oceanstar's unfair and unwarranted parsing of words such as "construction practices" and "construction means" will continue to prevent MCC from obtaining discovery needed to prepare for and prosecute its appeal. A "meet and confer" guideline, as suggested in II.H, *infra*, should help prevent this practice.

**C. The design, use and potential disposition of the Project buildings are relevant and necessary under the circumstances of this appeal.**

As stated in its appeal, MCC believes—and alleges—Oceanstar's intended non-residential use of the Project buildings (Buildings) will create unreasonable vehicular and pedestrian traffic through the north exterior stair access into UJV. Appeal, p. 7. MCC lists in its appeal some of the existing evidence that could support this belief (Appeal, p. 3):

There are many aspects of the Project that indicate a non-residential use of the buildings. Strikingly, the underground shared garage has parking spaces for 13 vehicles, an extraordinary amount of parking even by megamansion standards but very attractive if the ten combined bedrooms are occupied by the families of the bride and groom participating in a wedding. In addition, the shared aspect of many of the amenities, such as the plazas, pool, and walkways, would be most attractive to potential tenants that already know each other, as opposed to high end and resident owners that would expect a great deal of privacy to enhance enjoyment of the amenities. Indeed, rather than any separation by buffers, siting, or design of the structures to provide typical and desirable separation, the plans depict only an "imaginary property line" to separate the two structures.

The Hearing Examiner states she will consider removal of the north stair access as a "SMC 23.42.042 mitigation issue" at the hearing. Order, p. 3. MCC's Ex Parte Motion specifically seeks evidence of "factors to determine the reasonableness of the removal of the north stair access of the Project." Motion, p. 1.

MCC is entitled to seek evidence that supports its allegations from the entities and people to whom it directed the subpoenas that can be used at depositions and at the hearing. Because MCC has no idea of what form or where these documents might be, they can only be requested generically. As demonstrated below, the requests are limited to categories that are either relevant or calculated to lead to the discovery of admissible evidence and necessary (if they exist and are produced) to prove MCC's allegations.

**Request 1** asks for documents related to the design, use, or potential disposition of the Buildings. Oceanstar admits in its Response that the Buildings' design is relevant to the "views, use of the stairs, the Magnolia Bridge property and the Admiral's House" (Response, p.5) and



did not object to producing responsive design documents in its counsel's July 1 email.<sup>5</sup> In its current response, Oceanstar now argues only the final design is relevant. However, the process leading up to the final design is absolutely probative of and relevant to Oceanstar's intent and the adverse public impact from the north stair access. This is akin to the universal allowance of requests for drafts of documents to resolve ambiguities about the meaning and effect of a final version of a document. For example, are there communications or prior designs without north stair access, or communications about its purpose? Are there communications or different configurations of the parking for 13 cars, and the purpose of so large a capacity, or communications of prior designs without a pool or about including a shared pool, both of which may be probative of MCC's allegations of non-residential use? Considering only the final design and no communications or prior designs deprives MCC of relevant, necessary proof of its allegations of the adverse public impact of non-residential use of the north stair access on UJV.

Documents regarding the use of the Buildings are similarly relevant and necessary to MCC's allegations of non-residential use that need to be considered under SMC 23.42.042. For example, are there already agreements, or communications about future agreements or options, between Oceanstar and Global Seas regarding the use of the Buildings, once completed, similar to Global Seas' use of the Admiral's House, owned by Oceanstar, that might indicate intent to conduct short term rentals? Are there communications or any financial projections or pro formas showing income or expenses related to short term rentals? Are there documents regarding using the 13-car parking garage in connection with Global Seas' event operations, or regarding inclusion of a shared swimming pool, plazas and access? All of these possibilities bear directly on the possibility of overflow parking and vendor access through the north stair access to UJV and its potential adverse public impact on UJV, to be considered by the Hearing Examiner in this appeal. Order, p. 3.

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<sup>5</sup> Coulson Dec., ¶ 12, Ex. 3, "Requests 1, 3, and 4 seek documents relating to the "design, use, or potential disposition of the Buildings." ... The request should be limited to the design."

Documents regarding the potential disposition of the Buildings are similarly probative of MCC's allegations of non residential use and an adverse public impact of the north stair access on UJV. Are there documents or sale agreements of the Buildings from Oceanstar to Global Seas, in anticipation of short term rentals in support of its event/wedding business, or other documents regarding such an arrangement? Are there any financial pro formas or projections of such a disposition and have documents regarding a such a disposition been assembled as part of financing requests or internal feasibility studies? Responsive documents will allow MCC to prepare for depositions and present at the hearing evidence regarding the adverse public impact of the north stairs access on the use of UJV.

**Request 3** requests meeting minutes that discuss or refer to the design, use, or potential disposition of the Buildings. Again, this generic description is necessary because MCC does not and cannot know what precisely might have been discussed or how it would have been referred to in the minutes. As with Request 1, however, the design, use and potential disposition of the Buildings are relevant and necessary for the Hearing Examiner to "consider the north stair access as a SMC 23.42.042 mitigation issue." Order, p.3.

**Request 4** requests documents and communications with any person or entity not produced in response to 1 and 3 that discuss or refer to the design, use, or potential disposition of the Buildings. As with Requests 1 and 3, Oceanstar objects to the relevancy of this request. As MCC shows above with respect to Requests 1 and 3, the design, use, and potential disposition of the Buildings are relevant and necessary to the Hearing Examiner's inquiry into removal of the north stair access at the hearing. Order, p.3.

**D. Requests 1, 3, and 4 are not unduly burdensome under the circumstances of this appeal.**

Oceanstar's arguments about the burden of Request 1, 3, and 4 are contradictory and preposterous. In a July 7 email, Oceanstar's counsel makes the startling assertion that the depositions of the principal shareholders of Nina Fisheries, Inc., the sole governor of Global Seas, LLC and Oceanstar, LLC, are not necessary on the subject of views and adverse impacts



to adjacent properties. Coulson Dec., ¶ 14, Ex. 5. The reason? "Bob [Desautel] and Walter [Kuhr] are commercial fishermen, not architects or lawyers, and they rely on their professional consultants (and attorneys) to address these issues." *Id.*

Yet, according to the Declaration of Philip M. Powell (Global Seas' in house counsel) in Support of Applicant's Response to Ex Parte Motion for Issuance of Subpoena Duces Tecum (Powell Dec.), the eight employees of Global Seas ALL may have documents relating to the design, use and potential disposition of the Buildings, necessitating vast correspondence and file searches, in turn requiring an outside consultant, and then a review for attorney-client and work-product privilege. Powell Dec., ¶ 3.<sup>6</sup> Instead, Oceanstar has filed 38 pages of objections alleging just the opposite: the design, use and potential disposition of the Buildings figures prominently in all the Oceanstar and Global Seas employees' files. See, e.g., Powell Dec., ¶ 3. For the purposes of the ex parte motion, Oceanstar cannot have it both ways, and this contradiction should mean they have failed to demonstrate credibly that the requests are unduly burdensome.

Mr. Powell also complains of the burden of searching meeting minutes. He states Global Seas holds weekly minutes at which handwritten minutes are taken, but admits that "[m]ost of the topics discussed do not involve the Project." He calculates this requires a review of 192 sets of minutes. *Id.* Most likely it would take less than 30 seconds to see if the Buildings are mentioned in such a review, with mostly negative results, for a total effort of one hour and 36 minutes, plus some minimal additional time to prepare and copy the occasional responsive document. All discovery is burdensome, of course; the civil rules and the HER only preclude "unduly burdensome" requests. Given the time required to prepare and brief Oceanstar's motion to dismiss and now this reply to support response MCC's ex parte motion, a few hours' time to

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<sup>6</sup> A "meet and confer" conference pursuant to CR 26(i), or just plain courtesy and cooperation in a discovery plan, would most likely clear up this contradiction and result in an agreement. If indeed, the principals of the Oceanstar corporate web have almost no involvement in these issues, the search of employees' files would likely produce few if any mentions of the Buildings and could be substantially streamlined.

review meeting minutes is not burdensome. Overall, Oceanstar fails to show that Request 1, 3, or 4 are unduly burdensome.

**E. Request 2 as intended is relevant and necessary and not unduly burdensome under the circumstances of this appeal.**

Request 2 requests:<sup>7</sup>

2. All Documents, including without limitation, communications or agreements among representatives of Oceanstar, LLC, Golden Seas, LLC, Nina Fisheries, Inc. Robert Desautel, Walter Kuhr, Jr., Lil Kuhr and Kathy Shepard regarding the use of the Admiral's House from 2013 to the present.

This request is relevant and necessary to proof of the adverse public impact on UJV from the north stair access, as well as the need under SMC 23.42.042 for the imposition of mitigating conditions to prevent the adverse public impact of the UJV view. Agreements among the Oceanstar corporate web regarding the use of the Admiral's house is probative of what Oceanstar may intend for the use of the Buildings. Oceanstar allows Global Seas to use the Admiral's House for its offices and as the venue for Global Seas' wedding/event business, raising the possibility that Oceanstar would keep ownership of the Buildings and allow Global Seas to use them to support their wedding/event business. At the very least, responsive documents will allow MCC to prepare for depositions and to present evidence at the hearing under SMC 23.42.042 of the adverse public impact of such a use on the north stair access to UJV.

Similarly, agreements among the Oceanstar corporate web regarding the use of the Admiral's House are probative of issues related to mitigating conditions to protect the public view at UJV. Presumably, such agreements would allocate responsibility for maintenance, landscaping, capital improvements, and the like. Proving which entity is responsible for each specific task would be relevant and necessary to persuade the Hearing Examiner to include

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<sup>7</sup> Request 2 is referred to as Request 4 in all the text accompanying Section III.B.2. of Oceanstar's brief and in ¶¶ 4 and 5 of the Powell Dec.

appropriate responsibilities for meeting conditions imposed under SMC 23.42.042 to mitigate the adverse public impact of the Project by protecting the UJV public view.

MCC does offer a clarification to Request 2. MCC is only seeking agreements among the Oceanstar corporate web for the use of the Admiral's House, not the vast expanse of agreements imagined in the Powell declaration. MCC would be willing to rephrase Request 2 to seek "Documents concerning agreements among representatives of Oceanstar, LLC,..."<sup>8</sup>

With this clarification, the parade of burdens and potential for production of thousands or tens of thousands of documents outlined by Mr. Powell in paragraphs 4 and 5 of his declaration stemming from this request completely go away. Request 2 as revised should be allowed and the subpoenas duces tecum issued.

**F. Private property restrictions (Request 5, 6, and 7) are relevant and necessary to determine compliance with SMC 23.42.042.**

In its response, Oceanstar argues the Hearing Examiner's lack of jurisdiction over consistency with private property restrictions ("covenant consistency") completely precludes the subpoenas duces tecum's requests for documents related to the View Corridor, Historic Preservation Easement, and the Memorandum of Agreement (Requests 5, 6, and 7, respectively). Oceanstar made the same argument in its Motion to Dismiss, and the Hearing Examiner flatly rejected it: "A covenant may provide relevant context" for the Hearing Examiner to address consistency with SMC 23.42.042(B). Order, p. 3.

Oceanstar also argues the lack of reference to the Project in the requests makes them unreasonable in scope. Response, p. 9. This is nonsensical, as the context for consistency with SMC 23.42.042(B) has to do with what was done before the Project and forms the basis of determining conditions that "mitigate the adverse impacts on the public interests and other properties in the zone or vicinity". Documents responsive to the requests will provide that basis

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<sup>8</sup> The confusion from the request as written could have easily been cleared up in the discovery call scheduled for July 1 but cancelled by Oceanstar's counsel less than one hour before it started. Coulson Dec., ¶ 12. In addition, a "meet and confer" requirement under CR 26(i) would likely resolve this confusion.



for the Hearing Examiner in determining SDCI's code compliance and are therefore relevant and necessary under the circumstances of this appeal.<sup>9</sup>

Oceanstar claims that since there is no date range specified in the requests and they do not relate to the Project, a search would encompass Oceanstar's entire ownership (since 2013) and would be a "huge burden." Response, p. 10. Any burden simply comes from the restrictions themselves, not from the requests, as the restrictions provide historical background that is relevant and necessary to MCC's appeal. Accordingly, the requests are properly in the subpoenas.

**G. Subpoenas duces tecum to parties other than Oceanstar, Global Seas, and Nina Fisheries are not challenged by Oceanstar and should be issued.**

MCC's Motion seeks issuance of subpoenas duces tecum directed to eight different entities or individuals, all believed to possess relevant and necessary information to the issues in this appeal. Ms. Kaylor's request for briefing in response to the Motion was only on behalf of Oceanstar, and she signed Oceanstar's response as the attorney for Oceanstar. The Response included the declaration of Phillip Powell, Global Sea's inhouse counsel. Mr Powell stated Global Seas acted as the management company for Oceanstar and Nina Fisheries. Powell Dec., ¶ 2. Mr. Powell also identified Robert Desautel, Walter Kuhr, Lil Kuhr and Kathy Shepard as Nina Fisheries governors and named in the subpoenas, but made no statements regarding his work or any other relationship with these individuals. *Id.* at ¶ 3.

Accordingly, there has been no request for briefing or objections to the Motion in the record on behalf of the Project's architectural firm, Gelotte Hommas Drivdahl or Robert Desautel, Walter Kuhr, Lil Kuhr, and Kathy Shepard. MCC requests that the subpoenas duces tecum issue as to these deponents.

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<sup>9</sup> Oceanstar also argues the Historic Preservation Easement was not raised in the appeal. *Id.* Quite the contrary and as cited by the Hearing Examiner in the Order, the Appeal specifically asserts the mitigating conditions should consider the "specific restrictions, conditions, and view covenants that developed over the history of the Property," which would include the Historic Preservation Easement. Order, p. 2.

**H. CR 26(i) should be incorporated into the procedural rules for this appeal under HER 1.03(c).**

History demonstrates that over the years, discovery disputes among parties commonly increased the expense and delayed the resolution of lawsuits, and unnecessarily and inefficiently burdened courts with the resolution of the discovery disputes. As a result, the Washington Supreme Court enacted CR 26(i). The basic prophylactic procedure of this rule requires the parties to a discovery dispute to "meet and confer" with each other to resolve the dispute before bringing a motion to limit or compel requested discovery. MCC respectfully submits that the discovery disputes so far warrant applying CR 26(i) to the parties' future discovery efforts in this appeal, as allowed by HER 1.03(c).

The discovery issues preceding MCC's current motion are chronicled in the Coulson Declaration, ¶¶ 6-14. This chronicle demonstrates almost no agreements among the parties regarding discovery, as well as current unresolved issues, such as the conduct of owners' depositions. Rather than turning immediately to the Hearing Examiner to resolve a discovery dispute, parties under a "meet and confer" requirement would have added incentive and opportunity to resolve the dispute themselves.

Request 2 in this case provides an example of the usefulness of adopting CR26(i). Had Oceanstar notified MCC of its concerns about the scope of Request 2, MCC could have promptly corrected the misunderstanding about the request's scope and revised the request accordingly, just as it offers to do in this reply. See p. 9, fn 6, p. 11, fn. 8, *supra*. Instead, Oceanstar has turned to the Hearing Examiner, the parties have spent two weeks, many hours, and for Oceanstar, increasing legal fees without a resolution, and the Hearing Examiner will spend hours to review and rule on the dispute. Under CR 26(i)'s procedures, Request 2 would have long ago been resolved.<sup>10</sup> For these reasons, MCC requests the Hearing Examiner adopt CR 26(i) and 37(b) for guidance to the parties under HER 1.03(c).

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<sup>10</sup> To make sure CR26(i) is fully effective, MCC requests that the Hearing Examiner also incorporate CR 37(b) to provide further incentive for a successful "meet and confer" session.

### III. CONCLUSION

Oceanstar doth protest too much. MCC believes the Oceanstar corporate web, individuals, and architects have relevant and necessary information MCC needs to prepare for depositions and to prosecute its appeal. MCC requests the Hearing Examiner issue the requested subpoenas duces tecum, with one revision to Request 2, without further delay, adopt CR 26(i) and 37(b) to guide any future discovery disputes in this appeal.

DATED this 14th day of July, 2021.

/s/

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## DECLARATION OF SERVICE

I declare under penalty of perjury under the laws of the State of Washington that on this date, I sent true and correct copies of the MCC REPLY IN SUPPORT OF EX PARTE MOTION FOR ISSUANCE OF SUBPOENAS DUCES TECUM and DECLARATION OF EDWARD R. COULSON IN SUPPORT OF EX PARTE MOTION FOR ISSUANCE OF SUBPOENAS DUCES TECUM to each person listed below, in the manner indicated.

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SIGNED this 14th day of July, 2021, in Bend, Oregon.

/s/

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