

BEFORE THE HEARINNG EXAMINER

CITY OF SEATTLE

In the Matter of the Appeal of)  
FOSS MARITIME COMPANY, ) No. S-15-001  
from an interpretation by the ) S-15-002  
Department of Planning and )  
Development. )

VERBATIM TRANSCRIPT OF PROCEEDINGS

OF

AN EXCERPTED PORTION OF DAY 2 OF A HEARING  
BEFORE THE HONORABLE ANNE WATANABE, HEARING EXAMINER

8/14/2015

APPEARANCES

For Foss Maritime: David R. West & John C. McCullough  
Port of Seattle: Traci Goodwin, Patrick J. Schneider and  
Adrian Winston

For DPD: Eleanor S. Baxendale

For Puget Soundkeeper/Earth Justice: Patti Goldman & Matthew Baca

For T-5: Molly Barker

Transcribed at the Request of the Seattle City Attorney

Transcribed by Brian Killgore

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(Proceedings of 8/14/2015)

HEARING EXAMINER: All right, we are back on the record and ready for the port's next witness.

Mr. Schneider?

MR. SCHNEIDER: Mr. Meyer is ready.

HEARING EXAMINER: Oh, I have got to swear him in. I have seen you a lot out there, but I didn't swear you in.

PAUL MEYER IS SWORN

HEARING EXAMINER: Your witness, Mr. Schneider.

\* \* \* \* \*

D I R E C T E X A M I N A T I O N

BY MR. SCHNEIDER:

Q. Would you give us your name and spell it, please?

A. My name is Paul Meyer, M-E-Y-E-R.

Q. Your title?

A. I am the manager for permitting and compliance in the maritime division.

Q. Before we talk about your responsibilities in that position, I would like you to go over your background with us, please, beginning with your education?

A. I have a BA from the University of Colorado and an MS from the University of Idaho, majoring in geology.

My first 15 years I worked in the mining industry in a variety of positions throughout the West, South America, Mexico, working on projects.

1 Q. Has the concept of the primary function of a vessel ever  
2 arisen in your interactions with DPD over shoreline permits?

3 A. Not until June.

4 Q. Not until June?

5 A. Not until June.

6 Q. Okay.

7 Let's assume that the standard becomes, for a vessel to  
8 moor, the vessel's primary function has to be transporting  
9 goods in the stream of commerce, and that the vessel has to  
10 actually be loading or unloading cargo in order to moor at a  
11 port facility; what in your opinion would that mean for your  
12 responsibilities, the work you would have to do as the  
13 person responsible for the port shoreline permits?

14 A. I think my personal work and the work of my team would go up  
15 significantly.

16 What the -- as I read the decision, and the remedy that  
17 has been requested, it would be the most effective and most  
18 efficient if that was required to go and ask somewhat for a  
19 blanket request for -- to include moorage at all of our  
20 facilities.

21 You know in order to do that, we would have to do --  
22 you know you first of all have to ask for I guess a change  
23 of use, or -- I am not even sure which way to go here. We  
24 would have to add uses to the -- all of the facilities, even  
25 if -- and we would hopefully do that as a blanket type of

1 MR. McCULLOUGH: Okay, thank you.

2 \* \* \* \* \*

3 C R O S S - E X A M I N A T I O N

4 BY MR. McCULLOUGH:

5 Q. Mr. Meyer, you were here through most of the proceedings the  
6 last two days?

7 A. Yes.

8 Q. And you heard substantially most of the testimony of Mr.  
9 McKim?

10 A. Yes.

11 Q. And did you hear the questions raised by the examiner asking  
12 for some clarification about the permit basis for current  
13 moorage activities on terminal 91?

14 A. I did.

15 Q. Okay, well let's look at that.

16 A. Okay.

17 Q. The example that has been used I think most prevalently here  
18 for those moorage activities has been referred to as the --  
19 the homeport for the Alaskan fishing fleet, right?

20 A. Okay.

21 Q. You are familiar with that?

22 A. Yes.

23 Q. You are familiar generally with their operations?

24 A. Yes.

25 Q. Okay.

1           Is it those uses, which include idle moorage and  
2           provisioning and other activities, but do not involve the  
3           loading necessarily of cargo, could involve, but let's say  
4           they don't for the moment; that those are legal activities?

5       A. I believe they are legal activities --

6       Q. I am.

7       A. -- in its current --

8       Q. And what -- under what established use at terminal 91 would  
9           you say that they are legal activities?

10      A. They are marine cargo terminal.

11      Q. Cargo terminal? Okay.

12           Do you think there is a historical basis in the record  
13           for this?

14      A. I believe there is.

15      Q. I am handing you what is a copy of DPD Exhibit 11 and I  
16           would like to go through some of the material that is  
17           familiar, some that is not.

18           So I would ask you to turn first to a page we have seen  
19           before, which is about 28 pages into the document. It is an  
20           analysis and decision from the director for revocation  
21           number 8400945.

22           Do you see that?

23      A. I do.

24           MS. BAXENDALE: Well, could you wait?

25           MR. McCULLOUGH: Sure, happy to.

1 MS. BAXENDALE: I wasn't wise enough to mark it.

2 MR. McCULLOUGH: Happy to.

3 (Brief Pause in Proceedings)

4 MR. McCULLOUGH: Maybe in the ensuing week here,  
5 we will Bates number this exhibit.

6 (Brief Pause in Proceedings)

7 Q. (By Mr. McCullough) And it is followed by a page that is seen  
8 before that has kind of a white spot in the middle of it.

9 MS. BAXENDALE: Probably easiest to look for  
10 the --

11 MR. McCULLOUGH: Yeah, look for the white spot --  
12 look for the white spot. That is about 29 pages in --  
13 because that's really the page we want to focus on.

14 Q. (By Mr. McCullough) Do you know what this -- before we get --  
15 I will just ask you to -- let us know if you know what this  
16 document is?

17 A. It is an analysis and decision from the department. I would  
18 call it DPD, but this is before my time so it is from DCLU.

19 Q. Okay, and it has to do with terminal 91?

20 A. It does.

21 Q. Okay.

22 (Brief Pause in Proceedings)

23 HEARING EXAMINER: Thank you.

24 MR. McCULLOUGH: Okay, good. Thank you.

25 Q. (By Mr. McCullough) So moving to page 2, and I think we have

1       seen this page before, can you look at the first paragraph  
2       and read the second sentence?

3       A.   Out loud?

4       Q.   The first paragraph on page 2, read the second sentence.

5       A.   Okay, out loud?

6       Q.   Yes, please.

7       A.   "The primary uses at 291, which exist and are unchanged by  
8       this proposal, are chilled cargo, chilled cargo handling,  
9       vehicle importing, vessel moorage, fish processing, ship  
10      fueling and tank farm operations."

11      Q.   This list includes vessel moorage?

12      A.   It does.

13      Q.   Does this permit predate the advent of the fishing fleet  
14      homeport at terminal 91?

15      A.   I believe it does.

16      Q.   Um-hum.

17               Moving down in that document to the first full  
18      paragraph below the white spot, can you read the first  
19      sentence of that paragraph?

20      A.   "The overall use classification for 291 is that of a cargo  
21      terminal."

22      Q.   So you previously testified that you believe that idle --  
23      vessel moorage was a permitted use under cargo terminal.

24               Do you believe that this 1984 permit supports your  
25      permission?

1 A. It supports and corroborates it.

2 Q. What I would like to do is -- oh, can I -- can I switch with  
3 you?

4 (Brief Pause in Proceedings)

5 Q. (By Mr. McCullough) Thank you.

6 A. Thank you.

7 Q. Because I numbered these pages for reference.

8 So I am going to turn to the next document, which is 14  
9 pages further on. That's the best I can do. It is another  
10 analysis and decision of the director of DCLU and it is  
11 application 88 -- something -- 3984.

12 MS. BAXENDALE: 11 pages from the end or?

13 MR. McCULLOUGH: 14 pages -- the last page that we  
14 were -- from the last page we were on.

15 Q. (By Mr. McCullough ) And it is the first page of a DCLU  
16 1988 shoreline permit decision.

17 Okay, and looking at the paragraph entitled "site  
18 description," would you read the third sentence?

19 A. "The entire complex is developed as a cargo terminal by  
20 definition in the Seattle shoreline master program, and  
21 includes accessory -- large ship moorage -- warehousing --  
22 offices and outdoor cargo storage."

23 Q. Excellent.

24 And how does this permit decision for terminal 91  
25 relate to the position you earlier described as to the



1 present ability of these idle moorage uses?

2 A. I think it supports the fact that as a cargo terminal it  
3 allows these uses.

4 Q. Okay, I am going to ask you to turn three pages,  
5 subsequently, to another analysis and decision of the  
6 director of DCLU in application number 8907056; it is for  
7 the city ice and cold storage building?

8 A. Yes.

9 Q. Do you see that?

10 A. Yeah.

11 Q. Okay, could you read the sentence at the bottom of the first  
12 page that runs onto the next page?

13 A. "Terminal 91 is a port facility supporting a range of water  
14 dependent and water related uses, including seafood  
15 processing and cold storage, auto import receiving and  
16 storage, a fuel tank farm and vessel moorage.

17 Q. So this includes vessel moorage?

18 A. It does.

19 Q. And how does this relate to the position that you ascribed  
20 earlier regarding the permissibility of these uses?

21 A. It supports those uses.

22 Q. Okay, I am going to ask you to turn four pages succeeding to  
23 another analysis and decision of the director.

24 This is in application number 9003841.

25 A. Okay.

C E R T I F I C A T E

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Dated August 19, 2015.

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