BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEATTLE

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

August 24, 2015

TRANSCRIBED BY: Kore Siegel, CETD and Marjorie Jackson, CETD
Reed Jackson Watkins
Court-Certified Transcription
206.624.3005
DIRECT BY BROWER/O'HALLORAN

DIRECT EXAMINATION

BY MR. BROWER:

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


Q. And what is your business address?

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

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

Would you please describe your education background?

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

Q. Did you work your way up from scullion?

A. I did.

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

A. I held a small master's license.

Q. And what position -- who do you work for, Mr. O'Halloran?
A. The Sailors' Union of the Pacific.

Q. And what are your job titles?

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

Q. And do you hold any other positions?

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

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

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

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

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

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

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

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

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

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

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

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

A. Yes.

Q. And what is that experience?

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

Q. And so do you -- do your members and affiliates, you're putting gangs on and off of these ships?
Q. And for how long have you been doing that?
A. Eighteen years. I have held the Seattle branch agent's position for 18 years.
Q. And while you and I were talking, I got to learn a lot about the maritime industrial (inaudible). You had mentioned a term, when a company -- what does it mean for a company to call for a gang?
A. Well, they call for gangs, and it's for any particular work that the vessel may need at any particular time. So -- and gangs can vary. My gangs would vary according to the needs required, the vessel required.
Q. Can you give us an example?
A. Well, at Terminal 5 we often repaired lashing gear, vessel lashing gear that assisted with the lashing of the cargo. So we would routinely go aboard and remove dozens of pallets, probably up to 2- or 3,000 bars, and bring them ashore, and then we would overhaul them while we were -- while the vessel went to sea, and that would be -- we were working at the dock.

So that -- it could -- you know, depending on how many they gave us would depend on how big of a gang I -- they might order.
Q. So in addition to T-5, do your organizations have gangs working at T-91?
We do when a ship -- we have and we do when any of my vessels, any of the companies we have a collective bargaining agreement are docked up there.

And what types of vessels are these people working on?

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

In general --

But if I may --

Oh, certainly.

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

In general is -- are gangs one size or another?

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

Does it also --

The terminal operator, so --

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

Yes.

And in general, what are these gangs doing there?

Whatever is required.

Are they doing shore side support?

Yes.
Q. And also vessel side support?
A. Well, there is -- it's -- that's the same.

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

Q. And could you just give us a better understanding? What are stores?
A. Well, stores can be anything, but what stores generally are would be items that the vessel would need to operate. It could be lube oils, engine room parts, radar, you know, electronic parts, whatever operational necessities the vessel needs. Any time a ship docks it has to load stores. No ship ever docks and does not load stores.

Q. What are provisions?
A. Provisions would be items that the crew would use for the necessary operation of the vessel: Food, laundry, you know, blankets, milk.

Q. And how do provisions get on and off a vessel?
A. It depends on how many there are and what jurisdiction we might be in. So sometimes we load them. If they are what they call daily stores, the longshoremen will load them if they are a bit more prolific. So that can vary.

Q. Okay.

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

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

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

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

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

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

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

Q. So --

A. -- normal operating procedure of a vessel.

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

A. They almost always will need electrical repair.

Q. And maybe fabrication or painting?

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

Q. Do you know if Foss uses unionized labor?
A. They use -- yes, they are one of the best unionized labor
companies in the northwest.

Q. Mr. O'Halloran, have you read the interpretation at issue in
this case?
A. Only the bold print.

Q. And are you an expert in zoning or land use?
A. No.

Q. Have you reviewed the permits for Terminal 91 or Terminal 5?
A. No.

Q. If I told you that the interpretation would prohibit
non-cargo activities at Terminal 5 and Terminal 91, what
would you say?
A. Well, I would ask to define cargo activities that --
everything that was done there on the Shell Oil rig was a
traditional use of a terminal.

Q. If vessels -- certain kinds weren't allowed to call into
Seattle because of the application of the interpretation,
would that have an impact on your members and the
affiliates?
A. It would have a severe impact. It would have a very
negative impact on my members.
CROSS BY BAXENDALE/O'HALLORAN

of the table. Ms. Baxendale?

MS. BAXENDALE: Certainly.

CROSS-EXAMINATION

BY MS. BAXENDALE:

Q. Thank you for being here.
A. Thank you.

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

You were talking about stores and provisions and gear.

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

Q. Oh, gear.

A. Gear. Yes, gear.

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

So you were talking about stores and provisions and gear.

A. Yes.

Q. Would every boat have stores and provisions and gear?
A. Yes.

Q. What do you call the --
A. But may I ask a question? I'm sorry for -- when you say every boat, you may have to clarify a bit. And it's a easy
clarification for me. You would have pleasure craft, and then everything else. So --

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

A. Yes.

Q. Why do you exclude pleasure craft?

A. Why do I exclude them?

Q. Uh-huh.

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

Q. Yeah.

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

Q. Mm-hmm.

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

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

A. Take my sandwich?

Q. Yeah. That would be your provisions.

A. Yes, that's right.

Q. Right. So what do you call the other stuff that might be carried on a vessel other than stores, provisions and gear?

The stuff like cars or break bulk or -- is there a term that
Q. Oh, food.
A. -- food and hotel stuff.
Q. Got it.
A. But you have to be able to feed your sailors.
Q. Right. But if you had a -- so let me go back. I had my wrong category. The diesel that is used by the vessel to propel itself through the water, that's stores, correct?
A. Yeah. Yes.
Q. Okay. What if the ship is also carrying diesel to put into a tank farm, what is -- what's the category that you call that part of the diesel? It's not provisions, what is it?
A. Well, it would be cargo.
Q. Okay. It's not stores, it's just cargo?
A. Yes.
Q. Okay. It doesn't have any special name to differentiate --
A. No, but --
Q. -- it from the other kind of --
A. -- I -- if I -- perhaps you've heard the term "bunker" and "bunkering" here.
Q. Yeah. Yes.
A. So bunkering is the loading of fuel to propel the vessel.
Q. Okay.
A. An essential service that is done here in Seattle.
Q. Mm-hmm.
A. Any ship, vessel tying up that is self-propelled would
load -- would bunker here.
Q. Right. And then the fuel that it is carrying for the revenue generating purpose is just called cargo.
A. We would refer to it as that.
Q. Okay. Thank you. That's very helpful.
MS. BAXENDALE: I have no further questions.
HEARING EXAMINER: All right. Ms. Goldman?
MS. GOLDMAN: I just have a few.

CROSS-EXAMINATION
BY MS. GOLDMAN:
Q. You mentioned APL.
A. Mm-hmm.
Q. So what's the business -- what business was APL in?
A. American President Lines.
Q. And what do they do?
A. What do they do?
Q. Mm-hmm.
A. They are a shipping company.
Q. And do they ship cargo from one place to another?
A. Yes, they do.
Q. They do that for a fee?
A. Yes.
Q. And they turn that over to someone else at the end of the
must be able to function. So --

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

A. Okay.

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

MS. GOLDMAN: That's all I have.

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

I just had a quick question for you.

EXAMINATION

BY THE HEARING EXAMINER:

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

A. Yes.

Q. Is that pretty common?

A. Yes.

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

A. Well, cargo, I mean --

Q. You gave a couple of different answers. I think initially you said it was -- you know, it wasn't nailed down, and then
on -- with -- when Ms. Baxendale was asking you --

A. Yes, but --

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

A. I think I --

Q. -- specific about it.

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

Q. All right. And --

A. Or use.

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

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

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

HEARING EXAMINER: Thank you.


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

MS. GOLDMAN: What a reputation we have.

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

HEARING EXAMINER: All right.

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

HEARING EXAMINER: All right.
Good afternoon. And I will swear you in, Mr. Johnson. If you could raise your right hand.

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

MR. JOHNSON: I do.

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

HEARING EXAMINER: All right. Your witness,

Mr. McCullough.

MR. MCCULLOUGH: Okay.

DIRECT EXAMINATION

BY MR. MCCULLOUGH:

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

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

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

A. Right.

Q. -- you can never be sure.

Can you tell us what you do for a living.

A. I'm president of Glacier Fish Company and chief operating
officer of our groundfish division.

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

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

Q. Mm-hmm.

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

Q. Okay.

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

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

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

Q. Mm-hmm. Okay.

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

Q. And all of this happens within the vessel.

A. Correct.

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

Do your vessels make any use of Terminal 91?

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

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

A. I was.

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

A. Yes, I did.

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

A. All of --

Q. Stores and provisions and fish and gear?

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

Q. Okay.

A. -- harvest.

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

A. Yes.

Q. Right. So do some of your ships, your vessels when they are calling at Terminal 91, do they -- do all of -- well, let me ask it this way. Do all of them load and unload stores,
Q. Okay.
A. Such as Ocean Peace and Sea Fisher.
Q. Okay. Now, this is an appeal about an interpretation of the land use code that was issued by the City.
Have you read that interpretation?
A. No.
Q. And do you consider yourself an expert in issues of permitting or shoreline permits, land use?
A. No.
Q. Okay. And have you taken any time to review the specific permits or permit history for Terminal 91 that's part of your activity?
A. No.
Q. Okay. And we've talked about this homeporting activity. If I told you that this interpretation that's on appeal would prohibit homeporting, where there was no vessels, where there was no offloading of, in your case, the fish product occurring at T-91, what would be your reaction? What effect would that have?
A. Yeah, I mean, it would have a huge effect, because I think I mentioned earlier that our office is proximate -- at close proximity to the terminal, all of our vendors are here, and net manufacturers, everybody is in proximity of the terminal to service the vessels that are doing repair and backload there. So it would have a huge impact. And I just don't
CROSS BY BACA/JOHNSON

MR. BACA: A few questions, yeah.

CROSS-EXAMINATION

BY MR. BACA:

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

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

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

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

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

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

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

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

A. Presumably. Although, I mean, we want a healthy marine community in Seattle because a lot of those vendors are supporting our activities. So if actions taken would hurt the financial health of those companies or their livelihood, it would eventually impact ours, so --
MARK KNUDSEN, Witness herein, having first been
duly sworn on oath, was examined and
tested as follows:

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

MR. MCCULLOUGH: Thank you.

DIRECT EXAMINATION

BY MR. MCCULLOUGH:

Q. Now, Mr. Knudsen, I am going to also ask you to spell your
name.

A. Okay. K-N-U-D-S-E-N.

Q. Okay. And where are you employed?

A. I am employed with SSA Marine out here in Seattle. We're a
terminal operating company that's based in Seattle.

Q. Okay. And your title?

A. President, conventional cargo.

Q. Okay. What do you -- what are your general responsibilities
in that position?

A. We operate a number of terminals around the country. Some
are leased terminals, some are where we're just vessel
stevedores. So my role in the company is to manage all of
our different regions and the contracts and the cargo and
what -- and the various business we do to be able handle
A. So Terminal 18 is -- there is a left side of east waterway or the west side of east waterway, it's about a 190-acre terminal, and then Terminal 25-30 are the two terminals on the east side of the waterway, they are actually connected by a bridge so that there is -- those two terminals are all connected off the highway.

Q. Mm-hmm. Is Terminal 18 a cargo terminal?
A. Yeah.

Q. As you understand the phrase.
A. Yeah.

Q. Have you consulted the definition of "cargo terminal" in the code?
A. No.

Q. Okay. Thank you. What kind of -- what is SSA's role in operating the cargo terminal?
A. So we have a long-term lease on both terminals from the Port of Seattle, and that lease gives us the rights to run that terminal. We set the rates for our customers. We have a fixed rate that we pay the Port of Seattle, a lease rate, and then we're responsible for security, vessel berthing, we're responsible for all of the operations of the terminal beyond that.

Q. Okay. You've -- you were here for the testimony of Mr. O'Halloran?
A. Yeah, correct.
Q. And did you hear his discussion about different kinds of things that constitute cargo in his mind --

A. Yeah.

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

A. Yeah. Yes.

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

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

Q. Okay.

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

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

A. Yeah.

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

A. We handle everything. And anything that a customer comes to
verifies that there is no leaks, that it's functioning, et
cetera, et cetera. Then they will -- then we'll move it
alongside the dock where they then, you know -- at that
point, we've turned it over to the cargo water and --
Q. So you have vessels that come in to deliver these yachts --
A. Yep.
Q. -- and they will drop the yacht in the water. Is that all
they will do with respect to -- other -- they will
presumably -- or you tell me, do they do anything in
connection with provisions and gear and stores?
A. All the vessels that come in while we're offloading the --
what you'd call the cargo --
Q. Mm-hmm.
A. -- the cargo for carriage, the --
Q. Right.
A. -- whether it's containers or yachts or logs or whatever it
is, they're also servicing the vessel at the same time. So
they have -- the electronics technicians come down to fix
whatever they messed up, there is parts and supplies for the
engine room and for the crew that come on board.
So that activity happens while we're doing -- simultaneous
with the cargo discharge. Generally, the vessels that --
depending on their schedule, but they are generally here for
a select -- a limited period of time.
Q. Mm-hmm.
wide variety of customers. Currently at Terminal 25, we
have a Matson ship that used to be in service and has been
tied up at Terminal 25 for the last ten months probably.

Q. What kind of ship is it?

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

Q. Mm-hmm.

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

Q. How long has it been there?

A. At least ten months.

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

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

Q. Mm-hmm.

A. So they will bring the ship alongside, access the tanker
trucks and other stuff that they can come in, wash that,
wash the holdout so that it's clean, got to get it dried,
able to do repairs and not able to have a temporary lay berth if they are delayed on their vessel schedule or something like that, it could affect whether they would continue to call on Seattle or not.

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

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

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

A. Yeah.


So you described that -- the impact that the interpretation as I've described it would have. What would be the impact if the Port told you you cannot conduct any
certified, bring the inspectors on board, and then go over
and pick up their cargo of grain at the grain terminal.

So --

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

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

Q. Okay.

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

Q. Right.

A. -- specialized facility.

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

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

Q. And tell us what you mean by customer.
A. Yeah. And ten years out of the Seattle-based fishing industry before that. So more like 40 years.

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

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

Q. And this is --

A. It's not something we would check.

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

A. Yeah.

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

A. Right.

Q. What if you can't?

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

Q. Mm-hmm.

A. If we can't service them, they will find another location,
workers on and off the barges and have a source of power
supply to run them. So --

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

A. Correct.

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

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

Q. Sure.

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

Depending on how sort of strenuous or severe that language
change could be, that would affect the ability of some of
our regular customers who call on a regular basis with
cargo. If they are not able to load stores or they are not
Q. (By Ms. Baxendale) And do you see in Section 1-1, it's environmental review and land use approvals?

A. Yeah.

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

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

A. Yeah.

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

What do you understand commercial vessels to be?

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

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

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

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

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

A. Yeah.

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

A. Sure. And other cargo.

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

A. Some -- most of the containers are -- you know, go to the pier, and then they get loaded on a truck or a train for -- on, you know, destination. And some of the containers go on the pier and come back onto the ship again. We have to do a reload or maybe they will leave some containers there for -- you know, like an empty stack where they will have -- they
will leave the containers there till they need them again, or then they will either go out by truck or back onto the vessel and take -- a lot of our -- a lot of the activity and stuff going, you know, westbound is empty containers.

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

Q. Okay. Thanks.

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

A. Yeah.

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

A. Not unless they are pirates.

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

A. Yeah, for the most part. There is four different container sizes, but they are all multiples of each other. And that's how they -- the ships are designed to carry that size and the industry is designed to carry that size.
CROSS BY BACA/KNUDSEN

Q. And what's the purpose of that? Is it so they can be
stacked efficiently or --

A. Yes, that's completely the purpose, is so they can be
stacked efficiently and they -- so the same box fits the
road, fits the trailer, fits the ship, fits the rail.
Everything is a uniform size.

Q. And what are those -- you said there were four sizes?

A. Yeah, there is a 20-foot, 40-foot, and then 53-foot are the
biggest, and then there is some companies use 45- or
48-footers.

Q. And you would handle all four of those sizes --

A. Yeah.

Q. -- correct?

A. We handle anything that anyone brings us.

Q. All right. Are ships calling at Terminals 18 and 30
generally on a schedule?

A. If they are a liner ship -- there is two different kinds of
ships, the liner ships and then you've heard reference to
the tramp ships or the charter vessels. So the liner ships
are generally on a schedule, you know, every Thursday night
or whatever that schedule will be. Other ships that are in
this tramp service that aren't on a regular liner call, they
don't have a regular weekly schedule in places, they are
more opportunistic vessels that are getting cargo and
bringing it from one place to another, those are on a
schedule.

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

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

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

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

So we generally try to do whatever the customer needs.

And it's a very uncertain world on the vessel side because
where they will get that done. But even when they do their
major repairs in a shipyard, they still have minor repairs
that they are doing on berth whenever they are available.

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

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

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

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

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

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.
CERTIFICATE

STATE OF WASHINGTON  
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