



May 22, 2015

Tracy Harris
Northwest Operations Manager
Shell Corporation
charles.harris@shell.com

Shell Energy, Corporate Office
601 W 1st Ave #1700
Spokane, WA 99201

Dear Mr. Harris,

The Washington State Department of Natural Resources (DNR) is the proprietary manager of 2.6 million acres of state-owned aquatic lands, including the West Waterway adjacent to Terminal 5 in Seattle. As you know, Foss Maritime recently entered into a lease with the Port of Seattle for the use of Terminal 5 to provide support for the Shell arctic drilling fleet. Pursuant to that agreement, the mobile drilling platform Polar Pioneer is currently located adjacent to Terminal 5 in the West Waterway.

As the manager of the lands over which the Polar Pioneer is located, DNR would like additional information regarding Shell's proposed use of the area. In particular, DNR would like to know how long Shell plans to keep the Polar Pioneer in its present location. DNR understands that the Polar Pioneer may depart for Alaska for operations beginning sometime this summer. DNR would like to know how long Shell plans to keep the Polar Pioneer at Terminal 5 before it departs for Alaska. DNR would also like to know whether Shell plans to return the Polar Pioneer to Terminal 5 after it departs this summer and, if so, how long Shell plans to keep the Polar Pioneer at Terminal 5 upon its return. Finally, DNR would like to know if Shell plans to keep other equipment or vessels in the waterway adjacent to Terminal 5 and, if so, for how long.

Generally, activities on state-owned aquatic lands that interfere with the use of those lands by the general public require authorization from DNR. No authorization is required from DNR, however, for navigation over state owned aquatic lands. Accordingly, short-term use of the area adjacent to Terminal 5 incidental to navigation, such as temporary moorage for purposes of loading and unloading a vessel, would not create a need for a use authorization from DNR.

State owned aquatic lands which have been platted as waterways are generally reserved as highways for navigation under state law. Uses that interfere with navigation may not be appropriate in waterways. That conclusion is especially true with respect to the West Waterway. The West Waterway from the Spokane Street Bridge to Elliott Bay is bounded on the west and east by an outer harbor line which designates the outer limit of the harbor area adjacent to the waterway. Under

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Article XV, Section 1 of the State Constitution the state may not “give, sell or lease to any private person, corporation, or association any rights whatever in the waters beyond such harbor lines.”

Because the state constitution prohibits private parties from acquiring rights to the waters beyond an outer harbor line, private parties may not occupy the West Waterway adjacent to Terminal 5 for long-term moorage or other exclusive uses. Consistent with the state constitution and the waterway designation, however, the area adjacent to Terminal 5 waterward of the outer harbor line may be used for temporary moorage incident to navigation.

So that DNR may determine whether Shell’s proposed use of the West Waterway is consistent with its waterway designation and the state constitution, DNR requests that you provide the information identified above regarding Shell’s current and future use of the waterway and its expected duration by close of business on Monday, June 1, 2015.

Sincerely,



Megan Duffy
Deputy Supervisor for Aquatics and Geology

c: Matthew Randazzo, Senior Advisor to the Commissioner of Public Lands
Mr. Paul Stevens, President & CEO, Foss Maritime Company