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BEFORE THE HEARING EXAMINER  
CITY OF SEATTLE

In the Matter of the Appeals of  
**FOSS MARITIME COMPANY AND  
PORT OF SEATTLE**  
from an interpretation issued by the Director,  
Department of Planning and Development

Hearing Examiner File Nos.  
S-15-001; S-15-002

**FOSS MARITIME COMPANY'S  
WITNESS AND EXHIBIT LIST**

(Code Interpretation No. 15-001)

Appellant Foss Maritime Company ("Foss") submits the following list of witnesses and exhibits in the above referenced appeal. Foss reserves the right to supplement, amend, or revise this list.

**I. WITNESS LIST**

The following are witnesses Foss may call in this matter:

1. Paul Gallagher, Foss. May testify regarding (i) Foss's actual and intended activities at Terminal 5 and other facilities in the City of Seattle and Puget Sound; (ii) the operations of drilling rigs at Terminal 5 and at sea and the loading and unloading of goods and/or cargo therefrom; and (iii) other issues relevant to the appellant's case.

2. Paul Stevens, Foss. May testify regarding (i) Foss's negotiations of its lease of Terminal 5 with the Port of Seattle; (ii) Foss's communications with the Port of Seattle and the

1 City of Seattle regarding intended operations at Terminal 5; (iii) Foss's actual and intended  
2 activities at Terminal 5 and at other facilities in the City of Seattle and Puget Sound; and (iv)  
3 other issues relevant to appellant's case.

4 3. Michael Wardwell, Foss. May testify regarding (i) the operations of drilling rigs  
5 at Terminal 5 and at sea and the loading and unloading of goods and/or cargo therefrom, and (ii)  
6 other issues relevant to appellant's case.

7 4. Andrew McKim, City of Seattle Department of Planning and Development  
8 ("DPD"). May testify regarding the classification of the actual and intended Foss uses at  
9 Terminal 5, of cargo terminal and moorage uses elsewhere in the City of Seattle, and matters  
10 relating to DPD's Interpretation No. 15-001.

11 5. Ben Perkowski, DPD. May testify regarding the shoreline exemption granted to  
12 the Port of Seattle on February 5, 2015 and/or the classification of the actual and intended Foss  
13 uses at Terminal 5, of cargo terminal and moorage uses elsewhere in the City of Seattle, and  
14 various matters relating to DPD's Interpretation No. 15-001.

15 6. Cliff Portman, DPD. May testify regarding the classification of the actual and  
16 intended Foss uses at Terminal 5, of cargo terminal and moorage uses elsewhere in the City of  
17 Seattle, and various matters relating to DPD's Interpretation No. 15-001.

18 7. Diane Sugimura, DPD. May testify regarding the classification of the actual and  
19 intended Foss uses at Terminal 5, of cargo terminal and moorage uses elsewhere in the City of  
20 Seattle, and various matters relating to DPD's Interpretation No. 15-001.

21 8. Sue Putnam, DPD. May testify regarding permit history at Terminal 5, and other  
22 matters regarding DPD's Interpretation No. 15-001.

23 9. Everett Billingslea, Alaska Marine Lines. Mr. Billingslea or another  
24 representative may testify regarding Alaska Marine Lines' barge transportation operations, based  
25 out of Terminal 115, to remote parts of Alaska.  
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1           10.     Mike Hyde, American Seafoods Company. Mr. Hyde or another representative  
2 may testify regarding American Seafoods Company's use and moorage of its vessel(s) at  
3 Terminal 91, including an explanation of its conventional (non-container) cargo operations such  
4 as loading and unloading of fish, netting, and other operational materials, its importance to  
5 Seattle's maritime community, and how these uses will be impacted by the Interpretation.

6           11.     Charlie Costanzo, American Waterway Operators. Mr. Costanzo or another  
7 representative may testify regarding this national trade association's representation of the  
8 nation's tugboat, towboat and barge industry, lobbying for sound maritime, environmental and  
9 labor policy, and the impact of the Interpretation on these industries and their members.

10          12.     Doug Christensen, Arctic Storm, Inc. Mr. Christensen or another representative  
11 may testify regarding Arctic Storm, Inc.'s use and moorage of its vessel(s) at Terminal 91,  
12 including an explanation of its conventional (non-container) cargo operations such as loading  
13 and unloading of fish, netting, and other operational materials, its importance to Seattle's  
14 maritime community, and how these uses will be impacted by the Interpretation.

15          13.     Warren Aakervik, Ballard Oil Company. Mr. Aakervik or another representative  
16 may testify regarding Ballard Oil Company's marine fueling facility operations located on a pier  
17 on the north side of the Lake Washington Ship Canal, in Salmon Bay, as well as its supply of  
18 other goods and materials to commercial, government and private vessels, including the Pacific  
19 Northwest fishing fleet.

20          14.     Julia Shemesh, Crowley Maritime Corporation. Ms. Shemesh or another  
21 representative may testify regarding Crowley Maritime Corporation's vessel assist, escort  
22 service, and vessel preparation prior to deployment operations at Pier 17 and Terminal 18. Ms.  
23 Shemesh or another representative also may testify about how the permits and contracts they  
24 have entered into with other vessels are in jeopardy depending on the outcome of this appeal.

25          15.     John Bundy, Glacier Fish Company. Mr. Bundy or another representative may  
26 testify regarding Glacier Fish Company's use and moorage of its vessel(s) at Fisherman's  
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1 Terminal in Salmon Bay, including an explanation of its conventional (non-container) cargo  
2 operations such as loading and unloading of fish, netting, and other operational materials, its  
3 importance to Seattle's maritime community, and how these uses will be impacted by the  
4 Interpretation.

5 16. Jordan Royer, Pacific Merchant Shipping Association. Mr. Royer or another  
6 representative may testify regarding Pacific Merchant Shipping Association's global maritime  
7 trade operations involving representing owners and operators of terminals and vessels, many of  
8 whom operate in Seattle at Port facilities and throughout the world.

9 17. Rich Wood, Premier Pacific Seafoods. Mr. Wood or another representative may  
10 testify regarding Premier Pacific Seafoods' North Pacific Pollock and Hake fish processing  
11 operations, the use and moorage of its vessel(s) at Terminal 91, including an explanation of its  
12 conventional (non-container) cargo operations such as loading and unloading of fish, netting, and  
13 other operational materials, its importance to Seattle's maritime community, and how these uses  
14 will be impacted by the Interpretation.

15 18. Vince O'Halleran, Sailor's Union Of The Pacific. Mr. O'Halleran or another  
16 representative may testify regarding the Sailor's Union Of The Pacific's members' activities as  
17 mariners, fisherman, boatmen and other workers working at cargo facilities throughout Seattle,  
18 including Terminal 5, and the impact of the Interpretation on such activities.

19 19. Augie Tellez, Seafarer's International Union. Mr. Tellez or another representative  
20 may testify regarding Seafarer's International Union's members' activities as working at cargo  
21 facilities throughout Seattle, including Terminal 5, and the impact of the Interpretation on such  
22 activities.

23 20. Kyle Lukin or Mark Knudsen, SSA Terminals, LLC. Mr. Lukin, Mr. Knudsen or  
24 another representative may testify regarding SSA Terminals, LLC's vessel transportation service  
25 operations, including marine and cargo operations, at Terminal 18, the largest container facility  
26 in the Pacific Northwest, and other terminals within Seattle.

1 21. Richard Berkowitz or James Henry, Transportation Institute. Mr. Berkowitz, Mr.  
2 Henry or another representative may testify regarding how a productive and efficient maritime  
3 industry relies on agreements and government issued rights and permits and the impact of the  
4 Interpretation on such reliance.

5 22. Rear Admiral John Lockwood, Vigor Industrial, LLC. Mr. Lockwood or another  
6 representative will testify regarding Vigor Industrial, LLC's operations of its 27-acre vessel  
7 construction and repair facility located on Harbor Island and may include an explanation of the  
8 assorted large cargo handling operations and the impact of the Interpretation on such activities  
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10 23. Possible additional expert witness regarding issues of cargo terminal activities or  
11 other issues raised in the appeals.

12 24. Witnesses listed by any other party.

13 25. Witnesses in rebuttal to testimony or evidence introduced by Respondent City of  
14 Seattle and/or in response to witnesses identified by the City in its witness list.

## 15 II. EXHIBIT LIST

16 1. DPD Interpretation No. 15-001.

17 2. Drafts and/or notes regarding DPD Interpretation No. 15-001.

18 3. 1995 Shoreline Substantial Development Permit issued to the Port of Seattle for  
19 Terminal 5.

20 4. City of Seattle Analysis and Decision of the Director of the Department of  
21 Construction and Land Use for Application Numbers 9404118 and 9404124, dated September  
22 24, 1995.

23 5. Resolution 3650, as amended.

24 6. Port of Seattle Term Lease.

25 7. Lease between the Port of Seattle and Eagle Marine dated September 26, 1985.

26 8. PSR Superfund Site Record of Decision.

27 9. Harbor Development Strategy 21.  
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- 1           10.    Container Development Plan
- 2           11.    Terminal 5 Southwest Harbor Redevelopment Proposal
- 3           12.    Site Plans for Terminal 5.
- 4           13.    Bollard plans from Terminal 5.
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- 6           14.    Record provided to King County Superior Court by the Port of Seattle for case
- 7 No. 15-2-05143-1 SEA.
- 8           15.    Lease between Foss and the Port of Seattle, dated February 6, 2015.
- 9           16.    Port of Seattle License for Temporary Use and/or Occupancy to Foss.
- 10          17.    Correspondence between Port of Seattle and Foss.
- 11          18.    Shoreline exemption for replacement of mooring bollards, dated February 5,
- 12 2015.
- 13          19.    Correspondence between Port of Seattle and City of Seattle, including drafts,
- 14 regarding the use and/or replacement of mooring bollards at Terminal 5.
- 15          20.    Application materials, including drafts, from the Port of Seattle for shoreline
- 16 exemption for the replacement of mooring bollards.
- 17          21.    Records of the activities performed at Terminal 5, including logs and manifests;
- 18 work logs; delivery slips; stow plans for vessels; summaries of loading, unloading, and storage
- 19 activities; and employee shift records.
- 20          22.    Licenses, certificates of registry, and other vessel records pertaining to the Polar
- 21 Pioneer, Noble Discoverer, and other support vessels.
- 22          23.    Regulations and codes applicable to mobile offshore drilling units.
- 23          24.    Illustrative drawings, renderings and photographs of Terminal 5, Terminal 91, and
- 24 other cargo terminals.
- 25          25.    Additional permits, exemptions, or other documentation issued by the City of
- 26 Seattle for terminals and other properties in Puget Sound.
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- 1           26.    Maps showing route of the Polar Pioneer and support vessels.
- 2           27.    Handbooks and records regarding maintenance activities at Terminal 5 in the
- 3 winter.
- 4           28.    Memorandum regarding staff briefing to Port Commission, as produced by DPD
- 5 at RFP4000640-647.
- 6           29.    Photographs and/or graphics relating to cargo loading operations, goods loaded
- 7 onto the Polar Pioneer and/or supporting vessels at Terminal 5, drilling rigs in Puget Sound, the
- 8 Polar Pioneer, Noble Discoverer, and associated vessels.
- 9           30.    Records of moorage at cargo terminals in Puget Sound.
- 10          31.    Records from the activities performed at Terminal 91, including records of fishing
- 11 vessel moorage and wintering vessels.
- 12          32.    Resumes of expert witnesses, if any.
- 13          33.    Excerpt from Webster's New Collegiate Dictionary produced by the City of
- 14 Seattle at RFP2000213-15.
- 15          34.    Correspondence and materials submitted by Foss to the DPD in response to DPD
- 16 inquiries.
- 17          35.    Correspondence and materials submitted by Port to the DPD in response to DPD
- 18 inquiries.
- 19          36.    City of Seattle's responses to Foss's Interrogatories.
- 20          37.    Records of DPD enforcement actions regarding vessel moorage.
- 21          38.    Correspondence, including emails, produced by DPD regarding the Interpretation,
- 22 Terminal 5, Foss, cargo terminals, Shell, or other issues relevant to this appeal.
- 23          39.    Correspondence, including emails, produced by the Seattle City Council
- 24 regarding the Interpretation, Terminal 5, Foss, cargo terminals, Shell, or other issues relevant to
- 25 this appeal.
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1           40. Correspondence, including emails, produced by the Office of the Mayor regarding  
2 the Interpretation, Terminal 5, Foss, cargo terminals, Shell, or other issues relevant to this appeal.

3           41. Press releases pertaining to the Interpretation, Terminal 5, Foss, cargo terminals,  
4 Shell, or other issues relevant to this appeal.

5           42. Media articles pertaining to the Interpretation, Terminal 5, Foss, cargo terminals,  
6 Shell, or other issues relevant to this appeal.

7           43. Any or all items disclosed by the City of Seattle in response to Foss's Public  
8 Records Act requests and/or Requests for Production.

9           44. Additional exhibits listed by the Port, the City of Seattle, Intervenor Puget  
10 Soundkeeper Alliance and the T-5 Intervenors.

11           45. Exhibits in rebuttal to testimony or evidence introduced by the City of Seattle or  
12 Intervenor Puget Soundkeeper Alliance.

13           46. Exhibits allowed by Hearing Examiner into evidence.

14 Foss reserves the right to submit additional exhibits and call additional witnesses in  
15 response to testimony and evidence introduced by the City of Seattle, as requested by the  
16 Hearing Examiner, or substitute witnesses due to the availability of witnesses.  
17

18 Dated this 21st day of July, 2015.

MCCULLOUGH HILL LEARY, P.S.

19  
20 By: 

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Attorneys for Foss Maritime Company

23 GARVEY SCHUBERT BARER

24  
25 By: 

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1 **CERTIFICATE OF SERVICE**

2 I, Dominique Barrientes, certify under penalty of perjury under the laws of the State of  
3 Washington that on July 21, 2015, I caused to be served the foregoing document, FOSS  
4 MARITIME'S WITNESS AND EXHIBIT LIST, on the person(s) identified below in the  
5 manner shown:

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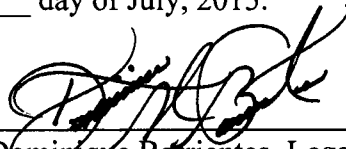
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15 Dated at Seattle, Washington, this 21<sup>st</sup> day of July, 2015.

17   
18 \_\_\_\_\_  
Dominique Barrientes, Legal Assistant

19 GSB:7163129.1