

BEFORE THE HEARING EXAMINER

FOR THE CITY OF SEATTLE

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In the Matter of the Appeals of:)

FOSS MARITIME COMPANY AND) Hearing Examiner File Nos.
PORT OF SEATTLE) S-15-001; S-15-002
from an interpretation) (Directors Interpretation
issued by the Director) 15-001)
Department of Planning)
and Development)

Administrative Hearing - Excerpted Testimony of Mr. Greg Englin
before
HEARING EXAMINER ANNE WATANABE

August 17, 2015

TRANSCRIBED BY: Bonnie Reed, CET
Reed Jackson Watkins
Court-Certified Transcription
206.624.3005

- 1 Q. Um-hum?
- 2 A. -- it's a marketing product.
- 3 Q. So a cargo terminal to your mind, though, has a different
4 meaning than just a marine terminal?
- 5 A. I don't know if I could really even answer that because a
6 cargo terminal you could have a cargo terminal that's land
7 side, that's inland. It doesn't have -- it's not the same
8 as having a marine terminal, because marine terminal implies
9 that there's water dependent use as well.
- 10 Q. And so with respect to Terminal 91, is this graphic
11 indicating to you that there is a cargo terminal function
12 and a marine terminal function?
- 13 A. What it indicates to me is that while there's a cargo --
14 somebody designated it as a general purpose marine and cargo
15 terminal. They kind of lumped in a lot of different
16 concepts here.
- 17 Q. And what concepts would they be including in that in your
18 mind?
- 19 A. Well, they call it three -- they're almost three different
20 things. They call them a -- or three combined things:
21 General purpose marine, cargo terminal and commercial
22 moorage.
- 23 Q. Now, my understanding from your testimony from yesterday and
24 today is that the Port will provide berthing for any kind of
25 vessel at any of the Port's facilities that are not leased

1 or to which you have secondary berthing; is that right?

2 A. That would be accurate.

3 Q. And how many facilities on Elliott Bay are available for
4 that kind of berthing?

5 A. I'd just have to count them out.

6 Q. So is it everything that is shown on the first page of
7 Exhibit 21?

8 A. Unless they were under -- unless they were under an
9 exclusive lease.

10 Q. Right. So there you would have the rights by secondary
11 berthing?

12 A. Correct.

13 Q. Does that include -- I think you testified that that does
14 include Pier 66 when you were describing the pictures; is
15 that right?

16 A. Yes.

17 Q. And it includes Pier 69.

18 A. Yes.

19 Q. Do you know what permits are available for Pier 66 from the
20 City of Seattle?

21 A. No.

22 Q. And do you know what permits are available or have been
23 issued for Pier 69 by the City of Seattle?

24 A. No.

25 Q. Do you know what permits have been issued by the City of

1 Seattle for Terminal 91?

2 A. My understanding it's a cargo -- it's permitted as a cargo
3 terminal and as a passenger terminal, passenger facility.

4 Q. Um-hum. So if I'm understanding you correctly, a cruise
5 ship could be assigned by the Port to a berth at Terminal 5
6 if there were space for the cruise ship at Terminal 5?

7 A. In theory, yes.

8 Q. And if it was --

9 A. Except that it's -- I'm not sure whether or not that that's
10 permitted as a passenger terminal, that special delineation.

11 Q. So it would have to be permitted as a passenger terminal in
12 order to allow a cruise ship to berth at Terminal 5?

13 A. Possibly.

14 Q. Are you aware of that before -- do you know when the Port
15 obtained a permit for a passenger terminal at Terminal 91?

16 A. No.

17 Q. Is it your understanding that cruise ships have berthed at
18 Terminal 91 since the year 2000?

19 A. Yes.

20 Q. When you're assigning berthing, is it dependent on what the
21 permits the City of Seattle has issued for a particular
22 site?

23 A. No.

24 Q. Except that you mentioned a minute ago that maybe at
25 Terminal 5 it would need a passenger terminal permit?

1 much about the actual permitting aspect of the business.

2 Q. You also testified this morning about your understanding of
3 which permits Terminal 91 has, do you recall that?

4 A. Yes.

5 Q. And when did you formulate your understanding of which
6 permits Terminal 91 has?

7 A. That's been -- in general, it's been for many years; I
8 couldn't tell you exactly when.

9 Q. Switching gears a little bit. Am I correct that you handle
10 the placing of many types of vessels in many locations in
11 the Port of Seattle?

12 A. Yes.

13 Q. Have you ever not allowed a vessel to moor at Terminal 91
14 because Terminal 91 didn't have the right kind of permit?

15 A. No.

16 Q. Have you ever not allowed any kind of activity of Terminal
17 91 because Terminal 91 didn't have the correct kind of
18 permit?

19 A. No.

20 Q. In your view, are there any limitations on the types of
21 vessels that can moor at Terminal 91?

22 A. No.

23 Q. In your view, are there any limitations on the types of
24 activities that could take place at Terminal 91?

25 A. Operationally there are some constraints, we can't -- we've

1 agreed to not move containerized traffic, you know, taking
2 container ships over at Terminal 91, and there's just
3 operational constraints, water depth, et cetera.

4 Q. And aside from operational constraints, are there legal
5 constraints?

6 A. No, not to my knowledge.

7 Q. You testified yesterday about the -- I might get the
8 pronunciation wrong, the Hanjin Copenhagen, I believe; do
9 you remember that?

10 A. Yes, um-hum.

11 Q. What sorts of repairs will that vessel be making at
12 Terminal 91?

13 A. Well, they are done with their repairs and they've departed.
14 They were shifted over to Terminal 5 to conduct their
15 repair, they completed those repairs, and then they were
16 underway the next port of call.

17 Q. And were there any limits on the types of repairs that could
18 be conducted at Terminal 91 or Terminal 5?

19 A. Not to my knowledge. They were also under a captain of the
20 port order to conduct those repairs.

21 Q. What does that mean?

22 A. That means that the captain of the port from U.S. Coast
23 Guard told them that they could not leave the port until
24 they conducted those repairs.

25 Q. And what does leave the port mean? Does that mean --

- 1 A. Depart the Port of Seattle.
- 2 Q. Okay. So they could move from Terminal 91 to Terminal 5,
3 for example, but just not leave Seattle?
- 4 A. Correct.
- 5 Q. All right. Let's talk about a hypothetical cargo terminal
6 that only has a permit for a cargo terminal, assume it has
7 no other permits. Does that permit impose any limits on the
8 kind of vessel that can call there to your knowledge?
- 9 A. No.
- 10 Q. Does it impose any kind of limit on the activities that can
11 take place?
- 12 A. No.
- 13 Q. And now specifically turning to Terminal 5, are you aware of
14 what kind of permit Terminal 5 has?
- 15 A. General understanding is it's a cargo terminal.
- 16 Q. Okay. And does Terminal 5's cargo permit -- or cargo
17 terminal permit impose any limit on what kind of vessel can
18 call there?
- 19 A. Not to my knowledge.
- 20 Q. Does it impose any limit on the kind of activities that can
21 take place there?
- 22 A. No.
- 23 Q. All right. Shifting back to Terminal 91, you talked a
24 little bit about Marel, I believe is the name.
- 25 A. Yes.

1 outward wharfage.

2 Q. Okay. What does the word transshipment mean to you?

3 A. Moved from one -- you know, moved.

4 Q. Okay. Have you heard the term transshipment of cargo
5 before?

6 A. Yes.

7 Q. Is a drill rig something that you would consider a cargo
8 vessel?

9 A. Yes. It may be.

10 Q. In what way?

11 A. Well, it could transship materials for its operations. So
12 it could actually take on cargo and move it between point A
13 to point B.

14 Q. Okay. Do you -- what would you say the primary purpose of a
15 drill rig is?

16 A. Primary purpose, I assume, is to drill.

17 Q. Okay.

18 MR. BACA: No further questions.

19 (Conclusion of Englin requested testimony at 10:57:56)

20

21 (Beginning of requested Englin testimony starting at
22 11:18:09.)

23 THE COURT: All right. We're back on the record. So
24 Mr. McCullough.

25 MR. MCCULLOUGH: Great. Thank you. We'll keep this

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STATE OF WASHINGTON)
) ss
COUNTY OF KING)

I, the undersigned, do hereby certify that the foregoing recorded statements, hearings and/or interviews were transcribed under my direction as a transcriptionist; and that the transcript is true and accurate to the best of my knowledge and ability; that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of September, 2015.

Bonnie Reed, CET