

**MOTION
OF THE PORT OF SEATTLE COMMISSION
REGARDING CLARIFICATION OF
SEATTLE DEPARTMENT OF PLANNING AND DEVELOPMENT INTERPRETATION #15-001**

PROPOSED ON MAY 12, 2015

TEXT OF MOTION

On May 7, 2015, the City of Seattle Director of the Department of Planning and Development (DPD) issued DPD Interpretation No. 15-001, which concluded that the proposed moorage of the Royal Dutch Shell exploratory drilling rig and two accompanying tugboats at Terminal 5 would not be consistent with the legally established use of Terminal 5 as a cargo terminal.

Because this Interpretation is inconsistent with the Port's historic operation of its cargo terminals and raises significant questions about the legality of long pre-existing diverse cargo activities at Port of Seattle cargo terminals, the Port of Seattle Commission directs the Chief Executive Officer to appeal Interpretation No. 15-001 with the City of Seattle Hearing Examiner.

STATEMENT IN SUPPORT OF THE MOTION

The Port of Seattle has entered into a lease with Foss Maritime for the use of approximately 50 acres at Terminal 5. Foss Maritime, with Royal Dutch Shell as its customer, secured the property as a short-term berth for vessels used in oil and gas exploration in Alaska.

On May 7, 2015, the City of Seattle issued an Interpretation from the Director of Department of Planning and Development (DPD) Interpretation #15-001 (Interpretation) concluding that the proposed moorage of the Royal Dutch Shell exploratory drilling rig and two accompanying tug boats is not consistent with the legally established use of Terminal 5 as a cargo terminal. The Interpretation stipulates that an "additional use permit" would be required for seasonal moorage of a drilling rig and two accompanying tugboats at Terminal 5.

Subsequently, DPD clarified that – under SMC 23.88.020 – land use code interpretations are site specific. Thus, DPD Interpretation #15-001 cannot be directly applied to activities occurring at other Port facilities. DPD also clarified that the "additional use permit" that would be required for seasonal moorage of the Shell exploratory drilling rig and two accompanying tugs would be a commercial moorage permit.

In a letter to the Port on May 8, 2015, Seattle Mayor Ed Murray offered to initiate discussions with the Port to review and update the cargo terminal definition in the shoreline master program in the coming months. The mayor offered to consider revisions in this ordinance if it does not reflect activities taking place at cargo terminals now or in the future.

On May 8, 2015, Foss Maritime announced its intention to appeal the DPD Interpretation, stating its view that the existing permitting at Terminal 5 is appropriate for the proposed use by Royal Dutch Shell. In its public statement, the company expressed concerns about possible widespread implications of the Interpretation on common maritime uses throughout Seattle.

In many circumstances, the Port of Seattle considers lay-berthing and provisioning of vessels to be work critical to successful cargo operations. Examples of these activities include:

- Research vessels,
- Fishing vessels,
- Ice breakers,
- Grain ship support vessels and
- Fire response vessels.

In order to preserve a vibrant and successful working waterfront, the Port of Seattle Commission directs the Chief Executive Officer (CEO) to appeal the Interpretation and seek clarification from DPD to ensure that these cargo uses are adequately preserved.

The Port of Seattle is currently seeking permits to modernize Terminal 5 for larger container vessels. The Port of Seattle Commission considers modernization to be top priority, and does not seek to detract from that critical work by pursuing an alternative permit for Terminal 5 cargo uses at this time.