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1 BEFORE THE WASHINGTON

2 UTILITIES AND TRANSPORTATION COMMISSION

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4 WASHINGTON UTILITIES AND )

TRANSPORTATION COMMISSION, )

5 )

Complainant, )

6 )

v. ) Docket No. TE-151906

7 ) (Volume I, Pages 1 - 29)

RIDE THE DUCKS OF SEATTLE, )

8 L.L.C. d/b/a SEATTLE DUCK )

TOURS, )

9 )

Respondent. )

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HEARING - EMERGENCY ADJUDICATION AND

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ORDER SUSPENDING CERTIFICATE

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ADMINISTRATIVE LAW JUDGE GREGORY J. KOPTA

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9:37 A.M.

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OCTOBER 1, 2015

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Washington Utilities and Transportation Commission

18 1300 South Evergreen Park Drive Southwest

Olympia, Washington 98504-7250

19

20 REPORTED BY: LISA BUELL, RPR, CRR, CCR #2204

Realtime Systems Administrator

21

22 Buell Realtime Reporting, LLC

1325 Fourth Avenue

23 Suite 1840

Seattle, Washington 98101

24 206.287.9066 | Seattle

360.534.9066 | Olympia

25 800.846.6989 | National

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1 A P P E A R A N C E S

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3 ADMINISTRATIVE LAW JUDGE:

4 GREGORY J. KOPTA

Washington Utilities and

5 Transportation Commission

1300 S. Evergreen Park Drive SW

6 Olympia, Washington 98504

7

COMMISSIONERS:

8

CHAIRMAN DAVID W. DANNER

9

COMMISSIONER ANN E. RENDAHL

10

COMMISSIONER PHILIP B. JONES

11

12 FOR COMMISSION STAFF:

13 SALLY BROWN

Senior Assistant Attorney General

14 Chief, UTC Division

P.O. Box 40128

15 Olympia, Washington 98504

360.664.1193

16 sbrown@utc.wa.gov

17

FOR THE OFFICE OF PUBLIC COUNSEL:

18

SIMON J. FFITCH

19 Senior Assistant Attorney General

Chief, Public Counsel Division

20 800 Fifth Avenue

Suite 2000, TB-14

21 Seattle, Washington 98104

206.389.2055

22 simonf@atg.wa.gov

23

24

25

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1 A P P E A R A N C E S (Continued)

2

3 FOR RESPONDENT:

4 PATRICIA K. BUCHANAN

DUNCAN K. FOBES

5 Patterson Buchanan Fobes

& Leitch, Inc., P.S.

6 2112 Third Avenue

Suite 500

7 Seattle, Washington 98121

206.462.6700

8 pkb@pattersonbuchanan.com

dkf@pattersonbuchanan.com

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1 OLYMPIA, WASHINGTON; OCTOBER 1, 2015

2 9:37 A.M.

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5 CHAIRMAN DANNER: Good morning. Today is

6 October 1st, 2015, and this is a hearing before the

7 Utilities and Transportation Commission in Docket

8 TE-151906.

9 I'm Dave Danner. I'm chair of the

10 Commission, and with me are my colleagues, Commissioner

11 Ann Rendahl and Commissioner Philip Jones. Also with me

12 is our Chief Administrative Law Judge, Gregory Kopta.

13 The purpose of the hearing today is to allow

14 Seattle -- Ride the Ducks of Seattle, L.L.C. to comment,

15 seek clarification or modification of an order that we

16 issued earlier this week, and also to set a schedule on

17 a complaint that was filed by Staff yesterday.

18 I'm now going to turn it over to Judge

19 Kopta, who will preside over today's hearing. Thank

20 you.

21 JUDGE KOPTA: Thank you, Mr. Chairman.

22 Let's begin by taking appearances. I have

23 written notices of appearances from everyone sitting at

24 counsel table, so I just need your names, the law firm,

25 if any, and the client you're representing. So let's

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1 begin with the Company.

2 MS. BUCHANAN: Thank you, Your Honor. Pat

3 Buchanan of the law firm Patterson Buchanan Fobes &

4 Leitch.

5 MALE SPEAKER: Your mic is not on.

6 MS. BUCHANAN: Pardon me?

7 JUDGE KOPTA: Yes, please speak into the

8 microphone.

9 MS. BUCHANAN: Sorry.

10 CHAIRMAN DANNER: I think the microphone is

11 off.

12 JUDGE KOPTA: Make sure the little red light

13 is on.

14 MS. BUCHANAN: The mic was off. My

15 apologies, Your Honor.

16 Pat Buchanan from the law firm of Patterson

17 Buchanan Fobes & Leitch on behalf of the Company, Ride

18 the Ducks of Seattle.

19 MR. FOBES: Duncan Fobes, Patterson

20 Buchanan, on behalf of Ride the Ducks of Seattle.

21 JUDGE KOPTA: And for Commission Staff?

22 MS. BROWN: Sally Brown, Senior Assistant

23 Attorney General, appearing on behalf of Commission

24 Staff.

25 JUDGE KOPTA: And for Public Counsel?

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1 MR. FFITCH: Good morning, Your Honor.

2 Simon ffitch, Senior Assistant Attorney General on

3 behalf of the Public Counsel unit of the Attorney

4 General's Office.

5 JUDGE KOPTA: All right. Thank you.

6 Does anyone else wish to make an appearance?

7 Hearing none, we will proceed.

8 As the Chairman indicated, our first order

9 of business, since this is an adjudicative proceeding

10 that follows on to an emergency adjudication under RCW

11 34.05.479, the Commission took action on Monday on an

12 emergency basis. The Company was not present at that

13 time. This is a hearing that we scheduled in order to

14 allow the Company the opportunity to make any comments,

15 seek any clarification, contest or otherwise address the

16 order and the suspension of the certificate that the

17 Commission issued on Monday. So I will give the Company

18 first an opportunity to make any statement that you

19 would like to make.

20 MS. BROWN: Excuse me, Your Honor. May I

21 say something in an effort to clarify some of the

22 confusion surrounding today's hearing?

23 JUDGE KOPTA: You may.

24 MS. BROWN: Thank you.

25 There's just been so much confusion, I want

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1 to attempt to clarify what this hearing is and what it's

2 not. This hearing is not a hearing on the merits of the

3 complaint. That will occur later. It's not a hearing

4 to learn new details about Duck 6. That also will occur

5 later. It's not a hearing or a time for Commission

6 Staff to present the complaint to the Commission. The

7 Commission already entered that complaint. It is the

8 Commission's complaint at this point, and I would like

9 to say something about what it is.

10 This is a hearing that is required by the

11 state and federal constitutions, and that is that

12 whenever the government deprives a person of a protected

13 property interest, that person is entitled to due

14 process, and so the company Ride the Ducks is entitled

15 to notice an opportunity to be heard to address the

16 deprivation.

17 What's the deprivation here? The

18 deprivation is the summary suspension of the certificate

19 to operate as an excursion provider in Seattle. That's

20 the deprivation. The property interest of course is the

21 certificate or license that the Commission grants it to

22 operate.

23 So it's my understanding that today's

24 hearing, as Judge Kopta correctly stated, is to afford

25 the company Ride the Ducks and its owners an opportunity

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1 to contest the summary suspension that the Commission

2 entered on Monday. And yesterday -- yesterday,

3 Mr. Fobes and Ms. Buchanan and Commission Staff entered

4 into an agreement, and hence you will see the joint

5 stipulation filed in which the Company agrees to not

6 contest that summary suspension or deprivation.

7 I just -- I apologize for interrupting the

8 flow, perhaps, but I felt it important to clarify some

9 of the misunderstandings that I have heard and read

10 surrounding today's proceeding.

11 JUDGE KOPTA: Thank you, Ms. Brown. You are

12 correct in all of your statements. That is the purpose

13 why we are here, and we are not here, as you suggest, to

14 spread that beyond what we are here to discuss. I would

15 add, as the Chairman added, that we will have some other

16 procedural issues that we need to address in addition to

17 giving the company its due process rights, but we will

18 address those in due course.

19 MS. BROWN: Thank you.

20 JUDGE KOPTA: All right. Thank you.

21 And, Ms. Buchanan, if you would like to make

22 your statement.

23 MS. BUCHANAN: Yes, please. Thank you, Your

24 Honor, and thank you, Attorney General Ms. Brown for

25 summarizing.

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1 It is the case that the Company has reached

2 an agreement, and there is a stipulation governing the

3 agreement to suspend operations. I think it's very

4 important to understand and to know that the Company has

5 a fleet of 20 vehicles, ten stretch Ducks and ten

6 trucks. Half of its fleet does not involve the axle

7 issue that's been much talked about. It's ten of its

8 fleet, half of its fleet, which it will not be operating

9 pursuant to the agreement, but I did want to point out.

10 Half of its fleet is a different manufacturer, a

11 different design and entirely different chassis.

12 Regardless, very shortly after this very

13 profound and tragic incident, Mr. Tracey, the owner of

14 Ride the Ducks of Seattle, invited an inspection of all

15 vehicles, including the type not at issue in this case.

16 And pursuant to this stipulation, all vehicles will be

17 inspected. There will be a thorough investigation with

18 all of our cooperation to ensure and satisfy this

19 Commission that Ride the Ducks is operating safely and

20 pursuant to all guidelines.

21 JUDGE KOPTA: Is that your statement,

22 Ms. Buchanan?

23 MS. BUCHANAN: I guess I did want to also

24 add, Ride the Ducks of Seattle is a family-owned

25 business. It's owned by Mr. Tracey. He takes this

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1 matter very, very seriously. He's cooperated fully. He

2 will continue to cooperate fully, as will the entire

3 staff, all employees. Every level will be cooperating

4 in providing documents and in providing access to the

5 facility and in providing access to the vehicles for

6 inspection.

7 I did also want to comment as well on the

8 bridge issue. Very shortly after the accident,

9 Mr. Tracey met with the deputy mayor and indicated

10 those -- his trucks will not be using the Aurora Bridge.

11 They will be using a different route, so that is

12 certainly an issue that's off the table by agreement and

13 stipulation.

14 CHAIRMAN DANNER: And that is both the truck

15 Ducks and the stretch Ducks?

16 MS. BUCHANAN: Correct, Mr. Chairman. And

17 to be clear, obviously he won't be operating either type

18 of truck during this period of suspension, but yes,

19 absolutely, both types.

20 JUDGE KOPTA: All right. Thank you.

21 We will have some questions about the joint

22 stipulation so that we understand what the parties have

23 agreed to, but I will note that Public Counsel have

24 entered a notice of appearance after that stipulation

25 was filed and was not a party to that stipulation.

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1 And so I believe we have a couple of

2 questions, Mr. ffitch, for you in terms of Public

3 Counsel's participation in this.

4 Mr. Chairman, I believe you had some

5 questions.

6 CHAIRMAN DANNER: Well, thank you. I

7 just -- I've been here ten years, and this is the first

8 time I'm aware that the Office of Public Counsel has

9 participated in a transportation proceeding or any Title

10 81 proceeding, and I'm just curious as to your

11 objectives in participating in this. What do you

12 believe you're going to add to the proceeding and what

13 is your expertise on these matters?

14 MR. FFITCH: Thank you, Your Honor. Good

15 morning, Chairman Danner and Commissioners. Again,

16 Simon ffitch with the Office of Public Counsel.

17 As the Commissioners are aware, by statute,

18 the Attorney General's Office is authorized to represent

19 the interests of the public in proceedings before the

20 UTC in all of the different industry areas that are

21 regulated by the Commission, including transportation,

22 under Title 81, specifically 81.04.500.

23 We have that authority to participate on

24 behalf of the public in transportation cases. That is,

25 authorities exercise typically, as you know, through the

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1 Public Counsel unit of the Attorney General. This is an

2 important case for the public. There's substantial

3 public interest in the matter, and that is why we're

4 here. That's why we wanted to give formal notice to the

5 Commission and the parties that we're interested in

6 participating. Obviously we're at the beginning of the

7 process, and any specific recommendations or, you know,

8 actions that we would take will have to await the

9 investigation, completion of the investigation, but we

10 want to be here on behalf of the public that makes use

11 of the regulated services.

12 CHAIRMAN DANNER: Okay. So in terms of your

13 expertise, you're basically just -- you're monitoring

14 the situation. You don't -- I assume you don't have any

15 certified inspectors or anything on your staff or

16 anything?

17 MR. FFITCH: We don't have inspectors on our

18 staff, but expertise is available to the parties if, you

19 know, to bring in focus as, you know, some parties do in

20 Commission proceedings, you know, inspectors or safety

21 experts or potential witnesses. We haven't made any

22 decisions about that at this point.

23 CHAIRMAN DANNER: Okay. And do you have a

24 view of the stipulation before us?

25 MR. FFITCH: We have no objection to the

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1 stipulation.

2 CHAIRMAN DANNER: Okay. Thank you.

3 JUDGE KOPTA: Anything further for Public

4 Counsel on this issue from the other Commissioners?

5 COMMISSIONER JONES: No.

6 COMMISSIONER RENDAHL: No.

7 JUDGE KOPTA: All right. Thank you.

8 Thank you, Mr. ffitch.

9 We will turn to the joint stipulation so

10 that we understand exactly what it is that the Company

11 and Staff have agreed to, and again, I will allow the

12 Commissioners to ask questions that they have before any

13 that I might have. Mr. Chairman?

14 CHAIRMAN DANNER: Thank you.

15 I want to make sure that I understand the

16 scope of this and what it is we would be committing

17 ourselves to today if we were to approve this

18 stipulation. I do see in a couple places, it says that

19 Staff stipulates that "if feasible" and then later talks

20 about "if appropriate." But I want to make sure that

21 when we're talking about inspection of this vehicle,

22 that we are not just talking about physical inspection

23 of the axle on either the stretch or the truck or

24 whatever kind of vehicles you have. These are unique

25 vehicles in both categories, and so if we have -- if we

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1 have questions, for example, about the line of sight of

2 these vehicles, can, in fact, you see -- can the driver

3 see what's going on around? I know that earlier there

4 was a motorcycle involved in an incident involving one

5 of your vehicles, and it is my understanding the driver

6 did not believe he could see the motorcycle, which was

7 underneath the front of the vehicle. Those are the

8 kinds of things that I would like to make sure that our

9 inspectors will be able to look at. Can they see

10 behind? Can they see the sides? Can they see in front

11 of these vehicles?

12 I'm concerned about distracted driving. The

13 drivers of your vehicles not only have to drive the

14 vehicles, but they have to entertain the passengers, and

15 is that too much to ask, given the complexity of the

16 vehicles. And that's something else I would like to

17 know that our inspectors have the ability to look at.

18 So before they would allow the vehicles back on the

19 road, we have to be satisfied that these can, in fact,

20 be operated safely.

21 And knowledge of what the routes would be

22 actually may be material here. Because if you're on the

23 Aurora Bridge and it's nine and a half feet across for a

24 lane of traffic, is that sufficient? Do you have

25 turning radiuses or controls that would allow you to

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1 stay safe?

2 And so I don't want this just to be a look

3 at the axle underneath or to strictly follow the Federal

4 Motor Carrier Safety Administration regulations. I want

5 us to look at these vehicles and be satisfied not only

6 that the vehicles are safe, but the way in which they're

7 operated is safe so that we can assure that we're not

8 putting the public at risk, and I don't want this

9 stipulation to limit that in any way. I'd like your

10 comments on that.

11 MS. BUCHANAN: Thank you, Mr. Chairman, for

12 pointing all of those concerns out. We hear that. We

13 understand that. And in its broadest sense, what Ride

14 the Ducks of Seattle and Mr. Tracey are committed to is

15 satisfying this Commission that these vehicles are safe.

16 And so if that includes those items to gain your

17 satisfaction that it is a safe operation, then in the

18 broadest sense, yes, absolutely. We want to ensure that

19 you are satisfied that everything is operating safely.

20 CHAIRMAN DANNER: Okay. So when the

21 stipulation talks about "if feasible" or "if

22 appropriate," I -- I understand you to say, yes, that

23 would give us the leeway, flexibility and the authority

24 to take a broad look at the safe operation of the

25 vehicles, the safe condition of the vehicles, the

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1 appropriate credentials of the drivers, including drug

2 testing or proper licensure, and that this stipulation

3 does not limit us in any way in that regard.

4 MS. BUCHANAN: Absolutely. The only caveat

5 I would have in this -- and I don't even want to make it

6 a caveat -- I'm not prepared to speak to whatever due

7 process issues there may or may not be with respect to

8 drug testing. But what I can assure you is absolute,

9 full cooperation by Mr. Tracey. And his goal is, again,

10 to assure every member of this Commission of his safe

11 operation.

12 CHAIRMAN DANNER: And what that means is it

13 is possible -- I mean, even though our Staff will work

14 as expeditiously as possible -- that in 30 days, these

15 vehicles may not be back on the road.

16 MS. BUCHANAN: Thank you. I think maybe I

17 mistook your earlier question. Certainly that is the

18 goal in working together. But you're correct, I mean,

19 the goal is 30 days, and hopefully it can be

20 accomplished, but we understand that goal might not be

21 met.

22 CHAIRMAN DANNER: Thank you. I do

23 appreciate that this is a business that employs people.

24 We don't like to have people out of work, and certainly

25 if these vehicles, if we can find that the operations on

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1 the vehicles are safe, then of course we will allow them

2 back on the roads. But our priority is public safety,

3 and so I am not prepared to do anything today or in the

4 future that would allow these vehicles on the road if I

5 am not satisfied that they can operate safely.

6 MS. BUCHANAN: Absolutely. Completely --

7 not only understand, but agreed. What our goal -- in

8 addition to the 30 days being a goal, and again, it's a

9 goal, is to focus on those first ten trucks that are a

10 different make, different model, different chassis,

11 different axle, focus on those trucks and of the make

12 and model that were not involved in the September 24th

13 incident, with the hope and idea that perhaps clearance

14 could be had for that half of the fleet, and then focus

15 in again on the other half after that. That's what our

16 goal would be.

17 CHAIRMAN DANNER: All right. Thank you.

18 COMMISSIONER RENDAHL: Ms. Buchanan, on that

19 point, it's your understanding -- and I guess this is a

20 question also for Staff counsel -- that, under the joint

21 stipulation, that if Staff, in its investigation,

22 determines that the Duck -- the truck Ducks, as they're

23 referenced in the joint stipulation and any of the

24 driver qualification papers, everything is fine related

25 to those vehicles, any action to put those back in

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1 service would be subject to a hearing such as this where

2 we can ask questions and be sure that we're comfortable.

3 So it's not -- Staff is not agreeing to just put -- say,

4 go back in service without the Commission having a

5 decision on that matter, correct?

6 MS. BUCHANAN: That's absolutely correct.

7 This I think proceeding today is kind of a stay until

8 all of these decisions can be made. And absolutely our

9 understanding, there would be additional proceedings for

10 the Commission to review the results of the

11 investigation and provide --

12 COMMISSIONER RENDAHL: And some nature of an

13 evidentiary or presentation of the conditional

14 stipulation based on evidence from whatever

15 investigation is conducted?

16 MS. BUCHANAN: That's what we contemplate.

17 MS. BROWN: Yes. Yes, Your Honor, that's

18 absolutely correct.

19 The 30 days is simply aspirational at this

20 point. No one is able to predict with accuracy or

21 certainty when the investigation will be completed. We

22 have agreed that the investigation will be comprehensive

23 and thorough, and in terms of the end date, I can't

24 speak to that. And surely your regulatory staff

25 deserves credit insofar as it would not presume to

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1 release vehicles on the road without Commission

2 approval, nor would it agree in a stipulation to a

3 release or somehow diminished inspection.

4 COMMISSIONER RENDAHL: Thank you.

5 COMMISSIONER JONES: I've just got a couple

6 of questions. First is for Staff. The joint

7 stipulation states "a comprehensive Staff investigation

8 and report" in paragraph 2, so this is for you,

9 Mr. Pratt. What does that mean from a Staff

10 investigator's standpoint?

11 MR. PRATT: Dave Pratt, Commission Staff.

12 Thank you, Commissioner Jones, for the question. I

13 guess what that means is when we finish our review, we

14 will have a report that outlines the findings, and the

15 findings will be focused on compliance with state and

16 federal law regarding safety standards with the Company,

17 and this will be broader, as we mentioned, than just

18 vehicles. It will be the entire Company's operations.

19 COMMISSIONER JONES: Okay.

20 MR. PRATT: Maintenance practices, training,

21 policies and procedures, it will cover all those things,

22 as well as vehicle inspections. And so when we

23 conclude, we expect to be able to have a report that

24 outlines what we found, talks about compliance and then

25 makes recommendations, from my perspective.

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1 COMMISSIONER JONES: That sounds pretty

2 comprehensive to me.

3 MR. PRATT: Yes.

4 COMMISSIONER JONES: And it includes both

5 state and federal law?

6 MR. PRATT: Yes, sir.

7 COMMISSIONER JONES: The corollary question

8 to that is what is your level of coordination with the

9 Coast Guard and the NTSB, because they're looking at

10 these issues as well. The Coast Guard from the

11 amphibious, seaworthy perspective, and then the NTSB

12 from a land worthy inspection.

13 MR. PRATT: I have been in contact with the

14 NTSB and their lead staff here that are in Seattle. We

15 have preliminary -- started working on an agreement to

16 share data and to work together. They're going to be

17 focusing on the actual accident investigation.

18 My staff will be looking at the Company's

19 practices. So you can see how that will have to come

20 together. So we will be working together. We're still

21 working out the details because -- you know, with the

22 federal and state agency about how we can work together

23 on that. But we've made commitments to each other just

24 to keep in contact, to work together as well as we can.

25 As far as the Coast Guard, I've not had any

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1 personal contact with the Coast Guard, but we have

2 reached out to them, because as you say, these vehicles

3 undergo annual inspections by the Coast Guard because of

4 the water part of this. There's a lot of seals and

5 things that have to be dealt with. We're going to have

6 to break some of those water seals to inspect the

7 vehicles, so we may need the Coast Guard there when we

8 do that. We're still trying to work that out and

9 understand that before we hopefully get to that next

10 week.

11 COMMISSIONER JONES: So, Mr. Pratt, that's

12 still a work in progress --

13 MR. PRATT: Yes.

14 COMMISSIONER JONES: -- with the Coast

15 Guard?

16 MR. PRATT: Yes.

17 COMMISSIONER JONES: Final question -- this

18 is for the Company -- and we'll get into some of these

19 details once we see the report and get into it, but I'm

20 not an engineer by training, but I tend to ask a few

21 detailed questions.

22 So in paragraph -- in the stipulation, it

23 says there's a fundamental difference between the truck

24 Duck vehicle and the stretch Duck vehicle. So who's the

25 manufacturer of the stretch Duck vehicle; do you know?

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1 Where is it manufactured, and when were they

2 manufactured; do you know that?

3 MS. BUCHANAN: The stretch Duck, RDTI, I

4 believe, is the manufacturer.

5 COMMISSIONER JONES: RDTI, and that's from

6 where, Detroit, these vehicles? Do you know where those

7 are?

8 MS. BUCHANAN: I am not sure, Commissioner

9 Jones.

10 COMMISSIONER JONES: And then on the stretch

11 Duck vehicles -- and I see this a lot in the media

12 too -- it says, "World War II era chassis," so what does

13 that mean? Because there were a lot of World War II era

14 vehicles manufactured by all sorts of people. What does

15 that mean?

16 MS. BUCHANAN: Well, first, Commissioner, I

17 will share -- I will empathize with you, I am not an

18 engineer by training either. Here's my understanding:

19 My understanding is that there are refurbished stretch

20 Duck vehicles, and that my understanding -- and I'll

21 have to confirm this -- is that they continue to

22 manufacture this vehicle around the design of that

23 original chassis and axle design, I believe.

24 COMMISSIONER JONES: So the design, design

25 and original manufacture of the chassis is World War II,

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1 but there's been extensive refurbishment of that design

2 over the years; is that a proper understanding from a

3 nonengineer like you?

4 MS. BUCHANAN: Yes.

5 COMMISSIONER JONES: Okay.

6 MS. BUCHANAN: Indeed.

7 COMMISSIONER JONES: Okay. Thank you.

8 JUDGE KOPTA: Anything further?

9 CHAIRMAN DANNER: Let me follow up with

10 Mr. Pratt.

11 So in the stipulation, you talk about an

12 objective to complete this work in 30 days in terms of

13 the inspection and the report and bring it back before

14 us so that we can make a decision whether to approve the

15 return of the vehicles to the roads. That seems like a

16 pretty aggressive schedule. If we don't meet that

17 schedule -- or if you don't meet that schedule, is it

18 your understanding that this stipulation does not

19 require us to make a decision within 30 days, but that

20 we would have the time to do all the steps that are

21 necessary?

22 MR. PRATT: Yes, that's exactly my

23 understanding. We will work as fast as appropriate.

24 This does take a lot of time. There are a lot of

25 records to review besides just vehicles. And so I would

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1 like to try and expedite this, but I can't really commit

2 to how long it will take at this point, but we're going

3 to do the best we can. We have a team working on it

4 already, and we'll keep working away.

5 CHAIRMAN DANNER: All right. But it also

6 involves coordination, as you say, with other agencies,

7 Coast Guard and others. There may be leads that have to

8 be followed. There may be information we need to

9 gather. I just want to be clear that, if 30 days passes

10 and you're not ready, that you're not going to cut

11 corners on the report. You will take as much time as is

12 necessary to give us a complete and thorough report.

13 MR. PRATT: Yes, I will, and thank you.

14 MS. BROWN: This is Sally Brown with the

15 Attorney General's Office. I just would like to

16 clarify, Chairman Danner, that the 30-day aspirational

17 objective period here pertains only to the truck Ducks.

18 CHAIRMAN DANNER: I understand.

19 MS. BROWN: Okay. I just want to make sure

20 the record is clear.

21 JUDGE KOPTA: Ms. Buchanan?

22 MS. BUCHANAN: I was going to make the

23 identical point that the Attorney General just made, so

24 thank you.

25 CHAIRMAN DANNER: Thank you.

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1 COMMISSIONER RENDAHL: I have just one more

2 follow-up question. This is for Mr. Pratt.

3 Are you also coordinating with the Federal

4 Motor Carrier Safety Administration?

5 MR. PRATT: Yes, I am, and I'm sorry I

6 didn't mention them earlier. We do have one of their

7 investigators on site with us up at the facilities in

8 Seattle that are assisting with our review.

9 COMMISSIONER RENDAHL: Thank you. And I'm

10 sure at some point in this process, we'll have to talk

11 about the jurisdiction of all the various federal and

12 state agencies involved in this.

13 MR. PRATT: Yes.

14 COMMISSIONER RENDAHL: Okay.

15 JUDGE KOPTA: Anything further from the

16 Commissioners?

17 COMMISSIONER JONES: No.

18 JUDGE KOPTA: All right. Just to outline

19 the procedures, this did start with an emergency

20 adjudication. The Commission acted pursuant to its

21 authority under that statute to suspend the certificate

22 of the Company, and the Company has now agreed to the

23 extension of that suspension ended through the Staff's

24 investigation, which the target is 30 days, but it may

25 take longer; it may take less.

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1 MS. BROWN: On the truck Ducks.

2 JUDGE KOPTA: On the truck Ducks.

3 I guess the question that I have is we

4 anticipate that there would be another hearing at that

5 point to do two things: One would be to determine

6 whether or not to lift the suspension, and the second

7 would be to establish a procedural schedule for this

8 adjudication as if there had been no emergency, as

9 required under the statute. At this point, is it

10 premature to try and schedule a hearing date for that

11 purpose?

12 MS. BROWN: Your Honor, I would suggest

13 scheduling a status conference.

14 JUDGE KOPTA: Okay. We have reserved some

15 time on November 3rd since that's as close as we could

16 get to 30 days, and if you would prefer that be a status

17 conference as opposed to a hearing, then we can schedule

18 it that way, in which case it probably would not involve

19 the Commissioners, it would just be me.

20 MS. BROWN: That's what I think would be the

21 best outcome.

22 MS. BUCHANAN: We agree with that

23 recommendation.

24 JUDGE KOPTA: All right. Well, we are

25 sensitive to making sure that we don't keep the Company

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1 out of business any longer than is necessary, so we want

2 to make sure that both sides are comfortable -- and

3 Public Counsel to the extent you are going to

4 participate -- are comfortable with our schedule. I

5 mean, if it takes longer, then it takes longer, but we

6 want to act as expeditiously as we can to make sure that

7 we provide due process to the Company and to ensure that

8 the public safety is maintained.

9 MS. BUCHANAN: Thank you, and we appreciate

10 that.

11 JUDGE KOPTA: Okay.

12 CHAIRMAN DANNER: So perhaps, Ms. Brown, if

13 you could clarify for me the process. If Staff -- we're

14 in an adjudication right now -- if the Staff is putting

15 together an investigatory report, how is that report

16 brought forward to the Commissioners, and is it -- would

17 it be within the context of this adjudication?

18 MS. BROWN: Chairman Danner, we anticipate

19 filing the Staff investigative report with the agency in

20 a formal way.

21 CHAIRMAN DANNER: Okay. So this would be

22 posted in the docket --

23 MS. BROWN: Yes.

24 CHAIRMAN DANNER: -- and would be available

25 publicly?

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1 MS. BROWN: Yes.

2 JUDGE KOPTA: All right.

3 The Commission will enter an order as a

4 result of this on the stipulation, and as well as I'm

5 assuming establishing a status conference on November

6 3rd to see where we are and what additional steps we

7 need to take.

8 And so at this point, unless there's

9 anything further, then I think that concludes our

10 business for the day.

11 Anything further from the parties?

12 MS. BROWN: No, Your Honor.

13 MS. BUCHANAN: No, Your Honor. Thank you

14 very much.

15 MS. BROWN: Thank you.

16 JUDGE KOPTA: Thank you.

17 (Hearing concluded at 10:08 a.m.)

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1 C E R T I F I C A T E

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3 STATE OF WASHINGTON

4 COUNTY OF KING

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6 I, Lisa Buell, a Certified Shorthand Reporter and

7 Notary Public in and for the State of Washington, do

8 hereby certify that the foregoing transcript of the

9 October 1st, 2015, hearing is true and accurate to the

10 best of my knowledge, skill and ability.

11 IN WITNESS WHEREOF, I have hereunto set my hand

12 and seal this 2nd day of October, 2015.

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16 LISA BUELL, RPR, CRR, CCR

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18 My commission expires:

19 DECEMBER 2018

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