

SUMMIT LAW GROUP®

a professional limited liability company

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REGISTRATION
2009 AUG 10 AM 10:05
STATE OF WASH.
UTILITY AND TRANSP.
COMMISSION

August 8, 2009

David Danner, Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250

**Re: Docket TG-091026: Protest of Sanitary Service Company, Inc.
and Blaine-Bay Refuse, Inc.**

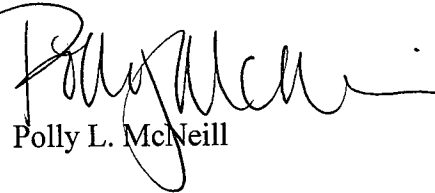
Dear Secretary Danner:

Enclosed for filing please find the original and twelve (12) copies of a Protest of Sanitary Service Company, Inc. and Blaine-Bay Refuse, Inc. with regard to the above-identified application for a certificate of public convenience and necessity authorizing solid waste collection. Electronic copies will also be filed through the Records Center, and a copy has been served on the Applicant as well.

Thank you for your consideration of this matter.

Sincerely,

SUMMIT LAW GROUP PLLC



Polly L. McNeill

Enclosures

cc: Paul Razore
Ed Nikula
Pat Dunn
Penny Ingram

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STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION
2009 AUG 10 AM 10:13
RECEIVED
REGULATORY MANAGEMENT

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In re Application of:)	APPLICATION NO. TG-091026
Northwest Liquid Transport 1)	PROTEST OF
530 H Street Road)	SANITARY SERVICE COMPANY, INC.
Lynden, WA 98264)	And
)	BLAINE-BAY REFUSE, INC.
)	
)	
)	
)	
)	

COMES NOW Sanitary Service Company, Inc., holder of Certificate No. G-14, and Blaine-Bay Refuse, Inc., holder of Certificate No. G-145 ("Protestants" herein), by and through their attorney, Polly L. McNeill of Summit Law Group, and respectfully protest the granting of the above-numbered application on the grounds and basis set forth below:

I.

Applicant Northwest Liquid Transport 1 has requested a certificate of public convenience and necessity for the following operating authority (the "Authority Sought"):

Solid waste collection services under contract with Nature's Path Food USA, Inc., located in Blaine Washington, to collect and transport for disposal a mixture of sugar water and solids from the plant in Whatcom County.

1 Protestant Sanitary Service Company, Inc., 1001 Roeder Avenue, Bellingham, WA 98227,
2 performs solid waste collection services pursuant to a certificate of convenience and necessity issued
3 by this Commission, or its predecessor. Certificate No. G-14 is attached hereto as Exhibit A.
4 Protestant's certificated area includes Whatcom County, which is within the territory sought by the
5 Applicant.
6

7 Protestant Blaine-Bay Refuse, Inc., 1001 Roeder Avenue, Bellingham, WA 98227, performs
8 solid waste collection services pursuant to a certificate of convenience and necessity issued by this
9 Commission, or its predecessor. Certificate No. G-145 is attached hereto as Exhibit B. Protestant's
10 certificated area includes the City of Blaine, also within the territory sought by the Applicant.
11

12 On information and belief, Protestants understand that the Applicant intends to perform solid
13 waste collection services involving vacuum removal of liquid and semi-liquid waste water which can
14 only be transported in liquid tanker trucks. However, the Authority Sought is not strictly limited to
15 such services. If approved as docketed, the Authority Sought could be interpreted to authorize
16 Applicant to collect solid waste that does not require use of tanker trucks.
17

18 To the extent the service which the Applicant seeks could be interpreted to authorize collection
19 of materials other than liquid and semi-liquid waste water that can only be transported in tanker trucks:

- 20 Protestants own and operate solid waste collection equipment suitable for the
21 transportation of the solid waste materials, and
- 22 Protestants employ personnel and drivers who are thoroughly experienced in solid
23 waste transportation activities, and
- 24 Protestants have performed solid waste collection services for many years to serve the
25 shipping public throughout the City of Blaine and Whatcom County, and
26
27
28

- 1 □ Protestants are constantly expending substantial sums of money for the hiring, training
2 and supervision of personnel; and for investing capital in solid waste collection
3 equipment.
4

5 For the foregoing reasons, Protestants have an interest in this proceeding.

6 II.

7 To the extent the Authority Sought could be interpreted to authorize collection of materials
8 other than liquid and semi-liquid waste water that can only be transported in tanker trucks, it conflicts
9 with Protestants' authority for which Protestant are suitably and adequately equipped and otherwise
10 qualified, ready, willing and able to provide all the relevant transportation service required by the
11 shipping public for the Amendment Area. Protestants therefore allege that the Authority Sought is not
12 warranted by the public convenience and necessity and is not in the public interest. Protestants remain
13 ready, willing and able to provide the services which their operating certificates authorize to Nature's
14 Path Food USA, Inc. to the satisfaction of the Commission. Protestants are fit, willing and able to
15 continue to properly perform the services proposed and to conform to the provisions of Ch. 81.77
16 RCW and the requirements, rules and regulations of this Commission thereunder.
17

18 III.

19 Protestants believe and therefore allege that the Applicant is not fit, willing and able to provide
20 the requested service to the extent the Authority Sought could be interpreted to authorize collection of
21 materials other than liquid and semi-liquid waste water that can only be transported in tanker trucks.
22

23 IV.

24 Unless the Applicant restrictively amends the Authority Sought to preclude collection of solid
25 waste in containers, and limit the Authority Sought to liquid and semi-liquid waste water that can only
26 be transported in tanker trucks, Protestants request that the Applicant be required to submit strict proof
27 of its ability to provide services that conflict with Protestants' certificated rights, and to produce
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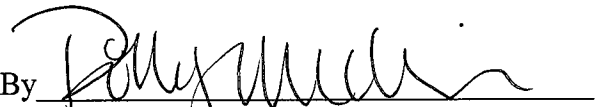
1 competent witnesses at a hearing for cross-examination on all material and relevant facts bearing on the
2 protested portion of application. If an oral hearing is held, Protestants will appear and present evidence
3 of their own operations and particular interests in the application, and estimate that they will call 1-2
4 witnesses with a hearing time for the testimony of the witness of no more than two hours.
5

6 WHEREFORE, Protestants pray that they be afforded an opportunity to participate in the
7 hearing on this application; and that the application thereafter be denied.
8

9 DATED this 7th day of August 2009.

10 Respectfully Submitted,

11 SUMMIT LAW GROUP, PLLC
12

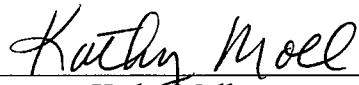
13
14 By 
15 Polly L. McNeill
16 Attorneys for Protestants
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CERTIFICATE OF SERVICE

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, Lesa Starkenburg-Kroontje, at 313 Fourth Street, Lynden WA 98264.

DATED at Seattle, Washington, this 7th day of August 2009.



Kathy Moll

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

For the Operation of Motor Propelled Vehicles

pursuant to the provisions of Chapter 81 RCW

THIS IS TO CERTIFY that authority is granted to operate as a MOTOR CARRIER in the transportation of the commodities and in the territory described herein to

SANITARY SERVICE CO., INC.
d/b/a SANITARY SERVICE COMPANY
AND RECYCLING SERVICE
1001 ROEDER AVE.
POST OFFICE BOX 1702
BELLINGHAM, WA 98227

Cert. No.
G-14

SOLID WASTE 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 northwest corner of Section 4, T10E, R40N; thence south on the west line of said section to the northeast corner of Section 20, T10E, R39N; thence west on the north line of said section to the northwest corner of Section 22, T9E, R39N; thence south on the west line of said section to the northeast corner of Section 33, T9E, R39N; thence west on the north line of said section to the northwest corner of Section 36, T8E, R39N; thence south on the west line of said section to the southwest corner of Section 36, T8E, R37N (also the Whatcom-Skagit County line); thence east along the south range line of R37N (also the Whatcom-Skagit County line) to its intersection with the Whatcom-Okanogan County line (near the south line of Section 33, T16E, R37N); thence northerly along said county line to its intersection with the north range line of

(Continued)



WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

Carole J. Shackburn

EXHIBIT A.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Continuation

R40N (near the north line of Section 2, T15E, R40N); thence west along said range line to the northwest corner of Section 4, T10E, R40N, the point of beginning.

TO THE EXTENT THAT THE AUTHORITY GRANTED IN THIS ORDER DUPLICATES ANY AUTHORITY PREVIOUSLY GRANTED OR NOW HELD SHALL NOT BE CONSTRUED AS CONFERRING MORE THAN ONE OPERATING RIGHT NOR SHALL ANY DUPLICATING RIGHTS BE AVAILABLE FOR PURPOSES OF TRANSFER

TG-011394

02-13-02



(Continued)

For the Operation of Motor Propelled Vehicles

pursuant to the provisions of Chapter 81 RCW

THIS IS TO CERTIFY that authority is granted to operate as a MOTOR CARRIER in the transportation of the commodities and in the territory described herein to

Blaine-Bay Refuse, Inc.
Box 66
Blaine, WA 98230

CERT. NO.
G-145

D-1

GARBAGE AND REFUSE COLLECTION SERVICE In the City of Blaine, Washington, and within a radius of one mile of said city limits in Whatcom County. In that portion of Whatcom County described as follows: Starting at the intersection of the Blaine Road and Hall Road; thence south on the Blaine Road to the Grandview Road; thence west on the Grandview Road extended to Point Whitehorn; thence north on Birch Bay Drive to Birch Point Road; thence west on Birch Point Road to Semiahmoo Drive; thence north on Semiahmoo Drive to Drayton Harbor Road; thence east on Drayton Harbor Road to Blaine Road; thence north along Blaine Road to the point of beginning.

M. V. G. No. 1208

9-26-85

WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

By Thomas Fischer

EXHIBIT B

