

BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

In the Matter of the Appeal of:) Hearing Examiner File No. S-15-001
) (DPD Project No. 3020324)
FOSS MARITIME COMPANY)
)
from an Interpretation by the Director, Department)
of Planning and Development.)

_____))
) Hearing Examiner File No. S-15-002
) (DPD Project No. 3020324)
In the Matter of the Appeal of the:)
)
PORT OF SEATTLE,)
) ENVIRONMENTAL
from Interpretation No. 15-001 of the Director of) INTERVENORS' OPPOSITION
the Department of Planning and Development.) TO FOSS MARITIME'S MOTION
) FOR PROTECTIVE ORDER
_____)

The Environmental Intervenors Puget Soundkeeper Alliance *et al.* ("Soundkeeper") file this opposition to the motion for a protective order filed by Appellant Foss Maritime Company.

The focus of the motion is a 30(b)(6) deposition that the City of Seattle has requested in order to ascertain what activities have taken place and are planned for Terminal 5 under the lease. Foss never asserts that these issues are irrelevant. In fact, these issues go to the core question in this case – whether the new use of Terminal 5 conforms to the shoreline permit establishment and designation of Terminal 5 as a "cargo terminal." As such, Foss needs to prepare witnesses to

1 testify on these issues at the upcoming hearing. Foss's objection that preparing for a 30(b)(6)
2 deposition on very targeted issues that will be central in the hearing will divert the legal team
3 (which now comprises two law firms and at least five attorneys) away from trial preparation
4 appears to be overblown.

5 Throughout its motion, Foss casts aspersions on the motives of Soundkeeper and the
6 City. Soundkeeper attaches a declaration of counsel providing the specific details of the two
7 statements she made, which are mischaracterized in Foss's motion.¹ In this opposition,
8 Soundkeeper merely wishes to assure the Hearing Examiner that the Soundkeeper has no desire
9 to delay this hearing and will abide by the schedule set by the Hearing Examiner. Declaration of
10 Patti Goldman (Aug. 5, 2015).

11 As for the 30(b)(6) deposition, it should come as no surprise that Soundkeeper would
12 want to participate in such a deposition as a party aligned with the City and that the two aligned
13 parties might coordinate. In discussions with counsel, Soundkeeper's counsel indicated that they
14 might have 1-2 hours of questions depending on whether the City's questioning produces all
15 relevant information. The entire deposition should take no more than 4-5 hours at most.

16
17
18
19
20
21
22

23 ¹ The motion's rhetoric accusing Soundkeeper of using the City as their proxy or surrogate, being
24 unable to act on our own behalf, or defending against this appeal for improper purposes merits
no response.

1 DATED this 5th day of August, 2015.

2
3 

4 PATTI A. GOLDMAN, WSBA No. 24426
5 MATTHEW R. BACA, WSBA No. 45676
6 Earthjustice
7 705 Second Avenue, Suite 203
8 Seattle, WA 98104-1711
9 (206) 343-7340 | Phone
10 (206) 343-1526 | Fax
11 pgoldman@earthjustice.org
12 mbaca@earthjustice.org

13 *Attorneys for Intervenors Puget Soundkeeper*
14 *Alliance, Seattle Audubon Society, Sierra Club*
15 *and Washington Environmental Council*