

Description

Minutes
Thursday August 13, 2015
Day 1
S-15-001 & S-15-002
Foss Maritime Company and Port of Seattle
Terminal 5
Time: 9:00 AM
Examiner: Anne Watanabe
Assistant: Tiffany Ku

Party Representatives:

Foss Maritime, Appellant
c/o David R. West
Garvey Shubert Barer
1191 2nd Avenue, 18th Floor
Seattle, WA 98101

and

Jack McCullough
McCullough Hill Leary, P.S.
701 Fifth Avenue, Suite 6600
Seattle, WA 98104

Port of Seattle, Appellant
c/o Traci Goodwin
PO Box 1209
Seattle, WA 98111

and

Patrick Schneider
Foster Pepper
111 Third Ave, Suite 3400
Seattle, WA 98101

Eleanore Baxendale, for DPD
City Attorney's Office
701 Fifth Ave, Suite 2050
Seattle, WA 98104

Puget Soundkeeper, Intevenor
c/o Patti Goldman and Matthew Baca
Earthjustice
705 Second Ave, Suite 203

	Seattle, WA 98104	
	T-5 Intevenors, Intevenor c/o Molly Barker Veris Law Group, PLLC 1809 Seventh Ave, Suite 1400 Seattle, WA 98101	
Date	8/13/2015	Location Large Hearing Room
Time	Speaker	Note
9:00:32 AM		Examiner opens hearing.
9:02:17 AM		Preliminary matters are discussed.
9:03:31 AM		Parties are introduced.
9:04:31 AM		Examiner addresses DPD Motion in Limine and order of witnesses.
9:33:20 AM		Examiner addresses sites that have not been a subject of enforcement.
9:38:55 AM		Patrick Schneider, attorney for the Port of Seattle begins opening statement.
9:51:40 AM		Schneider concludes. David West, attorney for Foss Maritime begins opening statement.
9:56:38 AM		West concludes. Molly Barker, attorney for T-5 Intevenors waives opening statement.
9:56:49 AM		Eleanore Baxendale, for attorney for DPD begins opening statement.
10:03:24 AM		Baxendale concludes. Patti Goldman, attorney for Puget Soundkeeper begins opening statement.
10:07:31 AM		West calls Andy McKim, DPD Land Use Supervisor as witness and he is sworn in.
10:08:26 AM		West offers: Foss Exhibit 1, DPD Interpretation No.15-001 and Foss Exhibit 2, Draft of Interpretation with arguments.
10:09:18 AM		West begins direct examination of McKim.
10:28:34 AM		West offers Foss Exhibit 18, Answers from Port of Seattle Meeting with DPD.
10:30:36 AM		West offers Foss Exhibit 17, McKim Meeting Notes.
10:32:26 AM		West offers Foss Exhibit 16, Image of Terminal 5
10:33:23 AM		West offers Foss Exhibit 21, E-mail Correspondence
10:37:21 AM		Objection by Baxendale, witness still reading exhibit.

10:39:14 AM		West offers Foss Exhibit 20, Port of Seattle Memorandum, 4/6/15.
10:40:20 AM		West offers Foss Exhibit 19, E-mail Correspondence from Traci Goodwin, 4/6/15.
10:42:38 AM		West offers Foss Exhibit 22, Letter from Port of Seattle
10:43:47 AM		West offers Foss Exhibit 23, Declaration of George Blomberg, 4/23/15.
10:44:11 AM		West offers Foss Exhibit 24, Declaration of Paul Meyer, 4/23/15.
10:44:35 AM		Foss Exhibits listed above are admitted.
10:45:34 AM		West offers Foss Exhibit 8, Draft questions for Interpretations, 4/13/15.
10:54:34 AM		Baxendale objects, speculation.
10:55:06 AM		Break 15 min. Off the record.
11:10:33 AM		Back on the record. West continues direct examination of McKim.
11:12:50 AM		West offers Foss Exhibit 25 Webster's Dictionary Definition of "good".
11:24:31 AM		West offers Foss Exhibit 61 Photographs of Terminal 5.
11:24:39 AM		Baxendale objects, no foundation has been laid.
11:24:51 AM		West responds.
11:25:47 AM		Baxendale objects, speculation.
11:25:53 AM		Examiner will allow McKim to answer question.
11:43:47 AM		Baxendale objects. Objection is sustained.
11:53:54 AM		Objection by Baxendale, misstating testimony.
11:54:14 AM		West responds to objection.
11:54:56 AM		Objection overruled. West restates question.
12:10:31 PM		Objection by Baxendale, relevance.
12:10:39 PM		West responds.
12:10:46 PM		Objection is sustained.
12:11:39 PM		West offers Foss Exhibit 105 Shoreline Notice of Violation No. 1034649
12:13:10 PM		West responds to objection.
12:13:15 PM		Baxendale responds to West, to support her objection.
12:15:04 PM		Objection sustained.

12:16:03 PM		Lunch break, off the record. To return at 1:30.
1:31:14 PM		Back on the record. West continues direct examination of McKim.
1:31:51 PM		Objection by Baxendale, addressed earlier.
1:32:18 PM		Objection sustained. West and Schneider respond.
1:33:09 PM		Examiner allows West to continue line of questioning.
1:40:00 PM		West offers DPD Exhibit 11, Permit from Port Terminal 91.
1:48:58 PM		West offers Foss Exhibit 89, DPD Decision #3006901.
1:51:03 PM		Objection by Baxendale.
1:56:27 PM		West offers Foss Exhibit 90 DPD Decision #3017290.
2:06:56 PM		West concludes direct examination of McKim.
2:07:12 PM		Schneider for Port of Seattle begins cross examination of McKim.
2:34:30 PM		Schneider concludes.
2:34:38 PM		Baxendale for DPD begins cross examination of McKim.
2:45:27 PM		Objection by Schneider, leading questions.
2:45:42 PM		Objection overruled.
2:59:19 PM		Baxendale concludes cross examination.
2:59:27 PM		Matthew Baca for Puget Soundkeeper begins cross examination of McKim.
3:03:42 PM		Objection by West, leading question.
3:03:54 PM		Baca rephrases question.
3:05:11 PM		Objection by West, lack of foundation.
3:05:18 PM		Objection overruled.
3:08:27 PM		Objection by West, form of question.
3:08:33 PM		Objection overruled.
3:11:58 PM		Baca concludes.
3:12:02 PM		West begins redirect of McKim.
3:18:54 PM		West concludes. Schneider begins redirect of McKim.
3:20:19 PM		Objection by Baxendale, relevance.
3:21:06 PM		Schneider responds.
3:21:14 PM		Schneider is allowed to continue.
3:27:44 PM		Schneider concludes.

3:27:52 PM		15 minute break. Off the record.
3:42:41 PM		Back on the record.
3:43:26 PM		Schneider offers Port Exhibits 23, Mooring Dolphins Map & 24, Port Maritime Facilities.
3:43:41 PM		Schneider calls Greg Englin of Port of Seattle Maritime Operations as witness and he is sworn in. Direct examination of Englin.
4:02:42 PM		Schneider offers Port Exhibit 22, Terminal Tariff #5.
4:28:52 PM		Schneider offers Port Exhibits 1-8 Diagrams of Berthing Status/Projects.
4:31:54 PM		Patti Goldman for Puget Soundkeeper objects.
4:33:17 PM		Examiner responds that this is regarding general port activity.
4:44:18 PM		Schneider offers Exhibits 1-8 to be admitted , Baxendale objects and asks for clarification.
4:45:01 PM		Schneider responds.
4:46:03 PM		Baxendale continues objection. Examiner responds, accepting information about what is currently occurring and how vessels behave. Port Exhibits 1-8 are admitted.
4:47:34 PM		Schneider continues direct examination of Englin.
4:58:26 PM		Examiner discusses time.
5:02:38 PM		Hearing is adjourned, will continue on 8/14/15.