

**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**

Appellant Foss Maritime (Foss) moved for a protective order to quash a CR 30(b)(6) deposition sought by the Department and Intervenor Puget Sound Alliance et al (Soundkeeper). Soundkeeper and DPD filed responses opposing the motion. Foss essentially argues that the discovery sought is unduly burdensome, given the timing of the request so close to hearing. (Foss also argues that the discovery is motivated by Soundkeeper, not DPD, but that is not shown by the filings.) Under Hearing Examiner Rule 3.11, appropriate discovery is permitted, but the Examiner may prohibit or limit discovery where the Examiner determines it to be unduly burdensome, harassing, or unnecessary under the circumstances of the appeal.

The filings describe the formal and informal discovery requests that the parties have discussed and attempted to resolve. It is clear that all parties have been working diligently to adhere to a brisk hearing schedule for disclosures and prehearing filings. Because of demands from that schedule, DPD apparently did not confirm for Foss until July 29, 2015, that it wanted to take a CR 30(b)(6) deposition. DPD's response notes that it did not set a date for the deposition because it expected to be able to work with Foss's counsel to set the deposition. Foss, on the other hand, argues that it could not reasonably anticipate a CR 30(b)(6) deposition request based on DPD's prior written discovery requests, which apparently cover the same topic; and Foss also notes that DPD had dropped its request for a similar deposition of the Port's witnesses, which further led Foss to believe its witnesses would not be deposed. In addition, Foss points out that its witnesses will testify as fact witnesses, so that the preparation for a CR 30(b)(6) deposition does not coincide with its preparations for hearing and will be burdensome.

Given the late notice concerning the CR 30(b)(6) deposition, and the fact that the hearing begins next week, allowing the deposition to go forward would place an undue burden on Foss, and the motion to quash is granted.

Entered this 7th day of August, 2015.



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