

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 )

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Administrative Hearing - Testimony of Vince O'Halloran,  
Jim Johnson and Mark Knudsen  
before  
HEARING EXAMINER ANNE WATANABE

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August 24, 2015

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## 1 DIRECT EXAMINATION

2 BY MR. BROWER:

3 Q. Mr. O'Halloran, would you please state and spell your last  
4 name for the record.

5 A. Vince O'Halloran, O, apostrophe, H-A-L-L-O-R-A-N.

6 Q. And what is your business address?

7 A. 6042 22nd Avenue West, Seattle, Washington.

8 Q. Mr. O'Halloran, I am one of the attorneys working with the  
9 T-5 Intervenors, of which you are a member. Thank you for  
10 joining us today. We'll be -- I'll be asking you some  
11 questions about your background and your experience related  
12 to this matter.

13 Would you please describe your education background?

14 A. I left high school and went to work on ships, and as a  
15 teenager I steamed into the Puget Sound in 1969 working as a  
16 scullion on a passenger ship, U.S.-flagged passenger ship  
17 The Mariposa. And I have continued in that career my whole  
18 life. I'm presently employed as the branch agent for the  
19 Sailors' Union of the Pacific.

20 Q. Did you work your way up from scullion?

21 A. I did.

22 Q. And what did you -- what was the highest grade or ranking  
23 you achieved?

24 A. I held a small master's license.

25 Q. And what position -- who do you work for, Mr. O'Halloran?

1 A. The Sailors' Union of the Pacific.

2 Q. And what are your job titles?

3 A. I am the Seattle branch agent, which is the executive  
4 officer.

5 Q. And do you hold any other positions?

6 A. Yes, I do. I am the maritime section executive board member  
7 of the Martin Luther King Central Labor Council, I am the  
8 executive secretary/treasurer of the Puget Sound Ports  
9 Council, Maritime Trades Department, AFL-CIO, I hold the  
10 labor stakeholder's seat in the Area Maritime Security  
11 Committee, and I'm a member of the -- I'm also an  
12 executive -- a stakeholder in the Puget Sound Harbor Safety  
13 Committee -- on the Puget Sound Harbor Safety Committee.

14 Q. Mr. O'Halloran, I'd like to go one by one through those jobs  
15 and titles you just described.

16 Could you please describe your general day-to-day  
17 responsibilities as the branch agent for the Sailors' Union  
18 of the Pacific?

19 A. I dispatch men and women to various vessels in various  
20 capacities: Engine room, deck department, gratings, some  
21 stewards jobs.

22 Q. And do you do anything else for your members on a day-to-day  
23 basis?

24 A. Yes, certainly. I handle pension issues, medical benefits,  
25 work rule issues with the big companies that we have

1 A. Yes, absolutely. Yes.

2 Q. And how do you look at -- what do those issues involve?

3 A. Well, they could be anything. They could be seasonal  
4 fishing nets in the way, they could be derelict boats, I  
5 mean as an example.

6 A question I heard earlier was the ship docked at Berth 5,  
7 would that lean out too far into the waterway. That would  
8 be a regular question generally addressed there.

9 Q. And what types of vessels are you familiar with through all  
10 of the roles and responsibilities you just described?

11 A. Most vessels. I've worked on passenger ships, as I stated,  
12 when we -- when they were under U.S. flag, tankers, break  
13 bulk freighters, containerships, I've worked in the  
14 shipyards, I've worked up in Alaska on the fishing boats.

15 Q. Do you have experience at Terminal 5 and Terminal 91?

16 A. Yes.

17 Q. And what is that experience?

18 A. We -- when American President Lines was docked there before  
19 they shifted over, we had a collective bargaining unit right  
20 on the dock. And up at 91 we will work there when any of  
21 my -- and we have and we do, when any of my companies'  
22 vessels, the companies that we have collective bargaining  
23 agreements with, dock up there.

24 Q. And so do you -- do your members and affiliates, you're  
25 putting gangs on and off of these ships?

1 A. Yes.

2 Q. And for how long have you been doing that?

3 A. Eighteen years. I have held the Seattle branch agent's  
4 position for 18 years.

5 Q. And while you and I were talking, I got to learn a lot about  
6 the maritime industrial (inaudible). You had mentioned a  
7 term, when a company -- what does it mean for a company to  
8 call for a gang?

9 A. Well, they call for gangs, and it's for any particular work  
10 that the vessel may need at any particular time. So -- and  
11 gangs can vary. My gangs would vary according to the needs  
12 required, the vessel required.

13 Q. Can you give us an example?

14 A. Well, at Terminal 5 we often repaired lashing gear, vessel  
15 lashing gear that assisted with the lashing of the cargo.  
16 So we would routinely go aboard and remove dozens of  
17 pallets, probably up to 2- or 3,000 bars, and bring them  
18 ashore, and then we would overhaul them while we were --  
19 while the vessel went to sea, and that would be -- we were  
20 working at the dock.

21 So that -- it could -- you know, depending on how many  
22 they gave us would depend on how big of a gang I -- they  
23 might order.

24 Q. So in addition to T-5, do your organizations have gangs  
25 working at T-91?

1 A. We do when a ship -- we have and we do when any of my  
2 vessels, any of the companies we have a collective  
3 bargaining agreement are docked up there.

4 Q. And what types of vessels are these people working on?

5 A. Containerships and tankers. And I would leave it at that  
6 this moment for just me, just the Sailors' Union of the  
7 Pacific.

8 Q. In general --

9 A. But if I may --

10 Q. Oh, certainly.

11 A. -- elaborate a little more, but with some of my affiliates,  
12 the Inloadboatmen's Union, for instance, they would have  
13 barges up there, Crowley, Foss, barges of all sorts. So  
14 they often hire gangs. I mean, they hire their seagoing  
15 crews and then gangs to load and unload those barges.

16 Q. In general is -- are gangs one size or another?

17 A. No, all gangs are -- it depends absolutely on the employer.

18 Q. Does it also --

19 A. The terminal operator, so --

20 Q. Okay. Does it also depend on the job and the vessel?

21 A. Yes.

22 Q. And in general, what are these gangs doing there?

23 A. Whatever is required.

24 Q. Are they doing shore side support?

25 A. Yes.

1 Q. And also vessel side support?

2 A. Well, there is -- it's -- that's the same.

3 Q. Okay. There has been a lot of talk about gear, store and  
4 provisions. Are you familiar with these terms?

5 A. Sure.

6 Q. And could you just give us a better understanding? What are  
7 stores?

8 A. Well, stores can be anything, but what stores generally are  
9 would be items that the vessel would need to operate. It  
10 could be lube oils, engine room parts, radar, you know,  
11 electronic parts, whatever operational necessities the  
12 vessel needs. Any time a ship docks it has to load stores.  
13 No ship ever docks and does not load stores.

14 Q. What are provisions?

15 A. Provisions would be items that the crew would use for the  
16 necessary operation of the vessel: Food, laundry, you know,  
17 blankets, milk.

18 Q. And how do provisions get on and off a vessel?

19 A. It depends on how many there are and what jurisdiction we  
20 might be in. So sometimes we load them. If they are what  
21 they call daily stores, the longshoremen will load them if  
22 they are a bit more prolific. So that can vary.

23 Q. Okay.

24 A. But even if the longshoremen are called to load stores, I  
25 would have to supplement with a larger gang to distribute

1 the stores inside the vessel.

2 Q. And what about gear, is that different than stores and  
3 provisions?

4 A. Well, gear would be normally -- you would normally refer to  
5 gear as items that are necessary to the operation of the  
6 vessel. It could be mooring lines, again, lubrication  
7 greases, paint, anything that the vessel needs to operate.

8 Q. And would you consider the loading of gear, stores and  
9 provisions to be part of a cargo operation?

10 A. Yeah, sure. It's -- anything that isn't nailed down would  
11 be cargo, anything that's not a permanent fixture of the  
12 vessel.

13 Q. Do your members and affiliates also perform non-cargo  
14 activities while the vessels are at port facilities?

15 A. We perform routine maintenance and repair activities while  
16 the ship is alongside. Any company would also be performing  
17 maintenance and repair work whenever a vessel is alongside.  
18 That's --

19 Q. So --

20 A. -- normal operating procedure of a vessel.

21 Q. So if a vessel calls into Seattle and moors at a port  
22 facility, they might need electrical repair, for example?

23 A. They almost always will need electrical repair.

24 Q. And maybe fabrication or painting?

25 A. Absolutely.



1 would be -- my sailors would be paid by APL, or by American  
2 President Lines, or Matson, and longshoremen for instance  
3 would be perhaps paid by the terminal operators.

4 Q. Do you know if Foss uses unionized labor?

5 A. They use -- yes, they are one of the best unionized labor  
6 companies in the northwest.

7 Q. Mr. O'Halloran, have you read the interpretation at issue in  
8 this case?

9 A. Only the bold print.

10 Q. And are you an expert in zoning or land use?

11 A. No.

12 Q. Have you reviewed the permits for Terminal 91 or Terminal 5?

13 A. No.

14 Q. If I told you that the interpretation would prohibit  
15 non-cargo activities at Terminal 5 and Terminal 91, what  
16 would you say?

17 A. Well, I would ask to define cargo activities that --  
18 everything that was done there on the Shell Oil rig was a  
19 traditional use of a terminal.

20 Q. If vessels -- certain kinds weren't allowed to call into  
21 Seattle because of the application of the interpretation,  
22 would that have an impact on your members and the  
23 affiliates?

24 A. It would have a severe impact. It would have a very  
25 negative impact on my members.

1 of the table. Ms. Baxendale?

2 MS. BAXENDALE: Certainly.

3

4

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

5 BY MS. BAXENDALE:

6 Q. Thank you for being here.

7 A. Thank you.

8 Q. I'm Eleanore Baxendale and I represent the City of Seattle,  
9 and in this case the Department of Planning and Development,  
10 which is the entity that wrote the interpretation that Mr.  
11 Brower was referring to, although we don't think it has  
12 quite the effect that he is describing.

13 You were talking about stores and provisions and gear.

14 A. And what, ma'am? I'm a little hard of hearing.

15 Q. Oh, gear.

16 A. Gear. Yes, gear.

17 Q. I can -- my family never accuses me of speaking too softly,  
18 so I will think I am at home.

19 So you were talking about stores and provisions and gear.

20 A. Yes.

21 Q. Would every boat have stores and provisions and gear?

22 A. Yes.

23 Q. What do you call the --

24 A. But may I ask a question? I'm sorry for -- when you say  
25 every boat, you may have to clarify a bit. And it's a easy

1 clarification for me. You would have pleasure craft, and  
2 then everything else. So --

3 Q. Right. I meant actually -- well, we can talk -- we can  
4 exclude pleasure craft. So is everything -- does everything  
5 other than pleasure craft have stores, provisions and gear?

6 A. Yes.

7 Q. Why do you exclude pleasure craft?

8 A. Why do I exclude them?

9 Q. Uh-huh.

10 A. Well, and that may be a mistake on my part.

11 Q. Yeah.

12 A. Pleasure craft generally in my view have two or three people  
13 and it would be a motorboat. I mean, actually, you would  
14 have gear, you would have the motor, you would have its  
15 safety gear. So --

16 Q. Mm-hmm.

17 A. -- no, I'll withdraw my last definition.

18 Q. As long as you take your sandwich, right? And then you  
19 get --

20 A. Take my sandwich?

21 Q. Yeah. That would be your provisions.

22 A. Yes, that's right.

23 Q. Right. So what do you call the other stuff that might be  
24 carried on a vessel other than stores, provisions and gear?  
25 The stuff like cars or break bulk or -- is there a term that

- 1 Q. Oh, food.
- 2 A. -- food and hotel stuff.
- 3 Q. Got it.
- 4 A. But you have to be able to feed your sailors.
- 5 Q. Right. But if you had a -- so let me go back. I had my  
6 wrong category. The diesel that is used by the vessel to  
7 propel itself through the water, that's stores, correct?
- 8 A. Yeah. Yes.
- 9 Q. Okay. What if the ship is also carrying diesel to put into  
10 a tank farm, what is -- what's the category that you call  
11 that part of the diesel? It's not provisions, what is it?
- 12 A. Well, it would be cargo.
- 13 Q. Okay. It's not stores, it's just cargo?
- 14 A. Yes.
- 15 Q. Okay. It doesn't have any special name to differentiate --
- 16 A. No, but --
- 17 Q. -- it from the other kind of --
- 18 A. -- I -- if I -- perhaps you've heard the term "bunker" and  
19 "bunkering" here.
- 20 Q. Yeah. Yes.
- 21 A. So bunkering is the loading of fuel to propel the vessel.
- 22 Q. Okay.
- 23 A. An essential service that is done here in Seattle.
- 24 Q. Mm-hmm.
- 25 A. Any ship, vessel tying up that is self-propelled would

1 load -- would bunker here.

2 Q. Right. And then the fuel that it is carrying for the  
3 revenue generating purpose is just called cargo.

4 A. We would refer to it as that.

5 Q. Okay. Thank you. That's very helpful.

6 MS. BAXENDALE: I have no further questions.

7 HEARING EXAMINER: All right. Ms. Goldman?

8 MS. GOLDMAN: I just have a few.

9

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

11 BY MS. GOLDMAN:

12 Q. You mentioned APL.

13 A. Mm-hmm.

14 Q. So what's the business -- what business was APL -- is APL  
15 in?

16 A. American President Lines.

17 Q. And what do they do?

18 A. What do they do?

19 Q. Mm-hmm.

20 A. They are a shipping company.

21 Q. And do they ship cargo from one place to another?

22 A. Yes, they do.

23 Q. They do that for a fee?

24 A. Yes.

25 Q. And they turn that over to someone else at the end of the

1 must be able to function. So --

2 Q. That's fine. That's enough.

3 A. Okay.

4 Q. It wasn't really -- it wasn't a trick question, I wasn't  
5 asking something else.

6 MS. GOLDMAN: That's all I have.

7 HEARING EXAMINER: All right. Questions from this side of  
8 the table?

9 I just had a quick question for you.

10

11

E X A M I N A T I O N

12 BY THE HEARING EXAMINER:

13 Q. You know, you -- and I thank you very much for defining, you  
14 know, the terms "storage," "provision," your making the  
15 differentiation between those. Is it -- would you say that  
16 that -- those -- the definitions you gave are pretty much  
17 what other people in your industry, the other workers, your  
18 colleagues, are those kind of the shared definitions?

19 A. Yes.

20 Q. Is that pretty common?

21 A. Yes.

22 Q. Okay. And how about for cargo? You --

23 A. Well, cargo, I mean --

24 Q. You gave a couple of different answers. I think initially  
25 you said it was -- you know, it wasn't nailed down, and then

1 on -- with -- when Ms. Baxendale was asking you --

2 A. Yes, but --

3 Q. -- I think you were a little more --

4 A. I think I --

5 Q. -- specific about it.

6 A. So I would say it is cargo. Loading provisions, stores and  
7 gear are loading and discharging of cargo if you're taking  
8 them off or you're loading them on, and you can carry -- and  
9 you also carry cargo. So, I mean, it's a multipurpose  
10 definition.

11 Q. All right. And --

12 A. Or use.

13 Q. -- I don't have any other questions for you.

14 HEARING EXAMINER: So Mr. Brower, anything on redirect?

15 MR. BROWER: Nothing. Mr. O'Halloran, thank you so much.

16 HEARING EXAMINER: Thank you.

17 THE WITNESS: Okay. Thank you. Really? Wow. I was  
18 worried. Thank you.

19 MR. MCCULLOUGH: Thank you, Mr. O'Halloran.

20 MS. GOLDMAN: What a reputation we have.

21 MR. MCCULLOUGH: This is Mr. McCullough, Ms. Examiner. We  
22 would like to call the next witness.

23 HEARING EXAMINER: All right.

24 MR. MCCULLOUGH: And it's Mr. Jim Johnson.

25 HEARING EXAMINER: All right.

1           Good afternoon. And I will swear you in, Mr. Johnson. If  
2           you could raise your right hand.

3           Do you swear or affirm that the testimony you'll present  
4           is true? If so, say "I do."

5           MR. JOHNSON: I do.

6

7           JIM JOHNSON,           Witness herein, having first been  
8                                   duly sworn on oath, was examined and  
9                                   testified as follows:

10

11           HEARING EXAMINER: All right. Your witness,  
12           Mr. McCullough.

13           MR. MCCULLOUGH: Okay.

14

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

16           BY MR. MCCULLOUGH:

17           Q.   Mr. Johnson, I would ask you at the risk of being obvious to  
18               spell your name.

19           A.   Last name J-O-H-N-S-O-N.

20           Q.   Great. Thank you. With all these Scandinavians running  
21               around, you know, the fishing industries, I --

22           A.   Right.

23           Q.   -- you can never be sure.

24               Can you tell us what you do for a living.

25           A.   I'm president of Glacier Fish Company and chief operating



1 officer of our groundfish division.

2 Q. Okay. Tell us a little bit about your background.

3 A. I've worked at Glacier for nearly seven years. And for four  
4 years I was the vice president of finance and corporate  
5 development, and for the last three years president.

6 Q. Mm-hmm.

7 A. And prior to that I worked in the maritime industry in the  
8 investment banking and finance sectors --

9 Q. Okay.

10 A. -- for KeyBanc Capital Markets as a managing director.

11 Q. Okay. Will you tell us what Glacier Fish does?

12 A. We own and operate seven catcher-processors that operate in  
13 the Bering Sea in Alaska and also off the west coast of  
14 Washington.

15 Q. Mm-hmm. Okay.

16 A. (Inaudible) vessels, fish process and freeze on a continuous  
17 process.

18 Q. And all of this happens within the vessel.

19 A. Correct.

20 Q. Mm-hmm. Do you -- you conduct operation -- your vessels  
21 conduct operations here in Seattle? I don't mean fishing  
22 operations, I mean here in the harbor. Do you -- let me ask  
23 it a different way.

24 Do your vessels make any use of Terminal 91?

25 A. Yes.

1 vessels aren't conducting fishing operations, this is where  
2 they are -- it's where we lay up the vessels.

3 Q. Mm-hmm. All right. Now, some of your -- were you here for  
4 the testimony of Mr. O'Halloran?

5 A. I was.

6 Q. And you heard the distinction he was drawing among stores  
7 and provisions versus other kinds of cargo?

8 A. Yes, I did.

9 Q. And what's your feeling about -- I mean, he tried to provide  
10 a definitional framework for that. I mean, when you're  
11 looking at cargo, does it include all of these items?

12 A. All of --

13 Q. Stores and provisions and fish and gear?

14 A. Yeah. I mean, maybe we're in the fishing industry, we're  
15 less sophisticated, but we have supplies and provisions in  
16 support of the vessel, and then we have the production  
17 itself that -- of the vessel, which is frozen fish that we  
18 produce from --

19 Q. Okay.

20 A. -- harvest.

21 Q. And these are all things you load and unload.

22 A. Yes.

23 Q. Right. So do some of your ships, your vessels when they are  
24 calling at Terminal 91, do they -- do all of -- well, let me  
25 ask it this way. Do all of them load and unload stores,

1 Q. Okay.

2 A. Such as Ocean Peace and Sea Fisher.

3 Q. Okay. Now, this is an appeal about an interpretation of the  
4 land use code that was issued by the City.

5 Have you read that interpretation?

6 A. No.

7 Q. And do you consider yourself an expert in issues of  
8 permitting or shoreline permits, land use?

9 A. No.

10 Q. Okay. And have you taken any time to review the specific  
11 permits or permit history for Terminal 91 that's part of  
12 your activity?

13 A. No.

14 Q. Okay. And we've talked about this homeporting activity. If  
15 I told you that this interpretation that's on appeal would  
16 prohibit homeporting, where there was no vessels, where  
17 there was no offloading of, in your case, the fish product  
18 occurring at T-91, what would be your reaction? What effect  
19 would that have?

20 A. Yeah, I mean, it would have a huge effect, because I think I  
21 mentioned earlier that our office is proximate -- at close  
22 proximity to the terminal, all of our vendors are here, and  
23 net manufacturers, everybody is in proximity of the terminal  
24 to service the vessels that are doing repair and backload  
25 there. So it would have a huge impact. And I just don't

1 MR. BACA: A few questions, yeah.

2

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

4 BY MR. BACA:

5 Q. Good afternoon, Mr. Johnson. My name is Matt Baca, I'm -- I  
6 represent the environmental intervenors. And just a few  
7 questions for you.

8 So you've described a number of activities at Terminal 91.  
9 Do you consider the shoreline permit Terminal 91 has when  
10 you're doing those activities?

11 A. I don't -- I'm not familiar with the shoreline permit.

12 Q. Okay. Would you say it's in your company's interest for the  
13 Port to have the right permits to allow those activities?

14 A. I mean, yes, we want to have the right to conduct the  
15 activities that we have -- conduct today, so --

16 Q. And would it matter to your company if that permit changed  
17 so long as you could go on conducting those same activities?

18 A. Our priority would be to maintain the access that we have.

19 Q. So as long as you maintain that access, if it was a  
20 different type of permit, that would still be okay.

21 A. Presumably. Although, I mean, we want a healthy marine  
22 community in Seattle because a lot of those vendors are  
23 supporting our activities. So if actions taken would hurt  
24 the financial health of those companies or their livelihood,  
25 it would eventually impact ours, so --



- 1 A. So Terminal 18 is -- there is a left side of east waterway  
2 or the west side of east waterway, it's about a 190-acre  
3 terminal, and then Terminal 25-30 are the two terminals on  
4 the east side of the waterway, they are actually connected  
5 by a bridge so that there is -- those two terminals are all  
6 connected off the highway.
- 7 Q. Mm-hmm. Is Terminal 18 a cargo terminal?
- 8 A. Yeah.
- 9 Q. As you understand the phrase.
- 10 A. Yeah.
- 11 Q. Have you consulted the definition of "cargo terminal" in the  
12 code?
- 13 A. No.
- 14 Q. Okay. Thank you. What kind of -- what is SSA's role in  
15 operating the cargo terminal?
- 16 A. So we have a long-term lease on both terminals from the Port  
17 of Seattle, and that lease gives us the rights to run that  
18 terminal. We set the rates for our customers. We have a  
19 fixed rate that we pay the Port of Seattle, a lease rate,  
20 and then we're responsible for security, vessel berthing,  
21 we're responsible for all of the operations of the terminal  
22 beyond that.
- 23 Q. Okay. You've -- you were here for the testimony of  
24 Mr. O'Halloran?
- 25 A. Yeah, correct.

1 Q. And did you hear his discussion about different kinds of  
2 things that constitute cargo in his mind --

3 A. Yeah.

4 Q. -- stores, gear, provisions, other materials loaded on the  
5 ship?

6 A. Yeah. Yes.

7 Q. And do you have any comment, agree or disagree with that?

8 A. That's -- I think his description of cargo is generally the  
9 industry description, the same description we would use.  
10 Cargo is everything that comes on and off the ship,  
11 including the subsets of stores and provisions and various,  
12 you know, paying cargo, if it's, you know, a piece of steel  
13 or a box or whatever. So we generally look at cargo as  
14 everything that moves on and off the ship, and it just has  
15 different subsets underneath.

16 Q. Okay.

17 A. He was fairly sort of accurate in how he described how the  
18 industry thinks of those.

19 Q. Okay. Well, setting aside for a moment the stores and gear  
20 and provisions and items that -- cargo that needed to be  
21 loaded in order for the ship to function --

22 A. Yeah.

23 Q. -- what other kinds of cargo do you handle at Terminal 18 or  
24 25?

25 A. We handle everything. And anything that a customer comes to

1 verifies that there is no leaks, that it's functioning, et  
2 cetera, et cetera. Then they will -- then we'll move it  
3 alongside the dock where they then, you know -- at that  
4 point, we've turned it over to the cargo water and --

5 Q. So you have vessels that come in to deliver these yachts --

6 A. Yep.

7 Q. -- and they will drop the yacht in the water. Is that all  
8 they will do with respect to -- other -- they will  
9 presumably -- or you tell me, do they do anything in  
10 connection with provisions and gear and stores?

11 A. All the vessels that come in while we're offloading the --  
12 what you'd call the cargo --

13 Q. Mm-hmm.

14 A. -- the cargo for carriage, the --

15 Q. Right.

16 A. -- whether it's containers or yachts or logs or whatever it  
17 is, they're also servicing the vessel at the same time. So  
18 they have -- the electronics technicians come down to fix  
19 whatever they messed up, there is parts and supplies for the  
20 engine room and for the crew that come on board.

21 So that activity happens while we're doing -- simultaneous  
22 with the cargo discharge. Generally, the vessels that --  
23 depending on their schedule, but they are generally here for  
24 a select -- a limited period of time.

25 Q. Mm-hmm.



1 wide variety of customers. Currently at Terminal 25, we  
2 have a Matson ship that used to be in service and has been  
3 tied up at Terminal 25 for the last ten months probably.

4 Q. What kind of ship is it?

5 A. It's a cargo ship. It's a Matson containership.

6 Q. Mm-hmm.

7 A. Carries autos, carries containers, carries break bulk cargo,  
8 carries a mix of things. And it's between seasons, it  
9 usually becomes -- gets put into service in the winter when  
10 their -- or when one of their other vessels is out in dry  
11 dock. And that's -- that ship came in empty, it's been  
12 there, they have been doing minor maintenance and repairs  
13 and provisioning and that type of thing on it, so --

14 Q. How long has it been there?

15 A. At least ten months.

16 Q. Okay. How about any other cases where you'll have ships  
17 that will just come for idle moorage, we'll call it?

18 A. Well, you'll have -- we'll have ships that will come in that  
19 maybe want to clean their holds, let's say someone that was  
20 carrying a cargo of sulfur and is coming to Seattle to carry  
21 a cargo of grain going back out.

22 Q. Mm-hmm.

23 A. So they will bring the ship alongside, access the tanker  
24 trucks and other stuff that they can come in, wash that,  
25 wash the holdout so that it's clean, got to get it dried,

1 able to do repairs and not able to have a temporary lay  
2 berth if they are delayed on their vessel schedule or  
3 something like that, it could affect whether they would  
4 continue to call on Seattle or not.

5 Q. Mm-hmm. Would you say that this idle moorage activity  
6 you've described is intrinsic in operating a cargo terminal?

7 A. Yeah, it's just part and parcel of what people expect out of  
8 a cargo terminal to be able to do, or at least what our  
9 customers expect, is the ability to come in, lay their  
10 vessels up if they need to between vessels -- there is a  
11 large difference between the different types of vessels that  
12 call in, but some of the ones that aren't on -- you know,  
13 the high profile, big containerhips are going to be pretty  
14 tight on their schedules. A lot of the other ships have,  
15 you know, the opportunity or maybe need the opportunity to  
16 stay for a day or two to make up their schedule or wait for  
17 crew or wait for parts or whatever. So --

18 Q. Has this been the case for the last 30 years, in your  
19 experience?

20 A. Yeah.

21 Q. Okay. Nothing -- oh, hold on one second. Well, I just  
22 thought of another question. Spontaneously.

23 So you described that -- the impact that the  
24 interpretation as I've described it would have. What would  
25 be the impact if the Port told you you cannot conduct any

1 certified, bring the inspectors on board, and then go over  
2 and pick up their cargo of grain at the grain terminal.

3 So --

4 Q. Now, would it have been the case in your example that the  
5 ship would have offloaded its cargo of sulfur at Terminal  
6 18?

7 A. No, they -- that would not happen.

8 Q. Okay.

9 A. That's one cargo we don't handle. You've got to have a  
10 specialized facility for handling a cargo like that, and we  
11 don't have that --

12 Q. Right.

13 A. -- specialized facility.

14 Q. So what other kinds of activities occur during a idle  
15 moorage? You say cleaning the hold is one.

16 A. Maintenance, repair. They will contract with a local  
17 shipyard to come in and do some cutting and welding. You  
18 know, they have got to get special permits from the fire  
19 department to be able to do that activity, which they do.  
20 But in our case, as long as we have idle -- we have space  
21 that we can put one of our customers and we can help them  
22 kind of meet their needs, we'll let them do that. Our  
23 primary role, of course, is to move the cargo, that's where  
24 we make the --

25 Q. And tell us what you mean by customer.

1 A. Yeah. And ten years out of the Seattle-based fishing  
2 industry before that. So more like 40 years.

3 Q. Mm-hmm. Did you sit down when you -- you said a client or  
4 customer would call and need a location for idle moorage,  
5 would you stop and check your permit to see if that was  
6 allowed?

7 A. No, because it's been a standard industry practice for us  
8 and all the other operators for as long as we've been in the  
9 industry. So we've always just run under the presumption  
10 that that's part of the operating permits that were -- that  
11 went with the facility.

12 Q. And this is --

13 A. It's not something we would check.

14 Q. This dating back the same 30 years you're talking about?

15 A. Yeah.

16 Q. So you testified your customer comes in, calls, has a ship  
17 in the northwest, "I need a place to be," sometimes you can  
18 service them at T-18.

19 A. Right.

20 Q. What if you can't?

21 A. Then they go somewhere else. I mean, that's the -- it's  
22 pretty simple. They have got a ship that needs to go to a  
23 dock. They either come to Seattle.

24 Q. Mm-hmm.

25 A. If we can't service them, they will find another location,

1 workers on and off the barges and have a source of power  
2 supply to run them. So --

3 Q. So you testified you have not read the interpretation in  
4 this case.

5 A. Correct.

6 Q. So if I told you that the effect of the interpretation would  
7 be to prohibit these idle moorage activities -- cases where,  
8 you know, non-stores, provisions, gear, where vessels were  
9 failing to load or unload other kinds of cargo -- would  
10 prohibit that kind of moorage at Terminal 18, Terminal  
11 25-30, other cargo terminals at the port, what would be your  
12 reaction to that?

13 A. Well, there is two, I guess. Certainly first it would be a  
14 financial impact to us, because part of the reason we moor  
15 vessels there is to create revenue so that we can pay our  
16 lease payments to the Port of Seattle.

17 Q. Sure.

18 A. And under the presumed lease agreement that we have with the  
19 Port is our ability to do this -- the type of work we've  
20 been doing for a number of years. So it would be a  
21 financial impact to us.

22 Depending on how sort of strenuous or severe that language  
23 change could be, that would affect the ability of some of  
24 our regular customers who call on a regular basis with  
25 cargo. If they are not able to load stores or they are not

1 Q. (By Ms. Baxendale) And do you see in Section 1-1, it's  
2 environmental review and land use approvals?

3 A. Yeah.

4 Q. Okay. The first bullet down under that says that there is a  
5 supplemental EIS for the public short stay moorage in  
6 this -- let me back up.

7 One -- the heading on 1-1 says that you're using a  
8 combination of new and environmental documents to comply  
9 with SEPA in evaluating the impacts for this proposed  
10 passenal [sic] -- terminal expansion. Do you see that up at  
11 the top?

12 A. Yeah.

13 Q. Okay. And then underneath its listing, the documents that  
14 have been considered. And do you see the first bullet, it  
15 talks about there being a study evaluating the impacts of  
16 large commercial vessels that were addressed in the moorage  
17 draft and final supplemental EIS.

18 What do you understand commercial vessels to be?

19 A. Generally, a company -- or vessels that are owned by a  
20 company rather than by a person. So it's a wide variety of  
21 vessels, from fishing vessels to tugs to barges. Generally  
22 it's a -- my understanding is it's a vessel that's used in  
23 some kind of business-related activity. So could include  
24 charter ships, kind of a wide variety.

25 Q. Mm-hmm.

1 things we've talked about. It also includes cargo that's  
2 there for hire. I think you heard on -- the previous fellow  
3 talk about the fishing vessels and vessels that have a  
4 coastwide sort of trading license. Unless you have a  
5 trading license on your vessel, you can't carry paying  
6 cargo. So paying cargo would be somebody that's -- cargo  
7 that's being -- someone has paid you to put on your vessel  
8 and move it to another location and take it off.

9 Q. Got it. Is that the same as cargo for carriage that --

10 A. Yeah. It would be the same thing. Yeah.

11 Q. Okay. All right. Let's talk about the companies that load  
12 and unload containers, specifically at Terminals 18 and 30.  
13 Are they handling paying cargo?

14 A. Yeah.

15 Q. Are they in the business of moving container cargo from one  
16 place to another for a fee?

17 A. Sure. And other cargo.

18 Q. All right. After the containers are offloaded at Terminals  
19 18 or 30, do they stay there, the containers?

20 A. Some -- most of the containers are -- you know, go to the  
21 pier, and then they get loaded on a truck or a train for --  
22 on, you know, destination. And some of the containers go on  
23 the pier and come back onto the ship again. We have to do a  
24 reload or maybe they will leave some containers there for --  
25 you know, like an empty stack where they will have -- they

1 will leave the containers there till they need them again,  
2 or then they will either go out by truck or back onto the  
3 vessel and take -- a lot of our -- a lot of the activity and  
4 stuff going, you know, westbound is empty containers.

5 And so for instance, if a vessel has come down from  
6 Vancouver with a bunch of empties on a hatch, those empties  
7 can come off, go onto our pier, they can sit on the pier  
8 until that -- a different vessel or a vessel of the same  
9 company wants to take those -- picks those same empties up  
10 and take them back to Asia. So those are -- they are just  
11 relocating their equipment, really.

12 Q. Okay. Thanks.

13 Now, speaking specifically to loading up container cargo,  
14 vessels do that at Terminals 18 and 30, correct?

15 A. Yeah.

16 Q. And when vessels load up with container cargo, do they then  
17 use the containers and the cargo inside the containers in  
18 transit?

19 A. Not unless they are pirates.

20 Q. All right. Has the container business evolved to use  
21 standard containers over the years?

22 A. Yeah, for the most part. There is four different container  
23 sizes, but they are all multiples of each other. And that's  
24 how they -- the ships are designed to carry that size and  
25 the industry is designed to carry that size.



- 1 Q. And what's the purpose of that? Is it so they can be  
2 stacked efficiently or --
- 3 A. Yes, that's completely the purpose, is so they can be  
4 stacked efficiently and they -- so the same box fits the  
5 road, fits the trailer, fits the ship, fits the rail.  
6 Everything is a uniform size.
- 7 Q. And what are those -- you said there were four sizes?
- 8 A. Yeah, there is a 20-foot, 40-foot, and then 53-foot are the  
9 biggest, and then there is some companies use 45- or  
10 48-footers.
- 11 Q. And you would handle all four of those sizes --
- 12 A. Yeah.
- 13 Q. -- correct?
- 14 A. We handle anything that anyone brings us.
- 15 Q. All right. Are ships calling at Terminals 18 and 30  
16 generally on a schedule?
- 17 A. If they are a liner ship -- there is two different kinds of  
18 ships, the liner ships and then you've heard reference to  
19 the tramp ships or the charter vessels. So the liner ships  
20 are generally on a schedule, you know, every Thursday night  
21 or whatever that schedule will be. Other ships that are in  
22 this tramp service that aren't on a regular liner call, they  
23 don't have a regular weekly schedule in places, they are  
24 more opportunistic vessels that are getting cargo and  
25 bringing it from one place to another, those are on a

1 schedule.

2 Q. Are the -- do you know when their call dates are going to be  
3 and their departure dates even if they are not on a  
4 schedule?

5 A. Yeah, sure. They don't just show up. I mean, we know they  
6 are coming and they make arrangements with us to have a  
7 berth window, we make arrangements to get labor down there  
8 to work the ships. We have all the work that goes on on a  
9 vessel, the agent lets us know what kind of repairs they are  
10 going to do while they are on side, what kind of equipment  
11 they are going to bring down, are they going to take on  
12 fuel, are they going to take on bunkers, are they going  
13 to -- or someone in the same -- but, you know, all of those  
14 things are all prearranged by the vessel agent before the  
15 vessel arrives.

16 Q. And is it in your interest to keep them on that schedule?

17 A. I mean, for the most part, yeah. That's what we -- I mean,  
18 what we try to do is unload and move vessels as fast as we  
19 can. That's kind of what we do. But we also -- if we know  
20 their schedule is that they are going to be there for three  
21 weeks, then we will put them in a berth that allows that  
22 that doesn't get in the way of our other activity that we  
23 have coming in.

24 So we generally try to do whatever the customer needs.

25 And it's a very uncertain world on the vessel side because

1 where they will get that done. But even when they do their  
2 major repairs in a shipyard, they still have minor repairs  
3 that they are doing on berth whenever they are available.

4 Remember, a lot of these vessels, as much as Vince, the  
5 guy earlier for the Sailors' Union of the Pacific, there is  
6 only a certain number of people that are on the vessel, so  
7 they don't have experienced, you know, heavy duty mechanics  
8 or, you know, electrical engineers that can troubleshoot  
9 sophisticated electronic equipment. All that kind of stuff  
10 they have to access from their port.

11 Q. When did you learn that Foss wanted to lease Terminal 5 to  
12 moor the drilling rigs there?

13 A. Well, I -- we actually learned Terminal 5 was going to be  
14 available for base sometime last summer, because we were  
15 part of combining the APL operations which were at Terminal  
16 5 to our terminal, and so we knew that that terminal was  
17 going to be leased.

18 We looked at leasing it from the Port to bring in car  
19 equipment or car operations and other things. We couldn't  
20 find any market for that.

21 The Port was actively advertising that that terminal was  
22 for sale. And I think at some point toward the end of the  
23 year we knew that Foss was interested in leasing it. We  
24 didn't know particularly for what client necessarily, but it  
25 wasn't -- it wasn't a use that we -- we're not that kind of

1 company. If we could lease it for a car operation or, you  
2 know, that sort of thing, that's what we do, but leasing it  
3 for a general vessel support is not -- while we try to do  
4 everything, that's not what we do.

5 Q. And you said you learned at the end of the year. That would  
6 be at the end of 2014?

7 A. Yeah.

8 Q. Yeah. Okay. And why wouldn't your company do that sort of  
9 thing?

10 A. Well, we're not a general sort of maintenance and repair.  
11 You know, we generally manage vessel -- or we generally  
12 manage cargo related terminals where we're loading things on  
13 and off and doing the other work as a auxiliary to that, but  
14 not -- and the other -- I guess the other -- frankly, the  
15 other reason is it's too expensive, because we have a big  
16 lease at Terminal 18 that's underutilized, we have a big  
17 lease at 25 that's underutilized, and so leasing another  
18 terminal without a customer in tow to pay for it wasn't  
19 something that we would do.

20 Q. Is that what Foss's business is, the things you just  
21 described that you wouldn't be doing?

22 A. You know, I don't really know. I mean, I know Foss because  
23 I've been around the northwest and they tow a lot of  
24 equipment and they have got tugboats, and they have got all  
25 kinds of things that they do, but I am not really privy to

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STATE OF WASHINGTON )  
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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 3rd day of September, 2015.

Marjie Jackson, CETD