

# **ATTACHMENT E**

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

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## 1                                   A P P E A R A N C E S (continued)

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E X A M I N A T I O N   I N D E X

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1 idea or was that coming from the City?

2 A. It's coming from the City. They're telling us that this  
3 distinction is important to them.

4 Q. And what do you understand commercial moorage to be?

5 A. Commercial moorage takes place throughout our harbor and it  
6 involves the activities that are necessary, essential and  
7 customary at all of our facilities. DPD considers  
8 commercial moorage in a different light, it appears, in many  
9 cases.

10 Q. So let's turn to the bollard decision. Is one of your  
11 responsibilities to prepare the SEPA analysis for the  
12 bollard maintenance at Terminal 5?

13 A. Yes, ma'am.

14 Q. When you did that, did you consider whether the maintenance  
15 was to support a change in use?

16 A. I prepared those materials. Hopefully they were helpful to  
17 DPD. Objective information. And I was very careful to say  
18 that this repair and maintenance activity was necessary for  
19 the use of the wharf structure at Terminal 5. I did not  
20 consider it a change in use.

21 Q. Did you consider whether it was a change in use?

22 A. As I indicated, when I wrote the documents and subsequently  
23 responded to a question from Mr. Perkowski, it was never, in  
24 my mind, considered a change in use.

25 Q. So as part of doing this SEPA analysis to apply for a

1 Q. And as part of the SEPA exemptions, did you need to consider  
2 whether or not there was a change in use at the site?

3 A. No, ma'am.

4 Q. Why, then, did you conclude that there was no change in  
5 site? Why did you -- you testified that you concluded that  
6 there was no change in use in your opinion --

7 A. Right.

8 Q. -- at the site. Why did you go through that exercise if it  
9 wasn't called for?

10 A. It would be absurd to me to consider that that was a change  
11 in use.

12 Q. But why did you even consider whether it was? Why did you  
13 formulate the question?

14 MR. BROWER: Objection; I don't think he's -- I think  
15 it's counsel who said he considered it. I don't think the  
16 witness has said that.

17 MS. BAXENDALE: He said he --

18 A. Well, in order to present this information, this objective  
19 information to any reviewer, I would not have presented the  
20 information if I thought for an instant it was a change in  
21 use.

22 Q. (By Ms. Baxendale) Is it a requirement under the SEPA  
23 exemptions standards that there not be a change in use?

24 A. Gosh.

25 Q. This is your area of expertise.

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 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.

1 MS. BAXENDALE: I have no further questions.

2 (3:31:31)

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4 (3:47:45)

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

7 BY MS. GOLDMAN:

8 Q. Mr. Blomberg, my name is Patti Goldman and I represent the  
9 environmental group of intervenors. You said you have been  
10 involved in reviews of Terminal 5 for a long time.

11 A. Yes, ma'am.

12 Q. Does that include the 1990 -- 1990 Southwest Harbor  
13 Redevelopment Project?

14 A. The -- yes, well, if you're referring to the Southwest  
15 Harbor Cleanup and Redevelopment Project, the environmental  
16 documents I think were prepared in the period of 1993 and  
17 1994.

18 Q. And were you involved in those?

19 A. Yes, ma'am.

20 Q. And what was the principal use that was envisioned for  
21 Terminal 5 after that (inaudible)?

22 A. The principal use was to be a bright and shining example of  
23 a modern cargo, water-dependent marine cargo facility. And  
24 I believe it is.

25 Q. I want to have you look at Puget Soundkeeper Exhibit 21.

1 MS. BAXENDALE: Which number?

2 MS. GOLDMAN: I'm sorry, 12. Puget Soundkeeper Exhibit  
3 12.

4 Q. (By Ms. Goldman) And do you see your name on this page?

5 A. Yes.

6 Q. Did you hear Mr. Meyer testify yesterday that the inquiry  
7 had come in from Ms. Osborne? And this is on the second  
8 page. And he passed it along to you to respond?

9 A. I'm sorry. I wasn't here for all of Paul Meyer's -- all of  
10 his time in this chair, so I'm not certain if I heard  
11 discussion relative -- regarding this particular item.

12 Q. Why don't you look at the second page at the bottom in the  
13 email thread.

14 A. I have looked at the second page, yes.

15 Q. And then you see there is a transmittal in between, an email  
16 from Paul Meyer to you that's carry-over from the --

17 A. Right.

18 Q. And then this email from you is to Mr. Meyer; is that  
19 correct?

20 A. This is something I sent to Paul, yes.

21 Q. So you see the first bullet, and that statement is I believe  
22 identical to the one that Ms. Osborne sent in her answer.  
23 Can you tell me if that's the case? And I'm just meaning  
24 the first line, the one sentence, home porting vessels --

25 A. Oh, I see, yes, ma'am.

1 Q. -- is one of the maritime uses that have undergone  
2 environmental review and been approved at T-5?

3 A. Correct.

4 Q. And is that your -- is that an accurate statement?

5 A. The statement below that beginning "vessel access and  
6 associated water-dependent marine industrial activities."

7 Q. No, no, no. The home porting vessels, the one sentence --

8 A. I didn't write that. The bulleted sentence is not something  
9 I wrote.

10 Q. Were you verifying it --

11 A. I'm suggesting --

12 Q. -- in your email, or you did not attempt to be verifying?

13 MR. BROWER: You need to let him answer the question.

14 A. The statement, the paragraph that follows is how I would  
15 have -- what I'm suggesting as a typical -- I'm suggesting a  
16 better way to address it and I've included those  
17 suggestions.

18 Q. (By Ms. Goldman) And now, what did you mean by "consider  
19 alternative wording for black/bold"? You see right about  
20 the bullets, there's a --

21 A. Right.

22 Q. What does that mean?

23 A. I don't recall. It may have been color highlighted. So  
24 she's -- "home porting" is highlighted. Instead of "home  
25 porting" I'm saying, I was indicating perhaps "vessel access

1 and associated water-dependent marine vessel activities" is  
2 a better way to state this, and that the -- my emphasis in  
3 the materials that we have been discussing thus far is that  
4 this site is approved as a cargo terminal. The uses and  
5 activities that were going to be taking place are similar to  
6 uses and activities that have been present at T-5 for more  
7 than 60 years.

8 Q. And do you know whether that is a true statement, "home  
9 porting vessels is one of the maritime uses that have  
10 undergone environmental review and have been approved at  
11 T-5"?

12 A. That's not what I'm indicating. I'm not using the term  
13 "home porting."

14 Q. Thank you. I would like you to look at -- well, let me,  
15 maybe you weren't in the room -- do you recall Mr. Meyer  
16 testifying that at some point -- this is his testimony  
17 (inaudible). At some point he or you figured out that there  
18 had been heavy capacity bollards at Terminal 5?

19 A. Let's see. I was here for the conclusion of Paul's  
20 testimony. I didn't see the initial piece, so I apologize.

21 Q. Well, then I will just ask you: Was there a time when you  
22 became aware that there had been heavy capacity bollards at  
23 Terminal 5?

24 A. Yes, that's the way it was initially constructed.

25 Q. But did you know that when you first had this task of