

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

Cross-Examination Testimony of George Blomberg

before

HEARING EXAMINER ANNE WATANABE

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August 25, 2015

TRANSCRIBED BY: Marjorie Jackson, CETD

Reed Jackson Watkins, LLC

Court-Certified Transcription

206.624.3005

1 August 25, 2015

2 (2:43:59)

3  
4 THE COURT: Good afternoon. I will swear you in. If you  
5 would raise your right hand. Do you swear or affirm that  
6 the testimony you will present is true? If so, say "I do."

7 MR. BLOMBERG: I do.

8 THE COURT: Okay. Your witness, Ms. Baxendale.

9 MS. BAXENDALE: Thank you.

10  
11 GEORGE BLOMBERG, witness herein, having been  
12 first duly sworn on oath,  
13 was examined and testified  
14 as follows:

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

17 BY MS. BAXENDALE:

18 Q. Mr. Blomberg, I'm Eleanore Baxendale. I represent the City  
19 Attorney's Office and I represent the Department of Planning  
20 and Development this afternoon. Could you state your name  
21 for the record, please, and spell your last name?

22 A. George Blomberg, B-L-O-M-B-E-R-G.

23 Q. And do you work for the Port of Seattle?

24 A. I do.

25 Q. How long have you worked for the Port?

1 A. Right, right. It's embarrassing to me. The criteria listed  
2 for SEPA exemptions are cited in the memo that I prepared,  
3 and I don't recall -- certainly from an environmental  
4 perspective it's necessary to conclude that there is no  
5 adverse effect. And repair and maintenance, I'm not certain  
6 if it actually says "change in use." I would be interested  
7 to have that pointed out to me just now.

8 Q. Let's look at Foss Exhibit 51. Is this your SEPA exemption  
9 document?

10 A. Yes, ma'am. And it cites WAC 197-11-800, paragraph 3.

11 Q. And where does it cite that?

12 A. Pardon me?

13 Q. Where is it cited?

14 A. Under our SEPA finding, page 5.

15 Q. Mm-hmm.

16 A. And as you correctly point out, no material expansions or  
17 changes in use beyond that previously existed.

18 Q. So in order to issue this exemption, you had to find that  
19 there was no change in use, right?

20 A. Apparently.

21 Q. And you found that there was no change in use, correct?

22 A. Yes, ma'am.

23 Q. What was your basis for that?

24 A. My experience working at the Port, that these activities  
25 that were going to continue involve vessels that needed

1 moorage at a port facility.

2 Q. And so vessel moorage was vessel moorage?

3 A. Yes, ma'am.

4 Q. And did you do any deeper analysis than that, or was it  
5 just that it was like-to-like and -- did you evaluate  
6 whether it was like-to-like?

7 A. Based on my experience, based on what I knew of the  
8 activities that were taking place, it was no change in use.

9 Q. And what activities did you know were taking place?

10 A. That these restored bollards were going to be used as a --  
11 in order to tie up specialized vessels.

12 Q. And were some of those specialized vessels oil rigs or an  
13 oil rig?

14 A. Well, they're not oil rigs, they're exploratory vessels, but  
15 I was aware of the kinds of vessels that were going to be  
16 served at the site and I was able to conclude that that was  
17 not a change in use at the site.

18 Q. Can you describe the kind of vessels that you knew were  
19 going to be using the site?

20 A. Can I describe them?

21 Q. Right. You said you knew what they were. Could you tell us  
22 what they were?

23 A. They're the sorts of vessels we have been discussing these  
24 past few days.

25 Q. So would that include the Polar Pioneer?

1 A. Yes, ma'am.

2 Q. And your conclusion was because the Polar Pioneer was  
3 mooring and the other vessels had moored at the cargo  
4 terminal there was no change in use; is that right? I don't  
5 want to mischaracterize by getting too short.

6 A. No, ma'am. That would be a very concise explanation.  
7 Statement.

8 Q. Does your determination mention the exploratory oil rig or  
9 the Polar Pioneer?

10 A. No, ma'am.

11 Q. Is there a reason for that?

12 A. No.

13 Q. Could it have mentioned that?

14 A. I was interested in the moorage structures on the pier that  
15 are necessary for its essential and intrinsic function: To  
16 tie up large vessels. Those vessels needed to be tied up  
17 safely, moored and attached to the pier while they're  
18 engaged in their activities. And that did not lead me into  
19 the water, or over the bow rail, as they say at the ports.

20 Q. Now, let's look at DPD 26. Have you had a chance to look at  
21 it?

22 A. Yes.

23 Q. And the first page is an email from Mr. Meyer to you, and  
24 what is it sending to you?

25 A. The first page?

1 Q. Mm-hmm. Let me withdraw the question.

2 Mr. Blomberg, is this email transmitting to you bollard  
3 improvements on a schematic prepared by an engineer?

4 A. Yes.

5 Q. Turning to page S-2, a schematic --

6 A. I think we later admonished the engineer not to call them  
7 improvements, but to call them repair and maintenance.

8 Q. Yes. So turning to the page that is Plan Page S-2. Do you  
9 see that?

10 A. I do.

11 Q. What is that showing?

12 A. It says the area where the bollards were repaired and  
13 maintained, and it indicates what -- how a vessel such as  
14 the Polar Pioneer would be moored at the site.

15 Q. And then looking at page S-3, which is the following page.

16 A. It indicates that the Polar Pioneer could moor at either --  
17 a vessel of this shape and dimension could moor at either  
18 end of this bollard.

19 Q. And in fact, it's labeled "Polar Pioneer" over on the right,  
20 correct?

21 A. Is it?

22 Q. On the right-hand side with the drawing. The lowest  
23 (inaudible) on the right.

24 MR. BROWER: Your Honor, I think he's on S-2 still, not  
25 S-3.

1 Q. (By Ms. Baxendale) Oh, I'm sorry S-3. Next page.

2 A. Yes, ma'am.

3 Q. Is it labeled the "Polar Pioneer"?

4 A. So it is.

5 Q. Okay. So is it your understanding that this is intended to  
6 be a schematic of how the Polar Pioneer could moor at  
7 Terminal 5 if the bollards were adjusted?

8 A. Yes, those vital bollards, yes.

9 Q. Did you ever show this to Ben Perkowski?

10 A. Yes, I believe I did.

11 Q. Oh. Was it an attachment in your application?

12 A. Well, I'm not certain, actually. I don't know if I did.  
13 The application is included in this binder somewhere, I  
14 assume?

15 Q. It is.

16 A. Okay.

17 Q. I was just asking whether you recollect showing this to  
18 Mr. Perkowski. I think I showed him -- or included in the  
19 request for the exemption, shoreline permit exemption, there  
20 was a schematic. I'm not certain if it was this one or just  
21 simply showed the bollards themselves.

22 A. So let's look at Exhibit 47.

23 MS. GOLDMAN: Foss 47.

24 MS. BAXENDALE: Foss 47. Thank you.

25 Q. (By Ms. Baxendale) So is Exhibit 47 your application for a

1 and that we could provide the services we were obliged to  
2 serve our client with.

3 Q. Do you think Mr. Perkowski needed to know that the Polar  
4 Pioneer was going to be there?

5 A. Once he asked, I indicated that that was -- as you see here.

6 Q. So you thought that what Mr. Perkowski needed was the level  
7 of response that you gave; is that correct?

8 A. I was being truthful to Mr. Perkowski. What I knew about  
9 Foss was that they were serving the client with specialized  
10 vessels.

11 Q. In order to make the bollard exemption determination, did  
12 Mr. Perkowski need to know anything about what vessel was  
13 going to moor there?

14 A. By my lights, no. He simply needed to know that the  
15 vessels -- that the bollard capacity would be identical to  
16 what was constructed initially.

17 Q. So now let's look at Exhibit 53.

18 A. Yes.

19 Q. And is Exhibit 53 a formal response to a correction notice  
20 that had been sent by Mr. Perkowski?

21 A. Yes.

22 Q. Does the formal correction notice mention the Polar Pioneer?

23 I'm sorry, I may have misstated that. Does your response  
24 mention the Polar Pioneer?

25 A. I'm just checking to see if it did.



1 Q. Okay.

2 A. Mr. Perkowski didn't specifically ask if the Polar Pioneer  
3 were involved, and I'm not certain this indicates that the  
4 Polar Pioneer would be involved.

5 Q. And does it mention specifically an exploratory oil rig?

6 A. "Moorage flexibility and safety in vessel moorage is  
7 essential for continuing protective use."

8 It does not.

9 Q. Did you understand that you were asking -- did you intend to  
10 ask Mr. Perkowski to determine whether an oil rig could moor  
11 at Terminal 5? Was that your intention of filing your  
12 request for a shoreline exemption?

13 A. Could you say that again, please, or ask again?

14 Q. I'm sorry. By filing a shoreline substantial development  
15 permit exemption, did you intend to ask Mr. Perkowski to  
16 make a determination about whether the Polar Pioneer or an  
17 exploratory oil rig could moor at Terminal 5?

18 A. No.

19 Q. At the time that Mr. Perkowski issued the exemption, did you  
20 think that he had made such a determination?

21 A. I believe that Mr. Perkowski received the information that  
22 we submitted supporting an exemption from substantial  
23 shoreline development permit requirements, and considered  
24 that on its merit and provided the exemption that we needed.

25 Q. Thank you.

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C E R T I F I C A T E

STATE OF WASHINGTON            )  
  )  
COUNTY OF SNOHOMISH            )

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 9th day of September, 2015

*Marjorie Jackson*  
Marjorie Jackson, CETD