

**BEFORE THE HEARING EXAMINER
CITY OF SEATTLE**

In the Matter of the Appeals of

S-15-001 and S-15-002

FOSS MARITIME and PORT OF SEATTLE

From an interpretation by the Director,
Department of Planning and Development

Director's Interpretation:
15-001


**ORDER ON MOTION TO QUASH THE
DEPOSITION OF BENJAMIN PERKOWSKI**

The Director, Department of Planning and Development (DPD) moved to quash the deposition of Benjamin Perkowski. Appellants Foss Maritime and Port of Seattle filed responses opposing the motion.

Under HER 3.11, appropriate prehearing discovery is permitted. The Hearing Examiner may limit or prohibit discovery if the Examiner determines it to be unduly burdensome, harassing, or unnecessary under the circumstances of the appeal. Under HER 1.03, the Hearing Examiner may look to the Superior Court Civil Rules for guidance. CR 26 provides that "*Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action,*" and that 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.*"

DPD's motion argues that the deposition of Mr. Perkowski would be on matters outside the scope of the Examiner's jurisdiction and would be unauthorized and burdensome. It appears that Appellants seek to depose Mr. Perkowski concerning the shoreline exemption granted to the Port for the replacement of bollards at Terminal 5 and about prior decisions regarding cargo terminal uses. The discovery sought appears reasonably calculated to lead to the discovery of evidence relevant to the remaining issues on appeal. The motion to quash is therefore denied.

Entered this 6th day of July, 2015.



Anne Watanabe, Deputy Hearing Examiner
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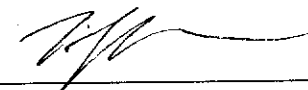
CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that on this date I sent true and correct copies of the attached **Order on Motion to Quash the Deposition of Benjamin Perkowski** to each person listed below, or on the attached mailing list, in the matter of **Foss Maritime Company and Port of Seattle**, Hearing Examiner Files: **S-15-001 & S-15-002**, in the manner indicated.

Party	Method of Service
<p>Foss Maritime Company c/o John C. McCullough McCullough Hill Leary, P.S. 701 Fifth Avenue, Suite 6600 Seattle, WA 98104 jack@mhseattle.com</p> <p>David R. West Garvey Shubert Barer drwest@gsblaw.com</p> <p>Laura Counley lcounley@mhseattle.com</p> <p>Dominique Barrientes dbarrientes@gsblaw.com</p>	<p><input type="checkbox"/> U.S. First Class Mail, postage prepaid</p> <p><input type="checkbox"/> Inter-office Mail</p> <p><input checked="" type="checkbox"/> E-mail</p> <p><input type="checkbox"/> Fax</p> <p><input type="checkbox"/> Hand Delivery</p> <p><input type="checkbox"/> Legal Messenger</p>
<p>Port of Seattle c/o Traci Goodwin Senior Port Counsel PO Box 1209 Seattle, WA 98111 goodwin.t@portseattle.org</p> <p>Patrick Schneider Foster Pepper schnp@foster.com</p> <p>Adrian Winder winda@foster.com</p>	<p><input type="checkbox"/> U.S. First Class Mail, postage prepaid</p> <p><input type="checkbox"/> Inter-office Mail</p> <p><input checked="" type="checkbox"/> E-mail</p> <p><input type="checkbox"/> Fax</p> <p><input type="checkbox"/> Hand Delivery</p> <p><input type="checkbox"/> Legal Messenger</p>

<p>Brenda Bole boleb@foster.com</p>	
<p>Andy McKim DPD SMT-18-00 Andy.McKim@seattle.gov</p>	<p><input type="checkbox"/> U.S. First Class Mail, postage prepaid <input type="checkbox"/> Inter-office Mail <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> Fax <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Legal Messenger</p>
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Dated: July 6, 2015



 Tiffany Ku
 Legal Assistant