Ryan,

Staff's May 27, 2020, Supplemental Recommendation #2 (Hearing Exhibit X-13), addresses BSRE's proposed water taxi or passenger-only ferry service at Point Wells.

Attached is a September 2, 2020, email to me from Dennis Clark, assistant division manager of the state Department of Natural Resources (DNR). In it, he explains why a water taxi or ferry service is not allowed under the DNR lease for the pier Point Wells.

Thank you.

Tom McCormick
Tom,

I’m glad you found the response helpful.

I. We are working on the request as Julia in PDO noted.

II. As the Land Manager, Ben would normally respond to Part II; he is on out-of-state fire assignment at the moment so I’ll provide this partial response: “Ferry service or water taxi service” would not be allowed under the current lease because that would be different than the currently-permitted use of “Commercial ship/barge berthing and loading, off-loading, and bunkering of cargo.” Passengers are not mentioned and while terminals can handle either cargo, passengers, or both (RCW 79.105.060(21)), the specific inclusion in the original Chevron contract of one object (“cargo”) implies the deliberate exclusion of the other potential object (“passengers”). As you may know, the grants of possessory interest by a sovereign (the state) are narrowly-construed and in favor of the grantor, in contrast to contracts between private parties, where the grant of possessory interest is broadly-construed and in favor of the grantee. Put another way, the lessee could not switch to/add passenger terminal activities without an amendment to the lease and, in addition, approval for the new construction that would inevitably be necessary per Lease Section 7.3. While we understand that ferry/water taxi service has been considered by BSRE, it has not been part of discussions between DNR and Paramount about the lease renewal.

Dennis Clark
Washington State Department of Natural Resources

From: Tom McCormick <tommccormick@mac.com>
Sent: Sunday, August 30, 2020 7:33 PM
To: Clark, Dennis (DNR) <Dennis.Clark@dnr.wa.gov>
Cc: DNR RE Public Disclosure <publicdisclosure@dnr.wa.gov>; Maginnis, Christina (DNR) <Christina.Maginnis@dnr.wa.gov>; Cooksey, Ben (DNR) <Ben.Cooksey@dnr.wa.gov>
Subject: Re: Response to Suggestion to Post Aquatic Land Lease Information on DNR Website

Dennis,

Thank you for your thoughtful and thorough email.

I.

I withdraw my request that information about all leases be posted on the DNR website.

However, I would like to receive copies of all leases for which the permitted use is similar to that in the Point Wells lease between DNR and Paramount, so that I can review them.