

# **ATTACHMENT F**

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 Paul Gallagher  
before  
HEARING EXAMINER ANNE WATANABE

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August 25, 2015

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PAUL GALLAGHER

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1 commodities that were used in the drilling industry.

2 When I worked on an oil tanker for Texaco, we moved the  
3 different grades of gasoline up and down the West Coast.

4 So cargo is a term that refers to lots of different things  
5 that gets moved on vessels.

6 Q. And during that load in -- loading operation itself, what's  
7 the vessel crew's involvement?

8 A. Well, the vessel crew supports the watch standing officer  
9 and we all work for the captain. So it's similar to working  
10 for the executive at a company, like the president of the  
11 company. We all do our duties and report up the chain of  
12 command. It's very much a regimented operation and there's  
13 a written plan every day and we have to adhere to  
14 regulations and rules, but also to the stability of the ship  
15 while loading it.

16 Q. As the vessel officer, would you interact with the stevedore  
17 who is actually loading the vessel?

18 A. Yes, they're a key member of the team that we have to work  
19 with on the shore.

20 Q. And would your job duties also involve securing items aboard  
21 the vessel, you know, after they've been loaded?

22 A. Yes. It's the job of the crew to get ready -- get the  
23 vessel ready for sea. That involves testing all of the  
24 machinery, but it involves also securing anything, lashing  
25 it all down or sometimes welding it into place so that when

1 providing them a place where they can come tie up the vessel  
2 safely, move people on and off and load cargo back and  
3 forth.

4 Q. Okay. And how many vessels are involved in this effort for  
5 Shell?

6 A. I believe as of today it's approximately 30 vessels. Now  
7 some vessels might come and go for a short period of time,  
8 for, you know, a few weeks, but for the most part, some of  
9 those vessels travel from as far away as Sweden and Finland  
10 or Singapore and Malaysia to work on the project and then  
11 they may leave when the project is over. So right now I  
12 think the number is 30 large vessels.

13 Q. How many of those vessels called, that is cane (phonetic)  
14 and moored at Terminal 5 this year?

15 A. I don't have the exact list in front of me, but out of the  
16 30 vessels, I believe maybe eight -- seven or eight. I'd  
17 have to go back through our notes and see.

18 Q. Okay. So let's talk about some of those vessels just to  
19 identify them and their characteristics.

20 A. Sure.

21 Q. So was one of those vessels the Polar Pioneer?

22 A. Yes, sir.

23 Q. So tell me about the Polar Pioneer, what is it?

24 A. The Polar Pioneer is a large -- referred to a mobile  
25 offshore drilling unit. So it is a large vessel. That

1 vessel has thrusters, the vessel has approximately 114  
2 people that live aboard, and her job is to travel around the  
3 world and drill exploratory holes looking for things. Her  
4 career has been primarily in Norway where she's drilled more  
5 than half the holes in the Arctic looking for oil and gas.  
6 She's done that safely and without incident. And the vessel  
7 was taken out of Norway and the Arctic environment and  
8 chartered in for a period of time to this project to work in  
9 the Alaskan Arctic.

10 Q. When you say "chartered in," what does that mean?

11 A. There's a company named Transocean who owns the Polar  
12 Pioneer and they're working every day at the direction of  
13 Shell. So Shell chartered their vessel and their people to  
14 perform a service for them. So it's a very common term in  
15 the maritime community for using someone's vessel and paying  
16 for it.

17 Q. I see. Were there offshore supply vessels that came to  
18 Terminal 5?

19 A. Yes.

20 Q. And can you describe those vessels to us?

21 A. We had a couple of offshore supply vessels came to  
22 Terminal 5. Their job is to sort of be the -- kind of a bad  
23 analogy -- the pickup truck of the industry where they move  
24 cargo and equipment and supplies, and even some things that  
25 are kept in their tanks like fuel and water and cement and



1 she can tow things. She, in fact, rescued a vessel in the  
2 Aleutians a few years ago with her tow winch. When the  
3 vessel was in trouble, the TOR Viking went out into the  
4 Aleutians to keep the vessel from going up on the rocks.  
5 She tends anchors and moves large anchors and chain around.  
6 And she's also ice class, so she can work in the ice and  
7 help the vessels -- support the vessel in the ice, if  
8 needed.

9 Q. Does the TOR Viking carry cargo?

10 A. I believe she does, yes.

11 Q. And then the Aiviq, are you familiar with the Aiviq?

12 A. The Aiviq is similar to the TOR Viking except it's much  
13 bigger, newer, and much more diverse in the services that  
14 she provides. She can house people like a floating hotel.  
15 She has a helicopter pad, so people can land on her. She  
16 has, I think, two different tow winches. So she helps with  
17 anchoring the vessels. But she also has some spill response  
18 capabilities. In the event of an emergency, she can deploy  
19 a skimmer and oil boom and help to take -- recover oil from  
20 the water.

21 Q. Does she carry cargo from one location to another?

22 A. Yes, she moves containerized cargos and anchors and chain  
23 and lots of different things. These types of vessels are  
24 very versatile and their jobs change quite frequently on the  
25 different types of things they can carry. They were built

1 to be as versatile as possible to carry lots of different  
2 things.

3 Q. Were there barges that came to Terminal 5 during the last  
4 year?

5 A. Yes, we've had I think three different barges that came to  
6 Terminal 5. I think the American Trader, which is a Foss  
7 owned barge, the Tuuk, which is a Native Alaskan term that  
8 means ice chisel, she came to Terminal 5 before she went  
9 into shipyard, and then we had a barge called the KRS 286-6  
10 which came to Terminal 5 for about a week.

11 Q. What is -- are the barges designed to carry cargo from one  
12 place to another?

13 A. Yes. That's their primary mission.

14 Q. Are they -- do they propel themselves or how do they move  
15 about?

16 A. They don't. Traditionally, these -- most of these barges  
17 are not self-propelled, so they don't have any propellers or  
18 any machinery. They're basically a platform that you load  
19 things onto and then they're towed or moved around by  
20 tugboats.

21 Q. Okay. So when did Foss take possession of Terminal 5 from  
22 the Port?

23 A. I believe -- I don't have the exact date, but I believe it  
24 was in February that we started to move in and make some  
25 improvements to Terminal 5. It had been idle and there was

1 no phone service, no internet, no furniture. It was kind of  
2 left by the previous tenant and needed to be cleaned. So we  
3 moved in, I think, a little bit in advance of signing our  
4 final lease.

5 Q. When was it that the Polar Pioneer arrived?

6 A. I don't have the exact date but I think it was the middle of  
7 May.

8 Q. So what happened between February and May?

9 A. We got the facility ready. We did a lot of training. We  
10 had to mobilize in very specialized equipment. We had to  
11 get the facility prepared to run a business, so phones and  
12 internet and fiber optic cables and installing work stations  
13 and white boards and computers and getting all the equipment  
14 to work together in a unit so we had different types of  
15 cargo handling things that were brought in, cranes and  
16 rigging and shackles and those things were inventoried and  
17 stored getting ready for the season.

18 Q. Were materials to be loaded on to the vessel, did any of  
19 those materials arrive during that time frame?

20 A. So the job of the terminal is to take things in by rail or  
21 by truck or by other vessel, store them, and get everything  
22 ready so that when the vessel comes, we limit the time that  
23 the vessel is actually at the dock. The vessel really  
24 doesn't make any money when it's at the dock. So everybody  
25 wants to limit the time at the dock so that she -- the

1 it's close to 500 people, especially in the summertime when  
2 cargo is moving through the system.

3 Q. Let's talk a little bit about how the oil rig moves goods  
4 from one location to another. So you were describing  
5 loading operations at Terminal 5. What does the oil rig do  
6 with the stuff that's loaded (inaudible)?

7 A. So the oil rig takes cargo from shore and stores it into a  
8 variety of different places on board the rig so that they  
9 have it when they're ready to use it, and that includes  
10 tubulars which is drilling pipe, casing, things that they  
11 need to drill a hole down into the earth. And then they use  
12 different types of dry goods, cement and barite to limit the  
13 pressure on the well or to control the pressure on the well  
14 as they're drilling. So all of those things get loaded  
15 onboard to the vessel as well as a variety of different  
16 specialized equipment. And these are tools that help put  
17 the pipe together, tools that measure pressure, you know, in  
18 the oil reservoir, tools to, you know, get things unstuck,  
19 you know, when they're drilling. All of those things sort  
20 of have a place on the drilling rig where they store them  
21 and they have to store them in a way that they can get at  
22 them when they need them.

23 So some of the things are stored in tanks, some of them  
24 are stored in containers so that they can move them around  
25 easily, and then some stuff that's maybe heavier and larger

1 is stored in racks. As an example, a pipe and tubulars are  
2 stored in racks. Like, if you saw a truck driving down the  
3 road with logs loaded onboard, those logs are held in racks.  
4 The pipe is stored in a very similar method onboard the ship  
5 by size.

6 Q. And I take it some of the material you're describing is  
7 going to be put into the ground in Alaska?

8 A. When a well is drilled, depending upon the geology and the  
9 plan developed, a lot of things are left in the earth to  
10 build the well. So they drill a hole down and then they use  
11 casing, which is kind of like a large metal pipe of  
12 different sizes to keep the well from collapsing on itself,  
13 and then they also put cement and other chemicals and a  
14 material called mud down into the well to make sure that  
15 nothing blows back or blows out while they're drilling a  
16 well. So a lot of that equipment, including some of the  
17 valves and the preventers to limit pressure coming out, are  
18 left on the sea floor. And I think that has to deal with  
19 the permits they have and the agreements they have with the  
20 federal government of what's left in the earth when they  
21 leave.

22 Q. Can they drill the well or -- is Shell going to drill the  
23 well in just any location they choose?

24 A. No, no, I think there's an extreme amount of planning and  
25 preparation that goes into doing exactly what they said they

1 think when the Polar Pioneer had worked in Norway for 28  
2 years, she stayed out on location and she was delivered  
3 things, you know, to allow her to do work. She's too big to  
4 come into port on a routine basis, so she gets things  
5 delivered to her. It's a much more efficient operation that  
6 way.

7 Q. I know you weren't here yesterday to hear the testimony of  
8 Mr. O'Halloran and Mr. Knudsen. But they both testified  
9 about their use of the term "cargo" and I'm going to just  
10 paraphrase, I might not get this exactly right, but  
11 Mr. O'Halloran described three types of materials that are  
12 loaded on to vessels: Stores, provisions, and gear. And he  
13 said all of those things are cargo; would you agree with  
14 that?

15 A. Yes, I would agree with that.

16 Q. Do you think that's how the term "cargo" is used in the  
17 industry generally?

18 A. Yeah, I would think so, in general.

19 Q. And Mr. Knudsen was asked also about cargo and he agreed  
20 with Mr. O'Halloran, but he went to describe another  
21 category of cargo which he called paying cargo or maybe  
22 cargo for carriage. Are you familiar with those terms?

23 A. Yes.

24 Q. And Mr. Knudsen said everything that goes on or off a vessel  
25 is cargo and all these terms, stores, provisions, gear,

1 paying cargo are subcategories of cargo; is that your  
2 understanding as well?

3 A. Yes.

4 Q. Is that how the term "cargo" is used in the industry?

5 A. I believe so. We come from an industry that's centuries old  
6 and there's different, you know, types of both maritime law  
7 and different international standards where the terms are,  
8 you know, defined a little differently. So I think, you  
9 know, where the definition resides and whose definition  
10 you're using, you know, could be a little bit challenging  
11 sometimes. But I think in general for where we work here in  
12 Seattle and what happens in the United States, I think both  
13 Mr. Knudsen and Mr. O'Halloran's, their sort of general  
14 descriptions are correct.

15 Q. Okay. Let's turn to the second exhibit book and we're going  
16 to start with Exhibit 61, Foss 61.

17 So, Mr. Gallagher, we're going to go through a number of  
18 exhibits here and we're going to try to do it fairly quickly  
19 so we can get done today. So I'm going to ask you a series  
20 of questions that might be somewhat conclusory, but the  
21 intent is to try and move through this quickly. So I don't  
22 need you to explain every picture.

23 A. Sure.

24 Q. Okay. But let's start first with Exhibit 61, Foss 61, and  
25 this is 21 pages of photographs. And can you just describe

1 Q. Were all of the photos that are in Exhibit No. 62 taken  
2 aboard the Polar Pioneer at Terminal 5?

3 A. Yes, because I took them. And I took them specifically so I  
4 could show the people I worked with how to prepare the cargo  
5 and how to get things ready and where it was going to. It's  
6 difficult to tour everyone around, so it was easier to have  
7 a training session with photos to show everybody.

8 Q. I see. And let's just look at 13, for example, does that  
9 show a number of container cargos -- container --  
10 containerized cargo?

11 A. On page 13?

12 Q. Page 13 of this document?

13 A. It shows different containerized cargo, but then it also  
14 shows that white, it's called a spool piece. Some things  
15 are just so big and heavy they don't fit well into  
16 containers and they have to be lifted on their own.

17 Q. Let's look at the last photo, page 22, what's that item  
18 there?

19 A. Page 22 is the -- we're lifting a very specialized weather  
20 station that's lifted up onto the rig, it's called an AWS,  
21 and it's basically to take weather readings via computer,  
22 barometric pressure and temperature and wind and give that  
23 information back to the scientists onboard that are trying  
24 to look at weather and look at incoming ice and make  
25 predictions as to what the future forecasting might be.



1 Q. Would this fall within the category of vessel gear?

2 A. Yes, I think that would be gear. It's loaded onboard and it  
3 may stay onboard for the season. It might come off this  
4 winter to get recalibrated.

5 We loaded a similar unit where we took one off of the  
6 Noble Discoverer when they were done. It has a lot of  
7 valuable components, so it doesn't necessarily stay with the  
8 rig. They may just use it for the season and then take it  
9 off.

10 Q. This particular photo shows a large line going up to the top  
11 of the photo. So can -- is this a crane in operation?

12 A. Yeah, so if you look in the upper left-hand corner, there's  
13 actually a mobile crane on the barge, there's a gentleman  
14 that sits up in that crane. The crane lowers its cargo line  
15 down or its main line down. It has a hook on the end, it  
16 hooks onto the cargo and they work with the stevedores on  
17 shore to get everything scheduled and to get everything  
18 loaded, you know, in the priority and the sequencing that  
19 they want. So that line in the center is the main hoist  
20 line of the crane.

21 Q. And generally speaking, using that line to lift things out  
22 of the Polar Pioneer, was that the method that was used to  
23 load all of this cargo?

24 A. In this circumstance. You can see that there's a -- in the  
25 center of the photo, there's a crane on the other side of

1 links, and these are sort of running from left to right on  
2 the outer edges of the vessel. There's retrieval hooks in  
3 orange, there's these yellow and black things which are  
4 referred to as remotely -- remote automatic release, RARs,  
5 so they're used in the mooring system. In case the ice  
6 comes down, they press a button and they release the anchors  
7 so that they're able to take the rig off location quickly.  
8 And it looks like there's some barrels that are shown, maybe  
9 these are lubricating oils, things like that.

10 Q. Were those items loaded at Terminal 5?

11 A. Yes, to my knowledge, they were all loaded at Terminal 5.  
12 And there are photos somewhere.

13 Q. I'm sure there are. Just not here.

14 Foss 74. And this is another stow plan for the TOR  
15 Viking; is that right?

16 A. Correct.

17 Q. And can you describe to me what cargo is shown on this stow  
18 plan?

19 A. Well, it's hard to read. It looks like we had six  
20 containers of the cargo with the weights located on it.  
21 We've got some more on the center of these remotely --  
22 remote automatic release, RARs, which are kind of like a  
23 swivel that you use when you go fishing, but they're used in  
24 the mooring system. And I can't see what's written in pink.  
25 These might be other containers or -- actually, those are

1 if you look in the second paragraph, it says: We're looking  
2 specifically for information, et cetera. And then number --  
3 the second paragraph says: Some details that might be  
4 helpful, and there's a series of questions.

5 A. Yes.

6 Q. Do any of those questions ask for details about the purpose  
7 or the function of the Polar Pioneer?

8 A. No, it doesn't appear so.

9 Q. Did Mr. McKim ask Foss to identify what vessels were going  
10 to be calling at Terminal 5?

11 A. It doesn't look like it, no.

12 Q. Did he ask what other vessels' functions would be?

13 A. No, it does not appear that way.

14 Q. Did he ask whether any of the vessels carried cargo as one  
15 of their functions?

16 A. No.

17 Q. Let's talk about the function of a cargo terminal from your  
18 perspective. Does the function of a cargo vessel  
19 including -- include loading a wide variety of goods and  
20 materials on a vessel?

21 A. A cargo terminal?

22 Q. Yes.

23 A. Yes, it does.

24 Q. Does the function of a cargo terminal include loading a wide  
25 variety of provisions on the vessels?

- 1 A. Yes.
- 2 Q. Does the function of a cargo terminal include loading a wide  
3 variety of gear on the vessels?
- 4 A. Yes.
- 5 Q. Does the function of cargo terminal include providing a  
6 location for vessels to load equipment?
- 7 A. Yes.
- 8 Q. Does the function of a cargo terminal include providing a  
9 location for vessels to load and unload crew members?
- 10 A. Yes.
- 11 Q. Does the function of a cargo terminal include providing a  
12 location for vessels to prepare to undertake long voyages?
- 13 A. Yes.
- 14 Q. Can those long voyages sometimes take several months?
- 15 A. Yes.
- 16 Q. Does the function of a cargo terminal include providing a  
17 location for vessels to do work after long voyages have been  
18 completed?
- 19 A. Yes.
- 20 Q. Does the work at a cargo terminal include unloading vessels?
- 21 A. Yes.
- 22 Q. Include maintenance on vessels?
- 23 A. Some light maintenance --
- 24 MS. GOLDMAN: Objection; the questions are quite leading.
- 25 MR. WEST: I'm trying to get through this quickly.

1 Department of Planning and Development.

2 A. Yeah.

3 Q. When you were describing your background, you said you  
4 worked on commercial vessels. What are "commercial  
5 vessels"?

6 A. When I say "commercial vessels" I mean different than  
7 recreational vessels, so vessels that, by their mission, go  
8 out and perform some sort of work and they get paid for that  
9 work, so whether it's fishing vessels or container vessels  
10 or tugboats or things like that, I refer to commercial  
11 vessels, just delineating them from being on someone's  
12 Boston Whaler for the weekend.

13 Q. Thank you. You also testified that Saltchuk -- is that the  
14 parent for Foss?

15 A. Yes.

16 Q. -- that they had a significant number of people who were  
17 working on the Shell project. How many of those people are  
18 working here?

19 A. Here, in --

20 Q. In Seattle.

21 A. In Seattle?

22 Q. Yeah.

23 A. I don't know exactly how many people are working here in  
24 Seattle, because the nature of our business, people live in  
25 Seattle but then they might get on a boat and go to work for

1 would be appreciated. Thanks.

2 MS. GOLDMAN: I will try.

3 Q. (By Ms. Goldman) So my question isn't about -- there are a  
4 lot of definitions of cargo and cargo terminal that are  
5 floating around, so I'm trying to be precise.

6 A. Mm-hmm.

7 Q. Let's go back. I don't know if you're familiar with Eagle  
8 Marine and the containership operation that was at  
9 Terminal 5.

10 A. I worked a lot at Terminal 5, on the ground at Terminal 5  
11 and in providing ship service to Terminal 5.

12 Q. All right.

13 A. For Eagle Marine and Weyerhaeuser.

14 Q. Okay. So that business was a business of trans-shipping  
15 containers from one place to another for a fee; is that  
16 correct?

17 A. I don't know the details. I know that Westwood Shipping  
18 moved a lot of different things that weren't containerized  
19 cargo at Terminal 5. Yachts and transformers and supplies,  
20 lots of things that weren't in a container were moved to  
21 Terminal 5 by those vessels.

22 Q. Okay. So there has been testimony that -- evidence that  
23 Westwood was a subcontractor/client, customer of Eagle  
24 Marine. Let's just talk about Westwood then. So was  
25 Westwood trans-shipping those various types of items from

1 one place to another for a fee?

2 A. Can you define "trans-shipping"? What do you mean by  
3 "trans-shipping"?

4 Q. Were they in the business of being paid to take materials to  
5 put on the common carriers to take to another place?

6 A. I believe so, yes.

7 Q. And as far as you know, Eagle Marine, operating a  
8 containership operation, was it also trans-shipping those  
9 containers from one place to another for a fee?

10 A. Yeah, I believe so.

11 Q. And if Foss entered into business with Fluor for the pipes,  
12 would, then -- are those pipes also being trans-shipped by  
13 ship and then going on a train or truck by -- for a fee?

14 A. Yes, but Foss wouldn't be paid that fee by the shipper.

15 Q. Understood.

16 A. So --

17 Q. Okay, understood. I would like you to go to Soundkeeper  
18 Exhibit 40.

19 A. So what -- is it in -- they're not labeled so I don't  
20 know -- is it this one?

21 MR. WEST: 40, you said?

22 Q. (By Ms. Goldman) Actually, before we do that, let's go to  
23 Soundkeeper Exhibit 6.

24 A. PSA No. 6?

25 Q. Yes, that's for Puget Soundkeeper Alliance. So this is a

1 to be clear, I will use "provisions" to refer to things that  
2 would be used by the crew. Like the food, the laundry, that  
3 type of thing. And for "stores," I will use that to refer  
4 to things used by the vessel; lubricating oil, grease.

5 A. Okay. But "stores" are used by the crew as well, right?

6 Q. Okay. Then it could be both and you can have your answers  
7 explained if you need more --

8 A. Okay.

9 Q. And "gear," I will refer to "gear" as stuff that is used in  
10 the enterprise, so if it were a fishing fleet, the fishing  
11 poles, that type of thing?

12 A. Fishing poles, you mean like nets?

13 Q. Nets?

14 A. I mean, my dad was a fisherman so I understand fishing, and  
15 we don't really use poles very much. That's more on the  
16 recreational side of the enterprise.

17 Q. Okay. And I may misstep on a lot of these since I'm not an  
18 expert in the maritime world.

19 A. You're not an expert?

20 Q. I am definitely not an expert in the maritime world.

21 Okay. I would like to direct you to Soundkeeper  
22 Exhibit 7. And here, this is an excerpt from Black's Law  
23 Dictionary. And I would like you to go to --

24 A. So we actually used this dictionary when I went to maritime  
25 school, and this definition of "cargo" on the first page is



1 more in the general terms of how we would use cargo, so --  
2 because it was a textbook at my school.

3 Q. Interesting. Well, for my questions, though, I would like  
4 to differentiate just for clarity so we aren't confused  
5 about what we're talking about.

6 And I would like you to go to -- where's the (inaudible).

7 Okay, the second page.

8 A. Which is page 1 at the bottom?

9 Q. On mine I have --

10 A. It looks like they all have No.1 at the bottom.

11 Q. Yeah, so it's the one that says "carrier."

12 A. Okay.

13 Q. Do you see that? Okay. Can you read that definition of  
14 "carrier."

15 A. "Carrier: An individual or organization such as a ship  
16 owner, railroad or airline that contracts to transport  
17 passengers or good for a fee."

18 Q. Okay. And so when I use the term "carrier," that's what I  
19 mean. I understand there could be another definition that  
20 would be anybody that carries anything, but I am not going  
21 to use it that way. I am going to use it to refer to, here  
22 a vessel or train or truck --

23 A. Right.

24 Q. -- that contracts to transport the goods for a fee, okay?

25 So now let's go to Soundkeeper Exhibit 40.

1 A. 40, 4-0?

2 Q. Yes.

3 A. So that's in a different book?

4 Q. Yes. I have got three different books here. I can't find  
5 40.

6 MR. WEST: It's a small book.

7 THE WITNESS: So this one I have got Exhibits 14 through  
8 45, but I don't see 40. This goes 18 to 42. This book over  
9 here, it goes only up to 25 -- only goes up to 38, I'm  
10 sorry.

11 MS. GOLDMAN: Well, I can give you my copy.

12 HEARING EXAMINER: I seem to be in the same boat as  
13 Mr. Gallagher, not to make a pun.

14 (Short inaudible colloquy regarding documents.)

15 HEARING EXAMINER: 1 through 38, and then I've got the  
16 second book, which is 14-A and (inaudible).

17 THE WITNESS: There sure are a lot of papers.

18 MS. GOLDMAN: There sure are.

19 (Short inaudible colloquy regarding documents.)

20 MS. GOLDMAN: I have a copy I could show the witness.

21 HEARING EXAMINER: Okay.

22 MS. BAXENDALE: You all have it?

23 MR. WEST: You sent it to us by email I believe. I think  
24 that's how we got it.

25 MS. BAXENDALE: Do you have an extra? Could one of you

1 let the hearing examiner use a copy for the questioning or  
2 do you want -- I mean, we can bring them after lunch or --

3 HEARING EXAMINER: (Inaudible) Mr. Schneider is going to  
4 give up his --

5 MS. BAXENDALE: -- have this line of questioning after  
6 lunch.

7 Thank you.

8 HEARING EXAMINER: Thank you.

9 Q. (By Ms. Goldman) Did you assist Foss in responding to the  
10 City's discovery? The interrogatories and request for  
11 production of documents.

12 A. Yeah, whatever anyone asked me for, I assisted, including  
13 writing letters and (inaudible).

14 Q. So this document is the response to the City's request for  
15 production of documents?

16 A. Yeah.

17 Q. And attached to the document is the docket, and it has sort  
18 of a gray -- it says "purchase contract."

19 A. Yes.

20 Q. Our copies are back to back, so --

21 A. Okay.

22 Q. And do you know what this document is?

23 A. This document is the cover page of the contract. I believe  
24 it's the contract between Shell Offshore and Foss Maritime  
25 for terminal services. And those terminal services can be

1 provided anywhere in the world over a ten-year term. The  
2 appendix, a lot of the exhibits talk about Terminal 5, but  
3 we're allowed to use this contract anywhere Shell wants us  
4 to go to work.

5 Q. Okay. I was going to ask you some of those questions. So  
6 do you know when this document was signed?

7 A. I don't know the exact date. I'm sure there must be a date  
8 somewhere on the signature page.

9 Q. Not with what was provided to us so --

10 A. I believe this was signed -- I believe it was signed at the  
11 end of February, beginning of March. I don't know the exact  
12 date.

13 Q. Do you know who signed it?

14 A. I believe it was signed by Gary Faber, who is a senior  
15 executive at Foss. On the Foss side. It was signed by  
16 Shell by David Ott, who is a contract holder. He's the vice  
17 president of logistics I believe. I'm not sure of his exact  
18 title.

19 Q. And you were speaking about the term that is covered by the  
20 contract. What is the term?

21 A. We were talking about the term that was covered at  
22 Terminal 5, which is different than probably the term that's  
23 covered by the Shell contract.

24 Q. Well, let's talk first about the Shell contract. What is  
25 the term of the Shell contract?

1 A. Is it here, listed?

2 Q. It is not.

3 A. Oh, so as I explained the contract -- term for this contract  
4 is a ten-year term, but the contract specific to Terminal 5  
5 for services in Seattle is I believe a two-year term with  
6 options that are similar to the options of Terminal 5.

7 Q. And you said that the contract with Shell pertains to other  
8 services that Foss has agreed to provide for Shell?

9 A. For terminal services, yes.

10 Q. So would that include activities in Everett, for example?

11 A. Port Angeles. We did work in Port Angeles to support the  
12 Polar Pioneer under this contract, yes.

13 Q. Everett as well?

14 A. Not under this contract. We did some work for the vessels  
15 direct but not for Shell Everett. Foss doesn't do any work  
16 for Shell Everett.

17 Q. Okay. I would like to move the admission of this document.

18 MR. WEST: No objection.

19 HEARING EXAMINER: Let's see. This had a number. It's  
20 40?

21 MS. GOLDMAN: It was 40, and it had -- it was attached to  
22 the request for production, and we can bring copies after  
23 lunch.

24 HEARING EXAMINER: All right. It's admitted.

25 (Soundkeeper Exhibit No. 40 admitted into evidence.)

1 THE WITNESS: Do you want this back?

2 MS. GOLDMAN: No, I'm going to ask you a few more  
3 questions about it.

4 THE WITNESS: Okay.

5 Q. (By Ms. Goldman) So if you go to page 2, the purchase  
6 contract. So you see at the bottom it says "Foss 1"?

7 A. Yep.

8 Q. Okay. Go to Foss 2. It's the second page of the  
9 attachment. And you see there is a reference to contractor  
10 and company. Who is the contractor?

11 A. The contractor would be Foss Maritime Company.

12 Q. And who is the company?

13 A. Shell Offshore Incorporated.

14 Q. Okay. And you see a reference in the first paragraph to:  
15 "The contractor would provide terminal/dock -- terminal/dock  
16 facilities (slips)."

17 Is that moorage?

18 A. That's providing the facility for moorage.

19 Q. Okay.

20 A. There is no -- you can't -- we can't give moorage unless we  
21 have a dock to tie up to.

22 Q. Do you want to read that whole paragraph?

23 A. Sure.

24 Q. Starts with "this order," please.

25 A. "This order shall constitute an agreement by contractor to

1 outlines what businesses. So I'm not sure what the  
2 definition of -- usually with these contracts there's a set  
3 of definitions that talk about the business. It looks like  
4 it's a 93-page contract so I'm not sure exactly what the  
5 business is.

6 Q. Were you loading any materials for Shell to use for anything  
7 other than its offshore drilling operation?

8 A. Not that I believe so, but like I said, we loaded -- as an  
9 example, we loaded mooring wires on the KRS 286-6 so that  
10 someone else could install mooring wires on a vessel  
11 operated by Shell. So there were no Shell people there  
12 doing the work and it wasn't a Shell vessel. So it was  
13 someone else doing the work in support of them.

14 Q. Okay. That's not my question. My question is: All of the  
15 material that you discussed Mr. West --

16 A. Right, right.

17 Q. -- is it going to be used in the performance of Shell's  
18 offshore drilling operation?

19 A. We have items at Terminal 5 that are for -- the TOR Viking,  
20 as an example, that are spare parts that may or may not be  
21 used this winter, and they may be loaded on board when the  
22 TOR Viking leaves to go back to Russia. So I don't think I  
23 have a 100 percent answer. I would say the majority of  
24 things that we load are used as part of the Shell's project,  
25 but there's probably some things in the yard that aren't,

1           you know.

2   Q.    Are you loading them for some other business?

3   A.    Well, I will give you one example.  One example is the Polar  
4           Pioneer arrived in Port Angeles on the back of the Blue  
5           Marlin, which is a big heavy-lift ship.  On the back of the  
6           Blue Marlin they had metal frames and piping that were used  
7           to store the vessel.

8           So those were all removed and brought back to Terminal 5  
9           and stored.  They have nothing to do with Shell's operation  
10          except that they were there to get the rig to here.  And  
11          when the rig leaves, they will probably be welded on board  
12          the Blue Marlin or a similar vessel and sent away, but they  
13          don't contribute anything and were really not involved with  
14          the business or Shell's activities this winter, but they are  
15          stored on the ground at Terminal 5.

16  Q.    And was the Blue Marlin in the Strait of Juan de Fuca  
17          related to Shell's offshore drilling operation?

18  A.    Yes, it delivered a rig here, yes.

19  Q.    So it -- when you're hesitating and trying to not commit to  
20          saying the materials that were loaded or unloaded are to be  
21          used in the performance of Shell's offshore drilling  
22          operation, can you explain why?  Is it because you're not  
23          sure they will actually be used that way?  I'm puzzled by  
24          why you're hesitating, because you haven't described  
25          anything that doesn't fit --



1 MR. WEST: Object. Mischaracterizes. He has, in fact,  
2 described things that aren't used in the drilling at all,  
3 such as the TOR Viking material taken off the vessel, left  
4 at the dock. It isn't going to be used at all.

5 HEARING EXAMINER: Okay. Mr. West, I am going to overrule  
6 it. I think we're just trying to seek clarification here.

7 THE WITNESS: I'm mean, I'm sorry if I'm hesitating but I  
8 really haven't been involved in a situation like this, and  
9 this is a very important deal for my company. And so your  
10 questions --

11 HEARING EXAMINER: Okay. Mr. Gallagher --

12 THE WITNESS: -- I'm trying to understand the --

13 HEARING EXAMINER: Maybe you can --

14 THE WITNESS: -- the context of this document, which is 93  
15 pages long and I've got three pages -- I'm trying to  
16 understand your questions.

17 Q. (By Ms. Goldman) And one of the problems, we only have  
18 three pages because that's all your company gave to us.

19 A. Right.

20 Q. And so I do need to --

21 A. Well, as I explained, we're in competition against other  
22 companies, so for our information to get out about our  
23 rates, our operations planned, even the employees that we  
24 hire and name in the document for their functions, we don't  
25 want to lose our employees to a competitor, so there is a --

1 you know, there is, really, you know, this type of work,  
2 there's some commercial sensitivity in giving this stuff  
3 out, especially to an environmental firm that may put it on  
4 the internet and take photos and try to do us damage.

5 Q. So I understand this is a really artificial setting in  
6 cross-examination, but I mean, it is -- I get to ask the  
7 questions and you have to answer --

8 A. No, no, I --

9 Q. I mean, that is --

10 MR. WEST: Why don't we go back to questions and answers  
11 rather than talking about the process.

12 HEARING EXAMINER: Right, let's go ahead. And,  
13 Mr. Gallagher, I have to ask to you simply listen to the  
14 question. If you don't understand it, then say so.  
15 Otherwise, just answer it.

16 THE WITNESS: Sure.

17 HEARING EXAMINER: I think it will go faster if we do it  
18 that way.

19 THE WITNESS: Sure.

20 Q. (By Ms. Goldman) So let me ask a different question then.  
21 Of the material that you loaded onto the Polar Pioneer, is  
22 it to be used by Shell in the performance of its offshore  
23 drilling operation?

24 A. I don't know.

25 Q. You don't know. But you testified before you know what the

1 Polar Pioneer does?

2 A. Yeah, sure.

3 Q. And you've testified at length about the type of gear that  
4 you were loading and the purposes of that gear.

5 A. Yes.

6 Q. And drill bits and drill casings and muds and --

7 A. Right.

8 Q. -- and all of that is going to be used in the offshore  
9 drilling operation?

10 A. For the period of time that they're working. Whether that  
11 stays on board and goes to a different job or whether they  
12 use it or not, I don't know if it will get used or not.

13 Q. I am not asking if it would be used. Was the purpose of  
14 loading the materials on to the Polar Pioneer so they could  
15 be used in the offshore drilling operation?

16 A. Sure, I believe so.

17 Q. And was there any other purpose for loading those materials  
18 on to the Polar Pioneer?

19 A. Can you rephrase the question? I guess I'm confused.

20 Q. Sure. Were the materials loaded on to Polar Pioneer to be  
21 used for any other business?

22 A. Than the mission of the vessel itself or --

23 Q. Yes.

24 A. To my knowledge, no.

25 Q. And for the other vessels that are part of the Shell fleet

1 that came to Terminal 5 --

2 A. Mm-hmm.

3 Q. -- were you loading materials onto those vessels so that  
4 they could be used -- they might not be, but they could be  
5 used in the offshore drilling operation?

6 A. Yes.

7 Q. And were you loading materials onto those vessels so they  
8 could be used in some other business?

9 A. You mean for someone other than Shell or --

10 Q. Yes, for some other business activity other than bringing  
11 them up to the Arctic to be -- so they could be used in  
12 offshore drilling?

13 A. No.

14 Q. Okay. I would like you to go to the fifth item and you will  
15 see there is reference there to disposable waste. Could you  
16 read, let's see, I think it is -- I think it's the second  
17 sentence. It's in the third line, begins with "Company  
18 shall." Can you read that?

19 A. Right. "Company shall deliver to the terminal its hazardous  
20 and non-hazardous solid waste generated offshore, presorted  
21 and placed into properly marked containers."

22 Q. And then would you read the next line as well.

23 A. "On arrival at the terminal, contractor shall offload both  
24 solid and hazardous waste and, if necessary, shall further  
25 sort such waste and shall place the waste in the properly

1 activities that happen there.

2 Q. Okay. And I believe you testified that drilling muds and  
3 cuttings might be shipped from the Arctic back to the  
4 Terminal 5?

5 A. In the previous season when they drilled in the Beaufort  
6 Sea, they had to recover all the cuttings, that was one of  
7 the requirements. But in this season it's not required, so  
8 that's not happening.

9 Q. I thought that Shell had entered into an agreement with the  
10 Alaska Eskimo Whaling Commission to bring the drill muds and  
11 cuttings back; is that not the case?

12 A. I'm not aware of that, no.

13 Q. So they'll be just discharged in the ocean?

14 A. I'm not aware of that. I'm sure that people have looked at  
15 it and they're following all appropriate rules and  
16 regulations.

17 Q. So there won't be drill cuttings brought for disposal; is  
18 that right?

19 A. My understanding is there's no containers to move any drill  
20 cuttings this season, so they would have to have empty  
21 containers and tanks in order to move them, so we didn't  
22 load any. They might be delivered by other means, but not  
23 to my knowledge.

24 Q. I would like to turn to Exhibit 46.

25 MS. GOLDMAN: Everybody have that, I hope?

1 MR. BROWER: I was about to make the same objection.

2 HEARING EXAMINER: All right. Ms. Goldman?

3 MS. GOLDMAN: Well, there has been a lot of testimony  
4 about a purported primary function test that needs to be  
5 applied in order to understand the interpretation and that  
6 it's difficult to understand what vessels do.

7 There has also has been testimony that the Polar Pioneer  
8 transports cargo like a cargo vessel would, so I think it's  
9 quite relevant to be able to understand a bit more about  
10 this vessel and what it is and is not, and how hard it is to  
11 figure out what it is and is not.

12 HEARING EXAMINER: All right. I'll overrule the  
13 objection.

14 MS. GOLDMAN: Thank you.

15 Q. (By Ms. Goldman) So can you explain how Polar Pioneer gets  
16 onto the Blue Marlin?

17 A. Sure. The Blue Marlin is a large vessel. She -- her  
18 function is -- her back deck is open and clear much like the  
19 back deck of a flatbed truck. She arrives at a location.  
20 She takes on water in segregated ballast tanks. She  
21 submerges herself to a set location, holds herself in place,  
22 and then tugboats slide the cargo.

23 And the cargo could be anything big and heavy. A big dry  
24 dock in Portland, Oregon was just moved by the Blue Marlin  
25 from China to Portland. They pump the water out and they

1 lift the vessel out of the water, much like a dry dock down  
2 here at Harbor Island, and then they secure that cargo to  
3 the dry dock.

4 And it's a more economical way to transfer across the  
5 ocean, provides, you know, more surety of delivery and a  
6 more cost effective way to deliver cargo on the back of a  
7 heavy-lift semi-submersible ship. So there's probably 15  
8 ships like her in the world that move big heavy pieces of  
9 cargo.

10 Q. And can you describe how Polar Pioneer positions itself for  
11 drilling?

12 A. I'm not an expert on the Polar Pioneer. I haven't been on  
13 board her while she's drilling, but in general terms she  
14 arrives at a place, she sets anchors at the place. While  
15 anchored, they tension the anchors so that they're directly  
16 over the location using sophisticated satellite navigation  
17 equipment. And then they use the thrusters, depending upon  
18 how big the wind and the waves are, to fine-tune how that  
19 vessel is exactly over an X marked on the sea floor.

20 Q. And is the Polar Pioneer a particularly large vessel?

21 A. I don't know what you mean by "large."

22 Q. Is it wider than the typical cargo or containership that  
23 might previously have called at Terminal 5?

24 A. It is wider than the APL ships that were calling at  
25 Terminal 5 unless you put a banker barge on the outside, and

1 then it's somewhat similar.

2 Q. And would you say the principal use of Polar Pioneer is to  
3 aid in offshore drilling operations?

4 A. I believe she's an exploration vessel, so she drills holes  
5 for exploration.

6 Q. And would you say that's her principal purpose?

7 A. I believe that's her principal purpose.

8 Q. And would you say that the Polar Pioneer is used to  
9 transport cargo the way I've describes cargo, for a fee,  
10 paying cargo?

11 A. If we use your definition that you pointed out, no, she's  
12 not a carrier, so she doesn't get paid by a third party to  
13 move cargo from port to port.

14 Q. You said you also are familiar with the Noble Discoverer?

15 A. Yes.

16 Q. And can you describe what type of drill ship the Noble  
17 Discoverer is?

18 A. So she is also a MODU, a mobile offshore drilling unit,  
19 except she's a self-propelled vessel, and she moves or looks  
20 similar to a ship. In fact, she was a log carrier that was  
21 converted to be a drilling ship, so she's similar in the  
22 work that she performs but she is of a different style and a  
23 different configuration than the Polar Pioneer, and she's  
24 operated by a different company.

25 Q. Was she originally built in the 1960s?



- 1 A. Mm-hmm.
- 2 Q. And is it used to carry cargo, paying cargo from one  
3 location to another?
- 4 A. By the definition you showed me, no, she doesn't get paid to  
5 move cargo.
- 6 Q. And is the picture on the top of page 1-17 the Noble  
7 Discoverer?
- 8 A. Yes.
- 9 Q. Thank you. And you testified before that the Shell Arctic  
10 drilling fleet is about 30 vessels?
- 11 A. I believe this summer it's about 30 vessels.
- 12 Q. And you mentioned that some of the vessels would be ice  
13 breakers, didn't you mention that?
- 14 A. Some of the vessels have the ability to be ice breakers or  
15 to work in ice.
- 16 Q. And is that an important function that some of the vessels  
17 perform as part of the drilling operation?
- 18 A. They work an area where there is ice, and ice floats around,  
19 so I think having that capability is very important. It's  
20 sort of like living in the mountains and having a four-wheel  
21 drive truck. You would like to have that ability when you  
22 need it to move around in the ice. You hope you don't need  
23 it, but you have to go to the right equipment.
- 24 Q. Mm-hmm. And you mentioned anchor handlers, I believe?
- 25 A. Mm-hmm.

1 Q. Are some of the vessels that are part of Shell Arctic  
2 drilling fleet anchor holders?

3 A. Yes, they handle anchors. And so the vessels that handle  
4 anchors need to have some specialized equipment on board to  
5 be set up, because the anchor is very heavy and so they have  
6 to be able to pull the anchors up on deck, change the angles  
7 of the flukes and redeploy them without putting anyone at  
8 harm. So they usually have big wire wenchers, they have a  
9 roller on the stern, they have tugger wenchers on board the  
10 deck, and they usually have rooms on board so the people  
11 that know most about the anchors can live on board and do  
12 that work to support that anchor handling.

13 Q. And do you know whether anchor handlers and ice breakers  
14 need to remain in the vicinity of the drilling operation?

15 A. I believe that that is a common occurrence that they hang  
16 out in the vicinity because if they need to move the vessel  
17 or reset the anchors, they need to be close by.

18 Q. So I would like to direct you to Soundkeeper Exhibit 47.  
19 And I will just explain again, this is from a government  
20 website. It is the approved oil spill response plan for  
21 Shell's Arctic drilling operation. We provided the website  
22 to all of the other parties, and the parts that are included  
23 here are the excerpts that pertain to the oil spill response  
24 vessels.

25 MR. WEST: I have the same objection. Just because

1 something is on a government website doesn't make it  
2 admissible.

3 HEARING EXAMINER: And I will note the objection but I  
4 will go ahead and let you -- I do have some -- you've just  
5 opened this up so I don't know how much of it is going to be  
6 relevant, but I will let you work through with the witness  
7 on this document before you offer it.

8 Q. The document has some other pages and then it has an  
9 appendix that is Appendix A, that is response equipment.

10 A. Mm-hmm.

11 Q. So are you aware that Shell has to have various oil spill  
12 response vessels as part of its fleet?

13 A. Yes, I'm aware of that.

14 Q. If you look at page A-2, and you see some descriptions  
15 there. Sorry, A-5. If you look at A-5 you see a list of  
16 vessels, types of vessels.

17 A. Yes.

18 Q. And I believe before you testified about some vessels  
19 related to oil spill response. Is OSR oil spill response?

20 A. I believe it stands for oil spill response vessel.

21 Q. And it looks like, what, there are ten or more vessels that  
22 are listed here?

23 A. Yes.

24 Q. And you said the fleet is about 30 vessels, so roughly a  
25 third of a fleet is oil spill response vessels?

1 A. I think to be clear, the vessels have multi missions, so the  
2 vessels may have a mission of being on oil spill vessel but  
3 may also do other things. So, yes, they list ten. As an  
4 example, there are no Foss tugboats listed here but we're  
5 asked to train our people to respond to oil spills in case  
6 there's an oil spill, like having a volunteer fire  
7 department and training the community. So I think that,  
8 yes, there's ten, list of 30, but I think everybody has the  
9 duty to respond to an oil spill and clean it up if something  
10 happens.

11 Q. Do some of the vessels have specialized equipment for use in  
12 an oil spill?

13 A. Yes. And training of the people on how to keep themselves  
14 safe and also how to use that equipment and maintain it.

15 Q. Might some of the vessels carry booms for use in an oil  
16 spill?

17 A. Right, containment booms, yes.

18 Q. What about chemical disbursements to be used in an oil  
19 spill?

20 A. I don't think any of those are carried on the vessels. I  
21 believe those are delivered by aircraft in the scenario. I  
22 don't think any of the disbursements -- I don't think anyone  
23 is authorized to use that.

24 In ten years when I worked at Foss, I ran an oil spill  
25 response business for Foss Maritime so I'm familiar with oil

1 spill response, and I was responsible for oil spill response  
2 in the state of Washington for my company. And we took care  
3 of a lot of the vessels that would come into the state of  
4 Washington. So having disbursements, usually they're  
5 delivered by an airplane and they're sprayed by an aircraft,  
6 either fixed wing or rotary wing. To my knowledge, none of  
7 these vessels carry any disbursements.

8 Q. Do some of the vessels have a place for airplanes to land?

9 A. Yes, yes, helipads.

10 Q. Does --

11 A. Not all of them.

12 Q. You mentioned Aiviq had --

13 A. So the Aiviq has a helipad on the front of her vessel, yes.

14 Q. And she's one of the vessels that was moored at Terminal 5?

15 A. Correct.

16 Q. And she's also, I believe you said, an anchor handler?

17 A. She's an anchor handler and an ice breaker and an offshore  
18 supply boat.

19 Q. So very specialized.

20 A. And people joke that she's also a floating hotel.

21 Q. Mm-hmm. There's a reference here to skimmer boats. What's  
22 a skimmer boat?

23 A. I would assume that skimmer boat refers to having an oil  
24 spill response skimmer on board, and that her mission as  
25 part of this plan would be to remove oil from the water or

1 to skim the oil from the water.

2 Q. Do you know what VOSS stands for?

3 A. Vessel of opportunity skimming system.

4 Q. And there's a reference to that -- it says VOSS anchor  
5 handling ice breaker, and then it lists Aiviq or similar?

6 A. Right.

7 Q. So could Aiviq be a vessel of opportunity skimmer system?

8 A. It's one of the oil spill response vessels and she has a  
9 very specialized piece of equipment loaded on board called  
10 the TransRec, and the TransRec is a big ocean skimmer that  
11 operates in the ocean. It's got a pump and a large  
12 inflatable boom. In the event of an emergency, a small boat  
13 can pull the boom out and they fill it full of air, and they  
14 make a shape like a J and they drop the oil skimmer down in  
15 the oil and recover oil from the water in the event of an  
16 emergency.

17 Q. And are you familiar with a blowout preventer?

18 A. I'm familiar with the term blowout preventer, yes.

19 Q. Is there blowout preventer equipment on any of the Arctic  
20 drilling fleet?

21 A. I believe that the blowout preventer is moved. There's -- I  
22 think most -- both of the drill vessels have one on board,  
23 and then there are others that are moved into the theater,  
24 so, as an example, if they're going to drill multiple wells.  
25 The blowout preventer can be a piece of cargo that's moved

1 to support the operation.

2 Q. And what is it?

3 A. In general terms, a blowout preventer is a system of valves  
4 and piping that is set on top of the well head on the sea  
5 floor, and it's controlled remotely from above. And in the  
6 event of any pressure down the well that -- or any problems  
7 with the well, the blowout preventer closes itself and cuts  
8 the drill pipe and seals off the well so that nothing can  
9 leak out.

10 Q. And are you familiar with a containment dome?

11 A. I'm familiar with a containment dome as used on the Arctic  
12 Challenger.

13 Q. The Arctic Challenger is one of the vessels that was down in  
14 Washington state waters?

15 A. It's on this list at containment system barge at the bottom.  
16 It was up in Bellingham, and Foss has a contract to tow it  
17 around.

18 Q. And what is the containment system?

19 A. The containment system is a floating platform that, in the  
20 event of a blowout or a gas leak or oil leak under the  
21 surface of the water, she's moved into position, she's  
22 lowers a dome which is sort of like an ice cream cone turned  
23 upside-down, and they lower it and position it over the  
24 release and then collect the oil and gas and they bring it  
25 to the surface and process is. If it's liquid, they pump

1 the oil into an oil tanker. If it's gas, they can flare it  
2 and burn it, as a way to contain it until they can drill a  
3 relief well.

4 Q. You mentioned that they pumped some of the oil into an oil  
5 tanker, so is that --

6 A. In general terms, that's one of the options. I'm not sure  
7 what the plan says.

8 Q. But if there is an oil spill tanker that's one of the  
9 vessels, is it your understanding that is a vessel that  
10 would have the recovered oil?

11 A. Right. I believe --

12 MR. WEST: I think we have gone pretty far afield from  
13 what we have loaded and unloaded at Terminal 5 now.

14 HEARING EXAMINER: I agree, too. Ms. Goldman, where -- we  
15 could spend a lot of time talking about spill response and  
16 some of this equipment. I need to have this tied back into  
17 the --

18 MS. GOLDMAN: Well, we have a lot of testimony about cargo  
19 and everything loaded on these vessels. And I would like to  
20 go through what the purpose of all of this cargo is. So I  
21 will wrap up with these vessels, but I have more questions  
22 about other cargo that --

23 HEARING EXAMINER: Right. And so far, you know, again,  
24 maybe everyone else sitting around this table, I'm quite  
25 sure they know more that I do about the cargo that you're



1 Q. It will not happen at Terminal 5?

2 A. No.

3 Q. Will there be -- will equipment that's on the various  
4 vessels, could it be taken off the vessels and put on the  
5 deck for servicing or repairs?

6 A. Sure, that could happen.

7 Q. And you had said that various contractors or consultants  
8 could be retained to come to Terminal 5 to perform various  
9 services?

10 A. Yes.

11 Q. Might some of those be maintenance and repair and servicing  
12 activities?

13 A. Yes.

14 Q. And what types of activities might those be?

15 A. As an example, the caterpillar guy might come and tune up  
16 the engines that provide electricity on the rigs. The radar  
17 guy might come and tune up the radar. The satellite  
18 communication person may come and fine-tune the satellite  
19 communication system. The refrigerator person may come and  
20 check off the freezer of why it's not staying cold. I mean,  
21 there is a variety of different things that could happen  
22 during the off season.

23 Q. This morning you testified about many different specialized  
24 drilling types of equipment.

25 A. Mm-hmm.

1 Q. So is that --

2 A. So the answer would be, no, I can't think of any situation  
3 where the vessel would tie up like that or any vessel of  
4 similar size.

5 MR. WEST: Okay. That's all the questions I have.

6 MS. GOLDMAN: Can I ask (inaudible).

7

8 R E B U T T A L C R O S S - E X A M I N A T I O N

9 BY MS. GOLDMAN:

10 Q. So the simulation that you described, was that including the  
11 exclusion zones?

12 A. Yes.

13 Q. Did the simulation also model the vessels coming in with a  
14 500-yard exclusion zone?

15 A. Yes.

16 Q. And the determination was vessels could navigate around --  
17 around in the west waterway with the 500-yard exclusion?

18 A. As it was stated, with permission from the Coast Guard, they  
19 could navigate through the safety zone.

20 Q. Oh, with permission?

21 A. With permission from vessel traffic.

22 Q. Oh. Was that here -- your testimony is that with permission  
23 they could navigate around it?

24 A. By checking into vessel traffic, vessel traffic allows them  
25 to pass through the zone.

1 Q. Oh. Was the simulation looking at access to Longfellow  
2 Creek, if any vessels were moored closer to Longfellow  
3 Creek?

4 A. I don't believe so, no. Longfellow Creek is very small at  
5 the southern part of the terminal. We don't have any  
6 vessels tying up at the southern part of the terminal, it's  
7 not part of our lease area.

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

9 HEARING EXAMINER: Ms. Baxendale, any questions.

10 MS. BAXENDALE: No, I (inaudible).

11 MR. WEST: No redirect.

12 HEARING EXAMINER: All right. Thank you, Mr. Gallagher.

13 (Conclusion of Mr. Gallagher's testimony at 4:30:29.)

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