

Description

Minutes
Day 4
Tuesday August 25, 2015
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 Joshua Brower and Molly Barker Veris Law Group, PLLC 1809 Seventh Ave, Suite 1400 Seattle, WA 98101	
Date	8/25/2015	Location Large Hearing Room
Time	Speaker	Note
8:59:12 AM		Hearing continues from 8/24/15.
8:59:36 AM		David West calls Paul Gallagher of Foss Maritime as witness and he is sworn in. West begins direct examination of Gallagher.
9:51:29 AM		West refers witness to Foss Exhibits 62-85, various photographs and documentation of T5 activity.
10:24:23 AM		Objection by Goldman, witness does not have knowledge.
10:24:32 AM		Objection sustained. West continues direct examination.
10:31:52 AM		West moves to admit Foss Exhibits 61-85.
10:32:37 AM		Objection by Goldman, Foss Exhibits 61 and 62, photographs need to identify where taken and date.
10:34:39 AM		West responds.
10:35:01 AM		West must lay foundation. Examiner indicates rest of exhibits will go to the weight. West to illicit testimony from Gallagher.
10:39:22 AM		Objection renewed by Goldman, conclusory.
10:39:57 AM		Examiner responds and will admit Foss Exhibits 61-85.
10:41:37 AM		West continues direct examination of Gallagher.
10:44:39 AM		West offers Foss Exhibits 86-88 and they are admitted.
10:53:01 AM		Objection by Goldman, leading questions.
10:53:25 AM		Objection sustained.
10:57:44 AM		West concludes direct examination.
10:57:52 AM		15 minute break.
11:13:30 AM		Back on the record.
11:13:35 AM		Baxendale begins cross examination of Gallagher.
11:20:59 AM		Objection by West, form of the question.

11:21:36 AM		Objection by West, lack of foundation.
11:24:02 AM		Baxendale concludes cross examination. Goldman begins cross examination of Gallagher.
11:41:06 AM		Goldman offers Soundkeeper Exhibit 40, Foss Maritime Objections and Responses to DPD RFP and it is admitted.
11:48:20 AM		Objection by West, mischaracterized testimony.
11:48:35 AM		Objection overruled.
11:57:06 AM		Goldman refers witness to Soundkeeper Exhibit 46. Objection by West, document is not authenticated and is incomplete.
11:57:32 AM		Goldman responds to objection.
12:01:30 PM		Objection by West, relevance.
12:01:44 PM		Goldman responds to objection.
12:02:18 PM		Objection overruled. Goldman continues.
12:10:08 PM		Goldman refers witness to Soundkeeper Exhibit 47.
12:10:56 PM		Objection by West, renew prior objection.
12:18:41 PM		Objection by West, off topic.
12:18:47 PM		Examiner addresses Goldman.
12:19:45 PM		Lunch break. Return at 1:30 PM.
1:31:20 PM		Back on the record. Goldman continues cross examination of Gallagher.
1:32:44 PM		Objection by Brower mischaracterizes testimony.
1:34:38 PM		Objection by Brower asked and answered.
1:36:03 PM		Goldman moves to admit Soundkeeper Exhibits 46 and 47.
1:36:04 PM		Objections from West and Schneider, foundation and incomplete.
1:36:41 PM		Examiner notes objections. Soundkeeper Exhibits 46 and 47 are admitted.
1:37:12 PM		Goldman continues.
1:42:16 PM		Goldman refers witness to Soundkeeper Exhibit 22.
1:48:37 PM		Objection by Brower, relevance.
1:48:51 PM		Goldman responds to objection.
1:49:44 PM		Objection by West, relevance.
1:50:33 PM		Examiner responds.
2:02:56 PM		Goldman concludes cross examination of Gallagher.

2:03:07 PM		West begins redirect of Gallagher.
2:04:48 PM		West offers Exhibit 36, Lease Agreement between Foss and Port of Seattle, and it is admitted.
2:08:35 PM		West concludes redirect.
2:08:53 PM		Baca for Soundkeeper calls Sue Joerger of Puget SoundkeeperAlliance as witness and she is sworn in.
2:09:19 PM		Baca begins direct examination of Joerger.
2:19:19 PM		Objection by McCullough off topic.
2:21:37 PM		Objection by McCullough renews objection, Soundkeeper Exhibit 23.
2:26:54 PM		Objection by McCullough renews objection.
2:27:14 PM		Baca responds to objection.
2:27:24 PM		Examiner will allow Baca to continue.
2:29:17 PM		Baca moves to admit Soundkeeper Exhibit 1 and it is admitted.
2:29:37 PM		Schneider objects to admission, no foundation laid, inaccurate.
2:30:05 PM		Examiner will admit Soundkeeper Exhibit 1 as illustrative.
2:34:30 PM		Baca concludes direct examination of Joerger.
2:34:40 PM		Schneider begins cross examination of Joerger.
2:39:02 PM		Schneider concludes cross examination.
2:39:08 PM		McCullough begins cross examination of Joerger.
2:42:10 PM		McCullough concludes cross examination.
2:42:17 PM		Baca begins redirect of Joerger.
2:43:25 PM		Baca concludes.
2:43:49 PM		Baxendale for DPD calls George Blomberg of the Port of Seattle as witness and he is sworn in.
2:44:42 PM		Baxendale begins direct examination of Blomberg.
2:57:22 PM		Baxendale refers witness to DPD Exhibit 15.
3:00:14 PM		Objection by McCullough, lack of foundation.
3:02:01 PM		Objection by Brower, lack of foundation.
3:03:27 PM		Brower renews objection.
3:04:14 PM		Objection overruled.
3:13:09 PM		Baxendale refers witness to Foss Exhibits 47, 49, 51, 53.

3:24:00 PM		Baxendale moves to strike comment, no question pending.
3:31:31 PM		Baxendale concludes direct examination.
3:31:38 PM		Schneider begins cross examination of Blomberg.
3:40:42 PM		Schneider concludes cross examination.
3:40:49 PM		McCullough begins cross examination of Blomberg.
3:45:40 PM		Objection by Goldman and Baxendale asked and answered.
3:45:57 PM		McCullough moves forward.
3:47:40 PM		McCullough concludes.
3:47:45 PM		Goldman begins cross examination of Blomberg.
4:00:27 PM		10 min break. Off the record.
4:10:50 PM		Back on the record.
4:11:04 PM		No further questions of Blomberg.
4:11:13 PM		Baxendale calls Andy McKim of DPD as witness.
4:12:01 PM		Baxendale begins direct examination of McKim.
4:21:28 PM		Baxendale concludes direct examination of McKim.
4:21:38 PM		West begins cross examination of McKim.
4:22:45 PM		No questions of McKim from other parties.
4:23:16 PM		West calls Paul Gallagher as rebuttal witness.
4:23:36 PM		West begins direct examination of Gallagher.
4:29:17 PM		West concludes direct examination.
4:29:27 PM		Goldman begins cross examination of Gallagher.
4:30:29 PM		Goldman concludes.
4:31:26 PM		Admission of Exhibits.
4:33:25 PM		Port Exhibit 21 is admitted.
4:38:16 PM		Foss Exhibit 114 is admitted.
4:39:39 PM		Foss Exhibits 47-53 are admitted.
4:40:20 PM		Baxendale offers all DPD Exhibits with exception of 2, 12, 18, and 20.
4:42:24 PM		Schneider and West have objections to Exhibits not offered or discussed during hearing, relevance, without explanation.
4:53:33 PM		Parties will meet Thursday 8/27/15 at 10:30 AM to discuss remaining exhibits.

4:57:07 PM		Closing briefs due by 9/10. Replies by 9/21.
4:59:54 PM		Hearing is adjourned.

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