

00332

1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

3 In the Matter of the) Docket No. TS-001774
4 Applications of))
5 Dutchman Marine LLC d/b/a Lake) Volume IV
6 Washington Ferry Service,) Pages 332 - 549
7 for Authority to Provide))
8 Commercial Ferry Service;))
9 Seattle Ferry Service, LLC,))
10 for Authority to Provide))
11 Commercial Ferry Service; and))
12 _____))
13 Seattle Harbor Tours Limited))
14 Partnership, for Authority to))
15 Provide Commercial Ferry))
16 Service;))

13 A hearing in the above matter was held on
14 June 13, 2001, at 9:55 a.m., at 900 Fourth Avenue, Suite
15 2400, Seattle, Washington, before Administrative Law
16 Judges DENNIS J. MOSS and WILLIAM E. HENDRICKS.

17 The parties were present as follows:

18 DUTCHMAN MARINE LLC, by Matthew C. Crane,
19 Attorney at Law, Bauer Moynihan & Johnson, 2101 Fourth
20 Avenue, Suite 2400, Seattle, Washington 98121.

21 SEATTLE HARBOR TOURS, by Gregory J. Kopta,
22 Attorney at Law, Davis Wright Tremaine, LLP, 1501 Fourth
23 Avenue, Suite 2600, Seattle, Washington 98101.

24 THE COMMISSION, by Jonathan Thompson,
25 Assistant Attorney General, 1400 South Evergreen Park
Drive Southwest, Olympia, Washington 98504-0128.

Joan E. Kinn, CCR, RPR
Court Reporter

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1 CITY OF SEATTLE, by Gordon Davidson,
Assistant City Attorney, 600 Fourth Avenue, 10th Floor,
2 Seattle, Washington 98104.

3 CITY OF BELLEVUE, by Lori M. Riordan,
Attorney at Law, 11511 Main Street, Bellevue, Washington
4 98004.

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1 P R O C E E D I N G S

2 JUDGE MOSS: Good morning, everyone, we are
3 convened in the matter of the applications of Dutchman
4 Marine and Seattle Harbor Tours Limited and the Seattle
5 Ferry Service case, the first two being consolidated and
6 the third being heard jointly. The docket numbers have
7 previously been made a matter of record.

8 We determined yesterday I believe off the
9 record that we would change the order of witnesses a
10 little bit today, and this morning we have some shipper
11 witnesses for Dutchman Marine, and we will put those
12 witnesses on first. And then our anticipation is that
13 we will finish those witnesses this morning, hopefully
14 at least, and then we will resume with Mr. Dolson's
15 cross-examination this afternoon.

16 And we have distributed a copy of the
17 standard form protective order, modified, of course, for
18 this case, and we will have the parties review that at
19 lunch, and we will take that matter up after lunch as
20 well.

21 So with that, Mr. Crane, I believe you can
22 call your next witness.

23 MR. CRANE: Thank you, Your Honor. Before I
24 call the witness, one thing I wanted to raise is we
25 showed Exhibit Number 138 yesterday, proposed Exhibit

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1 Number 138, which was the King 5 Television broadcast of
2 the interview of Mr. Dolson. At the time when I offered
3 it to be shown, I indicated I was not intending to
4 submit it as an exhibit. I have changed my mind,
5 however, and I would like to request subject to any
6 objections, of course, by counsel to offer it into
7 evidence as Exhibit 138.

8 JUDGE MOSS: Any objections.

9 MR. KOPTA: No objections.

10 JUDGE MOSS: Hearing no objections, it will
11 be admitted as marked.

12 MR. CRANE: Thank you, Your Honor.

13 JUDGE MOSS: That's Exhibit 138.

14 MR. KOPTA: I would ask at this point though
15 whether counsel intends to provide a copy of the
16 videotape to each of the other parties so that we can
17 have it as part of our records.

18 JUDGE MOSS: That is a matter of course, I
19 think.

20 MR. CRANE: Of course, Your Honor. I don't
21 have a copy with me, but I will try to arrange some
22 perhaps overnight copies this evening.

23 JUDGE MOSS: I think that would be --

24 MR. CRANE: Would that be all right?

25 JUDGE MOSS: That would be fine, just so that

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1 we have a copy. We are going to leave the record open
2 at the conclusion of the proceeding to accommodate the
3 Seattle Ferry Service place holder copies.

4 Any other preliminary matters?

5 MR. CRANE: No, Your Honor, thank you.

6 JUDGE MOSS: All right.

7 MR. CRANE: Dutchman Marine at this point
8 would like to call Mr. Anthony Tony Underwood, please.

9

10 Whereupon,

11 ANTHONY UNDERWOOD,
12 having been first duly sworn, was called as a witness
13 herein and was examined and testified as follows:

14

15 D I R E C T E X A M I N A T I O N

16 BY MR. CRANE:

17 Q. Good morning, Mr. Underwood.

18 A. Good morning.

19 Q. I'm Matthew Crane representing Dutchman
20 Marine. Could you, for formalities, could you please
21 state your full name and who you work for for the
22 record, please.

23 A. Anthony Underwood, and I work for the Boeing
24 Company.

25 Q. What is your position with Boeing?

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1 A. I manage parking and commuter programs for
2 the Boeing Company in Washington statewide.

3 Q. How many employees would come under your
4 management?

5 A. 73,000 and some change right now.

6 Q. And when you manage the employees for
7 purposes of the transportation committee, what action
8 does that entail?

9 A. The group that I actually manage is in charge
10 of promoting commuter trip reduction programs across the
11 state. We have a Washington State law, of course, that
12 everyone knows about that we as an employer in the state
13 of Washington are bound to put programs in place to try
14 to reduce single occupancy vehicles. And my group
15 promotes those programs for Boeing employees. There are
16 about 73,000 Boeing employees across Washington state.
17 My group that I manage consists of 11 people.

18 Q. All right. And then how do you actually
19 carry out your management programs for reducing single
20 occupancy vehicle use?

21 A. We have a number of programs in place where
22 we are trying to encourage folks to get out of their
23 cars and not use single occupancy vehicles, use public
24 transportation. We promote the use of buses, car pools,
25 van pools. We also have a telecommuting program, use of

00341

1 alternate work schedules. We probably in the future
2 might add walking. We have some vans for folks who live
3 close enough that they can walk. And through
4 transportation fares, advertisements, through subsidies
5 for some of those modes of transportation, we try to
6 encourage people to get out of their cars and take
7 public transportation and reduce the number of SOVs on
8 the road.

9 Q. And SOV is single occupant vehicle?

10 A. Yes, I'm sorry.

11 Q. How long have you held your position with
12 Boeing?

13 A. Been with Boeing almost 22 years.

14 Q. And you --

15 A. In my current position, a little over three
16 years.

17 Q. As part of your duties for the Boeing
18 Company, have you testified in front of other agencies
19 with respect to your job and what you're trying to do?

20 A. I have, this year specifically in front of
21 the legislature, both the house and the senate, on
22 transportation related bills, specifically changes to
23 the Commuter Trip Reduction Law.

24 Q. Okay. Have you been involved in any agency
25 discussions about promoting alternative forms of

00342

1 transportation other than the legislature as you
2 testified?

3 A. Clarify agency.

4 Q. Well, Sound Transit, for example, have you --

5 A. Yes, in my capacity with Boeing, I actually
6 host every six weeks a coordination committee. We call
7 it the Boeing Transit Steering Subcommittee, if you
8 will, where I bring in the transit agency reps and my
9 folks, and we actually coordinate interrelated service
10 changes and those sorts of things. So yes, I deal quite
11 extensively with the transit agencies.

12 Q. As part of your job, I assume you have done
13 research on alternative forms of transportation for
14 Puget Sound?

15 A. We have.

16 Q. Can you generally tell me if you have any
17 conclusions with respect to specific methods involving
18 ferries that might fit in with programs, passenger
19 ferries that might fit in with programs that you're
20 advocating and promoting?

21 A. The one thing that we have found out in
22 general is that when it comes to commuting in the Puget
23 Sound region and for Boeing employees, one size does not
24 fit all. The more different modes of transportation,
25 the different alternatives you can present to people,

00343

1 the more successful you will be at enticing them at
2 leaving their car home and taking other forms of
3 transportation. That's why we use buses, van pools, and
4 the like, because folks who are die hard bus riders are
5 die hard bus riders and wouldn't take a van pool if
6 their life depended on it and vice versa. And so the
7 idea that's being proposed here is another form of an
8 alternative for folks to take, and I think it would work
9 very well.

10 Q. Can you elaborate a little bit on how you
11 would expect a passenger ferry service to work well?
12 What would be your expectation?

13 A. We obviously have a number of Boeing
14 employees who live up and down the 405 corridor, around
15 the lake at all areas that are being proposed for
16 service. And if they could avoid having to drive the
17 bridges or drive the 405 corridor to get specifically to
18 the Renton plant, I believe that's probably one of our
19 biggest benefits for this service. If they could go and
20 climb on a passenger ferry, get down to the Southport
21 facility that's there, that's adjacent to our Renton
22 facility, I think it would be a convenient alternative
23 for folks to take. If it's priced right and it's
24 convenient, I think folks will take it. And we have
25 some 13,000 employees at the Renton plant, so the

00344

1 possible service benefits are big.

2 Q. If there was a passenger service that
3 operated to Renton to the Southport location, for
4 example, would you keep track of those employees that
5 actually commuted by passenger ferry for purposes of
6 your trip reduction program?

7 A. Yes, we would.

8 Q. And mechanically how does that work?

9 A. We typically have folks who take alternative
10 transportation sign up as a formal part of our program.
11 Some of the modes we subsidize, \$25 a month toward their
12 commute, not all of the modes, but we do subsidize some.
13 So as an incentive obviously if it's a subsidized mode,
14 people need to sign up in the program. But even the
15 non-subsidized modes like car pooling, alternate work
16 schedules, and some of that stuff, we do have incentives
17 in that we give eight emergency rides home, part of our
18 emergency ride home program. We don't want people to
19 feel like they may get trapped at work and they have an
20 emergency, since they rode public transportation, they
21 don't have a quick and convenient way to get home. So
22 we have people sign up formally as part of our commuter
23 trip reduction program. This would be another mode that
24 we would have people sign up on.

25 Q. Is the trip reduction program, excuse me, are

00345

1 the trip reduction program figures presented to, for
2 example, the legislature to show fulfillment of Boeing's
3 requirement within the statute?

4 A. Exactly. As part of the 1993 Commuter Trip
5 Reduction Law that was signed into effect, affected
6 employers have to submit yearly reports to the local
7 jurisdictions to show compliance towards fulfilling what
8 we're supposed to be doing in commuter trip reduction.
9 So yes, we report yearly. Every other year is what's
10 called a measurements year where you actually are going
11 out and doing measurements, but we do report yearly on
12 the status of our program, yes.

13 Q. And you have met Mr. Dan Dolson, right?

14 A. I have, yes.

15 Q. Okay. And when did you first approximately
16 meet with him; do you recall?

17 A. Year, a year and a half ago, something like
18 that initially.

19 Q. Okay. And do you recall what the discussions
20 were initially about, why you were approached?

21 A. Sure. Dan came to me and said that they were
22 considering putting this service in place, which would
23 be a passenger ferry service on Lake Washington, and
24 asked if we the Boeing Company would be interested in
25 that, and I embraced the idea as another alternative

00346

1 means of transportation and said not only would we like
2 it, but I would endorse it wholeheartedly.

3 Q. Since that time, have you had further
4 discussions with Mr. Dolson about how the service could
5 be implemented or might be implemented?

6 A. Some, not a lot, but some yes. As they
7 progressed through putting the service in place, yes.

8 Q. Okay. And at this point, are you in favor of
9 a passenger ferry service proposed by Dutchman Marine to
10 serve Southport?

11 A. Yes, I am.

12 Q. And I assume it's for the reasons that you
13 previously testified?

14 A. Right.

15 Q. Okay, I'm going to hand you, the reason I was
16 discussing with counsel, I was going to hand you a copy
17 of a letter and just to have you take a look.

18 MR. CRANE: Your Honor, may I approach the
19 witness, please.

20 JUDGE MOSS: Sure.

21 BY MR. CRANE:

22 Q. This was a letter that I was going to ask you
23 if you recognized that as being your signature.

24 A. Yes, I sent that to Dan after our initial
25 discussion saying that I would go on record as saying

00347

1 that I support the idea, and I sent this letter to Dan
2 it looks like October, and that's probably right. Time
3 flies when you're having fun.

4 Q. And I assume all the reasons stated in the
5 letter still apply today?

6 A. Yes.

7 MR. CRANE: All right, no further questions.
8 Thank you, Mr. Underwood.

9 JUDGE MOSS: Mr. Underwood, you need to stay
10 there. There may be cross-examination.

11 Mr. Kopta.

12 MR. KOPTA: Thank you, Your Honor.

13

14 C R O S S - E X A M I N A T I O N

15 BY MR. KOPTA:

16 Q. Good morning, Mr. Underwood. My name is Greg
17 Kopta, I'm representing Seattle Harbor Tours. And are
18 you aware that Seattle Harbor Tours has a competing
19 application for service, ferry service on Lake
20 Washington?

21 A. I am.

22 Q. And are you also aware that as part of
23 Seattle Harbor Tours' proposal, it would include a route
24 between Renton and the University of Washington?

25 A. Not aware of that, no, not aware of the

00348

1 specifics for the alternative.

2 Q. Would it be your opinion that such a route
3 between Renton and the University of Washington would
4 have the same benefits that you testified to earlier?

5 A. Yes.

6 Q. And again, assuming that the timing of the
7 routes and the fares were established correctly, that
8 would be a service that you would recommend as well?

9 A. Absolutely.

10 Q. Do you know how many of your employees live
11 in I guess north Seattle and commute to the Renton
12 facility?

13 A. Off the top of my head, no, I do not. I can
14 get that data. We do runs periodically where we
15 actually go look at zip codes where people live and the
16 folks that work at the Renton plant, for instance, and
17 we can tell pretty closely on their commuter patterns
18 based on that. I don't have that data with me though.

19 Q. Do you know whether it's a substantial
20 number, or do you have any idea?

21 A. It is a substantial number, yes. My guess
22 would be, and this is really rough figures, don't hold
23 me to it, but my guess would be of the 13,000 folks that
24 work there at the Renton plant, probably 30% to 40% of
25 them live north of the plant, and that would be spread

00349

1 all over this area.

2 Q. And if they live in north Seattle, then their
3 commutes would essentially require them either to go
4 down I-5, east to Renton, or I suppose possibly taking a
5 bridge across the lake and down 405, or if they live far
6 enough north to go around the lake on 405; those would
7 be their current options if driving?

8 A. That's correct. Around the lake north is not
9 a viable option. I think you wouldn't find any folks
10 who do that. But the others, yes, absolutely.

11 Q. And certainly a ferry service as we have
12 discussed would be a viable alternative to either of
13 those two routes?

14 A. Yes.

15 MR. KOPTA: Thank you, those are all my
16 questions.

17 MR. CRANE: Just one redirect, Your Honor, if
18 I might.

19 JUDGE MOSS: Well, we have the opportunity
20 for other counsel to cross first.

21

22 C R O S S - E X A M I N A T I O N

23 BY MR. DAVIDSON:

24 Q. Just a clarification about your comments
25 about subsidized service, and this is mostly focused on

00350

1 orientation of Boeing. Does Boeing provide free parking
2 for its employees?

3 A. We do.

4 Q. And does it not consider that a subsidized
5 transportation?

6 A. No, not at this time.

7 JUDGE MOSS: Mr. Thompson, do you have
8 anything for this witness?

9 MR. THOMPSON: I don't have any questions,
10 Your Honor.

11 JUDGE MOSS: Redirect.

12 MR. CRANE: Thank you, Your Honor.

13

14 R E D I R E C T E X A M I N A T I O N

15 BY MR. CRANE:

16 Q. Mr. Underwood, have you ever discussed an
17 alternative ferry service with Argosy or John Blackman?

18 A. No, I have not.

19 MR. CRANE: No further questions, Your Honor.

20 JUDGE MOSS: Do you have any questions for
21 the witness?

22 JUDGE HENDRICKS: I don't have any questions.

23 JUDGE MOSS: All right, the Bench has no
24 questions for you, Mr. Underwood, so we can release you
25 from the witness stand. We appreciate your testimony.

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1 Thank you for coming this morning.

2 JUDGE HENDRICKS: You may call your next
3 witness, Mr. Crane.

4 MR. CRANE: Thank you, Your Honor. Dutchman
5 Marine at this time would like to call Mr. Rex Allen.

6
7 Whereupon,

8 REX ALLEN,
9 having been first duly sworn, was called as a witness
10 herein and was examined and testified as follows:

11
12 D I R E C T E X A M I N A T I O N

13 BY MR. CRANE:

14 Q. Good morning, Mr. Allen.

15 A. Good morning.

16 Q. Could you for the record provide your full
17 name and who you work for, please.

18 A. Rex Allen, I work for SECO Development in
19 Bellevue.

20 Q. And what is SECO Development?

21 A. A real estate development company. We have
22 primarily multifamily projects, mixed use is primarily
23 what we develop.

24 Q. And you have a development at Southport?

25 A. We do.

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1 Q. Could you describe that generally, what the
2 development is?

3 A. It's a 17 acre site on the former location of
4 the Shuffleton Steam Plant owned by Puget Sound Energy.
5 It's a mixed use development with approximately 300
6 residential units in 2 mixed use buildings, 750,000
7 square feet of office space, and a 220 room hotel. It's
8 set right on the shore of Lake Washington adjacent to
9 Gene Coulon Park and between the park and the Boeing
10 Renton facility.

11 Q. Is there then access between, well, from the
12 park to the Southport development?

13 A. Yes, as a condition of approval for our
14 project, we are being required to dedicate a public
15 easement along the waterfront which will connect to a
16 trail system in the park.

17 Q. Is Southport also nearby the Boeing facility
18 in Renton?

19 A. Yes, it's immediately adjacent to the east.

20 Q. Okay. Now for purposes of Southport, have
21 you dealt with transportation issues involving the
22 potential residents, tenants, and users of your
23 Southport development?

24 A. We have, yes.

25 Q. And what has been your involvement with

00353

1 respect to that?

2 A. Well, as part of the environmental impact
3 statement during the approval process for the project,
4 we were required to review the transportation impacts of
5 our project on the adjacent street structure and
6 ascertain that the streets were acceptable to accept the
7 amount of traffic that would be generated.

8 Q. Okay. And have you also dealt with modes of
9 transportation and how people are going to be coming to
10 and from Southport?

11 A. Yes, I have.

12 Q. And could you describe that for me, what you
13 have dealt with?

14 A. Primarily as far as the EIS is concerned,
15 we're determining the number of trips that will be
16 generated by the project. However, we have also been
17 talking with the City of Renton about extending a
18 shuttle service that would serve the site as well as
19 reviewing parking requirements that would be needed on
20 our site.

21 Q. When you say the number of trips, you're
22 talking about automobile trips?

23 A. Correct.

24 Q. Okay. And do you have an understanding of in
25 general how automobile trips break down, in other words,

00354

1 single occupancy vehicles as Mr. Underwood testified or
2 others, high capacity?

3 A. We haven't analyzed that in that kind of
4 detail.

5 Q. Okay. All right. When it comes to number of
6 trips generated, are you operating under the assumption
7 that that would be predominantly one form or another, in
8 other words, single occupancy vehicle versus another?

9 A. Primarily.

10 Q. Okay. Is there any effort by Southport
11 Development to attempt to minimize the number of trips
12 generated?

13 A. That's certainly an interest of ours. It --
14 I assume that as part of our development of the office
15 buildings that some of the same requirements that
16 Mr. Underwood was talking about would apply to employers
17 of those buildings.

18 Q. Okay.

19 A. So you might have a car pool.

20 Q. Okay. And would another alternative besides
21 car pooling to serve those sort of interests or needs
22 would be a passenger ferry service to Southport?

23 A. Absolutely.

24 Q. And how would that work in; how would that
25 fit in with those plans?

00355

1 A. I see that as a big benefit, because it could
2 serve both -- we will have, you know, 400 to 500 people
3 living on the site in our residential apartments as well
4 as when it's fully built out, we will have 3,000 to
5 4,000 people working there. So there's a tremendous
6 center of people that are going to want to come and go
7 each day. So the more opportunities we can provide for
8 different modes of transportation, the better off we're
9 going to be.

10 Q. Okay. And have you given any thought
11 specifically to passenger ferry service as one of those
12 modes to provide transportation?

13 A. Yes.

14 Q. And how would passenger ferry service fit in
15 with providing the alternative modes, for purposes of
16 providing transportation alternatives?

17 A. Well, it's -- it can expand our market to a
18 different number of people. For right now, people who
19 perhaps live in or work in Seattle wouldn't necessarily
20 consider Renton as a location to live. But by having an
21 alternative mode of transportation that may connect
22 directly to their or near their workplace, you know,
23 suddenly there's a larger number of people that could
24 consider living in Southport. And conversely, I see it
25 as an advantage to the office buildings in that they can

00356

1 broaden the area where their tenants or employees may
2 live if they can be served by a ferry.

3 Q. Okay. Are there retail facilities or spaces
4 proposed for Southport?

5 A. Yes, there's about 40,000 square feet of
6 retail commercial space other than the office buildings
7 that have been approved.

8 Q. Okay. And for purposes of retail, success of
9 retail businesses, is it your understanding that those
10 businesses rely on customers coming from various areas?

11 A. Yes.

12 Q. In Puget Sound, for example?

13 A. Yes.

14 Q. And have you considered or been involved in
15 how that could be enhanced through transportation
16 alternatives?

17 A. Yes.

18 Q. In other words, how do people get to the
19 businesses that are at your development?

20 A. Right, we're interested in working with the
21 City to provide this public access along the lake front
22 as expanding another alternative for people to get to
23 the site, as well as I think ferry service would provide
24 a similar benefit in that we would have more pedestrians
25 arriving at the site, which would, you know, it creates

00357

1 more of a market for our retail space.

2 Q. Okay. You talked about earlier a potential
3 shuttle service from Renton; how is that expected to
4 work?

5 A. Well, currently they serve from the downtown
6 Renton transfer center, they run a shuttle from there to
7 the Boeing parking lots or the Boeing transit center as
8 it were, so that people have a free ride between there
9 and the downtown center. What they have proposed is
10 extending that on to the Southport site so that it can
11 run from there back to the Boeing lots. There's a
12 number of bus routes that initiate there and then also
13 then continue to the downtown center.

14 Q. Okay. And why would the City, as you
15 understand it, why would the City be interested in
16 expanding shuttle service to go to Southport; what would
17 be the benefits?

18 A. Well, it's they're -- they're very interested
19 in the success of this project, and by linking as many
20 modes of transportation as possible, it's going to
21 enable people to move through their city and increase
22 the livability of the area.

23 Q. Okay. And can you envision a connection, for
24 example, between the shuttle service and a ferry
25 service?

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1 A. Absolutely.

2 Q. And how would that work?

3 A. Well, the shuttle stop on Southport will be,
4 you know, approximately a half a block from a potential
5 ferry landing, so that people could get off the ferry,
6 walk to the shuttle location, and then take that bus to
7 either the Boeing center or right to downtown Renton.

8 Q. Okay.

9 A. As they propose it, it's a free shuttle.

10 Q. Okay. Is there an existing dock at
11 Southport?

12 A. There is.

13 Q. Okay. And would it be your understanding
14 that that dock would be used for passenger ferry
15 service?

16 A. That's our initial concept, yes.

17 Q. Have you discussed that with Dan Dolson?

18 A. I have.

19 Q. Okay. And can you just briefly summarize
20 what your discussions have been about in terms of
21 providing passenger ferry service to Southport?

22 A. I'm particularly excited about this
23 opportunity. We have an existing dock that's
24 approximately 20 feet by about 110 feet long. It's in a
25 good location. It has deep water adjacent so that it's

00359

1 a commercially viable location, and it's centered along
2 the waterfront in our project, so that it's an excellent
3 location to land people and then move them through the
4 project.

5 Q. Okay. And you said you were excited about
6 the opportunity. What is it that generates that much
7 interest about the ferry service?

8 A. Well, it's a very unique opportunity, and it
9 highlights the fact that our project is on the lake. It
10 gives us another way to market both our residential
11 units and the commercial space as, you know, it's more
12 exciting as another way of getting there, so.

13 Q. Do you recall when you first spoke to
14 Mr. Dolson about his proposed ferry service?

15 A. Yes, I think that was at least a year ago.

16 Q. And do you recall approximately how many
17 discussions you have had with Mr. Dolson?

18 A. Oh, several, we have met on site several
19 times, talked on the phone on numerous occasions.

20 Q. Okay. And currently, do you still support
21 the Dutchman Marine proposal to provide passenger ferry
22 service to Southport?

23 A. I do.

24 Q. What I want to do is show you an exhibit.

25 JUDGE MOSS: Give us a number for the record.

00360

1 MR. CRANE: That would be good, Your Honor,
2 I'm sorry. I don't have that. It's 122 for the record,
3 Your Honor.

4 JUDGE MOSS: Thank you.

5 BY MR. CRANE:

6 Q. Mr. Allen, can I ask you to identify, is that
7 your letter?

8 A. Yes, it is.

9 Q. Okay. And does your letter provide support
10 for the Dutchman Marine proposed passenger ferry service
11 to Southport?

12 A. Yes.

13 Q. Since that letter -- what was the date of the
14 letter again?

15 A. October 24th of 2000.

16 Q. Okay. Since you wrote that letter, has your
17 support remained the same?

18 A. I would say it's increased.

19 Q. And why is that?

20 A. Well, I continue to be impressed with the
21 manner in which this is being approached. I am
22 particularly -- I look forward to the opportunity to
23 support a low impact transportation alternative that can
24 serve our site.

25 Q. And the Dutchman Marine proposal is

00361

1 envisioned to be a low impact alternative?

2 A. As I understand it.

3 MR. CRANE: Okay, thank you, I have no
4 further questions.

5 JUDGE HENDRICKS: Mr. Kopta, do you have
6 questions for the witness?

7 MR. KOPTA: Yes, Your Honor, thank you.

8

9 C R O S S - E X A M I N A T I O N

10 BY MR. KOPTA:

11 Q. Good morning, Mr. Allen.

12 A. Good morning.

13 Q. My name is Greg Kopta, and I'm representing
14 Seattle Harbor Tours.

15 A. Mm-hm.

16 Q. Are you aware that they have an application
17 to provide passenger ferry service between Renton and
18 the University of Washington?

19 A. I knew they had an application. I wasn't
20 sure of the details.

21 Q. And would it be your opinion that such a
22 service, a ferry service between Southport development
23 and the University of Washington, would have the same
24 benefits that you just described?

25 A. Yes, I believe so.

00362

1 MR. KOPTA: Thank you, those are all my
2 questions.

3 JUDGE HENDRICKS: Are there any other
4 questions for the witness?

5 Hearing nothing, the witness is excused.

6 THE WITNESS: Thanks.

7 JUDGE HENDRICKS: Do you want to call your
8 next witness.

9 MR. CRANE: Thank you, Your Honor, at this
10 time, Dutchman Marine would like to call Tom Waith to
11 the witness stand, please.

12

13 Whereupon,

14 THOMAS WILLIAM WAITH,
15 having been first duly sworn, was called as a witness
16 herein and was examined and testified as follows:

17

18 D I R E C T E X A M I N A T I O N

19 BY MR. CRANE:

20 Q. Good morning, Mr. Waith.

21 A. Good morning.

22 Q. Thank you for coming. Could you for the
23 record please state your full name and who you work for.

24 A. My full name is Thomas William Waith, and I
25 work for Carillon Properties and Woodmark Hotel.

00363

1 Q. Could you describe what Carillon Properties
2 is in general?

3 A. Carillon Properties is a large mixed use
4 development at Carillon Point of office, retail, hotel,
5 and residential occupants.

6 Q. How long has Carillon Point been in existence
7 as a development?

8 A. The first portion of the development started
9 in 1988, I believe.

10 Q. Okay. How long has the Woodmark Hotel
11 been --

12 A. Since 1990.

13 Q. How long have you been the -- you're the
14 manager of the hotel?

15 A. General manager.

16 Q. Okay. How long have you been general
17 manager?

18 A. Two and a half years.

19 Q. As part of your responsibilities as general
20 manager, do you deal with issues of transportation
21 involving your hotel or Carillon Point?

22 A. Not as a primary focus of my job, but as an
23 offshoot of everything that I do, certainly.

24 Q. Okay. The needs of your hotel presumably
25 include how people get to and from the hotel?

00364

1 A. Definitely.

2 Q. Okay. And are you involved in efforts, for
3 example, to provide alternative transportation to your
4 hotel?

5 A. Always, for both guests and employees.

6 Q. Okay. And what are the reason or the benefit
7 of your involvement with transit involving your hotel;
8 why do you do that?

9 A. Oh, we struggle, as any hotel does on the
10 east side, to try to identify ourselves as a great
11 business opportunity for a guest staying there, and
12 looking at various ways for people to use
13 transportation, not to feel that they're isolated at
14 Carillon Point, as is always part of our marketing and
15 sales strategy.

16 Any hotel on the east side is always trying
17 to convince people who are coming to Seattle that we
18 really are part of Seattle, we're not just some little
19 outpost in the middle of nowhere. So it is certainly
20 something that you primarily deal with when you're
21 dealing with travel agents, group planners, organizers
22 doing trade shows, et cetera, so you're always trying to
23 convince them. Quite often bring a map, something like
24 this, as to where exactly Kirkland is or where exactly
25 Bellevue is in relationship to Seattle.

00365

1 Q. Have you been involved with discussions with
2 Mr. Dan Dolson about potentially providing passenger
3 ferry service to Carillon Point?

4 A. Yes, Dan and I have talked a couple of times,
5 not to any huge great depth. I have always told him
6 that I think it was my idea first, so if it does go
7 forward, I want some sort of --

8 Q. Some credit?

9 A. Absolutely.

10 Q. Okay, well we intend to do that. Well, how
11 would passenger ferry service fit in with either the
12 needs of your hotel or Carillon Point in general?

13 A. The hotel business is a funny business,
14 you're always trying to struggle to, as I define it, to
15 find your goldfish. You're trying to find something
16 that is unique and different. There is a hotel downtown
17 called the Hotel Monaco that has made great strides on
18 occupancy and publicity by offering a goldfish through
19 room service. You can order up a goldfish and have it
20 in your room during your stay there. And they have it
21 in USA Today and all across the country because of this
22 very interesting twist. So I'm always looking for my
23 goldfish as I call it.

24 What Carillon Point and the Woodmark Hotel
25 has is the fact that we are on the lake. We try to

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1 focus very strongly through our sales and marketing
2 efforts that we are a hotel located on the lake. So for
3 the Woodmark Hotel, this would be a great opportunity to
4 identify that look at this, a wonderful alternative that
5 you have as a guest staying here, you get downtown
6 Seattle via a ferry or to get to Marina Park in Kirkland
7 via a ferry or to utilize this lake which is our --
8 hopefully can be used as our goldfish.

9 Q. Can you envision that guests for your hotel
10 would actually come to your hotel using passenger ferry
11 service, for example?

12 A. I'm not so sure that -- because most of my
13 guests come to the hotel from the airport, traditionally
14 they're coming from the airport, I don't think it would
15 be true to get to the hotel from the airport. But the
16 length of stay for the average guest is about three
17 nights, and an awful lot of them have business in
18 Seattle, so our challenge is always getting them
19 downtown and convincing them that really the traffic
20 isn't that bad when you're over in Kirkland, no, no,
21 it's nothing at all, just get on the 520 and you will be
22 there in a flash.

23 Q. In a jiffy.

24 A. And anybody who has been to the hotel once or
25 twice pretty much wises up very quickly that they need

00367

1 to plan in the morning to get downtown an extensive
2 amount of time to successfully make it to a meeting like
3 this at 9:00 in the morning because of the traffic
4 volume going across the bridge. So I'm not sure that I
5 would be able to market this as an opportunity to get to
6 the hotel, but once you're at the hotel, to use it to
7 get to Seattle or to Kirkland or to get you somewhere
8 else or even just for an opportunity to see something
9 other than Seattle, of Seattle rather than getting in a
10 car. Most of the guests come from the airport, and we
11 do the airport express, we do a lot of town car
12 reservations, we have several firms that offer town car
13 service to the hotel from the airport, or rental car, a
14 lot of people have their own rental cars.

15 Q. How would a passenger ferry service benefit
16 your guests at your hotel in terms of allowing them to
17 get to Seattle?

18 A. Again, it would be a great alternative for
19 them if they don't have a town car. A town car to
20 downtown Seattle, we charge about \$40, \$45 one way,
21 which is a considerable hit to an all day business
22 meeting here. You're shelling out \$80, \$90 to go back
23 and forth. Because a cab is about \$30 anyway. So this
24 is going to be an alternative for them. This is going
25 to be something that we can promote to them and say, but

00368

1 wait, you know, here's this, and it's a great service,
2 it gives you something different, it's a different way
3 of getting there as well as a reliable service that has
4 a schedule, et cetera, so there is just another
5 opportunity to -- for us to provide a great service to
6 the guest.

7 Q. Are you, other than being a general manager,
8 I'm sure that keeps you quite busy, but are you also a
9 member of any organizations in your community?

10 A. I am a member of the board of directors for
11 the East King County Convention and Visitors Bureau, I
12 am an associate of the Kirkland KDL, the Kirkland
13 Downtown on the Lake, I am a member of the Strategic
14 Kirkland Tourism Planning Commission, and I am a
15 director for the Carillon Point Merchants Association.

16 Q. So you're involved quite a bit with business
17 in the Kirkland area in general it sounds like?

18 A. Right.

19 Q. Okay. And as part of your consideration of
20 the proposed passenger ferry service to Kirkland from
21 Seattle by Dutchman Marine, can you describe for me how
22 passenger ferry service would affect some of the other
23 businesses or organizations that you are a member of?

24 A. Well, Kirkland is a funny little thing, they
25 try to envision themselves as this Sausalito of Seattle,

00369

1 and Sausalito being a great tourism destination out of
2 San Francisco, of course, which utilizes a ferry system
3 to go back and forth from the City to really promote the
4 town of Sausalito. When I first became involved, I
5 moved from Bellevue to Kirkland and became a lot more
6 involved with Kirkland than I was with Bellevue, they
7 kept spouting this thing about being Sausalito, and I
8 thought, there's no ferry system, you're missing the
9 point.

10 So there has been over the last two years a
11 huge push for Kirkland to become this great tourism
12 destination. We want to be an alternative to the Market
13 and the Needle and all the rest of it, to get people to
14 come across to see it. There are more art galleries and
15 antique stores in Kirkland now than there are in
16 Seattle. There has been a huge development in the arts
17 movement with international sculpture fairs, et cetera.
18 They're really trying to promote it as an arts
19 community.

20 And again, this is my idea first, and I said,
21 well, we need to have a ferry, we need to have a ferry
22 system, folks. And everyone was like, yeah, yeah, or
23 whatever. And then Dan came along with this proposal,
24 and I said, okay, we will if we can make this happen.
25 All of those four associations that I have talked to

00370

1 that -- talked about that I'm a member of, when we have
2 approached it or discussed this have all been extremely
3 positive, extremely convinced that this would be a great
4 benefit to the retail area and the arts community for
5 the City of Kirkland. Carillon Point is a smaller
6 version of it, but certainly the merchants there are all
7 very excited. Anybody that comes down there is a
8 positive for them. So the Downtown Kirkland Association
9 is very, very excited about this opportunity, as is the
10 Eastside Convention and Visitors Bureau.

11 Q. How would a passenger ferry service actually
12 provide a benefit to, for example, patrons of the
13 businesses in the Kirkland area?

14 A. It's again the -- it's the alternative. It's
15 tying something together. It's more than just the
16 rubber tire traffic of driving over and yippee, you
17 know, get in your car, drive across the bridge, and go
18 and wonder around the downtown. You're combining it to
19 a very key component of the City of Kirkland, which is
20 the lake.

21 I spent some time in my career working in
22 Vancouver, Canada, and there is a small ferry system up
23 there called the Seabus that goes back and forth across
24 the harbor. And across the harbor right across from the
25 city of Vancouver is North Vancouver and a thing called

00371

1 the North Vancouver Key, and it was nothing. It was
2 just this kind of dilapidated place. And with the
3 Seabus development that they have had going back and
4 forth across the harbor, there was this huge push for
5 retail and development, and it became a destination in
6 itself. And working in downtown, it was something that
7 we promoted to people to do. It was like you don't know
8 what else to do, get on the Seabus, go across, there's
9 this great little area filled with stores and
10 restaurants, et cetera, and I see the same thing
11 happening with this service for Kirkland.

12 Q. My understanding, and please correct me if
13 I'm mistaken in this understanding, but my understanding
14 is that parking in downtown Kirkland is quite a premium,
15 in other words, there's very little of it; is that true?

16 A. Yes and no, there are a lot of underutilized
17 areas of parking. The area right around the core
18 downtown is a challenge for parking during the business
19 day. On the weekends, I would say it's not. During the
20 week, it probably is. And there's a lot of people just
21 stopping and parking and going off to a restaurant or a
22 store. So it seems to be short term, but it is busy
23 down there.

24 Q. And how would a passenger ferry service, for
25 example, fit in with the parking availability of people

00372

1 getting to or from Kirkland?

2 A. Well, it's certainly going to be a situation
3 that's going to need some investigation. The idea
4 between using transportation to get to downtown Kirkland
5 or to finding a place to park is going to be something
6 that we're going to have to wrap up all together. It
7 has been the one question that the Kirkland Merchants
8 have all asked, well, where are the people going to
9 park. If you walk or drive two blocks away from Marina
10 Park, you will find ample parking all through Kirkland.
11 If you try to park right at Marina Park, you will find
12 that there is very limited parking.

13 Q. Okay. Is there an existing dock at Carillon
14 Point?

15 A. A very substantial dock, yes.

16 Q. Okay. And is that a commercial dock, or how
17 would you describe it?

18 A. It's a dock that is owned by Carillon Point.
19 It is a -- we call it a public dock and allow anyone to
20 tie up there who is visiting the merchants at Carillon
21 Point for a time period. I believe the dock is over 300
22 feet long. It's a huge dock. There is a marina right
23 there as well that has a lot of slips and boats moored
24 to it. The dock though is pretty much all but never
25 used though by anyone tying up their boats.

00373

1 Q. And is it your understanding that the
2 proposed ferry service by Dutchman Marine would use that
3 dock at Carillon Point?

4 A. Yes.

5 Q. And would that fit in with the current
6 available uses of the dock?

7 A. Yes.

8 Q. What I want to do is show you a copy of a
9 letter. This is Exhibit 120 for this proceeding, a copy
10 of the letter, and ask you if this is your signature on
11 that letter?

12 A. Yes, it is.

13 Q. And in the letter, you support the idea of
14 passenger ferry service by Dutchman Marine?

15 A. Right.

16 Q. What's the date on the letter?

17 A. October 23rd last year.

18 Q. Since that time, has your support for the
19 Dutchman Marine proposed passenger ferry service to
20 Kirkland remained about the same or changed at all?

21 A. Actually, it's increased in the fact that the
22 number of people that I have talked to have really I
23 think inspired myself and the merchants at Carillon
24 Point and the different boards that I'm on to get more
25 excited about it and see that it really is a great and

00374

1 substantial potential for business for Kirkland itself.
2 MR. CRANE: Okay, thank you, no further
3 questions, Mr. Waith.

4 JUDGE HENDRICKS: Mr. Kopta.
5 MR. KOPTA: Thank you, Your Honor.

6
7 C R O S S - E X A M I N A T I O N

8 BY MR. KOPTA:

9 Q. Good morning, Mr. Waith, my name is Greg
10 Kopta, I'm representing the Seattle Harbor Tours for
11 this proceeding. Are you aware of efforts that have
12 gone on over the last several years to establish a
13 passenger ferry service between Kirkland and Seattle?

14 A. I'm aware but just barely I would say aware
15 of it.

16 Q. Okay. I notice in Exhibit 120, you had
17 stated that you were a member of the board of directors
18 for the Kirkland Chamber of Commerce.

19 A. Right.

20 Q. Is that correct?

21 A. At that time I was. I have resigned about
22 two months ago.

23 Q. Okay. Are you familiar with a gentleman by
24 the name of Jim Lauinger?

25 A. Mm-hm.

00375

1 Q. And is he the chair or at least at one point
2 was he the chair?

3 A. He was at one point, yes.

4 Q. Are you aware that the board of the Kirkland
5 chamber expressed support for some efforts to establish
6 a ferry service as of a couple of years ago?

7 A. I was not aware of that.

8 Q. You also I think mentioned in response to
9 some questions from Mr. Crane that you were associated
10 with the Kirkland Downtown on the Lake?

11 A. Yes.

12 Q. Are you aware that they have also expressed
13 some support for a demonstration project between
14 Kirkland and Seattle for passenger ferry service?

15 A. Yes.

16 MR. KOPTA: Thank you, that's all I have.

17 JUDGE HENDRICKS: Mr. Davidson.

18 MR. DAVIDSON: Thank you, Your Honor.

19

20 C R O S S - E X A M I N A T I O N

21 BY MR. DAVIDSON:

22 Mr. Waith, my name is Gordon Davidson, I
23 represent the City of Seattle. You answered some
24 questions posed to you by Mr. Kopta regarding your
25 knowledge of the involvement or interest by various

00376

1 organizations that you are a member of with respect to
2 the development of ferry service to Kirkland from
3 Seattle and vice versa.

4 A. Mm-hm.

5 Q. Are you aware that the Washington Utilities
6 and Transportation Commission granted authority to a
7 ferry company to operate between Kirkland and Seattle as
8 long ago as 1989?

9 A. I believe I have been made aware of that just
10 through like a reception or something where I heard that
11 there was a ferry service and a permit or application
12 had been granted and that it had never been utilized or
13 never been picked up basically and put into place. I
14 was always curious about it, but I understood that there
15 was a great hesitation from an economic standpoint and
16 from the parking standpoint for the downtown area.

17 Q. Do you know whether that particular ferry
18 service proposal contemplated a public subsidy?

19 A. I do not.

20 Q. Do you know --

21 MR. DAVIDSON: Strike that, I think that's
22 all. Thank you.

23 JUDGE HENDRICKS: Thank you.

24 Ms. Riordan.

25 MS. RIORDAN: No questions.

00377

1 JUDGE HENDRICKS: Mr. Thompson.
2 MR. THOMPSON: No questions.
3 JUDGE HENDRICKS: The witness may be excused.

4 Thank you.

5 Mr. Crane, do you have another witness to
6 call?

7 MR. CRANE: Can I get a glass of water before
8 we start?

9 JUDGE HENDRICKS: Why don't we take a five
10 minute break.

11 (Recess taken.)

12 JUDGE HENDRICKS: Mr. Crane, do you have
13 another witness to call?

14 MR. CRANE: Yes, Your Honor, thank you.
15 Dutchman Marine would like to call John Layzer to the
16 witness stand, please.

17

18 Whereupon,

19 JONATHAN LAYZER,
20 having been first duly sworn, was called as a witness
21 herein and was examined and testified as follows:

22

23 D I R E C T E X A M I N A T I O N

24 BY MR. CRANE:

25 Q. Good morning, Mr. Layzer. I'm Matthew Crane

00378

1 representing Dutchman Marine. For the record, could you
2 please state your full name and for whom you work.

3 A. My name is Jonathan Layzer. I work for the
4 City of Seattle Strategic Planning Office.

5 Q. What is the strategic planning office?

6 A. The strategic planning office is a department
7 in the City in the executive branch of the City, and the
8 strategic planning office typically conducts strategic
9 planning typically on programs, policies, and projects
10 that affect a number of departments in the City and are
11 sort of high priority for the City.

12 Q. Could you give me a brief description of your
13 background that preceded you being with the strategic
14 planning office?

15 A. I have a degree in public affairs, a graduate
16 degree in public affairs, and I have worked in local
17 city planning, regional planning, I have worked for a
18 public transit operator, and the City of Seattle.

19 Q. How long have you worked in the office of
20 strategic planning?

21 A. I have worked in the strategic planning
22 office for a little over nine months.

23 Q. And prior to that, were you involved in
24 issues involving transportation as part of regional
25 planning?

00379

1 A. Yes.

2 Q. Where was that?

3 A. For the four years preceding my employment
4 with the City, I worked for Community Transit, which is
5 a public transit operator in Snohomish County. And then
6 for five years preceding that, I worked for the Puget
7 Sound Regional Council, which is a regional
8 transportation planning organization for the four
9 counties of Puget Sound.

10 Q. Can you describe for me about of that
11 experience that you have had in the last say ten years
12 as I'm gathering, how much of that time has been
13 involved in transportation; sounds like quite a bit of
14 it?

15 A. Virtually all of the last ten years has been
16 focused on transportation issues.

17 Q. Can you describe for me what you do at the
18 office of strategic planning for the City of Seattle?

19 A. I have two main responsibilities. One is
20 providing support to the Seattle elected officials who
21 are members of the Sound Transit board of directors.
22 Sound Transit is a regional transit agency that has a
23 federated board, and I provide policy support for the
24 elected officials, Seattle elected officials, who
25 participate in that board and then also support for the

00380

1 overall program management of the City's involvement in
2 planning for regional transit. My other major
3 responsibility is as a project manager for a
4 comprehensive transportation plan we're developing for
5 the University area in northeast Seattle.

6 Q. Okay. As part of your support for the
7 regional transit and Sound Transit board members, do you
8 deal with basic traffic issues for the City of Seattle?

9 A. Typically not in great detail. Seattle
10 Transportation Department, which is essentially
11 responsible for managing the City's transportation
12 system, is involved in most of the day-to-day
13 week-to-week operational decisions about traffic in
14 Seattle. The strategic planning office would be
15 involved more in a long-term planning transportation
16 policy and so forth.

17 Q. Okay. And are you aware of a document called
18 the Transportation Strategic Plan for the City of
19 Seattle?

20 A. Yes.

21 Q. What I would like to do at this time is have
22 a copy in front of you and then ask you to identify it.
23 It's Exhibit 110 for this proceeding. I can bring it to
24 you, Mr. Layzer. What I have in front of you is a
25 document, I believe, doesn't have a cover sheet on it

00381

1 and I think it was downloaded from the Internet, but it
2 appears to be the Strategic -- Transportation Strategic
3 Plan. Is that -- could you take a look at it and see if
4 that's what it is?

5 A. Yes, it looks like that to me.

6 Q. Okay. It's quite a lengthy document.

7 A. Mm-hm.

8 Q. Do you work with this plan as part of your
9 job?

10 A. Yes, I do.

11 Q. And how are you involved with working with
12 this plan; could you just describe that briefly for me?

13 A. The strategic planning office and the section
14 that I work in, which is involved in transportation
15 planning and policy, is involved in implementing a
16 number of the different programs and policies identified
17 in this document.

18 Q. All right. And is there an overall policy
19 with respect to transportation planning that you can
20 identify? In other words, is there a central
21 transportation policy that you can describe?

22 A. I would describe -- summarize the conclusions
23 and direction of the strategic plan as identifying
24 transportation as a critical issue for the City and a
25 growing problem for the City. It acknowledges that we

00382

1 are unlikely to be able to eliminate or substantially
2 reduce congestion, and the emphasis of the plan is on
3 managing congestion and providing alternative forms of
4 transportation alternatives to driving alone as an
5 alternative to congested travel, and it also identifies
6 substantial funding shortfalls to address our issues,
7 and so looks at efforts to improve efficiency of the
8 system and to generate additional revenues to support
9 transportation problems.

10 Q. That was quite a summary, I wasn't expecting
11 that, but that's actually more than I could have hoped
12 for from you. Is part of your job -- are you involved
13 at all with an attempt by a company by the name of
14 Dutchman Marine to provide passenger ferry service from
15 Seattle to several communities on the east side of Lake
16 Washington?

17 A. Yes.

18 Q. And could you describe to me what involvement
19 you have had in dealing with Dutchman Marine?

20 A. In September, about a month after I started
21 working for the City, I received a copy of an E-mail
22 that Mr. Dolson had sent to the mayor seeking an
23 opportunity to talk about a proposed ferry service, an
24 opportunity to sort of explore how that might fit in
25 with the City's plans, and I was asked to respond to

00383

1 that letter. And then responded to Mr. Dolson and had
2 some -- several follow-up meetings, a number of meetings
3 since that time.

4 Q. Okay. And as a result of your discussions
5 with Mr. Dolson and in consideration of the -- or your
6 considering the plan, have you reached any conclusions
7 as to what benefits the Dutchman Marine passenger ferry
8 service would provide to the City of Seattle?

9 A. No specific conclusions about the benefits,
10 no.

11 Q. Okay. Does the -- does the proposed service
12 fit within the policy goals that you have identified in
13 your testimony?

14 A. Yes, there's -- specifically there's a
15 section in the strategic plan that talks about water
16 born transportation as an alternative form of
17 transportation that should be explored.

18 Q. Okay. And when you say water born
19 transportation, are you referring to passenger ferries
20 as well as other ferries?

21 A. The section that I'm referring to speaks
22 specifically about passenger ferries.

23 Q. Okay. All right. And then are you aware of
24 how passenger ferries would promote the policies and
25 goals of the strategic plan for the City of Seattle?

00384

1 A. Yes, I believe again the emphasis on
2 providing alternative -- again the emphasis being not
3 necessarily eliminating or substantially reducing
4 congestion, but providing alternative forms of
5 transportation to allow people to avoid congestion, it
6 would certainly fit into that.

7 Q. And how would that work, how would it fit in,
8 or how would it promote that goal?

9 A. In this case, access to and from the city
10 from points east of the lake is constrained to travel
11 across I-90, SR-520, or around the north and south ends
12 of the lake, and there's a lot of study right now on
13 approaches to improving those transportation corridors,
14 but there are -- there are -- it would be very
15 challenging, and it's a long-term plan. And so any
16 alternatives to cross the lake would provide an
17 alternative for people who otherwise would be stuck in
18 traffic.

19 Q. Okay. And by providing alternatives to
20 automobile use, would that promote the attempt to
21 mitigate congestion problems?

22 A. To some -- to some extent, as it's defined in
23 the strategic plan, that is that it wouldn't necessarily
24 reduce congestion, but for the tens or hundreds or
25 thousands of people who chose to do that on a daily

00385

1 basis, it might be a better option, a less congested
2 option.

3 Q. Okay. On page I think it's 11 of the
4 transportation plan, Mr. Layzer, there is a section
5 called moving people.

6 A. Mm-hm.

7 Q. Are you familiar with that section?

8 A. Yes, I am.

9 Q. I note in the top paragraph of the moving
10 people section, it talks about providing people better
11 choices, and that includes public transit, walking,
12 bicycling, and car pooling. I assume you agree with the
13 statement that I -- well, maybe I should ask you to
14 describe it rather than me trying to summarize it. How
15 would you describe the goal there?

16 A. When I spoke about alternative
17 transportation, that's sort of transportation jargon for
18 what's described here, offering more people better
19 choices, that is alternatives to traveling alone in
20 their cars on congested roadways is the emphasis to how
21 we cope with growth in traffic into the long term as
22 well as the environmental impacts of that traffic.

23 Q. And in the next paragraph, there's a
24 reference there to a comprehensive plan; is that
25 separate from the Strategic Transportation Plan?

00386

1 A. It is separate. It's -- a comprehensive plan
2 is the City's comprehensive land use and transportation
3 plan for dealing with -- for addressing the requirements
4 of the State's Growth Management Act.

5 Q. Okay. And are you familiar with what's
6 contained in that plan with respect to transportation
7 issues?

8 A. I'm somewhat familiar, yes.

9 Q. The statement in here is it says:
10 The comprehensive plan sets ambitious
11 goals for reducing our dependence on
12 cars and for making transportation
13 alternatives more convenient and
14 attractive.

15 I assume you agree with that statement?

16 A. Yes.

17 Q. And how will passenger ferry service that's
18 proposed by Dutchman Marine, for example, fit in with
19 this goal?

20 A. Again, it would -- it would provide an
21 alternative to -- an alternative to traveling alone in
22 your automobile.

23 Q. And would that help reduce the dependence on
24 cars in the city?

25 A. Yes, it could be part of that.

00387

1 Q. Okay.

2 A. Policy.

3 Q. Another section of the Transportation
4 Strategic Plan on page, if I could ask you to turn to
5 page 46, please, of the plan, there's a section called
6 transportation demand management.

7 A. Mm-hm.

8 Q. And are you familiar with that portion of the
9 plan?

10 A. Yes, I am.

11 Q. Could you briefly describe what
12 transportation demand management is?

13 A. Transportation demand management is the
14 concept of providing incentives or changing the playing
15 field, providing incentives for people to travel other
16 than by single occupancy vehicle or to reduce trips all
17 together, for example, by combining errands rather than
18 making individual trips to different stores.

19 Q. Okay. And in the top paragraph of that page
20 46, second sentence, it says:

21 They --

22 Which I think refers to TDM programs.

23 -- are designed to reduce the number of
24 automobile trips, shorten trip lengths,
25 or switch the times of trips to less

00388

1 congested periods of the day. TDM
2 programs make the transportation system
3 more efficient in reducing or reduced
4 pollution.

5 What in your understanding, if passenger
6 ferry service was provided between Seattle and the east
7 side of Lake Washington, would that have an effect on
8 reducing the number of automobile trips?

9 A. It could, or at a minimum it could shorten
10 the trip lengths in the way that, for example, the
11 existing auto ferries across the Sound. Some people
12 might drive around the Sound instead. So even if there
13 -- even if there's an automobile trip on one or both
14 ends of the ferry trip, it reduces the total vehicle
15 trip length.

16 Q. And if the -- assuming that the ferry --
17 passenger ferry service would reduce the number of or
18 shorten the number of automobile trips, would that in
19 your understanding or belief reduce the amount of
20 pollution from vehicles?

21 A. It could.

22 Q. Are you aware that the Dutchman Marine
23 passenger ferry service proposal would include the
24 ability to place bicycles on the ferries?

25 A. Yes, I am.

00389

1 Q. Okay. Is there -- is part of the Seattle
2 Transportation Strategic Plan to encourage greater use
3 of bicycles for transportation purposes?

4 A. Yes, it is.

5 Q. Okay. If the passenger ferry service and
6 Dutchman Marine was put into service allowing bicycles,
7 how would that service promote in your view greater use
8 of bicycles?

9 A. It would provide an opportunity for cross
10 lake bicycle travel, which is fairly limited at this
11 point, one cross lake route on I-90, we have an option
12 around the north end of the lake, but it would provide a
13 much shorter option for people commuting from the east
14 side, between the east side and the west side.

15 Q. In general, would it be accurate to say that
16 the City of Seattle supports a passenger ferry service
17 from Seattle to the east side of Lake Washington?

18 A. The policy statement in the strategic plan is
19 that the City supports exploring those options, so
20 that's the extent of this explicit support is to explore
21 and examine. It recognizes that there are barriers or
22 challenges in implementing those services.

23 Q. Okay. And at this point, have you had -- let
24 me rephrase that question.

25 My understanding is that you have worked with

00390

1 Mr. Dan Dolson with this proposal to provide passenger
2 ferry service.

3 A. Yes, I have.

4 Q. Okay. And my understanding is that the City
5 is not supporting one service provider or another; is
6 that correct?

7 A. That's correct.

8 Q. Okay. Other than providing support for one
9 service or another, is there anything about your
10 contacts in working with Mr. Dolson that would
11 distinguish how he is proposing his service from other
12 potential service providers?

13 A. I have had extensive contact with Mr. Dolson
14 and have discussed and begun to explore some of the
15 barriers or challenges of implementing service, and I
16 have not done that with other providers.

17 Q. What's the benefit of Mr. Dolson or Dutchman
18 Marine's efforts to work with you on removing, as you
19 call it, the barriers to the issues?

20 A. Can you repeat the question?

21 Q. Yeah. What would be the advantage, for
22 example, of Mr. Dolson or Dutchman Marine working with
23 you in advance to remove those barriers, as you call it?

24 A. Some of the key barriers involve potential
25 impacts to the communities that are both served by the

00391

1 service but also that the service touches or impacts
2 potentially in negative ways. And to the extent that
3 we're able to have an open and public engagement of
4 those communities in identifying how we can address
5 those issues, there's a value to that.

6 Q. Could you elaborate on that a little more?
7 In other words, why is it important to have that
8 dialogue that you referred to?

9 A. I believe it's important because
10 transportation improvements can be very controversial,
11 and many of the transportation improvements that the
12 government has implemented or constructed in my lifetime
13 have perceived very negative impacts to communities, and
14 communities are often as a result very defensive and
15 skeptical about the relative benefits and impacts of
16 transportation improvements. And so being able to have
17 an open constructive discussion about those impacts is
18 important.

19 Q. Okay. And has Mr. Dolson shown a willingness
20 to work with the City of Seattle to address those
21 problems in advance of his service starting?

22 A. To some extent, yes.

23 Q. Could you explain or give me any examples of
24 how that has occurred?

25 A. Mr. Dolson has shared with me or cc'd me on

00392

1 correspondence with other sort of major public entities
2 for whom barriers might be important, such as the
3 University of Washington or the King County Metro.

4 Q. Okay.

5 A. And -- I'm sorry.

6 Q. No, go ahead, what were you going to say? I
7 didn't mean to interrupt you.

8 A. We have also discussed some of the specific
9 types of impacts that would be potentially a concern to
10 the City or community and just have had an open
11 discussion about how some of those might be addressed.

12 MR. CRANE: Okay, no further questions.

13 Thank you, Mr. Layzer, appreciate your time.

14 JUDGE HENDRICKS: Mr. Kopta, do you have
15 questions for the witness?

16 MR. KOPTA: Yes, Your Honor, thank you.

17

18 C R O S S - E X A M I N A T I O N

19 BY MR. KOPTA:

20 Q. Good morning, Mr. Layzer. My name is Greg
21 Kopta. I'm representing Seattle Harbor Tours. You
22 referenced in your discussion with Mr. Crane some
23 barriers that exist that you discussed with Mr. Dolson.
24 Do barriers continue to exist at this point in time?

25 A. Yes.

00393

1 Q. Would you describe at least some of those
2 barriers?

3 A. Sure. The City has a fairly clear policy
4 about the appropriate use of Parks property. Many of
5 the docks in the city of Seattle are either part of
6 Parks property or affect Parks property, and so the
7 impacts to parks and parks and recreational uses is
8 significant. And in addition, impacts to communities
9 that are served by and touched by a proposed ferry
10 service include things such as parking, circulation of
11 traffic in getting people to and from the ferry service.
12 So those are some of the key issues.

13 Q. And do you have any idea or estimate of the
14 amount of time that it would take to resolve those
15 barriers before ferry service could be initiated?

16 A. No, I don't.

17 Q. In the document that you have before you,
18 which is Exhibit 110, the Transportation Strategic Plan,
19 would you turn to page 40, please.

20 A. (Complies.)

21 Q. And on that page, there's a discussion about
22 the Elliott Bay Water Taxi. Do you see that discussion?

23 A. Yes.

24 Q. It's about the third or fourth paragraph.

25 A. Yes.

00394

1 Q. Were you involved or are you involved with
2 that project?

3 A. I have not been directly involved; however,
4 since I started at the City, I have tried to stay in the
5 loop with respect to the discussions, negotiations
6 between King County and Seattle Parks Department about
7 reinitiating this service effective last month.

8 Q. And you're aware that as we sit here today
9 that that project is ongoing?

10 A. Yes.

11 Q. Are you aware that there has also been
12 discussions about a demonstration project between
13 Seattle and the east side, specifically the University
14 of Washington and Kirkland?

15 A. Yes.

16 Q. Are you involved in those discussions?

17 A. When I first started working for the City, I
18 was involved to some extent responding to constituents
19 with respect to Sound Transit's decisions not to at that
20 point continue pursuing funding for a pilot service.

21 Q. And do you know what the status of the
22 project is at this point in time from the City's
23 perspective?

24 A. Yes, I do.

25 Q. And what is that?

00395

1 A. From the City's perspective, the -- I
2 understand it is that a certificate has been issued in
3 the past, and my understanding of Sound Transit's
4 efforts is that the board decided not to fund the pilot
5 effort but left open the possibility of reexamining that
6 effort in the current year, 2001.

7 Q. And will the City be involved in that process
8 on an ongoing basis?

9 A. Yes.

10 Q. And does the City in general support that
11 kind of project process?

12 A. Yes, the City supports as described here
13 exploring options, yes.

14 MR. KOPTA: Thank you, those are all of my
15 questions.

16 JUDGE HENDRICKS: Mr. Davidson.

17 MR. DAVIDSON: Thank you.

18

19 C R O S S - E X A M I N A T I O N

20 BY MR. DAVIDSON:

21 Q. Mr. Layzer, you described earlier in response
22 to questions by Mr. Crane a number of contacts that you
23 had had with Mr. Dolson, and then you made a comment
24 that was puzzling to me. You seemed to say that you
25 have not had contacts or you have not done work with

00396

1 other proposal proposers with respect to cross lake
2 ferry service. And it was not clear to me whether that
3 was a statement of fact or whether it was some kind of
4 expression of policy. Can you elaborate on that?

5 A. It was just a statement of fact, that I
6 myself have not had contact with other proposers.

7 Q. And is that a product of -- does that reflect
8 or, your answer, a volitional state of mind, or is it
9 something that is a reflection of contact efforts that
10 others have or have not made to you?

11 A. It's a reflection of other efforts to make
12 contact with me. My role in addressing the City policy
13 has been more responsive than proactive, so I have not
14 made efforts to contact other proponents.

15 Q. Are you aware of contacts that Mr. Dolson or
16 others associated with his company have made with other
17 city officials?

18 A. I am aware of some of those contacts. I
19 suspect that I am not aware of every contact that has
20 been made.

21 Q. Can you describe any of those contacts?

22 A. Yes. I know that Mr. Dolson has had contact
23 with several staff members in the Seattle Parks
24 Department as well as with the City Attorney, the City
25 Attorney's office, and I know that on another ferry

00397

1 proposal for which a certificate has been granted
2 between Fremont and south Lake Union, there have been
3 some discussions with the Seattle Transportation
4 Department about identifying a docking facility.

5 Q. Do you know whether Mr. Dolson has had
6 contacts with anybody in the mayor's office or City
7 Council members?

8 A. Yes, Mr. Dolson has reported to me on his
9 contacts with members of the City Council and their
10 staff as well as the deputy mayor.

11 Q. In response to a question that Mr. Kopta
12 asked, Mr. Kopta directed you to page 40 of the plan
13 that's been introduced as Exhibit 110. Is the paragraph
14 that's identified as Strategy NT3 the general section of
15 the Seattle Transportation Plan that -- that focuses and
16 describes what the City's policies and directions are
17 with respect to water born transportation?

18 A. Yes.

19 Q. I would like to direct your attention to page
20 47 in that plan, the materials at 47, 48. This
21 particular paragraph describes a DM2, which is encourage
22 flex pass programs, describes a program that seems to --
23 can you describe, you know, just rather than having me
24 characterize it, can you describe what this flex pass
25 program is that's described in that section?

00398

1 A. Local transit operators have worked with
2 employers to provide transit passes for their employees,
3 sometimes at a discount. The costs and burdens of
4 administering those programs can be significant, and the
5 flex pass program is a program designed to reduce the
6 administrative burdon of those pass programs while
7 increasing the benefits. So instead of identifying the
8 specific employees who want a pass and identifying
9 specific types of passes that those employees want, flex
10 pass program provides essentially a universal pass to
11 every employee, and then the employers pay on the basis
12 of actual usage.

13 Q. In earlier testimony, Mr. Dolson described an
14 approach of providing to the riders on his ferries a
15 seamless connection to Metro Transit that would
16 contemplate no additional fare being charged at the bus
17 stop essentially for bus service. Is that the kind of
18 program that this flex pass is addressing?

19 A. There are a number of different approaches to
20 accomplishing the objective of that seamless transfer,
21 and so I think it's similar in its intent. I think the
22 core of this flex pass program is really a benefit to
23 employers, but there are a number of different ways that
24 the transit operators work, the existing public transit
25 operators work to make connections smooth and convenient

00399

1 for the rider, to make fare payment less of a barrier.
2 And I believe Mr. Dolson has explored and spoken at
3 least to some extent with staff from King County Metro
4 and Sound Transit about approaches that he might take to
5 be able to accomplish that.

6 Q. There are similar approaches that are in
7 place already, are there not, with respect to the
8 Washington State Ferry System and Metro and Puget
9 Transit for a regional pass?

10 A. There are, yes.

11 MR. DAVIDSON: No further questions.

12 JUDGE HENDRICKS: Mr. Thompson.

13 MR. THOMPSON: Yes, I just have a few
14 questions.

15

16 C R O S S - E X A M I N A T I O N

17 BY MR. THOMPSON:

18 Q. Mr. Layzer, I'm Jonathan Thompson, I'm the
19 Assistant Attorney General representing the Staff and
20 the Commission in this case. So in response to some
21 questions from Mr. Crane, I think you indicated that
22 part of your discussions with Mr. Dolson had focused on
23 issues that might arise with the communities where the
24 proposed ferries might be docking. And I'm not sure I
25 heard a discussion of which particular communities those

00400

1 would be. Is it Leschi and the University of Washington
2 area that you --

3 A. When I first spoke with Mr. Dolson, he
4 considered the Madison Park community, and then
5 subsequently we have had discussions about the Leschi
6 community. We have also had some discussions about the
7 University of Washington area.

8 Q. Okay. And I gather those -- in response to
9 another question, you indicated that the type of
10 problems that might be presented with respect to those
11 communities concerned parking and things of that nature.
12 How -- and you indicated that you also discussed how
13 those sorts of issues might be addressed. Could you go
14 into a little bit more detail on ideas you may have
15 discussed on how they could be addressed?

16 A. Sure. Early on, I spoke with Mr. Dolson
17 about how to provide connections. When Mr. Dolson first
18 presented the concept of the ferry service to me, he
19 anticipated providing shuttle service to the ferry, and
20 that would presumably provide an option to make
21 unnecessary the -- for people to drive their car to the
22 ferry landing.

23 I also suggested that he explore the option
24 of working with the public transit providers who provide
25 service both to Madison Park and to Leschi, regular

00401

1 service between those points and downtown by way of some
2 of the employment centers that I believe Mr. Dolson was
3 hoping to serve. We have not spoken at much -- those --
4 so those efforts would reduce the need to drive to or
5 from the ferry service, which might help eliminate or
6 reduce some of the traffic circulation impacts and
7 parking impacts.

8 We have not spoken in any detail about sort
9 of any residual parking impacts and how to address those
10 impacts.

11 Q. So is the idea that I gather most people
12 would be parking at east side locations and traveling
13 into the City of Seattle?

14 A. Traffic east and west across the lake is more
15 balanced today than it was even just a few years ago
16 today, so you might expect people traveling in both
17 directions.

18 Q. Okay. But I gather the idea was not that
19 there would be sort of a distant parking location where
20 you then take the shuttle to the --

21 A. No.

22 Q. -- site?

23 A. His concept was to transport people from the
24 ferry dock to their ultimate designations.

25 Q. Okay. Is there a permitting function or

00402

1 something, exactly what sort of approval would a carrier
2 require from the City to say obtain docking rights at a
3 Leschi Park location?

4 A. I believe -- the permitting requirements or
5 approval requirements are not crystal clear, and they
6 depend in part on some of the specifics of an
7 application. But specifically with respect to docking
8 rights at Leschi, my understanding is that the applicant
9 would need to enter into an agreement with the Seattle
10 Parks Department, and the Seattle Parks Department has a
11 process or protocol described for the consideration of
12 uses that are not primarily parks and recreational uses,
13 sort of the consideration and allowance of those.

14 Q. Are you aware at all of what the Parks
15 Department policy or position is or might be toward this
16 proposed service?

17 A. I received a copy of the most recent
18 transmittal in response to Mr. Dolson, which identified
19 a number of issues which need to be addressed and also
20 referenced the City's general support for exploring
21 options.

22 Q. Well, could you elaborate then on that,
23 please? What precisely are the Parks Department's
24 concerns or issues?

25 A. Specifically some of the concerns with

00403

1 respect to Leschi would be the ability for the Parks
2 Department to continue to accommodate both recreational
3 uses of that dock as well as I believe police department
4 use of that dock. And then some of the other issues
5 that I have described were also identified, land site
6 impact, the traffic circulation, and parking.

7 MR. THOMPSON: I think that's all the
8 questions I have for you. Thanks.

9 THE WITNESS: Thank you.

10 JUDGE HENDRICKS: Are there any more
11 questions for this witness?

12 MR. CRANE: Yes, Your Honor, I have a few
13 redirect questions, please.

14 JUDGE HENDRICKS: Okay, please go ahead.

15 MR. CRANE: Thank you.

16

17 R E D I R E C T E X A M I N A T I O N

18 BY MR. CRANE:

19 Q. Mr. Layzer, are you aware of why Sound
20 Transit decided not to fund the pilot project ferry
21 project from Kirkland to Seattle?

22 A. The Sound Transit Commission has studied to
23 evaluate both the costs and potential benefits of such a
24 service, and the conclusion and recommendation of that
25 report were that the costs to -- the public costs of

00404

1 operating that service were high relative to the
2 benefits that might be expected.

3 Q. Okay. And if the cost wasn't an issue or the
4 cost to the public wasn't an issue, is there any -- I
5 would presume at that point then the benefits would be
6 more favorable; is that right?

7 A. That's right.

8 Q. In other words, if there was not a subsidized
9 service, then that would be less of an issue?

10 A. I believe that's true.

11 Q. And if the City of Seattle was faced with two
12 proposals to provide a passenger ferry service and met
13 the City's requirements, one of which was subsidized and
14 one of which was unsubsidized, as long as the two
15 services provided the City's needs, would the City have
16 a -- would the City need to choose between one service
17 or the other?

18 A. Would the City need to choose, I'm sorry, can
19 you restate the question, please?

20 Q. Yeah, if we had two services proposed, one of
21 which is subsidized and one is unsubsidized, both met
22 the requirements of the City, would the City need to
23 choose between one or the other if they both meet the
24 requirements?

25 A. I'm not sure that the City would need to

00405

1 choose.

2 Q. And let me ask you to assume that the
3 subsidized service was not able to obtain the subsidy.
4 If the only viable alternative was an unsubsidized
5 private service that met the City's needs, would the
6 City then support that service to -- in consideration of
7 its goals, transportation goals?

8 A. I believe if we were able to successfully
9 avoid or mitigate some of the negative impacts that I
10 have described to the City's satisfaction, that we would
11 support that, yes.

12 MR. CRANE: Thank you, no further questions.

13 JUDGE HENDRICKS: Mr. Kopta, do you have any
14 recross?

15 MR. KOPTA: Just a couple of follow-up areas,
16 thank you.

17

18 R E C R O S S - E X A M I N A T I O N

19 BY MR. KOPTA:

20 Q. Mr. Davidson was discussing with you the flex
21 pass program. Are you aware that the Elliott Bay Water
22 Taxi is a participant in the flex pass program?

23 A. My understanding is that the -- that King
24 County -- that passes that are honored on King County
25 Metro transit services are also honored for full fare

00406

1 payment on the water too, yes.

2 Q. And are you also aware that the West Seattle
3 dock used for that service is a Seattle Parks Department
4 dock?

5 A. Yes, I am.

6 Q. And the City was able to resolve the issues
7 that arise from the use of the Parks Department, at
8 least on a project or demonstration project basis?

9 A. Yes.

10 Q. And would those be any different than on a
11 permanent basis in terms of what the resolution of the
12 impacts that you described would be?

13 A. In the case of the West Seattle location,
14 yes, the difference between temporary and permanent,
15 there is a difference between temporary and permanent.

16 Q. What is the difference?

17 A. There are impacts to, in the case of the West
18 Seattle location, there is a specific recreational use,
19 scuba diving, which is impacted by the operation of
20 passenger ferry service. And the Parks Department has
21 stated that there's also other parking impacts that
22 impact parking use by recreational park users, and the
23 Parks Department has expressed its preference to avoid
24 those impacts in the longer term and has asked King
25 County Metro as part of the agreement to allow the

00407

1 continued demonstration that King County demonstrate
2 progress towards a permanent docking location.

3 Q. So at least at this point, the Parks
4 Department has sufficient concerns about the use of Park
5 docks for a ferry service, that as we sit here today,
6 they're recommending that a Park dock not be used for
7 commercial ferry service?

8 A. Yes, as a permanent location.

9 MR. KOPTA: Thank you, that's all I have.

10 JUDGE HENDRICKS: Mr. Davidson, please go
11 ahead.

12

13 R E C R O S S - E X A M I N A T I O N

14 BY MR. DAVIDSON:

15 Q. Mr. Kopta's last question was raised in a
16 very general way stating a Parks Department. Is the
17 Parks Department position that specific with respect to
18 all Park docks, or was it more focused on the West
19 Seattle specific dock being used by the ferry?

20 A. It's focused specifically on the West Seattle
21 dock and the specific impacts of that service.

22 Q. If no Park dock were being used as a docking
23 facility by a proposed ferry service, would the City
24 still have the similar land based concerns that you
25 described earlier with respect to the ferry service

00408

1 operations?

2 A. Yes, I believe their concerns would be very
3 similar, including potentially impacts to Parks property
4 if there was -- even if the dock were not located on
5 Parks property, it very easily could be located in
6 proximity to a park and could have again some major
7 impacts to recreational users.

8 Q. And if there were no park in the vicinity of
9 the proposed dock, like perhaps, and I don't know for
10 sure, the University of Washington oceanography dock,
11 would the City have maybe some concerns about the land
12 based impacts of a ferry operation?

13 A. Yes.

14 MR. DAVIDSON: No further questions.

15 JUDGE HENDRICKS: Any further questions?

16 Thank you, Mr. Layzer, you may be excused.

17 Considering that we will need to reconvene
18 right at 1:00 for the public comment session, I would
19 propose that we take an early lunch right now. Are the
20 parties in agreement?

21 JUDGE MOSS: That would work.

22 MR. CRANE: Yes, Your Honor.

23 JUDGE HENDRICKS: All right. Why don't we
24 recess for lunch and be back here shortly before 1:00 to
25 do the public comment section.

00409

1 (Luncheon recess taken at 11:45 a.m.)

2

3 A F T E R N O O N S E S S I O N

4 (1:05 p.m.)

5 JUDGE HENDRICKS: As the Commission noticed
6 previously, we have scheduled an hour between now and
7 2:00 p.m., and we can go over that a little bit if
8 necessary. It doesn't appear judging by the attendance
9 right now that it will be for public comment in this
10 matter.

11 Typically the office of the Attorney
12 General's public counsel will present witnesses for
13 public comment. However, today public counsel isn't
14 present, but Commission Staff is, and they will fill
15 that role. And so I will turn it over to Mr. Thompson,
16 Mr. Jonathan Thompson of the Commission Staff, to
17 present the public commentators.

18 MR. THOMPSON: I gather there are a couple of
19 individuals here. Please come up and take the stand.

20

21 Whereupon,

22 DARRELL E. BRYAN,
23 having been first duly sworn, was called as a witness
24 herein and was examined and testified as follows:

25

00410

1 D I R E C T E X A M I N A T I O N

2 BY MR. THOMPSON:

3 Q. Good afternoon, and thanks for coming to make
4 your comment. I'm Jonathan Thompson. I'm with the
5 Attorney General's Office, and I'm just going to ask you
6 to please state your name and address for the court
7 reporter to take down, and then go ahead and make
8 whatever statement you would like to make.

9 A. Thank you. My name is Darrell E. Bryan. My
10 business address is 2701 Alaskan Way, Seattle 98121.

11 JUDGE HENDRICKS: And, sir, could you spell
12 your name for the record, please.

13 A. Certainly. First name is Darrell,
14 D-A-R-R-E-L-L, last name is Bryan, B-R-Y-A-N.

15 JUDGE HENDRICKS: Thank you.

16 A. Good afternoon, thank you for allowing me an
17 opportunity to speak today. My name is Darrell Bryan.
18 I'm the executive vice president and general manager for
19 Clipper Navigation, which is the owner/operator of the
20 Victoria Clipper vessels. Clipper's subsidiary, San
21 Juan Express, Inc., has a certificate of public
22 convenience and necessity and has provided service
23 between Seattle and Friday Harbor since 1991 and between
24 Seattle and Victoria since 1986.

25 I am also the immediate past president of the

00411

1 Passenger Vessel Association, which is a national
2 association representing the interests of owners and
3 operators of dinner cruise vessels, sight seeing and
4 excursion vessels, gaming boats, car and passenger
5 ferries, and overnight cruise ships.

6 And I'm also currently the president of the
7 International Marine Transit Association, which
8 represents the International ferry industry as a united
9 group in dealing with governments, safety agencies,
10 environmental groups, other governmental organizations,
11 and the general public. Argosy has been an active
12 member of both associations since their inception.

13 I wanted to take this opportunity to make
14 mention of the fact that Clipper, the Clipper
15 organization, has an outstanding relationship with
16 Argosy and has had for nearly 16 years. We have been in
17 existence a small part of their 51 years of service. We
18 have worked closely with them in many areas, and we have
19 found the entire organization to be extremely
20 professional, customer service driven, and always
21 seeking to do the best for the community. They have
22 been key players in the Seafair's Special People's
23 Cruise, the Christmas Ship program, and countless other
24 community activities where they donate their time,
25 money, and services. Further, as the chair for the

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1 Seattle King County Convention and Visitors Bureau, I
2 can attest to their active long-term involvement and
3 support in promoting the organization as well as the
4 city.

5 We continue to work together with them and
6 other marine businesses to find cost effective, reliable
7 marine transportation solutions to this community's
8 gridlock. Perhaps some of you have heard the two of us
9 on the radio together talking about alternatives to the
10 gridlock. An example of Argosy's commitment is that
11 when the Washington State Ferry Systems passenger only
12 program was placed in jeopardy because of an injection
13 to reduce their operating speed through Rich Passage, I
14 as the then president of the Passenger Vessel
15 Association authorized the filing of an amicus brief in
16 behalf of the Washington State Ferry System. Argosy and
17 Clipper split the costs of the legal services, although
18 they were not operating at high speed, nor did they
19 operate in the affected area at the time. This is an
20 example of their ongoing commitment to the industry and
21 the community.

22 In deference to the time constraints today, I
23 will simply say that our company and employees have the
24 highest regard for Argosy and their organization, and I
25 would be pleased to answer any questions you might have

00413

1 at this time. And once again, thank you for allowing me
2 the opportunity to speak.

3 JUDGE HENDRICKS: Are there any questions?

4 Having heard nothing, thank you very much
5 Mr. Bryan, for coming. The Commission appreciates your
6 time.

7 JUDGE MOSS: I think we may have one more.

8 MR. THOMPSON: Is there anyone else who is
9 here to make public comment?

10 JUDGE HENDRICKS: It doesn't appear so. In
11 light of the fact that there are no others to make
12 public comment at this time, we can proceed with the
13 cross-examination of Mr. Dolson.

14 Before that, I would just like to note that
15 the parties, I believe, and I will let them say this
16 themselves, but there has been a protective order
17 drafted and discussed for the purposes of the admission
18 of contracts for loans secured by Dutchman Marine, and
19 the parties agree that the protective order is
20 sufficient and that the Commission will enter it for the
21 purposes of the contracts. I will just note for the
22 record that the parties have agreed that the Commission
23 will enter the protective order in regards to the
24 contracts.

25 MR. CRANE: Thank you.

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1 JUDGE MOSS: And have those exhibits been
2 exchanged now?

3 MR. CRANE: No.

4 JUDGE MOSS: Okay, well, I think we discussed
5 off the record that the parties will proceed under the
6 protective order. We did have a couple of slight edits
7 we had to perform, and we will execute that at the end
8 of the day, and it will be entered at that point. But
9 in the meantime, we can proceed under the terms of the
10 protective order, so if you can distribute the exhibits
11 in accordance with its terms.

12 MR. CRANE: Certainly, Your Honor. Before we
13 do that, I wanted for purposes of scheduling -- and this
14 could be off the record, I guess, with regard to
15 scheduling witnesses.

16 JUDGE MOSS: We can go off the record, sure.
17 (Discussion off the record.)

18

19 Whereupon,

20 CINDY EDENS,
21 having been first duly sworn, was called as a witness
22 herein and was examined and testified as follows:

23

24 THE WITNESS: My name is Cindy Edens, I'm
25 the --

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1 JUDGE MOSS: Let me interrupt for a minute.
2 We follow a sort of a routine in these proceedings.

3 THE WITNESS: Okay.

4 JUDGE MOSS: And Mr. Thompson has graciously
5 volunteered to act in the stead of public counsel,
6 including all the public witnesses, so he is going to
7 elicit from you the testimony you are about to give, but
8 let's follow the forms and let Mr. Thompson.

9 MR. THOMPSON: But you clearly anticipated my
10 question.

11

12 D I R E C T E X A M I N A T I O N

13 BY MR. THOMPSON:

14 Q. Please do state your full name, and spell it
15 for the record, and also provide your business address,
16 please.

17 A. Cindy, C-I-N-D-Y, Edens, E-D-E-N-S, Wright
18 Runstad and Company, W-R-I-G-H-T, R-U-N-S-T-A-D, and
19 Company, 1111, wait a minute, 1000 Second Avenue, Second
20 and Seneca Building, Suite 2000. Can you tell I have an
21 assistant, I never use that. Seattle 98101.

22 Q. And you have a statement you want to make --

23 A. Yes.

24 Q. -- concerning this application. Please do.

25 A. We would be in support of the ferry service,

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1 as we are purchasing the property that is a part of
2 Southport adjacent to the residences. And at present I
3 have designed, I work as a senior project manager for
4 Wright Runstad, I have designed there for in excess of
5 750,000 square feet of office area. And I see this as
6 an opportunity for an alternative way to get to work.

7 If someone living down in Madison or in other
8 areas where there would be a stop where they could
9 actually get on the ferry and come to work in Southport,
10 it could be another viable means of transportation. At
11 750,000 square feet, you average it out at about 165 to
12 200 square feet per person, you can see how many people
13 I will have in that building, in those buildings, it's a
14 combination of three buildings. So I see it as an
15 alternative that would be positive.

16 I am a ferry boat rider from Bainbridge
17 Island to the City of Seattle every day, and I see it as
18 a very civilized way to commute, and so I would
19 definitely be for this.

20 Q. Just for clarification, I guess your
21 testimony is with respect to the Seattle to Renton
22 route?

23 A. Yes, it is.

24 Q. All right.

25 A. Absolutely.

00417

1 JUDGE HENDRICKS: Are there any questions?

2 MR. CRANE: No, I just had one clarification,
3 if I could.

4

5 C R O S S - E X A M I N A T I O N

6 BY MR. CRANE:

7 Q. Ms. Edens, could you give a little
8 information about Wright Runstad? I know the name of
9 the company, but I'm not that familiar with what sort of
10 development operations they have in the Puget Sound
11 area. Could you touch on that briefly.

12 A. We are a premium office developer. We deal
13 in Class A office buildings. We typically build
14 highrise, and in the last few years we have branched out
15 to a more flexible product. We did Sunset Corporate
16 Campus on I-90. If I gave you a list of buildings
17 quickly in downtown Seattle, we developed First
18 Interstate Center which is now Wells Fargo Center, 1111
19 Third Avenue, Washington Mutual Tower, Second and Seneca
20 Building, Nordstrom Medical Tower, and I think that's it
21 downtown. In Bellevue, we have done One Bellevue
22 Center, Key Bank, Rainier Plaza, and Sunset Corporate
23 Campus on I-90. We have also developed in other cities,
24 but our major focus is downtown Seattle and downtown
25 Bellevue.

00418

1 We have, in looking at Renton, we see that as
2 a very positive growth area and feel that where will
3 people go, this is the next logical place when you look
4 at what's happened along the I-90 corridor. It's very
5 close proximity, so.

6 Q. And how will being provided an alternative
7 way to get to work benefit your development?

8 A. Less cars. I mean you end up with all these
9 different alternatives on how to get to work when you
10 analyze buildings, and you have the requirement for like
11 parking for cars. Parking is always a premium, and it
12 will become moreso as time goes on is our belief. So
13 you look at how else can you get people to work, and
14 you've got bus, you've got ferries. Geographically
15 we're a very diverse area when you look at what we have
16 to offer in this area, so we need to have diverse ways
17 to get to work.

18 MR. CRANE: That's all I have, thank you.

19 JUDGE HENDRICKS: Thank you very much for
20 your time.

21 THE WITNESS: You bet.

22 JUDGE HENDRICKS: And I will ask one more
23 time if anybody else has come in who would like to make
24 a public comment.

25 And seeing and hearing nothing, we can

00419

1 proceed. And off the record we discussed the witness
2 order, and to accommodate the schedules of the
3 witnesses, we have changed the order slightly, and the
4 parties have agreed that Mr. Fuller and Mr. Case for
5 Dutchman Marine will be presented first, and then
6 afterwards, we will continue with the cross-examination
7 of Mr. Dolson.

8 Mr. Crane, you can call your next witness.

9 MR. CRANE: Thank you, Your Honor. At this
10 time, Dutchman Marine would like to call Barry Fuller to
11 the witness stand, please.

12

13 Whereupon,

14 BARRY O. FULLER,
15 having been first duly sworn, was called as a witness
16 herein and was examined and testified as follows:

17

18 D I R E C T E X A M I N A T I O N

19 BY MR. CRANE:

20 Q. Good afternoon, Mr. Fuller. Matthew Crane
21 representing Dutchman Marine, as you know. Could you
22 state your full name and the name of your company for
23 the record, please.

24 A. My name is Barry O. Fuller, Senior. The name
25 of my consulting company is Markon International.

00420

1 Q. Where is Markon International located?

2 A. I work out of my home.

3 Q. Where is that?

4 A. It's on Cape Cod, Centerville, Mass, 114
5 Stony Cliff Road.

6 Q. And what was the City?

7 A. Centerville.

8 Q. I'm sorry, the ventilation system was on, I
9 couldn't hear you.

10 Can you explain or describe what your company
11 does?

12 A. I founded Markon International in 1995 to
13 provide a range of consulting services in the maritime
14 field. The projects I wanted to take cross a broad
15 spectrum. I have been involved in several ferry startup
16 operations, for example. I have also served as an
17 expert witness in some cases, and my assignments have
18 covered a pretty broad range of projects.

19 Q. Now how long have you been with Markon
20 International?

21 A. I founded the company in 1995.

22 Q. Could you give me a summary of your
23 educational background?

24 A. I graduated from Massachusetts Maritime
25 Academy in 1961 with a BS degree and a third mate's

00421

1 Coast Guard license.

2 Q. Do you still hold a Coast Guard license?

3 A. Yes, sir, I do.

4 Q. And what is that license?

5 A. Well, I have an unlimited third mate's
6 license, I have an inland master's license unlimited
7 tonnage, and I have various first class pilot
8 endorsements for the routes between Boston, Mass and
9 Loopover Island.

10 Q. Could you provide a summary for me of your
11 work experience from the time that you parted
12 Massachusetts Maritime Academy in 1961.

13 A. Okay. After graduation, I shipped out deep
14 sea for a couple of years. I sailed with Sun Oil
15 Company on tankers and then sailed with American Export
16 Line on freighters. 1966, I came ashore and started in
17 the passenger ferry business on Cape Cod.

18 Q. Okay. And could you describe for me what
19 positions, well, excuse me, what you did for the ferries
20 that you worked with?

21 A. Okay. The first company I worked for was
22 Highline, which is a private ferry company. In fact,
23 the name of the company was Nantucket Boat prior to
24 changing to Highline. I started there in '66. In '67,
25 I was appointed assistant manager and subsequent to that

00422

1 was general manager. Stayed with Highline until the
2 company was sold in 1973 and at that time went to work
3 as a captain for the Woods Hole, Martha's Vineyard, and
4 Nantucket Steamship Authority.

5 Q. Okay. And how long did you work at that
6 Steamship Authority?

7 A. I worked with the Steamship Authority from
8 1973 until 1994.

9 Q. Okay. And then you started your consulting
10 business?

11 A. Correct.

12 Q. Now going back to your I guess background is
13 the best way of describing it, are you a member of any
14 professional associations?

15 A. My past and present professional affiliations
16 include the Passenger Vessel Association, the
17 International Marine Transit Association, Transportation
18 Research Board Committees on Ferries on which I
19 currently serve. I'm a member of the Seaport Advisory
20 Council, which is a council put together by the governor
21 of Massachusetts to develop the ports in the common
22 wealth. I just completed my second term as a trustee on
23 the Board of the Trustees of the Massachusetts Maritime
24 Academy.

25 Q. Okay. What did you do for Highline; could

00423

1 you describe what your duties were?

2 A. Well, I started out as a mate and captain,
3 and as I say, the next year I was appointed as assistant
4 manager, which pretty much encompasses the duties of
5 operations, general day-to-day operations, and in the
6 company after that was appointed as general manager.

7 Q. And could you describe again the sort of
8 operation Highline was involved with?

9 A. Well, Highline when I joined it was a small
10 company that operated one vessel providing passenger
11 service between Hyannis and Nantucket during the summer
12 only. We also did harbor tours much like Argosy does
13 here. We expanded the operation to include ferry
14 service between Hyannis and Martha's Vineyard and
15 continued expanding the operation up to the point where
16 I left, and service has been expanded even further
17 since.

18 Q. All right. Now what's the distance
19 approximately between Hyannis and Nantucket?

20 A. It's about 24 miles.

21 Q. How long is the transit between those on your
22 vessels?

23 A. On a traditional ferry, it's about 2 hours
24 and 15 minutes to 2 and a half hours.

25 Q. What sort of people would ride the ferry,

00424

1 tourists?

2 A. Yeah, most of our market was made up by what
3 we call day trippers, people that were on the Cape and
4 looking for a day excursion. That was by far the
5 majority of our ridership.

6 Q. Is the Highline operation still in existence
7 today?

8 A. Yes, it is.

9 Q. And you said you expanded the service to
10 include service to Martha's Vineyard; how far away is
11 Martha's Vineyard?

12 A. Martha's Vineyard is not quite the same
13 distance. It's probably about 18 to 20 miles from
14 Hyannis.

15 Q. Okay. So you serve from Hyannis to Martha's
16 Vineyard?

17 A. Yes.

18 Q. Okay. And was your ridership similar to the
19 ridership that went out to Nantucket?

20 A. Yes, it was. There was some concern about
21 starting a Martha's Vineyard operation from Hyannis
22 because of where Hyannis is located, which is about
23 halfway down the cape. There was concern that we
24 wouldn't be able to compete with the Steamship
25 Authority, whose terminal was much closer to Martha's

00425

1 Vineyard, it was only a 45 minute ride. So as I say,
2 there was some initial concern that we wouldn't be able
3 to attract enough ridership to justify the Vineyard run
4 from Hyannis.

5 Q. Okay.

6 A. That really proved to be unfounded. As a
7 matter of fact, what happened was by giving the people
8 on the Cape a choice of departure points, we actually
9 increased the total overall ridership.

10 Q. Do you know why that is, why that happened?

11 A. Convenience. It was much more convenient for
12 people who were in the mid Cape area to use Hyannis as a
13 point of departure than to drive all the way down the
14 coast.

15 Q. Was Highline a privately owned business while
16 you were employed by that company?

17 A. Yes, it was.

18 Q. Okay. Did the service receive subsidies?

19 A. No, sir.

20 Q. Okay. And then for the Woods Hole, Martha's
21 Vineyard, and Nantucket Steamship Authority, could you
22 describe that for me?

23 A. Well, the Steamship Authority is a public
24 instrumentality. It's an independent public authority
25 created by the legislature. Its mandate is to provide

00426

1 adequate transportation and necessities of life for the
2 islands of Martha's Vineyard and Nantucket. It was
3 created in 1960.

4 Q. And you went over there in what position when
5 you first started?

6 A. As a captain and pilot.

7 Q. Okay. And did your duties change at all
8 after you started with them?

9 A. From time to time I did take special
10 assignments away from the actual day-to-day vessel
11 operations.

12 Q. Okay. Were you ever in a position of
13 management at the Woods Hole, Martha's Vineyard,
14 Nantucket Steamship Authority?

15 A. Well, in 1988, I was appointed as general
16 manager and chief operating officer.

17 Q. Chief operating officer?

18 A. Yes, sir.

19 Q. Okay. And you continued in that position
20 until 1994 approximately?

21 A. That's correct.

22 Q. Okay. All right. And then were the riders
23 that took the vessels under your, what do you call it,
24 the authority; is there a short name for your --

25 A. The steamship.

00427

1 Q. The Steamship Authority

2 A. It doesn't operate steamships any more.

3 Q. Were there a certain class of riders that
4 used your service at the Steamship Authority?

5 A. Not really. During the off season or the
6 winter months, the ridership was primarily made up of
7 residents that lived on the island. This was their
8 lifeline back and forth to the mainland.

9 Q. Okay.

10 A. There were large fluctuations in both the
11 type of ridership and the number of riders between what
12 we used to call the off season and in season. Over the
13 years, the in season or the prime season has expanded
14 greatly. It used to be the peak season used to run from
15 Memorial Day to Labor Day. Now, in fact, the ridership
16 starts to build from Easter up until Thanksgiving. And
17 even beyond that, we get special event activities over
18 on the islands like the Christmas Stroll and other
19 special theme weekends that causes peaks in the
20 ridership.

21 Q. And what would you do in general as general
22 manager and chief operating officer; can you give me a
23 description of your duties?

24 A. Oh, boy, well, my responsibility was to take
25 care of the day-to-day operations, administrative

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1 functions, oversee a senior staff of I think I had about
2 6 people on what I call my senior staff. Total number
3 of employees was around 700. Our total ridership for
4 the year would be in excess of 2 million people, and we
5 also carried all of the automobiles and freight back and
6 forth to the island. And I reported to a board of
7 directors, three board members which represented the
8 coast communities of Falmouth, Nantucket, and Martha's
9 Vineyard.

10 Q. How many vessels were operating while you
11 were still chief operating officer?

12 A. Well, when I started, we had four vessels,
13 and when I left, I believe we had increased the fleet to
14 seven vessels.

15 Q. What kind of vessels are these; could you
16 describe them?

17 A. Well, actually there were really two classes
18 of vessels. We had what I call a capital vessel. These
19 were large passenger and vehicle ferries, not nearly as
20 large as the Washington State Ferries, but they were all
21 purpose vessels. And then in the middle '70's, we
22 started to acquire supply boats, what we call mud boats.
23 These are support vessels that are used out on the Gulf,
24 they're open deck vessels. By being open deck, we were
25 allowed to carry hazardous cargo such as gasoline,

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1 propane, that kind of thing. So we were able to begin
2 to acquire a fleet of these supply boat type vessels.

3 Q. For the people that would use the Steamship
4 Authority service out to those locations, and could you
5 give me the destinations again, let me make sure I
6 understand?

7 A. Nantucket and Martha's Vineyard.

8 Q. All right.

9 A. Nantucket being about 25 miles off of the
10 mainland and Martha's Vineyard being about 7.

11 Q. And those are both islands?

12 A. Both islands, yes, sir.

13 JUDGE MOSS: Mr. Crane, let me stop you here
14 for a moment.

15 MR. CRANE: Sure.

16 JUDGE MOSS: To the extent you're still
17 qualifying your witness, I think we have pretty well
18 established for the satisfaction of the Bench that we
19 have a well qualified witness. To the extent that the
20 questions that you're pursuing now do not tie in
21 directly to the witness's testimony concerning the
22 service before us, I think you can safely skip ahead.

23 MR. CRANE: Okay. Actually, my questions
24 were more oriented towards establishing his experience
25 to support his testimony as to the qualifications of the

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1 proposed Dutchman Marine service as opposed to his
2 expert qualifications.

3 JUDGE MOSS: Well, I think we have
4 established to the Bench's satisfaction that we have a
5 witness with 40 years of experience in the industry and
6 otherwise impressive qualifications.

7 MR. CRANE: Okay.

8 JUDGE MOSS: So if it there is some challenge
9 to his qualifications later, then we can come back to
10 this line for rehabilitation purposes. But otherwise, I
11 think it will save us a lot of time if perhaps we skip
12 ahead to the substantive testimony concerning the
13 applications.

14 BY MR. CRANE:

15 Q. Could you describe for me, Mr. Fuller, the
16 sort of ferry projects that you have been involved with
17 since you started Markon.

18 A. Okay. As I say, I have been involved in
19 about a half a dozen startup operations. I'm thinking
20 first of all of Freedom Cruise Lines, which is a ferry,
21 passenger ferry operations, from Harwich Port to
22 Nantucket. I was approached by a young man who told me
23 he wanted to start up the system. He engaged my
24 services to help him through the licensing process,
25 through developing the business plan, and so forth and

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1 so on. So that's one project that I was involved in
2 getting up and running.

3 Another project I was involved with was down
4 in Jacksonville, Florida. It was the Mayport ferry
5 operation, which was operated for years by the State of
6 Florida. The State built a bridge about 20 miles inland
7 from Mayport, the Dane Point Bridge, and had intended to
8 shut down the ferry system. There was such a hue and
9 cry from the beach communities, Jacksonville Beach and
10 Amelia Island, that the state offered to give the
11 service over to the City of Jacksonville. It was being
12 subsidized at the time to the extent of somewhere
13 between \$600,000 and \$1,000,000 a year. The City agreed
14 to take over the service. Recognizing that it had no
15 in-house expertise in running ferry systems, decided to
16 seek out a private operator. I was involved in putting
17 together the RFP, getting it out to the industry, and
18 evaluating the responses for the service. The service
19 was ultimately privatized, and the last information I
20 have is working successfully. The subsidy requirement
21 is down to I believe around \$200,000 a year.

22 Another startup operation I can think of is
23 Island High Speed Ferry. This is a group that is
24 starting a fast ferry operation between Point Judith,
25 Rhode Island, and Block island. My involvement was to

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1 testify before the DPUC, the hearing regulatory body in
2 Rhode Island. They were successful in securing the
3 license to start the operation. Their vessel is about
4 to be launched any day now. They intend to start this
5 summer.

6 Q. Okay.

7 A. Those are three startup operations, and I
8 would also include my current project, which is as a
9 port captain for Seabulk International. This is a pilot
10 freight ferry operation that we're in the second year of
11 now. I was called in to assist in putting together the
12 response to the RFP that was put out by the Steamship
13 Authority. We were successful in securing the contract,
14 and as I say, we're in the second year of a two year
15 pilot program running freight, rollo freight, what we
16 call rollo freight, roll on, roll off, between New
17 Bedford, Mass, and Martha's Vineyard.

18 Q. Okay. And could you explain what services
19 you provided for Dutchman Marine?

20 A. Well, Mr. Dolson called me about a year ago
21 to explain to me what his plan was. Initially I put him
22 in contact with a number of my colleagues out of the
23 East Coast that have ferry operations from Boston, Cape
24 Cod, Rhode Island, Connecticut, and down in New York.
25 Mr. Dolson came out to the East Coast and met with these

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1 people to kind of pick their brains a little bit. He
2 recognized that he really didn't know all he needed to
3 know about starting a ferry operation, but that was my
4 initial involvement with Dan.

5 Shortly after that, Dan asked if I would be
6 willing to come aboard on a consulting basis to help him
7 develop his business and operating plans, and there were
8 a number of other issues that his team was involved with
9 at the time.

10 Q. Okay. And what sort of services have you
11 performed since Dan Dolson, Mr. Dolson, requested you to
12 join his team as a consultant?

13 A. Well, I talk to Dan probably four days a
14 week, maybe more. We have weekly conference calls with
15 Dan. It's been pretty much a phone, fax, and Fedex type
16 of correspondence that we have had. In January, I came
17 out and made a reconnaissance trip to get a feel for the
18 area, because I hadn't been out here for many, many
19 years. We did that over the course of a long weekend,
20 including an aerial reconnaissance in a seaplane, which
21 I thought was kind of neat, so that I was able to get a
22 real hands-on feel for what his project was all about.

23 Q. Where was that trip?

24 A. Well, actually we covered the lake. We did a
25 land side reconnaissance of all the potential dock

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1 areas, the highway systems, pretty much the
2 developments, both the existing developments and these
3 proposed developments that have been talked about over
4 the last couple of days, so pretty much covered the
5 whole -- the whole tariff all the way from Bellevue to
6 Seattle, from Renton to Kirkland.

7 Q. Mostly everything that's on the map to your
8 right there --

9 A. Yes, sir.

10 Q. -- against the wall?

11 A. Exactly, yeah. And as I say, in addition to
12 that, we took a seaplane ride all the way around the
13 whole perimeter of the lake.

14 Q. Okay. And based on your involvement with
15 Dutchman Marine up to this point and based on your
16 experience over the years that you have gained as well
17 as starting up ferry operations, do you have an opinion
18 on the likelihood of success of Mr. Dolson's operation?

19 A. Yes, I do.

20 Q. And what is that opinion?

21 A. I am thoroughly convinced that Dan has put
22 together a very doable and what I believe will be a
23 successful program to initiate and operate and expand
24 what I see as an overdue transportation, east-west
25 transportation system.

00435

1 Q. All right. And a couple points, what do you
2 mean overdue system?

3 A. Well, it's apparent to me from driving around
4 the area that the roads are grossly over taxed, the
5 problems are way over their engineered designed
6 capacity. I don't think any other -- I can't see any
7 other solution to this or any other short-term solution
8 than immediately initiating some type of a ferry
9 transportation system to relieve some of the highway
10 traffic.

11 Q. And why are you convinced that the Dutchman
12 Marine proposal is in your view expected to be a very
13 successful program, to both initiate and expand the
14 ferry system?

15 A. Well, I think Dan Dolson has certainly done
16 his homework. It appears to me that Dan looked at the
17 situation with new eyes or fresh eyes, was able to
18 evaluate the immediate need for some type of relief. He
19 has done a tremendous amount of foot work. He has
20 covered every possible aspect of the operation that I
21 certainly can think of. And he's just basically done
22 his homework, and I think he's got all his bases
23 covered.

24 Q. Okay. And when you say every aspect that he
25 should cover, what -- let's go down the categories of

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1 what he should be covering to in your view create a
2 successful passenger ferry service.

3 A. Well, one of the key things, of course, is
4 putting together a team, and Dan as I think is the first
5 one who recognized that he doesn't know all that he
6 needs to know or needs to be known about this potential
7 operation, so he has put together what I think is a very
8 good team, including Mr. Chase, who has --

9 Q. Jack Case?

10 A. Jack Case, Case, I'm sorry, who has really an
11 outstanding reputation in the industry. And he has
12 covered issues such as financing. He has covered vessel
13 design. He has covered infrastructure, all of these
14 critical elements that have to be in place if the system
15 is going to be successful.

16 Q. And have you been involved at all in the
17 projections of ridership?

18 A. To some degree.

19 Q. And based on your understanding of the
20 projected ridership, is that in your view sufficient for
21 this service to be successful?

22 A. I think it is.

23 Q. Why?

24 A. Because I see three primary markets here, not
25 just a commuter market, but also a what I call a

00437

1 discretionary market and the University.

2 Q. What was the third one?

3 A. The University.

4 Q. The University.

5 A. Which you people refer to as UW, I guess. So
6 I see those as the three prime drivers of ridership in
7 this system.

8 Q. Okay. And let's -- maybe you could -- you
9 could describe those for me. You said commuters,
10 discretionary riders, and the UW whoever.

11 A. Entourage.

12 Q. It could be students or --

13 A. Students or employees.

14 Q. Okay.

15 A. Any number of people that are involved with
16 the University.

17 Q. Okay. So what do you mean by commuters
18 exactly? I think I understand, but why don't you
19 explain.

20 A. Well, to me, commuters are -- consists of
21 that group that needs transportation at a particular
22 time, usually to work, a large number of people that
23 need to travel at the same time, commuting on a regular
24 basis, usually a work week. That's how I would define a
25 commuter.

00438

1 Q. Okay. And what about discretionary riders?

2 A. Well, discretionary riders are those who I
3 think have choices. They have choices as far as mode of
4 transport is concerned, they have choices as far as
5 schedule of travel, they have choices as to price, and
6 they have choices as to destinations.

7 Q. Okay. And so it sounds like that
8 discretionary riders could include tourists, for
9 example?

10 A. Yes, well, what we -- what I would refer to
11 as day trippers. I heard testimony earlier from the
12 manager of a hotel over on the east side, has people
13 come in for conventions, conferences. A lot of times
14 there are spousal programs for those types of events,
15 and these are -- these are the type of people that are
16 looking for something to do as part of their business in
17 the area.

18 Q. And in your experience in operating passenger
19 ferry systems or ferry systems and in your experience at
20 setting up passenger ferry systems, what is the
21 importance of having those separate classes of riders,
22 the ones you call commuters and discretionary?

23 A. I think it's imperative that you have that
24 mix as part of your -- part of your ridership and part
25 of your marketing program.

00439

1 Q. And why do you say it's imperative?

2 A. Because I don't think one can stand alone
3 without the other. Commuters usually travel in the
4 morning and the evening. During the day, you're going
5 to have to go after a ridership that's going to be --
6 going to take advantage of your service during those
7 non-commuting hours. You've got to, as one of my
8 colleagues says, you've got to put fannies on the seats,
9 and it takes more than one market to do that.

10 Q. Okay. And so is it that the discretionary
11 riders then will help support a ferry service that takes
12 commuters?

13 A. Yes, they will.

14 Q. Is that really what you're saying?

15 A. That's what I'm saying. I'm saying that the
16 discretionary market will not only subsidize or
17 complement the commuter market, but will really make the
18 system work, because it will be even more fully
19 utilized.

20 Q. If the discretionary riders were not served
21 by a passenger ferry service such as Dutchman Marine,
22 would you expect the service to be successful in your
23 experience, financially successful I guess?

24 A. Probably not.

25 Q. Why is that?

00440

1 A. Without a subsidy.

2 Q. And why is that?

3 A. Because it would have to be subsidized to
4 cover those operating costs and expenses that would not
5 be covered through the fare box reference.

6 Q. Okay. Now in your experience, what sort of
7 service is needed to attract discretionary riders?

8 A. It has to be attractive, it has to be
9 visible, it has to offer amenities, it has to have
10 frequent and convenient arrival and departures and
11 departure points.

12 Q. All right. And when you say attractive, what
13 do you mean by attractive?

14 A. I mean physically attractive, well appointed,
15 concession services, friendly, booze, that type of
16 service that someone who has a discretion to travel or
17 not travel is looking for.

18 Q. All right. Now from your understanding of
19 the proposed passenger ferry service by Dutchman Marine,
20 does the proposed service have the characteristics as
21 you have described them to be able to attract the
22 discretionary riders?

23 A. I believe it does.

24 Q. And in what way?

25 A. Well, number one, you've got attractions

00441

1 along these routes, okay. You've got very attractive
2 parks, trails, retail areas. You've got plenty of
3 attractions along the immediate lake area in addition to
4 those in the downtown Metro areas. The vessels that are
5 being contemplated are of a state of the art, high
6 class, high comfort level type vessels. Speed is a
7 major factor, there's no question about it, people want
8 to go where they want to go in a short period of time.
9 And there are many other factors that I think make this
10 a better than -- better than your average boat ride.

11 Q. Okay, and therefore --

12 A. Fare structure is one, but I don't think fare
13 structure is the prime driver. I really don't.

14 Q. Now why do you say that; I don't understand
15 your --

16 A. Because the fare structure is one, just one
17 element in attracting riderships. I'm thinking Back
18 East, we get back to Highline, Highline is now operating
19 high speed passenger service for which they charge a
20 premium. The fare to take the high speed boat is more
21 than double the average fare for the conventional boat.
22 But the transit time has been cut in half, and the
23 ridership trend is going away from the conventional
24 vessels towards the high speed vessels. When there is a
25 choice, there's no question. The Steamship Authority as

00442

1 a matter of fact is following Highline's lead in
2 starting high speed passenger service themselves, and
3 they have seen the same trend.

4 Q. When you say the Steamship Authority, that's
5 the Woods Hole, Martha's Vineyard, and Nantucket
6 steamship, right?

7 A. Yes.

8 Q. All right. And what is it your understanding
9 as is the cause of that trend in the development towards
10 high speed ferries?

11 A. Well, people's time is valuable, and it just
12 seems that people get busier than ever, and they want to
13 get to where they want to get in a hurry, and I think
14 there's an appreciation for the technology that we have
15 available today to be able to achieve these kinds of
16 speeds.

17 Q. Your comment that you didn't think fare
18 structure was that critical, could you explain that a
19 little more?

20 A. Well, we're talking about the discretionary
21 market. As I say, I don't think fare structure is the
22 only factor by which people determine to use a service
23 or not.

24 Q. Okay. And are you aware of the proposed
25 fares that Dutchman Marine is going to charge for

00443

1 purposes of the trans-lake services, both north and
2 south, east and west?

3 A. Yes I am.

4 Q. Okay. And east-west is \$5, right?

5 A. That's correct.

6 Q. And north and south is \$7?

7 A. Right.

8 Q. Do you have an opinion as to the
9 reasonableness of those fares in relation to the
10 experience you have gained in other ferry systems?

11 A. I think they're very reasonable.

12 Q. And why is that?

13 A. Because you're getting a value added factor.
14 Even though the fares may not be the same as mass
15 transit fares, you're getting that value added factor
16 which is -- justifies the fare structure.

17 Q. And how do the dollar amounts of fares
18 compare with the ones that you have seen in other
19 systems?

20 A. Well, I can talk about the back East again,
21 the fares for comparable transportation are low. As I
22 say, you know, the fare on the Nantucket fast ferry is
23 something like \$48 compared to the regular ferry, \$12.
24 Even on the shorter runs, I'm thinking of in Boston
25 Harbor now the commuter run fare is approaching \$5, so I

00444

1 don't think the fares are out of line.

2 Q. Okay. All right. And are you aware that
3 part of the proposed fare from the Dutchman Marine
4 service includes connecting transit on the west side?

5 A. Yes, I am.

6 Q. Does that make a difference to you in terms
7 of reasonableness in fare?

8 A. I think it -- by creating a seamless
9 transport through the ferry system and onto the land
10 side system really makes, again, that's a very critical
11 issue, and to include the land side part of that transit
12 cost I think is another of, as I say, a value added
13 element in the fare structure.

14 Q. Okay. You talked earlier about mass transit;
15 would you call the Dutchman Marine service a mass
16 transit service?

17 A. No, I wouldn't.

18 Q. And what do you mean when you say mass
19 transit?

20 A. When I think of mass transit, I usually think
21 of a transportation system that is developed and in most
22 cases operated by a public agency, low fare, no frills,
23 not necessarily low cost system of transporting a large
24 number of people over a fixed route.

25 Q. Okay. And how is the Dutchman Marine service

00445

1 different from the mass transit model?

2 A. Well, it offers a different market. I think
3 mass transit is market specific, whereas Dutchman Marine
4 is targeting three primary markets and many smaller
5 markets in between.

6 Q. Was the Steamship Authority service, was that
7 a subsidized service?

8 A. No, it was not. We operated deficit free and
9 subsidy free.

10 Q. Even though it was a public agency?

11 A. Yes, sir. To my knowledge, I believe it's
12 the only public transportation agency in the country
13 that is not subsidized.

14 Q. Do you think it's necessary for a passenger
15 ferry service to be subsidized in order to be
16 economically viable?

17 A. Do I think it's necessary?

18 Q. To be subsidized.

19 A. For a public?

20 Q. No, sorry, just --

21 A. Could you repeat the question, please?

22 Q. Sure, I probably didn't phrase it very well.

23 Do you think it's necessary for a passenger vessel
24 service to be subsidized in order to be successful?

25 A. No, sir.

00446

1 Q. Why is that?

2 A. This -- because of -- I just -- most of the
3 -- most of the ferry systems that I am aware of, public,
4 private, I can't think of any private systems that are
5 actually subsidized with a couple of exceptions.

6 Q. Okay, now --

7 A. One of which being the Hingham commuter run
8 up in Boston, which is subsidized by the Mass Day
9 Transportation Authority.

10 Q. Okay. And in your view, what is it about the
11 proposed service by Dutchman Marine, you understand
12 that's going to be a non-subsidized service?

13 A. That's my understanding.

14 Q. The intent is not to be subsidized.

15 A. Correct.

16 Q. What is it about the service that's proposed
17 that you feel does not require a subsidy in order to be
18 economically viable or successful?

19 A. Well, you've got several, I don't want to say
20 several, but you have other sources of revenue besides
21 the actual fare. You're talking about concession
22 revenues, which are going to be significant. You're
23 talking about possible charter arrangements during off
24 peak periods as other sources of revenue. So there's
25 more than -- there's going to be more than one source of

00447

1 revenue, as I understand it.

2 Q. Okay. And how does that then play into it,
3 more revenue means you're just going to be out a better
4 bottom line?

5 A. And you're going to be able to provide better
6 equipment.

7 Q. Okay.

8 A. And better, you know, overall service.

9 Q. Okay. And then that plays back into the
10 riders that you're attracting?

11 A. Well, it plays back into customer
12 satisfaction, and I think at the very end that's a
13 critical element. You have to maintain a high customer
14 satisfaction level. You have to, you know, and that
15 costs money, but you have to be willing to take -- to
16 sacrifice some of your bottom line in order to improve
17 your customer satisfaction.

18 Q. Let's assume that the Dutchman Marine service
19 is approved and a certificate of operating authority is
20 issued. At that point, are you going to have any
21 continuing role with Dutchman Marine?

22 A. I expect that I will. The arrangement that I
23 have with Dan is pretty much open ended as far as my
24 consulting services are concerned.

25 Q. Okay. And what sort of services are you

00448

1 anticipating providing once service commences, or I
2 shouldn't say service commences, after authorization to
3 provide service is given?

4 A. Well, of course, there's going to be getting
5 the authorization from this Commission is really the
6 first of the final steps. Then there's going to be
7 other issues, dealing with the local communities,
8 permitting issues, shuttle bus operations, final vessel
9 designs. There's a whole plethora of things that are
10 going to happen before that first vessel hits water.

11 MR. CRANE: Those are all the questions I
12 have for now. There may be some later, Mr. Fuller.
13 Thank you.

14 JUDGE HENDRICKS: Mr. Kopta.

15 MR. KOPTA: Thank you, Your Honor.

16

17 C R O S S - E X A M I N A T I O N

18 BY MR. KOPTA:

19 Q. Good afternoon, Mr. Fuller.

20 A. Good afternoon.

21 Q. My name is Greg Kopta, I'm representing
22 Seattle Harbor Tours.

23 A. Yes, sir.

24 Q. I wanted to ask you a couple of questions
25 first about your resume' and other information included

00449

1 in Exhibit 128. And you had a discussion apropos a bit
2 with Mr. Crane about that. As I look at your resume',
3 it appears as though your experience has been primarily
4 if not exclusively on the East Coast with respect to
5 ferry operations; is that correct?

6 A. I would agree with that.

7 Q. And in addition, the clients that you have
8 listed in this exhibit are also on the East Coast,
9 primarily in New England, with I believe the City of
10 Jacksonville, Florida also included?

11 A. That's correct.

12 Q. So is Dutchman Marine the only client that
13 you have currently that is proposing to operate a ferry
14 service on the West Coast?

15 A. Yes, it is.

16 Q. Did you actually develop the ridership
17 numbers that Mr. Dolson is relying on for his
18 application?

19 A. No, I reviewed them. I didn't develop them,
20 no.

21 Q. And are you -- well, it's a little bit
22 difficult, because we don't have ridership numbers as
23 part of this application. There is a revised financial
24 statement. Have you reviewed that document?

25 A. Well, I tell you, the only ridership numbers

00450

1 that I have reviewed other than the ones that Dutchman
2 Marine have developed are those that were included in a
3 critique of a water transportation feasibility study
4 that was conducted for Lake Washington.

5 Q. And that was an exhibit that was included in
6 the packet of materials --

7 A. Yeah, I'm going to call it the JJ McMullen
8 critique of the Commission study. I forget the name.

9 Q. Right.

10 A. I forget the name of the firm that actually
11 did the study.

12 Q. And do you recall the number of riders that
13 were assumed in that study?

14 A. No, I can't -- I couldn't recall those
15 numbers now.

16 Q. And did you review the ridership trends that
17 Dutchman Marine has assumed in the --

18 A. Yes, I have.

19 Q. And at least with respect to revenues on the
20 revised financial statement, there is I believe an
21 assumption that revenues from month 1 to month 12 in the
22 first year will increase almost ten fold. Now assuming
23 that that's a corresponding increase in ridership, is
24 that your input in terms of a ridership increase of that
25 magnitude in the first year?

00451

1 A. I don't believe so. I know we had discussion
2 about the way that the ridership would fluctuate
3 seasonally. As far as the raw numbers are concerned, I
4 really wasn't involved in setting up the methodology to
5 calculate those numbers.

6 Q. Okay. I believe that you also testified with
7 respect to a particular operation, I believe it was
8 Hyannis to Martha's Vineyard, that there is a
9 significant fluctuation in ridership between in season
10 and out of season times; is that accurate?

11 A. That's true with the whole Cape area. It's a
12 tourist oriented area, so there is naturally a large
13 fluctuation. Although the season, as I tried to
14 explain, summer season is getting expanded. Now it's no
15 longer a summer season. There are basically two to
16 three months of off season. It's getting squeezed.

17 Q. Have you made that same kind of analysis with
18 respect to the nature of the market in Seattle,
19 specifically around Lake Washington, how comparable it
20 is to --

21 A. I have a feel for it. I don't think I have a
22 total understanding of how it would fluctuate, but I
23 definitely have a feeling for how I would expect it
24 would fluctuate seasonally.

25 Q. And that is based on your visits to this area

00452

1 in connection with the Dutchman Marine operation?

2 A. Yep, partly, yep.

3 Q. What's the other part?

4 A. I have -- I have -- I have become more and
5 more interested in Seattle, you know, the Northwest
6 region, as a potential tourist destination. Being
7 involved in this, I really delved in, you know, what
8 happens in Seattle. Because the first time I was in
9 Seattle was back in 1959, and none of this stuff was
10 here, you know, so I'm regaining an appreciation for the
11 region.

12 Q. The Smith Tower was probably still the
13 tallest building in Seattle.

14 A. That was the only one.

15 Q. But do you have a sense of the extent to
16 which tourism would be the same for on Lake Washington,
17 for example, as it may be on Elliott Bay?

18 A. Tourism, I have a sense for how Lake
19 Washington is being developed, now what has been
20 developed, but these planned developments and whether
21 that's going to attract tourists, whether it's going to
22 attract businesses, what -- or residents. I mean I have
23 a sense that Lake Washington is a little bit different
24 than Elliott Bay as far as tourists being tourists. I
25 hope I explained myself; I don't know. I think it's a

00453

1 little different ball game.

2 Q. You also mentioned in response to some
3 questions from Mr. Crane about three markets, commuter,
4 discretionary, and University; do you recall that
5 discussion?

6 A. Yes.

7 Q. Okay. And I guess I wanted to focus a little
8 bit on the discretionary aspect of the market, or the
9 discretionary market perhaps I should say, as long as
10 we're defining them as discreet markets. Am I correct
11 that you are focusing primarily on the ferry service
12 itself as opposed to the end -- to end destinations of
13 the riders that may use the ferry?

14 A. I don't think I -- I think I understand, but
15 could you give that to me again?

16 Q. Sure. With any ferry operation, would you
17 agree with me that there are some people that want to go
18 pretty close to the terminal on either end and that the
19 ferry is their exclusive means of transportation, and
20 then there are other ferry passengers that use it as a
21 link in a chain to get to an ultimate destination?

22 A. That's kind of difficult to say. People --
23 many people are going to use it as either. People don't
24 want to walk too far to the terminal. They want
25 convenient access to the terminal, let's put it that

00454

1 way, whether that's pedestrian access, shuttle bus
2 access, or some other means to get down to the boat.
3 They're willing to put up with some distance to get to
4 the boat, but not too much. It's an overall time
5 factor, particularly to the commuter market, look, how
6 long is it going to take me to get to my office, and am
7 I going to be able to have any productive time while I'm
8 getting to my office. And they're willing to put up
9 with a little bit of -- a certain degree of
10 inconvenience for the overall convenience of the
11 transit.

12 Q. Did you get a chance while you were here to
13 look at the Leschi area and its relationship to --

14 A. Yes, I did.

15 Q. And is it your understanding that many of the
16 ferry passengers, if this run terminates at Leschi from
17 the east side, would be taking some kind of additional
18 transportation from the dock at Leschi to downtown
19 Seattle?

20 A. Right. Actually, when I was out here, we
21 videotaped that area and measured the distance from the
22 dock to the nearest Metro bus, which was not much, a
23 couple of hundred yards, certainly, you know, not
24 inconvenient for people to get to the Metro connection.

25 Q. What about from that Metro connection to

00455

1 downtown Seattle; did you look at that?

2 A. We timed it. I think it was like 11 minutes
3 I think all the way down to the waterfront or less.

4 Q. On the bus?

5 A. No, we timed the route. That's what our
6 estimated travel time would be. It was just a matter of
7 minutes.

8 Q. On the bus or driving from the ferry, from
9 the terminal from the bus stop to downtown?

10 A. From the bus stop to downtown.

11 Q. And did you --

12 A. There's a tunnel or whatever that somebody --
13 before I leave, I'm going to try to find out what that
14 tunnel is all about.

15 Q. But you didn't examine like a bus schedule to
16 see how long a bus takes to get from that point into
17 downtown?

18 A. I think we did. I think the schedule was
19 posted, but I can't really recall the frequency of
20 pickups and dropoffs, no, I can't recall that schedule.
21 But I know the stop off point is what I consider a very
22 convenient distance from the terminal.

23 Q. And so were you involved in any of the
24 examinations in terms of getting to the same point A to
25 point B by car as opposed to by ferry plus bus or

00456

1 shuttle or however the land transportation would be?

2 A. Well, all I can tell you is we timed by land
3 some of these potential routes, and we calculated the
4 time by a waterway as part of my involvement in putting
5 this together and estimating the actual transit times.

6 Q. And it was your conclusion that it would be
7 faster to take the ferry?

8 A. On certain, yeah, overall it would be quicker
9 to take the ferry, the overall transit.

10 Q. Is that at commute times or at other times
11 during the day, for example, mid day when there isn't
12 the same congestion as during the peak hours?

13 A. Well, that's an interesting thing. What I --
14 I don't mean to digress, but I don't think you have the
15 peak periods of commute that other metropolitan areas
16 have. I think you have heavy traffic congestion over
17 the course of the workday moreso than sharp peaks. It
18 seems the east-west traffic is heavy concurrently, it's
19 going in both directions, because you've got two
20 separate Metro districts that are trying to connect. So
21 I don't think the transit time car versus vessel is
22 going to change that much during non-commute hours,
23 because you still have heavy traffic.

24 Q. So it's your experience that the 520 bridge
25 is bumper to bumper all hours of the day?

00457

1 A. Yeah, it's -- I would -- yes, I would
2 describe it as stop and go for the greater part of the
3 workday. Just to -- if I can go back to this tourist
4 thing, it just hit me that as far as Seattle being a
5 tourist attraction, I remember one of my former
6 colleagues, Admiral Parker, used to run a Washington
7 State Ferry system, told me that Washington State
8 Ferries are actually the number one tourist attraction
9 in the State of Washington. And I was flabbergasted
10 when he told me that, but now I have an appreciation for
11 it.

12 Q. Have you ridden one of the Washington --

13 A. No, I haven't, but I sent many of my staff
14 people out to investigate.

15 Q. Well, along with the tunnel, maybe that's
16 something else you can investigate.

17 Do you know what the fares are on the
18 Washington State Ferry passenger only ferries or just
19 the passenger/car ferries?

20 A. I know they don't cover the operating costs.
21 It used to be like a 70/30 subsidy versus
22 vehicle/operator ratio, but I don't know what it is now.

23 Q. Well, that's about right unfortunately. And
24 is that typical of government owned or municipal ferry
25 operations, that kind of ratio?

00458

1 A. I wouldn't say it's typical. No, I think
2 that's the extreme end. Most ferry systems come much
3 closer to realizing break even fare box revenues versus
4 operating expenses. Yeah, there are some -- the systems
5 I'm thinking of in New York particularly. New York
6 Waterways started that company about 15 or 20 years ago,
7 and they operate without a subsidy and can compete with
8 all the public systems out there. He can knock them
9 dead.

10 Q. And why is it that you think that there is
11 not as much of a subsidy in other areas as there is in
12 Washington State Ferries?

13 A. It could be that the licensing authorities
14 just aren't willing to front that kind of a subsidy.
15 There's no benefit, you know, cost doesn't justify the
16 benefit as we see by whatever local regulatory body is
17 supporting that system.

18 Q. And yet there are people that are willing to
19 pay the fares that would cover the entire costs.

20 A. In some cases. I can't say that across the
21 board.

22 Q. Well, for example, I think you were
23 discussing a comparison of the fares that Dutchman
24 Marine has proposed with those on the East Coast, and
25 your conclusion, I believe, was that they were

00459

1 reasonable in comparison with rates that were charged on
2 the East Coast; is that --

3 A. Yes, I do, I would say they're reasonable and
4 would be valued in service in terms of necessity and
5 convenience on the waterways, more than reasonable.

6 Q. Have you compared those with fares for other
7 types of transportation here in the Seattle metropolitan
8 area?

9 A. No, I haven't.

10 MR. KOPTA: Thank you, Mr. Fuller, I have no
11 more questions.

12 THE WITNESS: Thank you.

13 JUDGE HENDRICKS: Are there any more
14 questions for cross-examination?

15 MR. DAVIDSON: Yes.

16 JUDGE HENDRICKS: Mr. Davidson.

17

18 C R O S S - E X A M I N A T I O N

19 BY MR. DAVIDSON:

20 Q. Good afternoon, Mr. Fuller. My name is
21 Gordon Davidson, I'm an Assistant City Attorney
22 representing the City of Seattle.

23 JUDGE MOSS: The HVAC is making a good bit of
24 noise, so people do have to raise their volume a little
25 bit.

00460

1 Q. I just introduced myself. You commented, I
2 believe, that you had not yet ridden the Washington
3 State Ferries. For that, I assume you have also then
4 not paid the fare, but you stated that it was your
5 impression there was a fare box to operating costs ratio
6 of something around a 30% recovery rate to the fare box
7 revenues on the ferry system. If fare box charges for
8 the Washington State Ferry system were to substantially
9 increase, what would your conclusion be with respect to
10 the reasonableness of the proposed charges anticipated
11 by Dutchman Marine for its service in comparison to the
12 Washington State Ferry's rates?

13 A. It would be ridiculously low. I'm thinking
14 if you had to recover 100% of your operating cost on the
15 Washington State Ferries, it would be an astronomical
16 fare structure is my reaction. In contrast, Dutchman
17 Marine's fares would be seen as ridiculously low on a
18 comparable service. That's my reaction.

19 Q. Your resume' indicates that you are or have
20 been a member of the International Marine Transit
21 Association and that you gave several papers at various
22 conferences. Can you describe what that association is
23 and particularly whether or not it has any West Coast
24 members?

25 A. Yes, as a matter of fact, you earlier heard

00461

1 the testimony of Mr. Darrell Bryan, Clipper Navigation,
2 who is I believe current president of IMTA. IMTA is a
3 group of ferry operators, primarily passenger ferry
4 operators, that basically get together and have a
5 conference and discuss mutual issues. As a matter of
6 fact, IMTA has conferences scheduled to be held here in
7 Seattle in October.

8 Q. I also note that you are a member or have
9 been a member of a further organization called the
10 Passenger Vessel Association; can you describe what that
11 is, and does it have West Coast participation?

12 A. Yes, it does, Washington State Ferries is a
13 member. It's made up primarily of private vessel
14 operators. But quite a few years ago, some of the
15 public operators, including Washington State and the
16 Steamship Authority, were encouraged to join in with the
17 other basically private ferry operators so they have
18 more legislative clout, let's put it that way.

19 Q. From your discussions with other members of
20 these two organizations and your affiliation and
21 experiences, do you have a conclusion about essentially
22 the commonality of interests and experiences that West
23 Coast ferry operators have as compared to East Coast
24 operators? What I'm wondering about is, is there a
25 commonality and experience, or is there not?

00462

1 A. Yes, there is. One of the purposes of these
2 different groups getting together is to lobby the
3 federal government to support ferry operations as viable
4 alternate means of transportation. You know, for many,
5 many years, the Congress just hasn't considered water
6 transportation as part of the national highway system.
7 By joining forces, both the public and the private ferry
8 operators have, in fact, been able to convince Congress
9 through various legislation to look at ferry
10 transportation as a viable alternative.

11 The passage of the Ice Tea legislation back a
12 few years ago, which I'm sure all your transportation
13 people are familiar with, contained a section, a small
14 section, Section 1064, which provided some limited
15 funding for development of ferry systems. During my
16 tenure with the Steamship Authority, I was able to
17 secure a \$2 Million grant to help rebuild a ferry
18 terminal. So finally, through the effort of these
19 groups, that their common interests were finally able to
20 get Congress to pay attention to the potential for the
21 development of some of these ferry operations in the
22 public interest.

23 Q. From your experiences with other members of
24 these organizations and your own experience on the East
25 Coast, do you have a belief about whether or not your

00463

1 experiences are essentially transferable to the West
2 Coast?

3 A. I do, I think they are. You know, all ferry
4 operations perform the same basic function, but they all
5 do it differently, but there is definitely a
6 commonality. And I think most, by far, most of the
7 issues are transferable to the West Coast.

8 Q. Have you had occasion to discuss with
9 Mr. Dolson even a range of what expectable ridership
10 might be within the first year or so of operation?

11 A. Again, based on the methodology that he
12 developed, I would have to say that I think his
13 ridership projections are realistically conservative.
14 That's the best way I can put it.

15 Q. If I tossed out some numbers at you of
16 ridership per day, would you be able to answer back
17 whether or not you thought that was a reasonable average
18 ridership over the course of the year on certain runs?

19 A. I might be -- I think my approach to this was
20 more towards a break even number, okay. Looking at it
21 from an operational aspect, you know, what is our break
22 even number, which, you know, puts it -- it's not a
23 ridership thing, it's a how many fannies do we need to
24 have in seats in order to break even on each given run.
25 That's the perspective that I looked at. And I think

00464

1 that number was 30 to 40 passengers a trip, something
2 like that. I don't remember exactly what it was, but
3 that's the approach I took is a break even portion.

4 MR. DAVIDSON: I think that's all, thank you.

5 JUDGE HENDRICKS: Ms. Riordan.

6

7 C R O S S - E X A M I N A T I O N

8 BY MS. RIORDAN:

9 Q. Mr. Fuller, I'm Lori Riordan, and I represent
10 the City of Bellevue, and I have a much more narrow
11 range of questions for you. I'm interested in what
12 activities you undertook while you were out here to
13 investigate the proposed route between Bellevue and
14 Seattle.

15 A. We took a land route around the lake, we
16 drove through and all around Bellevue, we went down and
17 looked at some potential locations in Meydenbauer Bay.

18 Q. Let me interrupt you there. Is there more
19 than one location in Meydenbauer Bay that you looked at?

20 A. No, I'm going to say one location, maybe
21 different potential as to where the exact site was going
22 to be. We looked at the distance between downtown
23 connections and that site.

24 Q. How far was that distance?

25 A. Quarter of a mile or less, I think, as I

00465

1 recall.

2 Q. And from what point to what point did you
3 measure that quarter of a mile?

4 A. Oh, gosh, I really don't remember, but I know
5 it was a central location in Bellevue.

6 Q. Would it have been perhaps Bellevue Square?

7 A. That sounds like it; I think you're right.

8 Q. Okay, a very large shopping mall?

9 A. That sounds familiar.

10 Q. All right. What about the highrise office
11 buildings, did you make any effort to measure that
12 distance?

13 A. Only to kind of gauge the distance. We
14 didn't actually -- I didn't actually measure it, but I
15 gauged.

16 Q. And what was your sense from that gauging,
17 farther, closer?

18 A. A reasonable shuttle or transfer.

19 Q. Okay. And did you have an understanding from
20 doing the Bellevue survey whether there are any current
21 transit connections between Meydenbauer Bay and the
22 business district?

23 A. No, there were none that were an obvious
24 link.

25 Q. Now what size of boat or ship is Dutchman

00466

1 anticipating running on the Bellevue route; how many
2 passengers?

3 A. Passengers capacity would range anywhere
4 between 149 and -- 49 and 149, probably closer to 149.
5 Now I can explain to you why that -- what that threshold
6 means, okay. Passenger vessels are constructed in
7 accordance with Coast Guard and sometimes ABS or other
8 classifications of society parameters. Passenger
9 vessels are classed as Subchapter T, Subchapter K, or
10 Subchapter H, T being the smaller class. And then
11 within Subchapter T, you have TS, which is up to 149
12 passengers, and TL, which is up to -- up to 49
13 passengers, TL which is up to 149, I'm sorry, yeah, TL.
14 They keep changing this stuff. So for practical
15 purposes, you would be looking to design a vessel within
16 the 149, so it would fall under Subchapter T
17 regulations. When you get beyond that, the regulations
18 change, and it's -- the costs increase quite
19 significantly.

20 So you're talking about a vessel up to 149
21 passengers, under 100 gross tons, and in order to
22 maintain the service speeds that will be required,
23 you're looking at anywhere from a 65 to an 85 foot
24 vessel would be my best guess, depending on the power
25 plant propulsion and hull design and other factors.

00467

1 Q. Now the facility that you looked at at
2 Meydenbauer Bay, would that have been the Meydenbauer
3 Marina?

4 A. That's correct.

5 Q. Did you go on site there and walk the piers?

6 A. Yes, we did.

7 Q. And in your opinion, are the facilities as
8 they are currently configured ready for a service like
9 this?

10 A. I don't believe so.

11 Q. What would have to be done to make the
12 Meydenbauer Marina ready for docking a commercial ferry?

13 A. There would have to be a designated berthing
14 spot out towards the end of the marina where the deeper
15 water is.

16 Q. Would that require construction?

17 A. Not necessarily.

18 Q. Would it require displacing some of the
19 current slips?

20 A. Possibly.

21 Q. What is your understanding of the
22 demographics of the passengers to and from Bellevue; who
23 are they going to be, tourists, commuters?

24 A. May I use an East Coast word, techies, I
25 don't know if that's a bad word or not. On an upper end

00468

1 of the spectrum, let's put it that way.

2 Q. Now are you talking about the people coming
3 from Bellevue or the people going to Bellevue, or is
4 this both?

5 A. Both, because interestingly, if you look at
6 the job-people ratio, there was a technical paper put
7 out by the Puget Sound Transportation Council a while
8 back that determined where people live versus where they
9 work, and they came up with a job-people ratio formula,
10 and interestingly, the job-people ratio formula is one
11 for people living in or working on either side of the
12 lake. So I think you could be pretty much an equal
13 transfer both east and west. They work on both sides of
14 the lake.

15 Q. So you are anticipating that the bulk of the
16 traffic is going to be the commuter traffic?

17 A. No, a lot of the people that will be using
18 the service work flex time. So when you say commuter, I
19 don't think you're talking about a restricted time
20 period as you have with other metropolitan areas.

21 Q. I guess what I was asking you was not so much
22 the hours they would be going back and forth, but the
23 purpose of the trip.

24 A. I don't think so. As a matter of fact, my
25 guess would be it would be more discretionary travel.

00469

1 Q. To Bellevue?

2 A. As far as the overall ridership is concerned.

3 Q. And the discretionary travel are both the
4 tourists and folks who might otherwise have a reason to
5 come into one city or the other shopping --

6 A. Shopping, restaurants.

7 Q. -- going to a Mariners game?

8 A. Exactly.

9 Q. Okay. For the folks that live on the east
10 side, what's your understanding of where exactly they're
11 going to be drawn from in Bellevue? Are they going to
12 be drawn from the waterfront there, or are they going to
13 be drawn from other parts of the city?

14 A. I'm going to say my guess would be other
15 parts of the city.

16 Q. And how would you anticipate they're going to
17 get to the marina?

18 A. I anticipate some type of shuttle, you know,
19 off site park and ride.

20 Q. And you would anticipate that perhaps the
21 Metro bus service or Sound Transit would pick up that
22 service?

23 A. Yes.

24 Q. Okay. How many passengers are anticipated
25 during peak travel times on the Bellevue run?

00470

1 A. I don't know. I really don't recall the, you
2 know, the raw numbers.

3 Q. Would the vessel be full?

4 A. It could be. Any time you get -- you don't
5 know really what's going to happen. As Mr. Dolson
6 pointed out, you know, your first day on the job is the
7 loneliest day, because there's nobody there. But you
8 never know, the response could be overwhelming. It's
9 hard to say.

10 Q. Okay. If you have 149 passenger vessel and
11 it was full when it docked in Bellevue, that would be
12 more passengers, would you agree with me, that would be
13 more passengers than one Metro bus is going to be able
14 to handle?

15 A. Well, one Metro bus is probably 50, I don't
16 know what they carry. The articulated buses are much
17 longer than that. But yes, more than one bus could
18 handle it, so it would have to be some kind of a plan B
19 to make sure that those people got transport.

20 Q. Okay. How about Newport Shores, did you
21 investigate that as a landing site at all?

22 A. Hm, Newport Shores, I don't think so. I
23 think we drove past it. I don't know what the highway
24 is that runs north and south along there, but.

25 Q. The highway that runs north and south is

00471

1 Interstate 405.

2 A. Yeah, I know there was some --

3 Q. I don't think it gets right down to Newport
4 Shores.

5 A. Yeah, I know there was some mention of it,
6 but it was just kind of talk.

7 Q. So it would be fair to say that the one
8 landing site that you investigated in Bellevue was the
9 Meydenbauer Bay?

10 A. Carillon Point, is that part of Kirkland?

11 Q. Part of Kirkland.

12 A. Yeah, my geography is a little off there.
13 Yes, my recollection that that was the only site that we
14 actually inspected, but there was discussion about other
15 potential sites.

16 Q. Would it be fair to say that dealing with the
17 land use aspects of these services is probably beyond
18 the scope of your expertise, or do you also investigate
19 and take that into account?

20 A. I did take it into account. The geography is
21 a lot different than it is out east, but we, you know,
22 we definitely looked at the land side connections,
23 because that's where the choke points could potentially
24 be.

25 Q. Actually, my question is designed more

00472

1 towards the more technical aspect of zoning, in other
2 words, the surrounding uses that are zoned and so on, do
3 you look at that at all in doing these expert analyses?

4 A. To some degree, I will look at a property and
5 decide whether I think it's going to need a 2180 or
6 environmental impact report to develop that kind of
7 stuff. Just on the surface, but I don't get into the
8 real technical stuff.

9 Q. Did you look at that at all in terms of
10 Bellevue?

11 A. I did.

12 Q. And what's your recollection of what you
13 found in terms of what the zoning is and so on?

14 A. Well, I didn't look at any regulatory stuff.
15 But the fact that the marina was existing indicated to
16 me that there wouldn't be a major zoning problem. There
17 might be some permitting required as far as getting
18 shuttle service, you know, and that kind of thing. But
19 the fact that there was an operating marina indicated to
20 me that there was a commercially zoned area.

21 Q. Actually, it's not.

22 A. Oh, okay.

23 Q. What did the -- did your study take into
24 consideration a question of whether or not you would
25 have to actually make a lease to the facility in

00473

1 Bellevue?

2 A. We didn't -- I don't think we discussed
3 directly what kind of terms would have to be come to
4 with the City. This was in January, and this was really
5 a preliminary reconnaissance. I don't think we got down
6 -- we didn't get down to any particulars, but there was
7 recognition there would have to be some have of a lease
8 arrangement for the City.

9 Q. Okay. And my last question has to do with
10 the University of Washington land use site. As I
11 understand it, when you were out here in January, the
12 route being looked at for Bellevue was Meydenbauer to
13 Leschi; is that correct?

14 A. Actually, we were talking about Madison, was
15 it Madison Park?

16 Q. Okay.

17 A. I think that was -- initially that's the one
18 we said this is -- this is the place because of its
19 proximity to UW and a number of other reasons, the
20 transit connection, that type of thing. But the more we
21 looked at Leschi, the more we realized that it really
22 should be the number one priority as far as landing
23 sites on the west bank.

24 Q. I want you to assume that Mr. Dolson
25 testified yesterday that the route that he's presently

00474

1 contemplating for Bellevue is Meydenbauer to the
2 University of Washington.

3 A. Yeah.

4 Q. Is it fair to say that that was not something
5 that you have studied to this point?

6 A. I haven't really studied in depth. My
7 reaction was Kirkland already has a dock, Leschi Park
8 has a nice dock facility, that should be numero uno.

9 Q. You said Kirkland has a dock, did you mean to
10 say Bellevue has a dock?

11 A. No, Kirkland was more up and ready.

12 Q. So in terms of which route is going to be
13 ready soonest, that's the route?

14 A. Yes.

15 Q. It's my understanding that Dutchman is not
16 looking at opening a facility in Bellevue for some
17 years.

18 A. That could very well be.

19 Q. And so is it fair to say that that particular
20 run, Bellevue to University of Washington, is not one
21 you had looked at in depth?

22 A. Not in depth, no.

23 Q. Okay.

24 A. Only in terms of calculating the transit
25 time.

00475

1 Q. And what is the transit time in your
2 calculations between Meydenbauer Bay and the University
3 of Washington?

4 A. Gee, I know there's a restricted speed
5 district. I think we figured 24 minutes, somewhere less
6 than half an hour. I think it was 24 minutes.

7 Q. And what in terms of the seamless connection
8 for the University of Washington has been looked at in
9 terms of shuttle service for the downtown area?

10 A. From UW to downtown?

11 Q. Mm-hm.

12 A. I don't know, I really haven't gone beyond,
13 you know.

14 Q. So the 24 minute connection between Bellevue
15 and University of Washington basically gets you there.
16 And then --

17 A. That's the water transit.

18 Q. Right. And then you would have to add
19 additional time to get downtown?

20 A. Right.

21 MS. RIORDAN: Thank you, that's all I have.

22 THE WITNESS: Thank you.

23 JUDGE HENDRICKS: Mr. Thompson, do you have
24 any questions?

25 MR. THOMPSON: Yes, I do.

00476

1

2 C R O S S - E X A M I N A T I O N

3 BY MR. THOMPSON:

4 Q. Mr. Fuller, I gather you have been sitting
5 here, so you know I represent the Staff, the Commission.

6 A. Yes, sir.

7 Q. I gather you looked at the cost of service,
8 that was one of your things you were consulted on; is
9 that right?

10 A. Yeah, correct.

11 Q. You mentioned you looked at the issue of how
12 many fannies you needed to put in the seats. I guess
13 the function of that, looking at the overcall cost of
14 the service?

15 A. (Nodding head.)

16 Q. I gather Dutchman's plan is to build boats
17 for the routes subsequent to Kirkland, the initial
18 route?

19 A. Yes, sir.

20 Q. Kirkland to Seattle. And you described a
21 boat, the type of boat, earlier in response to
22 questions. What's the cost of building a vessel of that
23 size you described?

24 A. Oh, again, it depends on primarily your
25 propulsion system is a big thing. You can go with two

00477

1 engines or four engines, you can go with water jets, you
2 go with propellers. It can vary anywhere from \$1
3 Million to if you really want to go Cadillac, you can go
4 \$3 Million I suppose. But my estimation would be for
5 this type of service you're looking at, oh, God, I hate
6 to throw a number out there, because I'm going to get in
7 trouble with Jack Case, but I will say \$1 1/2 Million,
8 \$1 1/2 Million to \$2 Million.

9 Q. Which type of propulsion system does
10 Dutchman --

11 A. I believe that we'll probably go with, and
12 again, Mr. Case is the expert here, that's his area of
13 expertise, but my guess is we're going to be looking at
14 water jets instead of conventional propellers, hopefully
15 four engines for redundancy, catamaran hull design,
16 aluminum structure. That's about it.

17 Q. Is that more costly than the regular?

18 A. The aluminum?

19 Q. No, the propulsion system you described, the
20 jets, is that more costly than a conventional?

21 A. Yes, a little bit, a little bit, not a great
22 deal. The water jet technology has improved over the
23 years, so you don't really have the exposure that we had
24 a few years ago with water jets or safety propellers.

25 Q. I see. Do you have any expertise in the area

00478

1 of how long it takes to construct one of those boats?

2 A. You can do it in six to eight months.

3 Q. From the time you decide to do it until it's
4 in the water?

5 A. It can be done in six to eight months. It --
6 unless -- see, a lot of these -- it's all computerized
7 now, so you go to a shipyard, you know, we'll take CAD
8 design, which I'm familiar with. The design goes into a
9 CAD system, what they call a CAD system, all right.
10 It's computer aided design. And then the order for the
11 construction pieces will go to the shipyard, and then in
12 many cases they're cut by computer. So the actual
13 construction time is cut down quite a bit. And I'm
14 talking about my experience on the East Coast where I'm
15 more familiar with the CADs. The problem with, right
16 now, is that a lot of these shipyards are back logged,
17 and you have to -- you have to get a production date,
18 which can take a few months to get a -- get your
19 building slot.

20 Q. Are you familiar with the shipbuilders around
21 the Puget Sound area?

22 A. Not really, no.

23 Q. You mentioned also in earlier questioning
24 that the company estimated I guess an average of 30 to
25 40 riders per run; is that right?

00479

1 A. I can't -- I just -- I'm trying to recall
2 exactly what I determined a break even number would be.
3 And for some reason, that comes to mind, but I can't,
4 you know, I can't really pin down a specific number.

5 Q. Was there a -- did that figure, whatever it
6 was, did that apply across all the proposed routes?

7 A. No, the longer the route was more operating
8 cost it would be. The number would vary. And there's a
9 number of factors, whether that was put into discounted
10 tickets, student rates, all these other factors. It's
11 hard to put a firm number on what a break even number
12 is, but for some reason that -- I'm thinking that it was
13 in that area. I could be 20 off. I don't know. Don't
14 hold me to that.

15 Q. Okay.

16 A. But the purpose of bringing that up was to
17 let you know that my approach was looking at the
18 operating expenses versus the potential ridership.

19 Q. You also talked about the three market
20 segments I guess that the proposed service would target,
21 I guess the commuters, discretionary riders, and UW
22 community I guess. Is that -- would all of those three
23 markets be served by each of the routes, or would there
24 be different mixtures of those?

25 A. I think they would all be served by all the

00480

1 routes because of the, you know, you've got the UW
2 community, for instance, I think I heard testimony
3 earlier today that a lot of the employees lived down in
4 the Renton area and vice versa. You have people that
5 work at Boeing that live up in the north of Seattle. So
6 I think you're doing to have that mixture on all the
7 routes.

8 Q. Even the Leschi route?

9 A. Yep, I think so, you know, because there are
10 -- there are attractions all along the shoreline there
11 that are going to attract this discretionary market that
12 I spoke of, and yet there are residential developers
13 that are going to respond to commuter service to
14 downtown Seattle.

15 Q. Another item that you mentioned that I want
16 to just follow up on a bit is this issue of other
17 sources of revenue besides fares, and you mentioned I
18 think concessions and charters.

19 A. Yes.

20 Q. Do you know what model Dutchman looked to for
21 its projections of what kind of revenue they might get
22 from those other sources?

23 A. Well, my understanding is that Mr. Dolson
24 contacted several existing ferry operators to get a
25 sense of what he could expect from concession fares. I

00481

1 know I myself checked with a couple of -- a lot of the
2 stuff is proprietary. You know, these private operators
3 don't want to tell you, but you get a sense of what you
4 can use for budgetary purposes, a pretty good sense.

5 Q. How do you get that sense?

6 A. By asking and by trying to get the private
7 operators to tell you how much they make. They don't
8 want to tell you, you know, it's their business.

9 Q. Okay, I think that's -- oh, I did have
10 another item just out of curiosity. I think you
11 mentioned that the Nantucket Steamship Authority was one
12 of the only self supporting services in the country.

13 A. Yeah, my understanding is that at least
14 during my tenure it was recognized as the only public
15 transportation entity that was not subsidized.

16 Q. Do they run automobile ferries?

17 A. Yeah.

18 Q. What's the fare?

19 A. Oh, gee, I'm going to say that the fare to
20 Nantucket runs around \$150.

21 Q. Per trip?

22 A. Yep.

23 Q. Wow.

24 A. This is what you call traffic demand
25 management. We don't want you taking your car, so if

00482

1 you're going to take it --

2 Q. Pretty inelastic demand too.

3 MR. THOMPSON: I think that's all the

4 questions I have for you, thank you.

5 JUDGE HENDRICKS: Mr. Crane, are you going to

6 have any more questions?

7 MR. CRANE: No, Your Honor.

8 JUDGE HENDRICKS: You may be excused, thank

9 you.

10 THE WITNESS: Thank you.

11 JUDGE HENDRICKS: Why don't we take a seven

12 minute break right now and then come back.

13 (Recess taken.)

14 JUDGE HENDRICKS: Mr. Crane, I believe you

15 have another witness to call.

16 MR. CRANE: Thank you, Your Honor. Dutchman

17 Marine would like to call Jack Case to the witness

18 stand, please.

19

20 Whereupon,

21 JOHN N. CASE,

22 having been first duly sworn, was called as a witness

23 herein and was examined and testified as follows:

24

25

00483

1 D I R E C T E X A M I N A T I O N

2 BY MR. CRANE:

3 Q. Good afternoon, Mr. Case, could you for the
4 record provide your full name and the name of your
5 company.

6 A. John N. Case. The name of the company is
7 Case Existological Laboratories Limited. Is that the
8 company you wanted? And the address is 16445 Southeast
9 135th Street, Renton, Washington 98059.

10 Q. What is your role with Dutchman Marine?

11 A. As a consultant to advise on the vessel
12 selection specifically, but also to use any other
13 experience I may have gathered in the last 41 years in
14 the marine field and in the engineering field.

15 Q. Okay. Could you provide a summary of your
16 educational background?

17 A. Graduate from the University of Michigan in
18 naval architecture and marine engineering.

19 Q. Could you summarize for me your work
20 experience up to the present time?

21 A. Well, I'm a registered professional engineer
22 in the province of British Columbia and in the state of
23 Washington as a naval architect. I have spent in total
24 11 years at Boeing working in the research lab designing
25 equipment and 30 years in the marine field designing --

00484

1 being responsible for the design of ten ferry boats and
2 ferry boat systems through a company that I had in
3 Victoria, British Columbia. That's a brief summary.

4 Q. And for your time on those ferry boat
5 systems, who did you work for during that period of
6 time?

7 A. For my own firm.

8 Q. That would be Case Existological Studies?

9 A. The acronym is CEL.

10 Q. CEL, all right.

11 A. Much easier. I founded the company in 1964
12 and owned through its total life, active life from 1964
13 to 1980, I owned 70% of the shares. And for the designs
14 that our firm did, I was the responsible engineer. All
15 government projects require a responsible engineer of
16 record, and that was my responsibility during the 16
17 years that the company was active.

18 Q. Are you currently a member of any
19 professional organizations?

20 A. Society of Naval Architects and Marine
21 Engineers. I was a past member of them, not current.

22 Q. And what is the Society of Naval Architects
23 and Engineers; could you describe it?

24 A. It's a body of around, I can't remember
25 exactly, I think it's 12,000 members whose objective is

00485

1 to gather together common questions, present technical
2 papers. It also at present is attempting to acquire a
3 method of their members becoming professional engineers,
4 which has been a long-term goal of SNAE.

5 Q. And the acronym is SNAE, that's what you're
6 calling it?

7 A. Yes.

8 Q. Have you participated in any studies of
9 passenger ferry systems?

10 A. Currently in 19 -- between 1988 and 1991, I
11 did a study of passenger only ferry systems for Puget
12 Sound connecting something like 15 ports. Contract was
13 done for the Washington Public Ports Association. Very
14 few people realize that the ports have the authority to
15 run ferry systems. We're currently updating that report
16 to bring it up to what's happened over the last ten
17 years.

18 Q. Okay. I'm going to hand you a copy of an
19 exhibit.

20 MR. CRANE: Your Honor, with your permission?

21 JUDGE HENDRICKS: Yes, please.

22 BY MR. CRANE:

23 Q. This is Exhibit Number 109 for the record,
24 and it's not bound. And if I could have you take a look
25 at that, do you recognize that document?

00486

1 A. Yes.

2 Q. What is that?

3 A. It's a study we did for the Washington Public
4 Ports Association, which we turned in on December 1990,
5 and which I had the stamp dated December 31st, 1990.

6 Q. What was the purpose of the study?

7 A. To try and encourage a mosquito fleet, we
8 called it the mosquito fleet feasibility study. A good
9 many years ago, they had a bunch of little boats running
10 around the Sound carrying cargo and passengers. And
11 then in the 1950's, it collapsed, or thereabouts. And
12 we felt that if we could encourage someone like the Port
13 Authority, who owned property which could be used as
14 terminals, and had some kind of a cooperative effort
15 between the ports and their property, building docks,
16 and a private operator to run a ferry system itself
17 consisting of fast boats, as of ten years ago, there's a
18 great deal has happened in the last ten years, that it
19 was a viable operation for a private operator. And
20 financially we felt it could be worked out with the
21 cooperation of the terminals, the port people I mean,
22 and local transit. Because we feel that all of these
23 systems have to be fed properly. They call it seamless.
24 I'm a little cynical about seamless. I think once you
25 get off one and you get on the other, that's the seam,

00487

1 but they call it seamless.

2 And nothing really happened with the report.

3 It wasn't followed up in any way. There was I felt a
4 bit of a negative reaction from the Washington State
5 Ferries about the report. But nothing happened, and the
6 party that I worked with on the report was Ray Dinsmore
7 who was at that time the port commissioner for Olympia.
8 And he and I are still working on attempting to promote
9 that kind of an operation. There has been a significant
10 change in the quality and efficiency of vessels, and we
11 feel it's ripe again for that type of a thing.

12 Q. Can you tell me about the ferry vessel
13 systems that you have designed and set up since you have
14 been at CEL?

15 A. Well, the smallest, of course, was the Sea
16 Waves Express. It's a 64 foot, 25 knot boat that
17 carried 40 what we call jungle bunnies for a logging
18 camp. It was a 22 nautical mile run, and the contract
19 specifically stated that they must be delivered within
20 an hour, or all kinds of union things happened, time and
21 a half and all kinds of drastic things, so we had a
22 strong commitment. It was a rough route. It was on Al
23 Bernie Canal, which at that time they used wet swords
24 for logs, so there was a lot of logs in the water. We
25 had to prepare for that by special designs around the

00488

1 propellers, et cetera.

2 Q. Was that on Vancouver Island?

3 A. Yeah, that's on Vancouver Island. The other
4 more notable, there's a whole bunch of car-passenger
5 ferries, the more notable was the 365 foot Chichimon,
6 which is a jibbawaver big canoe which runs in Lake
7 Huron, and the Sea Buff which operates in Bryer Inlet in
8 Vancouver, between North Van and Vancouver. It's a --
9 it's a link between buses and the sky train. Sky train
10 is on the Vancouver side, and the buses are on the West
11 Van side.

12 The Seabus runs about midway between two
13 bridges and when the -- at the time that we were asked
14 to consider this, they called it the third crossing, and
15 the option to this passenger only, bicycles, was a hard
16 structure, either bridge or tunnel. Bridge or tunnel at
17 that time was going to cost \$400 Million, it was going
18 to disrupt a great deal of land immediately adjacent on
19 either end, so we looked for a ferry alternate.

20 They approached us, we responded to an RFP,
21 request for proposal, and we were successful. And from
22 a blank piece of paper, since no one knew what this
23 thing was going to look like until we turned it over to
24 the government as a fully operating system was 33
25 months, and in that time, we had a radical change of

00489

1 government and three months of construction, so we had
2 our moments.

3 The Seabus is unique in that having to
4 replace a hard structure, it has to carry a great deal
5 of passengers quickly. So we have two full tension
6 concrete floating terminals which our firm designed, for
7 which I was responsible. We designed two ferries. We
8 designed the administration building, the maintenance
9 berths, the fuel-oil system, the sewage tank and oily
10 water tanks ashore. We designed an over 16 rail
11 overpass on the Vancouver side, and the whole structure
12 cost \$35 Million. It has been operational since July of
13 '77. It's carrying 96 million people. We have had
14 1,065,000 crossings, so we have missed 20 sailings in
15 all of that time.

16 Q. It's a pretty good ratio.

17 A. Pardon?

18 Q. It's a pretty good ratio.

19 A. Yeah, and it was done by redundancy in
20 design, and crew training was very important. Our firm
21 not only oversaw nine contractors, but we hired the
22 crew, trained them, and we turned all facilities and
23 operating crew over to the government about a month
24 before opening day.

25 Q. What were the important factors for you in

00490

1 setting up a successful, as it turns out successful,
2 Seabus system?

3 A. Good design, good construction supervision,
4 good operators, and good training. So that everybody
5 understood their job, we wrote elaborate operational
6 manuals, which encompassed normal and emergency
7 operating procedures. Normal would be just normal.
8 Emergency would be man overboard, fire, collision,
9 medical alerts, things of that nature. But crew
10 training and the cohesiveness of a crew, a good training
11 core is very helpful.

12 Q. And the vessels, did you say you designed the
13 vessels that operated on that system?

14 A. Yes.

15 Q. Okay.

16 A. When I say designed, I headed up a team of 35
17 people, 5 other professional engineers. I was where the
18 buck stopped if anything went wrong, and it still is my
19 responsibility, because I was the engineer of record.

20 Q. What was important in developing the design
21 for the vessels that actually are in place now?

22 A. It's a busy harbor, so the first thing we did
23 is we created a boat that had 363 visibility in the
24 master, so that's very important. It's as much as we
25 have all kinds of electronic aids, it's still a large

00491

1 extent of visual work, and so we made that as one of our
2 prime criteria. In order to do this, it wasn't all that
3 easy, because we had to collect the exhaust system, and
4 we exhausted in between the hulls so that when you
5 turned, to counter the fact that you have all the diesel
6 fuels in the terminal, when the boat pulls into the
7 terminals, the exhaust fan that carries the fumes away
8 from the terminal, and so that's one feature.

9 The next was redundancy. We had four
10 engines. We have excellent maneuverability. We have
11 double ended, because when the ferry comes into the
12 terminal, it's nested on all sides by the terminal, so
13 that the master sitting can not really see beyond the
14 end of the terminal. So we had to have excellent
15 maneuverability so they could go in and out very
16 rapidly. There's only two inches of clearance on the
17 vessel when it sits in the terminal.

18 But to be general, I would say that
19 reliability, safety of course, as a professional this is
20 el numero uno. Beyond safety, there's reliability,
21 which is extremely important for a transit system of any
22 kind, I feel. Surprisingly how your ridership will drop
23 off if you don't show up a few times. So safety,
24 reliability, crew training, a good operational plan.

25 Q. Can you describe some of the changes in the

00492

1 communities around Vancouver as a result of the Seabus
2 system?

3 A. I think the best way to describe that is that
4 you see ads in the paper for apartments that say near
5 the Seabus. So there is a -- there is an impact on the
6 surrounding territory. On the north shore, we had 22
7 acres of undeveloped. We took two and a half acres for
8 the bus loop, but the rest has all gone into retail.
9 There's government buildings. There's the Maritime
10 Training Institute. All of these things have been
11 developed as a result of the terminal and the fact that
12 the Seabus is there. It's a reliable transportation
13 system.

14 Q. When the Seabus system was first proposed and
15 then later when it was implemented, what was the
16 intended ridership; what kind of people were you
17 targeting?

18 A. People essentially who rode the bus to start
19 with. There's -- it's not a park and ride system.
20 There is no parking available at either end of the
21 terminal. There's a bit of a kiss and ride, there's a
22 loop where the people can be dropped off on the north
23 end side. And, of course, on the downtown Vancouver
24 side, it's an old railroad terminal, so people walk or
25 there is a bus system that picks up people or the sky

00493

1 train, which goes all the way to Bernaby, et cetera, so.
2 And what has happened is that we're getting a
3 big cross section of people riding it because of its
4 reliability, because of its attractiveness. We get 15%,
5 20% more people in the summer because of tourism which
6 we didn't anticipate. There's a 70% fare box recovery
7 on the system, and I think that had the system gone
8 private, we could easily make money with the system.

9 Q. Why is that?

10 A. Well, the government takes over, and they --
11 we have 17 mechanics to keep two boats running, and
12 those kinds of things happen, and -- but I think that if
13 private enterprise ran it, they could advertise it. I
14 think private industry has a habit of being good at
15 marketing things as opposed to government operations.
16 This is just my experience. I have been working with
17 the government for 30 years, federal government in
18 Ottawa and the local government, and I did a small
19 project for the Washington State Ferries at one time,
20 so.

21 Q. You said the initial ridership that you
22 projected to take the Seabus was bus riders, but you
23 said that changed to a big cross section. Could you
24 describe what that entailed?

25 A. Well, you have lawyers traveling on the

00494

1 Seabus and engineers and accountants, and we have a
2 great cross section, students, tourists. They have done
3 surveys on this. They keep doing surveys, and these can
4 be supplied if anybody is interested. And so we were
5 surprised.

6 And we also carry bicycles, which was a
7 surprise to us. We spent 33 months developing this
8 system. On the day of opening, we had protests from
9 bicycles, and that's the only thing that was in the
10 newspapers. So it washed out all the work we had done,
11 but we woke up and decided, yeah, bicycles are a good
12 thing, so they're now carrying bicycles. I can get
13 those figures for you too if you need them.

14 Q. Why are you -- what is your understanding as
15 to why the ridership changed to include professionals on
16 what would be a transit system or could be called a
17 transit system?

18 A. I think even professionals realize what it
19 costs of running more than one car. I think people are
20 beginning to get back to a one car situation instead of
21 two cars. I think that's -- that's shown up all across
22 Canada in Chichimon and ran in Port Huron or, yeah,
23 across Lake Huron. We're getting more bus people, et
24 cetera, et cetera, and fewer cars on some of these more
25 remote operations, but the choke points, the two

00495

1 bridges, are not always reliable. We have had several
2 winter storms where the only thing that operated across
3 the inlet was a Seabus. Both bridges were inoperable.

4 We had a recent change in which they're doing
5 some work on one of the bridges, and it was supposed to
6 be done on the weekend. And on Monday morning at 6:00,
7 it was supposed to be in operation, and it didn't open
8 up until noon. And we carried 15,000 people in the
9 first hour of Seabus and just -- they just shuttled back
10 and forth just as fast as they could. There weren't any
11 schedules, within two hours, sorry.

12 We carry around 20,000 to 25,000 people a day
13 on the system. The system is solely designed to be
14 modular. There's two boats on the system now. We can
15 carry up to eight boats. Each two boats is about a lane
16 of bridge, so the Seabus system is designed to
17 substitute for a four lane bridge across Bernard Inlet.

18 Q. In your work for Case Existological
19 Laboratories, have you also studied ferry operations in
20 other areas, other cities, for example?

21 A. Yeah, as a -- I studied the ferry system in
22 Rio De Janeiro. I spent three weeks down there on a
23 contract with the Brazilian government to look at the
24 possibility of a Seabus type system. I spent some time
25 in Hong Kong studying their ferry system. I have

00496

1 traveled on a Russian hydrofoil on the Thames. I have
2 been on Boeing jet foils up in William Canal up in
3 Alaska in '79, gusting winds of 10 degrees, 14 foot
4 chopping seas. And these are not casual rides, any one
5 of them. As a professional, I go aboard for a purpose,
6 to see the characteristics of the boats and what they --
7 I've been on Clipper Navigation boats, I have been on
8 the Chinook and the Snohomish, the Washington State
9 boats. And so those to me are all studies and
10 experience.

11 The thing that I learned about Hong Kong and
12 Rio De Janeiro is that the automobile has an unsatiable
13 appetite, and as soon as you finish one hard structure,
14 you've got another problem. And Hong Kong put a tunnel
15 in, and the passenger ferry system running there tapered
16 off for a little while. And then in six months, it was
17 going right back up to its same increase as it had
18 before.

19 Q. Why do you suppose that was?

20 A. Because there's a normal traffic increase in
21 any event, and I think that when you ease the way in
22 which automobiles -- I call it the rubber tire mentality
23 -- when you ease its ability to go from point A to point
24 B, it just automatically fills it up. Look at TV ads
25 every night, 50% of them are automobiles, so there's a

00497

1 great marketing effort placed on automobiles. And I
2 think that as a naval architect, I wish some of that was
3 going towards boat travel as an option. And I felt
4 strongly about the Puget Sound area, as strong as I feel
5 about the Lake Washington area.

6 Q. Why do you feel strong about Lake Washington,
7 in what way?

8 A. Because I can't understand why it hasn't
9 happened before. I been all over the world studying
10 things, and five miles from where I live, there's an
11 area that it's unbelievable that nobody has done
12 anything. It's a natural. It's like an island, which
13 is what you need when you want to have a ferry system.
14 It's an island because the choke points on either end of
15 the lake are severe, and so this creates in effect, it's
16 just as if this area was an island, that you can only go
17 across there at your inconvenient peril if you want to
18 go all the way around the edge or go straight across.

19 In some way at some point in time, we're
20 going to stop paving Lake Washington. At some point in
21 time, I hope that we're going to be able to use some
22 kind of an alternate system, and I think that a ferry
23 system is a good alternate, and I think that private
24 enterprise can play a part in this.

25 Q. Well, certainly if the Commission agrees with

00498

1 our position, that's exactly what's going to happen.

2 Mr. Case, can you identify for me what you
3 understand the necessary requirements are to operate a
4 successful passenger ferry service in Lake Washington
5 from your standpoint, your experience and knowledge?

6 A. You're going to have to be reliable. You're
7 going to have to have good crew training, excellent
8 visibility, good electronic aids. You're going to have
9 to meet all the new environmental concerns, which
10 includes wake wash, exhaust emissions. It's a zero
11 discharge wake, so you won't be able to put anything in
12 it, so you're going to have to -- if you want to pump
13 bilge, you'll have to pump ashore. And you have a
14 sewage tank, you're going to have to pump it ashore, and
15 it's going to -- the boat itself is going to have to be
16 attractive, and it's going to be -- have to be as
17 seamless as you can make it on either end. And above
18 all, of course, it's got to be safe.

19 Q. What --

20 A. And I feel that the 149 passenger size that
21 we have elected I think is the right size I think to
22 start with.

23 Q. What have you done for Dutchman Marine up to
24 the present time; what services have you provided?

25 A. I have analyzed nine vessels, nine candidate

00499

1 vessels. We're down to three or four now, and we looked
2 at them from the statement of requirements that we
3 created, which is the T-boat, 149 passenger T-boat. We
4 need a certain speed. We have adopted 26 knots as
5 fitting into our whole game plan, travel times, et
6 cetera. The wake wash, of course, is important. We
7 have established Rich Passage as a criteria which myself
8 and other consultants that I have talked to, not that
9 I'm not the one that's ultimately responsible, but
10 agreed that this appears to be a good criteria at this
11 point in time as a no harm condition for Lake
12 Washington. Exhaust emissions, there's an NMO
13 requirement at present which is not enforced by the
14 Coast Guard or anyone for nitrous oxide emissions. EPA
15 will take over on the sized boat, the sized boat that
16 we're considering for 2004.

17 Q. NMO is the National Maritime Organization?

18 A. Yes.

19 Q. Okay.

20 A. And we have discussed the effects that UW
21 people might have. We have talked to chemical
22 oceanographers who have made studies on Lake Washington,
23 and we have talked to biologists, and we're in contact
24 with the Washington State person involved with the
25 salmon. So we feel that these issues have to be

00500

1 addressed. Noise issues have to be addressed.

2 Q. Okay. So you have been involved with vessel
3 selection up to the present time, and you said you
4 evaluated nine candidate vessels, but you're down to
5 three or four now?

6 A. Yes.

7 Q. Are those four new construction vessels, or
8 is that for potential lease?

9 A. No, examined the charter, possible charter
10 boat which we feel would be good for the route, the
11 Saint Nicholas. And three other vessels are still
12 should we go new construction.

13 Q. Okay.

14 A. Meet the criteria.

15 Q. Okay.

16 A. They are anywhere from \$1 Million to \$2
17 Million.

18 Q. Let's talk about the Saint Nicholas. You
19 evaluated that design?

20 A. Yes.

21 Q. And whose design is it?

22 A. Island Marine in Sitka, Alaska.

23 Q. Now is this a design that's new, or is it
24 existing?

25 A. It's a boat that has evolved. When I wrote

00501

1 this report in 1991, we examined several boats, and we
2 said that the Allen Marine boat was the boat that
3 appeared at that time to be the most logical candidate,
4 a boat called the Alaska Dream. And it was a larger
5 boat, had to travel some very rough waters, et cetera,
6 so we felt it was capable. The reason we liked the
7 Island Marine boat is that the same people who designed
8 the boat, built it, owned it, and operated it were one
9 person, and you could see that reflected in their boats
10 in that they had made provisions for rapid maintenance,
11 et cetera. And that -- the Saint Nicholas is a
12 derivative of that Alaskan Marine or, yeah, Alaska Dream
13 boat. And it has been extensively wake washed and
14 bottom scour tested, and it meets our criteria.

15 Q. Are you familiar with the ability of the
16 vessel to meet the requirements of the Americans With
17 Disabilities Act?

18 A. Yes, it's -- it has a handicapped washroom
19 space and it, other than the upper deck, it has access
20 by handicapped or physically challenged people in
21 wheelchairs. So we feel that it would meet the ADA
22 requirements.

23 Q. Okay.

24 A. There may be some other minor things that we
25 could add to any smaller items that may be required, but

00502

1 basically the boat is capable, dependent upon the
2 modification they make on the terminals so that access
3 is available, similar to the modification that the
4 mosquito fleet did when they took over the route from
5 the Washington State Ferries temporarily, they put a
6 ramp type system in, which met the 1 in 12 slope and
7 certain of those other criteria.

8 Q. Does the vessel Saint Nicholas in your view
9 meet the requirements for reliability and redundancy,
10 maneuverability, and safety?

11 A. Yeah, they have a proven track record of the
12 present propulsion system they have in -- they have an
13 Alaskan Mugger Diesel, which is an excellent diesel
14 engine. They have water jets which they have been
15 installing in their boats for 10 or 12 years. They have
16 methods of flushing out a water jet while the boat is
17 floating without having to dry dock the boat should they
18 ingest some plastic or something, which is the common
19 problem you have with these water jets. I feel that
20 they have the sort of basic things that the -- that the
21 Seabus had. They have four propulsion units, and they
22 could run on three, et cetera.

23 Q. So if one engine breaks down?

24 A. Yeah, we could still run around 16, 17 knots,
25 but we can still run.

00503

1 Q. Okay.

2 A. We have -- we would have to change the
3 schedule slightly.

4 Q. Okay. And did you say that you -- for
5 Dutchman Marine, you're involved with looking into
6 vessel design for new builds for new vessels?

7 A. Yes.

8 Q. Okay. Have any final decisions been made as
9 to the design for the new construction?

10 A. No. We're awaiting data. We're to visit a
11 test in San Diego on a boat, and we're waiting for data
12 on another boat in Louisiana, a candidate boat.

13 Q. Okay. Did you listen to Mr. Fuller's
14 testimony with respect to his range of costs that he
15 expected?

16 A. Yes.

17 Q. Is that about right?

18 A. Yes.

19 Q. That was what, \$1 1/2 Million or so?

20 A. Yeah, we're looking at cord and fiberglass
21 and aluminum construction, and the cord and fiberglass
22 is coming in around \$1 Million, and the other boats are
23 anywhere from \$1.5 Million to \$2 Million. The only
24 thing I would change a bit is that we're getting quotes
25 up to 12 months to build these boats. And I along with

00504

1 Captain Fuller don't understand why it should take that
2 long, but we have to listen to the people that are going
3 to build the boat as to how long it's going to take.

4 Q. Are you going to be involved in any
5 improvements to any docks that need to be made?

6 A. Yes.

7 Q. And how --

8 A. It's my responsibility to make sure that
9 whatever modifications are made by a civil engineer, not
10 myself, if it's a boat, I can work on it, if it isn't,
11 it's a civil engineer's job, but I will be interfacing
12 with that person to make sure that the range of keel and
13 draft can be accommodated by whatever adjustable system
14 is put on the dock.

15 Q. And the keel and draft are what on the
16 vessel?

17 A. Well, if we've got a bunch of people coming
18 off the boat, it's going to keel, not so much as a
19 catamaran, that's why the Seabus is a catamaran, but we
20 have a change with a lot of fuel and a lot of people on
21 it and fuel on board, et cetera, et cetera, so we have
22 to make sure that whatever system you produce here to
23 make this one can accommodate these variations.

24 Q. Based on your understanding, your experience
25 with ferry systems, and reviewing ferry systems both in

00505

1 the Northwest as well as world wide, is it your
2 understanding that a passenger ferry will have the
3 effect or will have an effect on reducing automobile
4 emissions?

5 A. Yeah, the SNAE, Society of Naval Architects
6 and Engineers, formed about a year ago an ad hoc
7 committee to study the difference in emission or
8 pollution levels of various transportation systems,
9 comparing ferries, buses, and cars in the San Francisco
10 Bay area. Because a group had gotten together and said
11 the ferries were terrible, et cetera, et cetera, et
12 cetera. And so SNAE did I felt a much more accurate
13 analysis and showed that the -- that the ferries were
14 inferior to buses and superior to cars.

15 Q. Okay, when you say inferior to buses?

16 A. In that they would -- they would cause
17 greater pollution per passenger mile than buses.

18 Q. Is that a large --

19 A. I disagree with the report, but this was --
20 this is the best report that's available right now.

21 Q. A large difference, or how is the difference?

22 A. The difference between ferries and buses is
23 smaller than the difference between ferries and cars.
24 Cars are 2 or 3 times worse than ferries and about 30%
25 or 40% or 50% worse than buses.

00506

1 Q. And that's per passenger --
2 A. Mile.
3 Q. That's per mile?
4 A. Yeah, in other words, for every mile you
5 carry a passenger. And there's another study that's
6 going to be more accurate done by the Federal Department
7 of Transportation called Interjunction Extreme.
8 Q. I'm going to hand you Exhibit Number 133 and
9 ask you if you recognize that document?
10 A. Yes.
11 Q. Is that the SNAE report you're referring to?
12 A. Yes.
13 Q. Okay.
14 A. Without the enclosures.
15 Q. Without the enclosures.
16 A. I got this on the Internet. They're mailing
17 me this week the enclosures, the tables, et cetera.
18 Q. And this is the report that you said
19 concluded the emissions from passenger ferries --
20 A. Yeah.
21 Q. -- would be significantly better than
22 automobiles per passenger mile?
23 A. Yep. And as I say, I don't entirely agree
24 with the report.
25 Q. Assuming that Dutchman Marine receives a

00507

1 certificate of authorization to operate passenger ferry
2 service, what else are you going to be doing for
3 Dutchman Marine at that point?

4 A. Well, along with Captain Fuller, we're going
5 to be developing an operational plan in detail once the
6 final boat is selected. Any operational plan requires
7 the actual boat for the operational plan to be
8 effective. In addition, it would be my responsibility
9 to make sure that available is all means of taking care
10 of normal servicing and emergency repair, which will
11 mean coordinating with local shipyards and people so
12 that we can have a quick response team in case something
13 happens.

14 Q. Are you going to have any involvement in crew
15 training?

16 A. Yes, not the masters, but the engineers, the
17 people who are going to be running and maintaining the
18 thing. And, of course, it would be my responsibility to
19 make sure -- I would assume that any modifications to
20 the terminals would be under my jurisdiction. Once
21 they're designed, I can maintain them.

22 MR. CRANE: I don't have any further
23 questions. Thank you, Mr. Case.

24 JUDGE HENDRICKS: Mr. Kopta.

25 MR. KOPTA: I don't have any questions, thank

00508

1 you.

2 MR. DAVIDSON: No questions.

3 MS. RIORDAN: No questions.

4 JUDGE HENDRICKS: Are there any other
5 questions?

6 Mr. Thompson.

7 MR. THOMPSON: I have just a couple
8 questions.

9

10 C R O S S - E X A M I N A T I O N

11 BY MR. THOMPSON:

12 Q. How many boats does Dutchman plan to build in
13 the next five years if granted the certificate?

14 A. If everything goes according to plan, you get
15 the permit and et cetera.

16 Q. Exactly.

17 A. I would assume that for the first year of
18 operation, we would be using the chartered vessel. I
19 would think that probably in less than a year, and
20 Mr. Dolson can confirm this, that we will be considering
21 hopefully, I hope we're going to build the boat, and I
22 don't know whether that really happened or not, but I
23 would hope that we would, and I would hope that as
24 Southport and Kenmore develop, I would assume that we're
25 going to have seven, eight, nine boats as the thing

00509

1 fully develops. These game plans are going to have to
2 change as time goes on, you know, but preliminarily,
3 like I say, it's if you can get excited about marine
4 engineering, which is not a very exciting subject,
5 there's a lot going on in boats now. It's incredible
6 what they're doing. What they started out to do was
7 reduce wake wash, and not only are they doing that, but
8 they're increasing the fuel efficiency by 30% or 40%, so
9 a double whammy there. I think that's going to be
10 beneficial to the whole service.

11 Q. You mentioned a time frame of 12 months to
12 build --

13 A. Yep.

14 Q. -- the boat, right? Does that include design
15 time?

16 A. Hopefully, yeah. Most of the things we're
17 looking at, the candidate boats we looked at have
18 already laid out each of them a preliminary outward
19 profile or general arrangement, and so the process, the
20 design itself should go very quickly.

21 Q. And would this --

22 A. I'm avoiding your question in a way, because
23 it's difficult. I don't know why it's taking 12 months,
24 you know, so I have to assume that three months of that,
25 which is a normal as a designer would take if you

00510

1 started from scratch to design something, not to build
2 it but design it, why you can't build it shorter, so I'm
3 assuming it includes the design time.

4 So if I call up somebody and I said, we want
5 a boat and we wrote a contract in a couple of days and
6 we come up with a deposit and all of that kind of stuff,
7 then I would hope that 12 months after that date we
8 would have the boat running in Lake Washington. And
9 that includes builder's trials. Builder takes the boat
10 out and sees -- makes sure it's going to meet the
11 owner's requirements, and then we're going to have
12 owner's trials. And our boat on a new build is going to
13 have to have sound level tests and wake wash tests.

14 Q. And so --

15 A. Added to the --

16 Q. I'm not sure I -- and so the test periods are
17 following the construction?

18 A. No, no, that's from the time -- I'm planning
19 on 12 months from the time I say I want a boat, the
20 design isn't finished, until it's working on Lake
21 Washington. And in that 12 months, all of that stuff
22 has happened, it's been built, it's been designed, it's
23 been tested, and what we're doing now 12 months later is
24 training the crew, and hopefully we're going to spend a
25 couple of weeks training the crew in the new boat.

00511

1 Q. Will these boats be built in succession in
2 the shipyard or two at a time?

3 A. Well, one shipyard we looked at produced --
4 has 300,000 man hours a year going through their yard,
5 and our boat is about 11,000. So we can slip in easily
6 to a schedule, as they said, because it's such a small
7 percentage of their overall, so we could slip in quite
8 easily. But as Captain Fuller pointed out, there -- if
9 we get into a specific yard and a specific for one
10 reason or another we like this yard, we like the design,
11 we're liable to have to fit into a slot, and that's
12 going to be a decision we're going to have to make
13 sometime in the future.

14 But I would say the next following on boat
15 could happen -- if we order two boats, I would say we
16 would have both of them in 18 months, the first in 12
17 months, the next, and this is being a bit conservative,
18 so in 18 months we would have two boats in addition to
19 the charter boats that we already had in operation. And
20 I think the idea of the charter boat is excellent,
21 because it's going to help us determine a lot of things.

22 MR. THOMPSON: Thank you, that's all I have
23 for you, thanks.

24 JUDGE HENDRICKS: Any more questions?

25 MR. DAVIDSON: A follow-up question.

00512

1 JUDGE HENDRICKS: Okay, Mr. Davidson, go
2 ahead.

3

4 C R O S S - E X A M I N A T I O N

5 BY MR. DAVIDSON:

6 Q. Can you explain the financing of these boats?
7 Is the -- you mentioned a deposit, but when is the
8 payment for the boat due when you're having a boat
9 built?

10 A. It varies with the yard. It varies with the
11 financing arrangement. For instance, one of the engine
12 manufacturers will finance 80% of the boat, and so that
13 -- that makes a difference in how the payments are due
14 versus the owners financing it or through another
15 agency.

16 Q. And are timed payment arrangements common in
17 the boat --

18 A. Well, the shipyard, they want -- after the
19 trials are over, they want everything. Sometimes you
20 can talk them into a 10% hold back for six months,
21 because, you know, well, we may have some problems here
22 or something, but not very often. You usually have to
23 come up with the money. And it varies with every yard
24 with every situation. I don't think there's any one
25 criteria that you can apply to all of them. But they

00513

1 want their money. Shipyards are not going to wait.
2 Financing company, yeah, that depends on what
3 kind of a contract you have with them, et cetera, but
4 the shipyard, they want their money when the boat is
5 delivered unless you have some other kind of an
6 arrangement with them, 10% of the company or something.
7 I don't know, there's a lot of things you can work out
8 with them.

9 Q. But assuming private financing is available
10 for --

11 A. Yes, it's available up to 70% or 80%, and
12 they're going to look at you, you know, they're -- this
13 isn't a given, you know. It depends upon the
14 individual.

15 MR. DAVIDSON: Thank you.

16 JUDGE HENDRICKS: Thank you, Mr. Case, you're
17 excused.

18 And I believe next up we're going to continue
19 with Mr. Dolson's cross-examination. Does counsel need
20 a minute or two for preparation at all since we had this
21 long break, Mr. Kopta?

22 MR. KOPTA: A minute or two might be
23 beneficial.

24 JUDGE HENDRICKS: Why don't we just take a
25 short break then until about 4:00 and come back.

00514

1 (Recess taken.)
2 JUDGE HENDRICKS: We're going to continue now
3 with Mr. Kopta's cross-examination of Mr. Dolson. So,
4 Mr. Dolson, if you would please take your seat at the
5 witness stand, and for the record again, I will just
6 remind you that you remain subject to your oath.
7 THE WITNESS: Yes, Your Honor.
8 MS. RIORDAN: Judge Hendricks, I'm sorry, but
9 I did need to talk --
10 JUDGE HENDRICKS: Yes, I apologize, so why
11 don't we go off the record just for one moment.
12 (Discussion off the record.)
13 JUDGE HENDRICKS: Mr. Kopta.
14 MR. KOPTA: Thank you, Your Honor.

15
16 Whereupon,
17 DANIEL DOLSON,
18 having been previously duly sworn, was called as a
19 witness herein and was examined and testified as
20 follows:

21
22 C R O S S - E X A M I N A T I O N
23 BY MR. KOPTA:
24 Q. Good afternoon, Mr. Dolson.
25 A. Good afternoon.

00515

1 Q. Here we are almost 24 hours after we left
2 off. Do you remember where we were?

3 A. I believe we were talking about fare box.
4 No, I do not remember, I'm sorry.

5 MR. CRANE: That was good, Dan.

6 Q. I would have been impressed.

7 Well, wherever we left off, where I want to
8 take up is discussing the Leschi dock. And the first
9 question I have on that topic is in your discussions
10 with the City on the use of that dock, was there any
11 discussion in terms of whether Dutchman Marine would be
12 required to make any payments, lease payments, for use
13 of the dock facilities?

14 A. The City of Seattle indicated that it's
15 relatively common for some sort of payment for use of
16 the docks.

17 Q. Did they give you --

18 A. For City property for commercial purposes.

19 Q. Did they give you any dollar amount in terms
20 of maybe just ball park type figures?

21 A. No, because there's a lot of work to be done
22 to determine what the fee would be. I assume it's based
23 on everything from dock maintenance to trash removal,
24 impacts based fees. That's my assumption.

25 Q. And is there any amount in the revised

00516

1 financial statement that accounts for those kinds of
2 costs?

3 A. There is.

4 Q. And Mr. Hibma would be the one to know how
5 that's included?

6 A. Yes.

7 Q. You also, I thought, referenced that there
8 was some discussion about whether the dock might need
9 some repairs, whether the wood needed something.

10 A. One person in the City of Seattle suggested
11 that a physical examination by a qualified I assume
12 engineer would have to basically scuba dive or go under
13 the dock to evaluate whether it's still structurally
14 sound for use. That was just one concern out of -- one
15 aspect out of many things that were brought up on the
16 table.

17 Q. And if there are any repairs, whether it's a
18 result of that kind of an inspection or something else,
19 did the City indicate to you who would be responsible
20 for --

21 A. No, they did not.

22 Q. The facilities around the dock, do those
23 include any kind of a covered structure for people to
24 wait for the ferry or wait for the bus or a shuttle?

25 A. There is some covered area, mostly in the

00517

1 vicinity of the bus stop with the private businesses.
2 They put awnings out to help attract, I assume, to
3 attract customers.

4 Q. So there's not any specific structure that
5 would be dedicated for passengers of the ferry or for a
6 bus at that point other than perhaps maybe a Metro type
7 bus shelter?

8 A. You mean one of the relatively small three
9 sided?

10 Q. (Nodding head.)

11 A. That -- no, we're not -- we're not
12 anticipating installing a structure on the Leschi dock
13 to keep people protected from weather.

14 Q. Okay. What about the Kirkland dock, is it
15 your anticipation that there would also be some payments
16 required for the use of that dock?

17 A. Yes, and those are also in the financials.

18 Q. And any repairs that might or modifications
19 that might be needed to the dock, has that been -- have
20 you discussed that with --

21 A. Yes, any modifications, significant
22 modifications, would be under the responsibility of
23 Dutchman Marine. However, we anticipate not making or
24 not needing modifications, using the dock as is, as it's
25 well suited for commercial vessels.

00518

1 Q. Mr. Case was testifying recently, well, just
2 right before you, about modifications and that was part
3 of his responsibility, and perhaps I should have asked
4 him this but I will ask you. Are the dock modifications
5 specific to the type of vessel you would be using, or
6 would it just be a standard type of modification that
7 would be required for any type of commercial vessel?

8 A. Most likely what he is referring to is I
9 think wheelchair ramp, something relatively small,
10 temporary in that it's not necessarily fixed to the
11 dock, to make the vessel, for example, say the vessel
12 were two feet higher on the main deck than the dock, we
13 would need some sort of ramp. Carrying one around on
14 the vessel might be impractical. Those kind of
15 modifications if needed.

16 Q. And you would assume responsibility for
17 those?

18 A. Of course.

19 Q. And what about any kind of covered structure
20 in close proximity to the Kirkland dock, is there
21 something that exists?

22 A. No. According to the letter from the City of
23 Kirkland, one of the exhibits in here, that there can be
24 no -- permitting will not allow a covered structure out
25 on the dock. What they can allow is something back on

00519

1 land.

2 Q. Is there anything that's on land currently?

3 A. A very small shelter, but there is some
4 nearby protection. Maybe 20 or 30 people could be under
5 there.

6 Q. I wanted to ask you some questions about the
7 demographics of the potential customers as you discussed
8 them with Mr. Crane I think it was yesterday or the day
9 before. I'm sure it was yesterday, today is Wednesday,
10 okay.

11 A. Yes.

12 Q. Yesterday, and I believe you testified that
13 commuters would comprise about half of the total
14 ridership; is that --

15 A. It depends. The ridership is broken down --
16 in order to get an accurate projection, we had to,
17 remember this is a projection, we had to break it down
18 to seasonal, summer, all month and a half, no, summer
19 and winter, weekend versus weekday. Some routes we lose
20 significant amount of money running on the weekends.
21 Because take, for example, Southport where you have
22 Boeing, you also have the 750,000 square feet of office
23 space by Wright Runstad. That's the majority of our
24 ridership is from those two work centers. On the
25 weekend, there's going to be a significantly lower

00520

1 commute component.

2 So when I -- when I'm using accurate here,
3 it's a very general thing, but what I want to indicate
4 is we're not targeting solely commuters. We're also
5 targeting the leisure aspect, which is, of course,
6 tourists or the local people or the cyclists who just
7 want to take a shortcut across the lake. That's what I
8 mean by accurate.

9 Q. And that was really what I wanted to clarify.
10 My assumption was that it wasn't per trip type of basis.

11 A. No, no.

12 Q. But rather on overall basis?

13 A. Yes.

14 Q. And with respect to those commuters, I
15 believe you stated that they would be mostly going from
16 Kirkland to Seattle?

17 A. On the Kirkland route.

18 Q. On the Kirkland route, that's correct.

19 A. That's from our, if I remember from our
20 projections, of course I don't have them in front of me,
21 but Kirkland is -- has a large commute component, but it
22 also has a very large leisure and tourist. As Mr. Waith
23 had indicated in earlier testimony, they think they're
24 Sausalito, they're trying to get people in, we're taking
25 advantage of that. The boats are moving, and if they

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1 don't have -- if we don't have, as Mr. Fuller says,
2 fannies, if the boats aren't full and we're running
3 them, we're not making money. Our job is to carry
4 commuters during the peak hours and carry the leisure
5 riders off peak.

6 Q. And I appreciate that, although what I'm
7 focusing on is your testimony that most of the
8 commuters, and again we're specifically talking about
9 commuters, would be coming from Kirkland and going to
10 Seattle. Is that an accurate characterization?

11 A. Yeah, there's not a very large reverse peak.
12 There's some reverse peak, but not that much in
13 Kirkland. It is not as highrisish. If there were
14 highrises in Kirkland with offices, that would not be
15 the case, but.

16 Q. So the question I was getting at was how you
17 made that evaluation, and I gather from what you're
18 saying is that Kirkland is not a destination that has a
19 whole lot of businesses that attract commuters; is that
20 an accurate characterization?

21 A. It has businesses, but we found through our
22 surveys that most of the people who work there live near
23 there. That's one of the reasons they like to work
24 there, so that's why.

25 Q. And is it your anticipation that you're going

00522

1 to make up that difference on the return run during
2 those times from Seattle to Kirkland with discretionary
3 passengers?

4 A. Not, for example, in the morning hours. We
5 expect the boats to be relatively, for lack of a better
6 word, empty on the return in the morning hours.

7 Q. You also stated that you drew a one half mile
8 or a half circle or however you want to do it on the
9 compass of half a mile from the ferry terminal.

10 A. Yes.

11 Q. And was that applicable to both the Leschi
12 dock as well as the Kirkland dock?

13 A. That's applied universally throughout, a half
14 a mile or about 2,500 feet is considered by traffic
15 engineers, what they tell me, as walking distance as
16 acceptable by people as a form of, well, it's an
17 acceptable distance. I also learned, however, that the
18 downtown, the central business district, that expands a
19 little more. People are more willing to walk about
20 three quarters of a mile.

21 Q. So this was based on publicly available
22 information, not something you developed yourself?

23 A. The half mile, definitely.

24 Q. Is that the same argument that Metro uses for
25 their --

00523

1 A. I don't know what Metro uses. This is mostly
2 just reading through the numerous reports that are
3 published regarding various transit agencies, transit
4 systems.

5 Q. So this wouldn't necessarily be specific to
6 ferries, it could be railroads or buses or --

7 A. Transport, I'm not a transportation engineer.
8 A half mile, please, half a mile.

9 Q. Okay, well, I, you know, I wanted to know
10 whether maybe you got out to see how far you want to
11 walk and put out a stake and measured or something, but
12 obviously not the case.

13 Moving to the discretionary passengers,
14 tourists I guess for perhaps lack of a better word,
15 would you equate those two, or would you make a
16 distinction?

17 A. A tourist, the tourist component is a
18 component of the entire discretionary ridership. Say,
19 for example, you and your family lived in Leschi and you
20 wanted to go to a restaurant at Southport, you're not
21 necessarily tourists, so it's a segment of the
22 discretionary.

23 Q. Did you have any analysis of how big a
24 subset, or is it that clearly defined a term?

25 A. We used it by measuring or by using trip

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1 generation data from municipalities, for example. We
2 didn't use a standard ratio if that's what you're asking
3 in terms of saying 25% are going to be bicyclists who
4 are just going across. We did it specifically based on
5 standard traffic engineering techniques such as taking
6 square footage of restaurants to indicate the number of
7 trips generated by that restaurant. We looked at
8 retail, hotel, we looked at also -- hotel we classified
9 by the way as tourist 100%. Retail, we gave about 50%
10 for tourism. So it was site specific to come up with
11 the number of the different categories.

12 Q. And when you were examining the Leschi to the
13 Kirkland route, was your focus there on people that
14 lived within Leschi that would have a reason to go on a
15 discretionary trip to Kirkland, or was your thought that
16 there would be a broader segment of the population from
17 the west side that would be going to Kirkland for those
18 purposes?

19 A. The idea of the shuttle is to expand our
20 range of market or expand the market. No, it is not
21 simply the Leschi community within half a mile that we
22 said, okay, out of these households, they would go to
23 Kirkland. What we did was we looked at the shuttle
24 routes or the Metro bus routes. I mean, of course,
25 Metro covers all of Seattle, but we identified one route

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1 in a reasonable length of time. Mr. Fuller wasn't
2 involved with, let me clarify, was not involved in
3 determining the amount of time to get the Metro bus to
4 Leschi dock. And that's, I mean, so simple. You can
5 get the schedule with a phone call or off the Internet.
6 So we went to the reasonable bus stops, basically a
7 straight line from downtown to Leschi, within a half a
8 mile of those stops, and said, all right, how many
9 hotels, how many this, or how many residential units,
10 what kind of flow would there be to Kirkland.

11 In addition to that, we looked at Puget Sound
12 Regional Council data, site specific. We identified
13 Seattle, we identified Kirkland, we said, okay, Puget
14 Sound Regional Council, how many people on a daily basis
15 go from here to here for the different reasons, and
16 they're able to provide that information, so that merely
17 confirmed our assumptions.

18 Q. So how broad an area did you assume?

19 A. For Seattle?

20 Q. For Seattle.

21 A. Not that big, within, like I said, I wish the
22 map showed more, because then I could mark it for you,
23 but it's the route 27 goes down Yesler, skid row, right
24 to Pioneer Square, and we took within a half a mile of
25 that easy access. We did not spread it out throughout

00526

1 the city.

2 Q. So it is pretty much focused on that one bus
3 route?

4 A. That corridor, yes.

5 Q. And that particular bus route was chosen
6 because it happens to have a stop by the dock; is
7 that --

8 A. If I could design a bus route, that thing
9 matches up, that route 27 matches up almost exactly. Of
10 course, it goes off in a couple of different directions
11 at the end, but it follows exactly what we would have
12 designed.

13 Q. Does that have both an express and a local?

14 A. No. One of the things we're working on with
15 Metro is if we can justify the ridership showing we're
16 going to have a certain component that will require the
17 express service, such as commuters, will it be possible
18 to have an express bus put on line. And that express
19 bus would also serve the Leschi community, so they're --
20 Dutchman Marine's passengers are not the only people
21 benefiting from this. Locals who might want to whisk
22 right over the hill may be able to do so.

23 Q. So at this point, it's just a local route?

24 A. Yes, it's local.

25 Q. You also discussed several studies that have

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1 been conducted and that were included in the materials
2 that -- exhibits that you provided. And I don't really
3 want to go through each one of them, but am I correct
4 that at least with respect to the transportation plans
5 and other formal studies not undertaken by you
6 specifically that Dutchman Marine didn't participate in
7 any of -- a compilation of any of those studies?

8 A. No, we -- yeah, we did our own independent
9 market research based specifically on passenger ferry
10 operations. You know, of course, there's the Puget
11 Sound, I'm sorry, the Sound Transit study and then the
12 JJMA White Paper. We were not involved in those.
13 Everything else, the general congestion and traffic
14 analysis, was done independent of Dutchman Marine's
15 efforts.

16 Q. So the Destination 2030 and Seattle Strategic
17 Transportation Plan, those sorts of things, you didn't
18 have any input into the compilation of those?

19 A. No, it's not the objective of Dutchman Marine
20 to input into public transit studies.

21 Q. Okay. I would, however, like to discuss one
22 of those documents, which is Exhibit 110, the City of
23 Seattle Transportation Strategic Plan, and specifically
24 I would refer you to page 40.

25 A. Okay, I have it.

00528

1 Q. On that page, there's a discussion of the
2 Elliott Bay Water Taxi.

3 A. Mm-hm.

4 Q. In your research, did you look into the
5 experience that Argosy and the City of Seattle and King
6 County had with that ferry service?

7 A. We did. Actually, I looked very closely at
8 the Elliott Bay Water Taxi.

9 Q. And whom did you speak with about the
10 experience with that project?

11 A. Mike Beck, he's with -- I believe he's with
12 King County. I don't know his exact title. I think
13 he's the project manager for Elliott Bay Water Taxi.

14 Q. And you were aware that they had done a
15 ridership survey?

16 A. Mm-hm.

17 Q. Did you read the ridership surveys?

18 A. Yes, I did.

19 Q. And did you compare those with the actual
20 ridership numbers?

21 A. I did.

22 Q. And what was your conclusion with respect to
23 that particular operation?

24 A. I think that they did not run it long enough.
25 Remember the bird feeder, the lonely boats. It takes

00529

1 months, months to get this kind of information to get
2 people educated and to get the customers into the
3 service. Right now the Elliott Bay Water Taxi as being
4 contracted by Argosy is being run from now through the
5 end of the year. That will provide real, real, real
6 information to everybody, and hopefully they continue it
7 on. It will give a much clearer picture than you can
8 get in two, three, or four months of running a service
9 during peak periods. Because to make a service survive,
10 I mean yes, you have a higher ridership in the summer,
11 but it doesn't give you a true picture of the whole
12 year. That's why I'm glad it's happening.

13 Q. But at least the experience up to now has
14 been that it has not achieved the level of ridership
15 that had been --

16 A. Yes, it's -- there's some things about the
17 Elliott Bay Water Taxi which I believe attribute to it
18 not having the great success that it probably should
19 have, such as the shuttle connections. It's not -- the
20 dock is not necessarily very accessible by many, many
21 residents. I mean it has good access, but in order to
22 really get this thing going, you need to have some real
23 shuttle connections, I mean I'm talking significant. In
24 addition to that, I mean it's on the base of a hill.
25 People have to come down from the hill somehow to get to

00530

1 your shuttle.

2 Q. I also wanted to talk with you about a couple
3 of the studies that you did participate in, and the
4 first is Exhibit 114, which is the study conducted by --
5 or I will call it the Carillon Properties study. I
6 won't characterize it any further. And I believe you
7 said that you participated in the preparation of this
8 study?

9 A. Yes, I did.

10 Q. Am I correct that Dutchman Marine does not
11 plan to serve Carillon Point properties directly at
12 least initially?

13 A. With one boat, it would take too much time to
14 serve Carillon Point and the Marina Park dock to get
15 over to the University of Washington. The headways
16 would be -- the frequency of service, the departures
17 would be too far apart to make the service even
18 practical. Maybe we could get in one a.m. commute trip
19 if we were to do that. So we need two vessels in order
20 to serve Carillon Point also.

21 Q. And you said the University, is it your plan
22 to go from Carillon Point --

23 A. No, I'm sorry, Leschi.

24 Q. Okay. You gave some times in which you
25 anticipated bringing the other routes on line, but I

00531

1 don't recall a time frame for including Carillon Point.

2 Do you have a time frame for that?

3 A. Yes, I do, second year. Well, first year of
4 operations, I think fiscal year, not necessarily
5 calendar year, first year we will have one vessel. The
6 second year, we will bring on a second vessel, of which
7 there are many available. I received a phone call just
8 a few days ago when I was picking Mr. Fuller up at the
9 airport, a fellow said, I've got another boat for you if
10 you want it, and it's available. Okay, good. So two
11 vessels would be put on line for the Kirkland route in
12 the second year.

13 Q. So the second year of operation, you would
14 bring on a second boat to include Carillon Point, or
15 would you use that for Renton or whatever the other --

16 A. No, no, no, the -- it would be putting on a
17 second boat to increase frequency of service so we would
18 be able to include Carillon Point and to handle the
19 capacity increase.

20 Q. And then the next route that you were
21 planning to bring on line is which one?

22 A. The Renton to Leschi Park route.

23 Q. And would that then require a third boat?

24 A. Third and fourth.

25 Q. Third and fourth?

00532

1 A. Yes.

2 Q. So you're planning to bring in two more
3 vessels at the same time to operate the Renton?

4 A. Yes.

5 Q. I wanted to ask you about the next study,
6 which is Exhibit 115, and if you would turn to the
7 survey form.

8 A. Okay, I have it.

9 Q. Did you prepare this form?

10 A. I did not.

11 Q. Who prepared it?

12 A. David Dolson, our marketing director.

13 Q. If I have questions about how it was
14 performed, would those be better directed to him?

15 A. Yes.

16 Q. See, we're already cutting down on the number
17 of questions I have for you.

18 As I understand it, going back to the, I
19 guess we never left, the Kirkland to Leschi route, you
20 plan to initiate that route in January of next year; is
21 that correct?

22 A. Sir, in 2002. We had to use some kind of
23 month indication, so we just said here's the full
24 calendar. That calendar can be shifted one way or
25 another. We can, if needed be, we can start in June,

00533

1 which actually would be nice considering the higher
2 ridership early on would help offset cost. That whole
3 calendar can be shifted, however, it's still 2002.

4 Q. So at this point, there's not a specific date
5 because it will depend on when you can do everything you
6 need to get done before you can start operating service;
7 is that fair?

8 A. If Mr. Blackman decided right now that's it,
9 and he leaves and forgets everything, we would be able
10 to start in January 2002.

11 Q. So it's up to us?

12 MR. CRANE: Talk about speeding up the
13 proceedings.

14 JUDGE MOSS: Opportunity knocks.

15 MR. KOPTA: What's it worth to you? No, I'm
16 just kidding.

17 MR. CRANE: Can we take a brief recess.

18 BY MR. KOPTA:

19 Q. Okay, sort of apropos of that, is it your
20 position that a route that you propose between Kirkland
21 and Leschi overlaps with a route between Kirkland and
22 the University of Washington?

23 A. In one sense, they both potentially can serve
24 the Seattle central business district. Yes, the two
25 routes go to different locations, different terminals,

00534

1 the two most practical possible locations to serve
2 Seattle short of Lake Union. But with transit
3 connections, we both serve the same market in the
4 central business district, and that is in my opinion the
5 conflict.

6 Q. Okay. Well, I want to explore that a little
7 bit, because I thought your testimony earlier was that
8 you are assuming a corridor down the 27 Metro bus route
9 to Pioneer Square.

10 A. In that corridor, that's part of the Seattle
11 central business district, a half mile use for general
12 figures, four blocks. That gets a good segment of the
13 population.

14 Q. And you testified earlier that you were aware
15 that Seattle Harbor Tours has a certificate from the
16 Commission to go from south Lake Union to the
17 University.

18 A. I do.

19 Q. Is that correct?

20 A. Yes.

21 Q. So assuming that that were part of a
22 contiguous route with a stop at the University to south
23 Lake Union, would it be your position that that -- that
24 it would overlap with a portion of the central business
25 district in Seattle?

00535

1 A. Yes, I do.

2 Q. Would that be your position?

3 A. Yes, I do. It's an unfortunate -- it's an
4 unfortunate situation. Without a -- if Seattle Harbor
5 Tours or Argosy, whichever one has the permit, did not
6 have that south Lake Union access, it might make things
7 different. I'm not saying it would, but it might.

8 Q. Well, it's my understanding that Pioneer
9 Square is more than four blocks away from south Lake
10 Union.

11 A. But there's excellent public transit access.
12 It's the transit access which connects to Seattle to the
13 central business districts.

14 Q. And yet you didn't consider those people as
15 possible customers based on your analysis since they're
16 not within four blocks of the bus route. So you're
17 saying that you're more expansive than what you actually
18 studied in terms of ridership?

19 A. I keep forgetting to go back to this, three
20 quarters of a mile for Seattle, and if you look at route
21 27 route, it goes down Yesler, squares off at the
22 waterfront, and heads north, I believe. That includes a
23 large segment of the Seattle central business district.

24 Q. Now I would like to talk about the charter
25 agreement that you have in Exhibit 116. As I read this,

00536

1 and this is in your second whereas clause on the first
2 page, unfortunately the document isn't paginated, at
3 least the copy that I have isn't, but the second
4 whereas:

5 This boat would be specific to passenger
6 ferry service between Seattle and
7 Kirkland using the Kirkland commercial
8 tour boat dock and the passenger only
9 dock at Leschi Park.

10 Is that correct?

11 A. You read it correct.

12 Q. Okay. And I believe that there is also a,
13 well, I will just go through this page by page. Under
14 the term, which is on the next page, it's section 2, the
15 term begins on December 1st, 2001; is that correct?

16 A. That's correct.

17 Q. And as I understand your testimony, you're
18 not planning on initiating service until sometime in
19 2002; is that correct?

20 A. That is correct.

21 Q. So is it your intention to charter the vessel
22 as of December 1st, 2001, until such time as you start
23 service in 2002?

24 A. It is -- it can be used for other purposes
25 such as charter operations, dinner cruises, special

00537

1 events. It can also be used for demonstration runs, of
2 which if we do not charge a fare for passengers getting
3 on board, a Commission permit is not required.

4 Q. So the answer is yes, that you will go ahead
5 and charter the vessel as of December 1, 2001?

6 A. Also, Mr. Kopta, there is a clause in here,
7 cancellation for convenience. It is my option, Dutchman
8 Marine's option, to cancel this charter, and it's very
9 possible to renegotiate a new charter with new dates, so
10 I'm not bound to this contract.

11 Q. Well, yes, that is what the contract says,
12 although that's still not quite what I'm getting at, and
13 so I will ask the question a third time. Are you
14 planning on chartering this vessel as of December 1st,
15 2001, even though you are not planning on providing
16 service until 2002, as we sit here today?

17 A. As we sit here right now, if everything goes
18 extremely well, we plan to charter on December 1st,
19 2001, the Saint Nicholas to be used for passenger ferry
20 service and charter operations on Lake Washington.

21 Q. And when would you be anticipating initiating
22 service under that --

23 A. December 1st if -- I mean that's basically
24 taking our financial projections and shifting them back
25 one month.

00538

1 Q. So if you weren't able to start until let's
2 say January 1st of 2002, would you charter the vessel as
3 of December 1st, 2001?

4 A. Likely not. We would most likely amend the
5 charter agreement and begin the charter at an
6 appropriate time to be used for passenger ferry and
7 charter operations.

8 Q. Okay. And you would need an amendment to
9 the, I'm not going to ask you for a legal conclusion,
10 but the language here allows you to terminate the
11 agreement, but that's your only option, at least as I
12 look at this language. Is that your understanding?

13 A. That is our understanding.

14 Q. All right. The initial term is also only
15 four and a half months from the December 1st, 2001, to
16 April 15, 2002. Why that date?

17 A. If you look at ridership peaks, if we decide
18 to keep the vessel, it gives us enough time to get the
19 vessel in annual increments just before the summer
20 season, which would have the highest ridership. We
21 picked that date simply because it lines up slightly
22 with the peak season.

23 Q. So that --

24 A. Or it gives us time to get ready for the peak
25 season, put it that way.

00539

1 Q. And how would that impact whether or not you
2 continued to charter this particular vessel?

3 A. If we don't like the vessel, if it doesn't
4 work out, if it's oversized, which is possible, if it's
5 not adequate, we're able to cancel the charter and get a
6 more appropriate vessel for the summer season.

7 Q. And will you be able to make that initial
8 determination in four and a half months?

9 A. I believe so.

10 Q. Well, I thought you just testified that the
11 Elliott Bay Water Taxi didn't run long enough to --

12 A. No, no, not the service, the boat itself.

13 Q. I understand that, but I'm wondering, as I
14 understand your testimony, you're saying that you would
15 base it on ridership and whether it made sense to keep
16 that particular vessel.

17 A. That boat was built in Alaska, it was built
18 for use in Alaska, it's a pretty stout boat, very stout.
19 I admit it's a little bigger than what, not in terms of
20 size and capacity, but just beefier than what we need,
21 and unfortunately, we're paying for that. So we have
22 determined that if a more appropriate vessel which is
23 more appropriate for Lake Washington were to be needed,
24 we can cancel this contract and get the more appropriate
25 vessel. It's not -- when I mean size, I mean physical

00540

1 size, not necessarily the passenger capacity.

2 Q. And you expect to make that determination
3 within four and a half months; is that correct?

4 A. We do.

5 Q. And playing devil's advocate, if you decided
6 that you didn't want to continue with this boat and your
7 ferry operations begin on January 1st --

8 MR. CRANE: I'm sorry, I can't hear.

9 A. Yeah, say that again.

10 Q. If you decide that after a couple of months,
11 maybe one month of which you have been operating ferry
12 service, that this boat just doesn't have it, are there
13 other options? I understand from Mr. Case's testimony
14 that there was one charter, you narrowed it down to
15 three or four, one of them is this particular vessel?

16 A. Yes.

17 Q. And the other three are new construction; is
18 that correct?

19 A. Yes, but we also -- okay, go ahead with your
20 question, I'm sorry.

21 Q. But you may anticipate it, because the
22 question is, under that scenario, as I understand you to
23 set it up, it can take as long as a year to get another
24 vessel.

25 A. We are currently and actively looking at

00541

1 performance data for other vessels, other charter
2 vessels, and we have identified several in addition to
3 the Saint Nicholas. However, the Saint Nicholas has a
4 track record for performance and reliability. It also
5 has excellent wake wash data generated by some people
6 considered to be top in the field in the United States,
7 bottom scouring data, the jets, of course, throw up a
8 little bit of mud or something, how does that affect
9 anybody. We have that information, and it's extremely
10 solid for this vessel. And it took us less than two
11 months to get that information. Of course, we did not
12 generate it, it was generated by somebody else.

13 Other vessels that we're investigating in
14 case the Saint Nicholas doesn't work out, we're able to
15 get that information also, it's just they were not --
16 they're completing their analysis as we speak, like Jack
17 said, he said down in California.

18 Q. Mr. Case, however, didn't mention a review of
19 any other vessels. Are you doing this independently of
20 him?

21 A. No, Mr. Case looks at everything, and did you
22 ever hear the phrase you have to shoot the engineer?
23 There's --

24 Q. I have heard shoot the lawyer, but I haven't
25 heard shoot the engineer.

00542

1 A. There's sometimes when, you know, what he
2 told you today was the -- that we determined this vessel
3 was highly acceptable and three new construction vessels
4 that we're evaluating are highly acceptable. He did not
5 say that those are the only boats that we're looking at,
6 because charter operations, of course, you have to look
7 at everything. Every piece of equipment has its own
8 characteristics.

9 Q. Am I correct that vessels become more
10 difficult to obtain for peak season, the summer months,
11 in terms of obtaining a vessel?

12 A. It's all about money. Where can that vessel
13 make the most money.

14 Q. Well, from the vessel owner's perspective, of
15 course, it's how much they can get from whoever wants to
16 use the boat.

17 A. Exactly.

18 Q. And have you determined whether the amount
19 that you're paying under this charter agreement is
20 comparable to what someone would ask for if you were
21 approaching them in February or March instead of --

22 A. Some of them. I must tell you also that
23 we're developing contracts with other vessel operators
24 in case of I guess extreme success of the Kirkland to
25 Seattle route, so we're working on having other vessels

00543

1 lined up even before this hearing began. So there are
2 vessels available, and we will be able to get them at
3 reasonable rates considering it's year long charters and
4 not simply for the peak season.

5 Q. So the other scenario here obviously is if it
6 comes to April 15th and the owner of this particular
7 vessel says, well, I found somebody else that wants to
8 use this or maybe I want to use it myself.

9 A. So you're saying that the company who is
10 chartering this to us might want it for something else?

11 Q. Sure.

12 A. Well, look in the terms of the agreement.

13 Q. That's what I am. It says:
14 Thereafter upon mutual agreement, the
15 chartering use of the vessel may be
16 extended for successive one year
17 periods.

18 My understanding of mutual is that you both
19 need to agree, and if one of you doesn't, then --

20 A. Like I said, it's about money, how much are
21 we willing to pay to charter their boat versus how much
22 they could make doing something else with the boat.

23 Q. And what does this particular vessel owner do
24 with the boat when presumably it's not chartering it to
25 you?

00544

1 A. They do primarily whale watching tours,
2 demonstration runs, sight seeing, some dinner charters.

3 Q. Are you aware that this particular company
4 has announced that it's going to operate ferry service
5 between Everett and Friday Harbor?

6 A. I do.

7 Q. And are you aware if they have any other
8 vessel that they could use for that service?

9 A. They have -- they are in a partnership with
10 the company, shipyard I should say, which built the
11 vessel, and it gives them access to the rest of the
12 fleet, I think 13 or 14 additional boats. I'm not
13 necessarily -- I'm not saying 13 or 14 boats are
14 available, but there's -- there's -- just as we have
15 chartered from them, they are able to get boats from
16 somewhere else.

17 Q. And they would have to charter those boats,
18 or how would that --

19 A. I don't know, I'm not in their business. I
20 don't know what the arrangement is, but they said that
21 other vessels are available.

22 Q. On what kind of numbers; did they tell you?

23 A. It's their company, there's a line. The
24 charter connects us, and that's it.

25 Q. The agreement in section 9-B.

00545

1 A. Which agreement?

2 Q. The charter agreement.

3 A. Oh, okay.

4 Q. I would give you the page; unfortunately,
5 there isn't one.

6 A. Is that IX?

7 Q. IX, there you go, those darn Romans.

8 Requires that Dutchman Marine provide a facility on Lake
9 Washington or Lake Union for overnight moorage, and I
10 believe you testified that you had obtained such
11 facilities.

12 A. Lay berth facilities and minor repair
13 facilities, we have.

14 Q. And are those costs also reflected in the pro
15 forma financial statement?

16 A. They are.

17 Q. From the way that you have drawn the routes,
18 I see that you are intending to pass under the 520
19 bridge at the point before it hits the west side; is
20 that an accurate assumption?

21 A. Yes.

22 Q. So the vessel has sufficient clearance, both
23 height and width, to pass under --

24 A. Yes.

25 Q. -- as opposed to needing to --

00546

1 A. If a tug boat can fit between, no, there is
2 clearance.

3 Q. Well, we know what happens sometimes when the
4 tug boats do. Hopefully, as Mr. Case testified, safety
5 is enough of an issue that no one will do that again, or
6 at least you will hire people that don't fall asleep at
7 the switch.

8 I also wanted to ask you about Exhibit 134,
9 which is the letter from Patriot Holdings.

10 JUDGE HENDRICKS: And, Mr. Kopta, I will just
11 remind you that we're getting close to the 5:00 hour.

12 MR. KOPTA: I should be able to reach a point
13 where we can stop.

14 JUDGE HENDRICKS: Thank you.

15 BY MR. KOPTA:

16 Q. And we will stop after we have talked about
17 this letter. Let me ask the basic question first, which
18 is, are you relying in any way on this letter to
19 demonstrate your ability to finance the proposed
20 service?

21 A. None, none at all. What this is is to
22 develop the system beyond our capabilities, beyond
23 Dutchman Marine as it exists, as it has been proposed.
24 They have expertise, they have knowledge, financing,
25 everything you could ever ask for to make this system

00547

1 not only for Lake Washington, but possibly for Puget
2 Sound, who knows. That's the -- that's the reason for
3 the letter.

4 Q. So at this point, the letter could not be
5 there, and you would still be able to stand on --

6 A. Would not make a difference.

7 Q. Okay. Well, then I will let the letter speak
8 for itself.

9 I will ask one other question before we break
10 for the day, which is, on the route that you proposed
11 from Renton to Leschi, is it also your position that
12 that route overlaps with the route that Seattle Harbor
13 Tours has proposed from Renton to the University of
14 Washington?

15 A. I do not have my ridership projections with
16 me. I would be able to look at my ridership projections
17 to determine what market we're targeting, whether the
18 University is a major component, or if the Seattle
19 central business district is a major component. By
20 looking at that, I would be able to say yes or no.

21 Q. Well, I would ask you to do that overnight,
22 and we can bring it up in the morning.

23 JUDGE MOSS: While we're on this point, you
24 have made a number of references to the ridership
25 projection study, and it strikes me as something that

00548

1 would be useful to have for the record. Is that
2 something that could be readily made available?

3 THE WITNESS: It is, it's about, printed out,
4 it's about 40 pages of spreadsheets, because it has,
5 something we consider very proprietary, because it has
6 many coefficients, and it's very thorough, has a lot of
7 variables, and it's something we hold in. However, the
8 actual numbers, the results are -- will be available.

9 JUDGE MOSS: I would certainly like to see
10 the results, and you can consider overnight whether you
11 would like to independently bring those in as an
12 exhibit. Or if not, then I may make a records
13 requisition, what do you call those things, it's in our
14 procedural rules, and it's essentially the equivalent of
15 a data request from the Bench.

16 The results is really what interests me,
17 however, I suspect that if those are going to be
18 produced, then you probably should have some discussion
19 at the close of today with Mr. Kopta as to whether he
20 will want to see that or not, workpapers. Perhaps they
21 will need to be provided under the protective order in
22 light of their proprietary nature.

23 You all discuss that, work that out, but I
24 just wanted to let you know, give you a heads up that
25 the Bench has an interest in seeing the ridership. You

00549

1 know, I'm most interested in the results, but you will
2 need to work out the other matter as well.

3 MR. CRANE: Can we go off the record?

4 JUDGE MOSS: We'll go off the record.

5 (Discussion off the record.)

6 JUDGE MOSS: We had a brief discussion off
7 the record concerning the ridership data. The Bench is
8 going to request that be provided in one fashion or
9 another. Counsel is going to confer with his client
10 overnight and determine the best way to handle that.
11 Perhaps there will be some conference among counsel as
12 well.

13 With that, is there any other business we
14 need to conclude before we recess for today?

15 Seeing no indication that there is, we will
16 be in recess until 9:30 tomorrow morning. Thank you
17 all.

18 (Hearing adjourned at 5:05 p.m.)

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