

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET TG-080913
TRANSPORTATION COMMISSION,)	<i>(consolidated)</i>
)	
Complainant,)	
v.)	
)	
POINTS RECYCLING AND REFUSE,)	
LLC,)	
)	
Respondent.)	
.....)	
WHATCOM COUNTY,)	DOCKET TG-081089
)	<i>(consolidated)</i>
)	
Complainant,)	
v.)	
)	
POINTS RECYCLING AND REFUSE,)	
LLC,)	
)	
Respondent.)	
.....)	
RENEÉ COE, SHELLEY)	DOCKET TG-082129
DAMEWOOD, and SHANNON)	<i>(consolidated)</i>
TOMSEN,)	
)	
Complainants,)	
v.)	
)	
POINTS RECYCLING AND REFUSE,)	
LLC,)	
)	
)	
Respondents.)	
.....)	

RESPONSE TO NOTICE OF REQUIRED DECLARATION

Shannon Tomsen, Complainant

Due on or before Monday, April 6, 2009 at 12:00pm

In response to Judge Moss' March 30, 2009, notice, I declare that I have not discussed the parties' positions and/or any tentative agreements to settle with individuals who are not parties to this proceeding or the mediation. Nor have I provided to any person(s) documents relating to the positions of the parties and/or reflecting tentative agreements to settle.

I did give the All Point Bulletin reporter, Meg Olson, copies of two documents included by Whatcom County in their reply to our March 5, 2009, data request. The first was an undated email from Whatcom County Solid Waste staff, Penni Lemperes, which begins with: "First of all, please keep this e-mail confidential." The second was "Comments from 9/24/08 meeting regarding Pt Roberts Recycling/Garbage Curbside Collection." I also spoke with Ms. Olson on March 24 and 25 regarding a letter to the editor I wrote on March 24, 2009. Those conversations are outlined below.

On March 20, I emailed Ms. Cameron-Rulkowski and asked her to confirm that the information given in a data request is not privileged and, as a result, it can be shared with the public. Since it was late on a Friday and I wanted an answer before the weekend, I called her at her office to see if she was available. She was there and said she was getting ready to reply to my email but needed to confirm there were no protective orders in the matter. I told her there were no protective orders. She said that there should be no problem sharing the information.

Given that assurance and the fact that the email and comments memo were available to the public, I wrote a letter to the All Point Bulletin editor the morning of March 24, 2009, included below. Ms. Olson called late that evening to inform me that unless I provided documents supporting the contents of my letter, they could not run the letter. I hesitated and said I wanted to check again and make sure I could release the information. I then reviewed the email and memo and decided I was not violating any order or confidence by giving her those two documents.

We spoke again on March 25, 2009. By this time it was clear she was writing another article about the February mediation. Paraphrasing her question: how did you feel about the mediated settlement? I refused to answer any question about mediation. I said several times that I believed that the mediation process can work in general but I had no comment about this specific mediation because it was confidential.

Ms. Olson told me that she already had the mediation documents and that she knew what the agreement was. I told her that what she had been given and what she was told was privileged and that I would not take part in it. I informed her that everyone in the mediation had signed a document in front of the judge saying they would keep everything confidential – that the agreement basically was a judge's order. When she pressed for

more, I reiterated that someone broke the law by sharing with her whatever was shared, there was no way I would, and I would not discuss it further.

We also spoke at length about the Whatcom County email and memo. I told her that my impressions of the County's stance in this matter were formed in an October 2008 conversation I had with Frank Abart, Whatcom County Public Works Director.

March 24, 2009, letter to All Point Bulletin Editor:

In the September 2008 edition of the All Point Bulletin, I wrote a letter saying that if we lost curbside recycling, there was no guarantee that curbside garbage pickup would continue and/or there would not be rate increases. So far, it turns out that at least one of those predictions may have been on the mark: self-haul garbage.

Last week, I learned that on September 24, 2008, Whatcom County Solid Waste held a meeting it wanted kept confidential about "serious issues going on in Point Roberts with the current recycling and garbage curbside pickup."

The attendees were a consultant from King County, an Island County official, solid waste haulers from two Whatcom County companies, two Whatcom County Solid Waste staff members, and a county attorney. They sat down to discuss what they saw as two general principles: "Point Roberts is too small to sustain viable mandatory curbside garbage and recycling pickup," and, "The county will recognize and utilize legitimate private sector providers."

Notes from this secret meeting do not show how they arrived at either of the principles discussed. While the notes state that they saw no reason to stop our current hauler from curbside garbage pickup, they also appear very willing to create a "separate disposal district, with 100 percent of garbage and recycling being self-haul and an excise tax on every property owner to finance manning [sic] disposal site." This new district would be for Point Roberts only.

These problems began because of equipment failure. In January 2008, the hauler decided to break the law and stop curbside recycling when his truck broke down.

In February 2009, one of the hauler's garbage vehicles was totaled in an accident. The hauler's two remaining garbage vehicles are from 1989 and 1993. There is no indication in any financial documents supplied to the WUTC that in at least the last five years of operation the hauler has been saving money to buy new vehicles.

With the county's attitude and the hauler's equipment, it cannot be too long before we all are self-hauling garbage.

Shannon Tomsen,
Point Roberts

(Publisher note: The meeting in question is public knowledge; written materials produced by/or related to the meeting are available for inspection by the public.)

Dated this ____ day of April, 2009.

Shannon Tomsen