

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA

Item No. 5f

Date of Meeting August 11, 2009

DATE: July 31, 2009

TO: Tay Yoshitani, Chief Executive Officer

FROM: Craig Watson, General Counsel
Tom Tanaka, Senior Port Counsel

SUBJECT: Delegation of Authority – Attorney-Client Privilege

ACTION REQUESTED

Request for Commission to delegate authority to the Chief Executive Officer to handle requests for privileged documents by the State Auditor as part of the current performance and accountability audits.

BACKGROUND

The State Auditor's Office ("SAO") is currently undertaking scheduled performance and accountability audits of the Port. Within the Port's files are documents that are attorney-client communications and therefore subject to the attorney-client privilege. The Port believes that these documents would not be available for review by anyone outside the Port, including the SAO. The Port and SAO have signed a confidentiality agreement that describes how the parties will deal with privileged documents. Under the agreement, the SAO may request to see privileged documents and the Port will consider whether or not to make them available to the SAO.

The Port Commission ultimately controls how privileged documents are handled. In order to provide an efficient and effective mechanism to handle SAO requests, staff believes the Commission should delegate the authority to the CEO to make discretionary decisions as the requests arise. The CEO would report regularly to the Commission on the status of these disclosure issues or sooner if an urgent matter arises.