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STATE OF WASH.  
UTIL. AND TRANSP.  
COMMISSION

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In re Application for Motion to Amend Order  
M.V.G. No. 656 of:

Blaine-Bay Refuse, Inc.  
4916 LaBounty Road  
Ferndale, WA 98248

)  
)  
) APPLICATION NO. TG031817

) PROTEST OF  
) SANITARY SERVICE COMPANY, INC.

COMES NOW Sanitary Service Company, Inc., holder of Certificate No. G-14 ("Protestant" herein), by and through its attorney, Polly L. McNeill of Summit Law Group, and respectfully protests the granting of the above-numbered application on the grounds and basis set forth below:

I.

Protestant Sanitary Service Company, Inc., 1001 Roeder Avenue, Bellingham, WA 98227, performs solid waste collection services pursuant to a certificate of convenience and necessity issued by this Commission, or its predecessor. Certificate No. G-14 is attached hereto as Exhibit A. Specifically, Protestant's certificated area includes the territory sought by the Applicant as follows: (1) All land between

1 Drayton harbor Road and Drayton Harbor; <sup>1</sup> (2) All land between Semiahmoo Drive and Drayton Harbor;  
2 (3) All land between Semiahmoo Drive and Semiahmoo Harbor; (4) All land between Birch Point Road  
3 and Birch Bay; (5) All land between Birch Bay Drive and Birch Bay; and (6) All land on Point Whitehorn  
4 between the land located north of Grandview Road extended west to the Strait of Georgia and shoreland of  
5 Birch Bay (collectively referred to herein as "the Amendment Area"). As is evidenced by Exhibit A,  
6 Protestant currently holds authority in conflict with the applied-for authority.  
7

8 Protestant owns and operates motor vehicular equipment suitable for the transportation of the solid  
9 waste materials sought to be transported. Protestant employs personnel and drivers who are thoroughly  
10 experienced in solid waste transportation activities. These services have been performed by Protestant for  
11 many years to serve the shipping public throughout the Amendment Area. The service which the Applicant  
12 seeks has been rendered by Protestant in the past, and Protestant is constantly expending substantial sums of  
13 money for the hiring, training and supervision of its personnel; and for the obtaining of the newest and most  
14 efficient motor vehicular equipment.  
15

16 For the foregoing reasons, Protestant has an interest in this proceeding.  
17

18 II.

19 Protestant is suitably and adequately equipped and otherwise qualified, ready, willing and able to  
20 provide all the relevant transportation service required by the shipping public for the Amendment Area. It  
21 therefore alleges that the requested service is not warranted by the public convenience and necessity and is  
22 not in the public interest. Protestant remains ready, willing and able to provide the services which its  
23 operating certificate authorizes to any of the Applicant's supporting shippers, to the satisfaction of the  
24 Commission. The Applicant is not qualified to receive a grant of a solid waste certificate of public  
25 convenience and necessity because Protestant is fit, willing and able to continue to properly perform the  
26

27  
28 <sup>1</sup> A portion of this item appears to be within one mile of the City of Blaine, and therefore may be outside  
the authority of Certificate No. G-14 and already contained within Certificate No. G-145.

1 services proposed and to conform to the provisions of Ch. 81.77 RCW and the requirements, rules and  
2 regulations of this Commission thereunder.

3  
4 III.

5 Protestant believes and therefore alleges that the Applicant is not fit, willing and able to provide the  
6 requested service. The Applicant is in violation of WAC 480-70-081(6)(a) by providing services in the area  
7 at issue, which is outside the Applicant's certificated authority. The Applicant seeks an amendment to  
8 Order M.V.G. No. 646, which granted the extension of Certificate of Public Convenience and Necessity  
9 No. G-145 to the Applicant's predecessor in interest, Gary D. Gifford, hereinafter Gifford, on November  
10 30, 1973. The Commission granted Certificate No. G-145 with precisely the same metes and bounds as  
11 requested in Gifford's application. Said certificated area overlaps with Protestant's certificated area, but  
12 omits the Amendment Area. The Applicant now asserts that the Commission should have granted the  
13 extension to include the Amendment Area. In fact, the Commission granted precisely the area for which  
14 the Applicant's predecessor in interest applied. Further, under WAC 480-70-081, the boundaries of the  
15 Applicant's authority are established by descriptions established in its certificate at the time the commission  
16 granted the authority.  
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19 IV.

20 Protestant denies each and every material allegation and statement of fact contained in Application  
21 No. TG031817 and requests that the Applicant be required to submit strict proof in support thereof and to  
22 produce competent witnesses at a hearing for cross-examination on all material and relevant facts bearing  
23 on the protested application. If an oral hearing is held, Protestant will appear and present evidence of its  
24 own operations and particular interests in the application. Protestant estimates that it will call 5-6 witnesses  
25 at the hearing, and that the hearing time for the testimony of the witness will be approximately four hours.  
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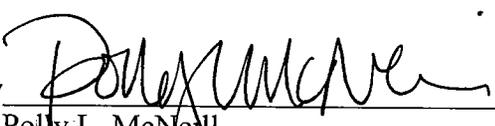
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WHEREFORE, Protestant prays that it be afforded an opportunity to participate in the hearing on this application; and that the application thereafter be denied.

DATED this 26 day of November, 2003.

Respectfully Submitted,  
SUMMIT LAW GROUP, PLLC

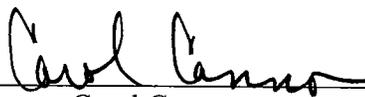
By   
Polly L. McNeill  
Attorneys for Protestant

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing Protest upon all parties of record in this proceeding, by mailing a copy thereof, properly addressed with postage prepaid, to the Applicant through its counsel at 400 N. Commercial, Bellingham WA 98225.

DATED at Seattle, Washington, this 26<sup>TH</sup> day of November, 2003.

  
\_\_\_\_\_  
Carol Cannon

# Exhibit A



WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Certificate of Public Convenience and Necessity for the Operation of a Garbage and Refuse Collection Company

Order M. V. G. No. 559

THIS IS TO CERTIFY: That

Razore, Josie & Agostino Sanitary Service Company 219 Prospect Street Bellingham Wash 98225 Cert.G-14 D-1

is authorized to operate motor vehicles as a GARBAGE AND REFUSE COLLECTION COMPANY in the transportation of commodities and in the territory described herein. This certificate is issued pursuant to and subject to the restrictions of Chapter 295 of the Laws of 1961 and acts amendatory thereof and supplemental thereto and the rules and regulations of the Washington Utilities and Transportation Commission adopted thereunder.

GARBAGE AND REFUSE COLLECTION SERVICE in the City of Bellingham and in Whatcom County (EXCLUDING the City of Blaine, Washington and within a radius of one mile of said city limits; EXCLUDING that portion of Whatcom County described as Point Roberts; EXCLUDING that portion of Whatcom County beginning at the N. E. corner of Sec. 32, T. 41 N., R. 1 E.; thence south on Harvey Road projected to I-5 Highway; thence southeasterly on I-5 Highway to Birch-Bay-Lynden Road; thence east on Birch-Bay-Lynden Road projected to the Hannegan Road; thence south on Hannegan Road to Hemmi Road; thence east on Hemmi Road, Fazon Road, Goshen Road and Cedarville Road to SR-542; thence easterly and northerly on SR-542 to Kendall Road; thence northerly and westerly on Kendall Road to Hillview Road; thence easterly and northerly on Hillview Road to Nims Road; thence north on Nims Road projected to the Canadian boundary; thence west on the Canadian boundary to the N. E. corner of Sec. 32, T. 41 N., R. 1 E., the place of beginning; and EXCLUDING that portion of Whatcom County described as follows: starting at the point where Wiser Lake Road intersects with the east line of Section 32, T. 40 N., R. 3 E. (Hannegan Road); thence south on Hannegan Road to Axton Road; thence west on the center line of Axton Road to a point 100 feet east of Guide Meridian Road; thence north on a line 100 feet east of Guide Meridian Road to the point of intersection with Wiser Lake Road; thence east on Wiser Lake Road to the east line of Section 32, T. 40 N., R. 3 E. (Hannegan Road), the place of beginning.

M. V. G. No. 559 9-14-72

SEP 29 1972

Dated at Olympia, Washington, , 19.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

By [Signature]

# PERMIT FOR THE OPERATION OF

THIS IS TO CERTIFY: That

# MOTOR PROPULSED VEHICLES



Triangle Transfer, Inc.  
6063 Portal Way  
Ferndale Wash 98248

CC-7742 2

D-1

ORDER No. M. V. 77788

is authorized to operate motor vehicles as a COMMON CARRIER in the transportation of commodities and in the territory described herein.

Intrastate, irregular route, non-radial service as a carrier of Agricultural Commodities consisting of hay, grain and potatoes only; Building Materials consisting of lumber and shingles only; as an operator of Dump Trucks in the transportation of dirt, sand and gravel only; and Livestock in Whatcom and Skagit Counties and inter-county; Garbage, refuse and rubbish in Whatcom County (excluding garbage in the City of Bellingham and within a radius of 12 miles thereof); Scrap iron or steel for melting purposes only, from points in Whatcom County to points in King and Pierce Counties; Trichloroethylene in steel drums, and cryolite in bags in Whatcom County.

Interstate, irregular route, non-radial service as a carrier of such commodities as may be exempt from regulation by the Interstate Commerce Commission, under the Federal Motor Carrier Act between points in the State of Washington on the one hand and points in Canada on the other hand. Waiver of Rule 16 is granted to permit this carrier to transport its own Agricultural Commodities and farm equipment in Whatcom and Skagit Counties; and its own scrap iron or steel from Whatcom County to points in King and Pierce Counties.

M-D-7-8-17-19 M.V. 77788 11-5-62

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Dated at Olympia, Washington, Nov 7, 1962

By.....