

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

MURREY'S DISPOSAL COMPANY, INC.,

Complainant,

v.

WASTE MANAGEMENT OF
WASHINGTON, INC., WASTE
MANAGEMENT DISPOSAL SERVICES OF
OREGON, INC., AND MJ TRUCKING &
CONTRACTING,

Respondents.

DOCKET TG-200650 and
TG-200651 (*Consolidated*)

**DECLARATION OF JESSICA L.
GOLDMAN IN SUPPORT OF
RESPONDENTS' MOTION FOR
SUMMARY JUDGMENT**

MURREY'S DISPOSAL COMPANY, INC.,

Complainant,

v.

WASTE MANAGEMENT OF
WASHINGTON, INC., WASTE
MANAGEMENT DISPOSAL SERVICES OF
OREGON, INC., AND DANIEL ANDERSON
TRUCKING AND EXCAVATION, LLC,

Respondents.

I, Jessica L. Goldman, hereby declare:

1. I am counsel of record for Respondents in this matter. I am over the age of 18 and make this declaration based on personal knowledge.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the February 10, 2011 letter from David Pratt of the Washington Utilities and Transportation Commission to Andrew Kenefick of Waste Management of Washington, Inc.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED in Seattle, Washington this 16th day of March, 2021.

/s/ Jessica L. Goldman

Jessica L. Goldman, WSBA No. 21856

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, by the method as indicated below, pursuant to WAC 480-07-150.

<p><i>Attorneys for Complainant Murrey's Disposal Co., Inc.</i></p> <p>Blair I. Fassburg, WSBA #41207 David W. Wiley, WSBA #08614 Sean D. Leake, WSBA #52658 WILLIAMS, KASTNER & GIBBS PLLC 601 Union Street, Suite 4100 Seattle, WA 98101-2380 Legal Asst: Maggi Gruber dwiley@williamskastner.com bfassburg@williamskastner.com sleake@williamskastner.com mgruber@williamskastner.com</p>	<p><input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email</p>
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DATED this 16TH day of March, 2021.

s/ Sharon K. Hendricks

Sharon K. Hendricks, Legal Assistant
sharonh@summitlaw.com

EXHIBIT NO. 1



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY (360) 586-8203

February 10, 2011

Andrew M. Kenefick, Senior Legal Counsel
Waste Management of Washington, Inc.
801 Second Avenue, Suite 614
Seattle, WA 98104

RECEIVED
FEB 15 2011
WM WESTERN GROUP
LEGAL OFFICE

RE: Atlas Trucking, Inc./Nippon Paper Industries USA

Dear Mr. Kenefick:

Staff of the Washington Utilities and Transportation Commission (commission) reviewed the information you provided in response to its January 19 request.

Based on staff's review and the analysis of our attorney general staff, we believe the transportation of solid waste-filled containers by Atlas Trucking from Nippon Port Angeles to the Olympic View Transfer Station in Port Orchard is exempt Trailer On Flat Car/Container On Flat Car (TOFC/COFC) service under 49 C.F.R. §§ 1090.1 and 1090.2, and is preempted from regulation by the commission.

Under 49 C.F.R. § 1090.1, highway transport of freight is defined as TOFC/COFC if, among other things, the container is not unloaded before the freight reaches its final destination. The information you provided indicates that the containers are not unloaded between Nippon Port Angeles and the Columbia Ridge landfill in Oregon.

Under 49 C.F.R. § 1090.2, motor carrier TOFC/COFC pickup and delivery services arranged independently with the shipper or receiver and performed immediately before or after a TOFC/COFC movement provided by a rail carrier are considered exempt. Based on the information provided, Waste Management Disposal Services of Oregon (WMDSO) is the receiver. WMDSO owns the containers but does not transport them, and arranges for their transportation from Nippon to the Columbia Ridge landfill in Oregon. WMDSO arranges with Atlas for motor carrier TOFC/COFC pickup and delivery services immediately before a TOFC/COFC movement provided by Union Pacific Railroad.



This letter states the informal opinions of commission staff, offered as technical assistance, and is not intended as legal advice. We reserve the right to amend these opinions should circumstances change or additional information be brought to our attention. Staff's opinions are not binding on the commission.

Thank you for your timely response and cooperation. Staff now considers this matter closed. If you have any questions, please contact Betty Young, Compliance Investigator, Transportation Safety. Ms. Young can be reached at (360)664-1202, or by e-mail at byoung@utc.wa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "David Pratt". The signature is written in a cursive style with a large initial "D".

David Pratt
Assistant Director, Transportation Safety

cc: Bruce Swenson, Atlas Trucking, Inc.