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July 2, 2007

VIA FEDEX and
VIA EMAIL TO WUTC RECORDS CENTER
records@wutc.wa.gov

Ms. Carole J. Washburn
WUTC Executive Secretary
Washington Utilities and Transportation Commission
PO Box 47250
Olympia WA 98504-7250

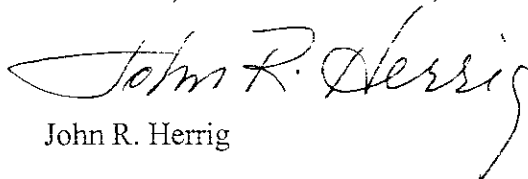
Re: Waste Connections of Washington, Inc. vs.
Enviro/Con & Trucking, Inc., et al
Case No. Unknown

Dear Ms. Washburn:

Enclosed please find the original and twelve (12) copies of Answer and Affirmative Defenses of Defendant Envirocon, Inc., with attached Certificate of Service, for filing with the Commission. Please stamp the copy as received or filed and return to use in the enclosed self-addressed stamped envelope.

Thank you.

Very truly yours,
HERRIG, VOGT & STOLL, LLP



John R. Herrig

Enclosures

cc: Envirocon, Inc.

1 John R. Herrig, Esq., WSBA # 8772
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8 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
9 COMMISSION

9 WASTE CONNECTIONS OF)
10 WASHINGTON, INC.) NO. TG-071194
11)
12 Complainant,) ANSWER AND AFFIRMATIVE
13) DEFENSES OF RESPONDENT
14 vs.) ENVIROCON, INC.
15)
16 ENVIRO/CON & TRUCKING, INC., a)
17 Washington corporation, ENVIROCON,)
18 INC., a corporation, and WASTE)
19 MANAGEMENT DISPOSAL SERVICES)
20 OF OREGON, INC.,)
21)
22 _____ Respondents.)

23 COMES NOW Respondent Envirocon, Inc., (“Envirocon”) by and through its
24 attorneys, HERRIG, VOGT & STOLL, LLP, and answers the Complaint filed herein by
25 the Complainant as follows:

26 ANSWER TO PARAGRAPH 1

Respondent Envirocon is without knowledge or information sufficient to form a
belief as to the truth or falsity of the allegations averred therein and therefore denies the
same.
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ANSWER TO PARAGRAPH 2

To the extent that a paragraph 2 exists in said Complaint, Respondent Envirocon lacks sufficient knowledge or information to admit or deny the allegations averred therein and therefore denies the same.

ANSWER TO PARAGRAPH 3

Respondent Envirocon denies the allegations contained therein to the extent they refer in any way to this answering respondent. To the extent said allegations refer to other entities, this respondent is without knowledge or information sufficient to form a belief as to the truth or falsity thereof, and therefore denies the same.

ANSWER TO PARAGRAPH 4

Respondent Envirocon is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations averred therein and therefore denies the same.

ANSWER TO PARAGRAPH 5

Respondent Envirocon denies the allegations contained therein to the extent they refer in any way to this answering respondent. To the extent said allegations refer to other entities, this respondent is without knowledge or information sufficient to form a belief as to the truth or falsity thereof, and therefore denies the same.

ANSWER TO PARAGRAPH 6

Respondent Envirocon denies the allegations contained therein to the extent they refer in any way to this answering respondent. To the extent said allegations refer to other entities, this respondent is without knowledge or information sufficient to form a belief as to the truth or falsity thereof, and therefore denies the same.

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ANSWER TO PARAGRAPH 7

The allegations of paragraph 7 constitutes a legal conclusion to which no responsive pleading is required. To the extent a response is deemed to be required, Respondent Envirocon denies the allegations contained therein to the extent they refer in any way to this answering respondent. To the extent said allegations refer to other entities, this respondent is without knowledge or information sufficient to form a belief as to the truth or falsity thereof, and therefore denies the same.

ANSWER TO PARAGRAPH 8

Respondent Envirocon is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations averred therein and therefore denies the same.

ANSWER TO PARAGRAPH 9

Respondent Envirocon denies the allegations contained therein to the extent they refer in any way to this answering respondent. To the extent said allegations refer to other entities, this respondent is without knowledge or information sufficient to form a belief as to the truth or falsity thereof, and therefore denies the same.

ANSWER TO PARAGRAPH 10

The allegations of paragraph 7 constitutes a legal conclusion to which no responsive pleading is required. To the extent a response is deemed to be required, Respondent Envirocon denies the allegations contained therein to the extent they refer in any way to this answering respondent. To the extent said allegations refer to other entities, this respondent is without knowledge or information sufficient to form a belief as to the truth or falsity thereof, and therefore denies the same.

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ANSWER TO PARAGRAPH 11

Respondent Envirocon denies the allegations contained therein to the extent they refer in any way to this answering respondent. To the extent said allegations refer to other entities, this respondent is without knowledge or information sufficient to form a belief as to the truth or falsity thereof, and therefore deny the same.

ANSWER TO PARAGRAPH 12

Respondent Envirocon denies the allegations contained therein to the extent they refer in any way to this answering respondent and objects to a brief adjudicated proceeding.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

As a first, separate and affirmative defense, Respondent Envirocon alleges that Complainant's Complaint fails to state facts sufficient to constitute a cause of action against Respondent Envirocon.

SECOND AFFIRMATIVE DEFENSE

As a second, separate and affirmative defense, Respondent Envirocon alleges that Complainant's Complaint, and each and every cause of action contained therein, is uncertain, ambiguous and unintelligible, and that recovery thereon is therefore barred.

THIRD AFFIRMATIVE DEFENSE

As a third, separate and affirmative defense, Respondent Envirocon alleges that any relief hereunder by Complainant is barred by the doctrine of laches.

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FOURTH AFFIRMATIVE DEFENSE

As a fourth, separate and affirmative defense, Respondent Envirocon alleges that to the extent that Complainant alleges any failure to perform on the part of Respondent Envirocon, the fact of which is expressly denied, Complainant is estopped to assert any such claimed failure to perform, or to recover therefore.

FIFTH AFFIRMATIVE DEFENSE

As a fifth, separate and affirmative defense, Respondent Envirocon is informed and believes, and upon such information and belief alleges, that Complainant has failed to join all indispensable parties as Respondents in this action.

SIXTH AFFIRMATIVE DEFENSE

As a sixth, separate and affirmative defense, Respondent Envirocon alleges that each and every cause of action in Complainant's Complaint is barred by the applicable statute of limitations.

SEVENTH AFFIRMATIVE DEFENSE

As a seventh, separate and affirmative defense, Respondent Envirocon alleges that the State of Washington, Department of Ecology has preempted any jurisdiction on the Evergreen Aluminum Plant site in accordance with a SEPA review done by said agency.

EIGHTH AFFIRMATIVE DEFENSE

As an eighth, separate and affirmative defense, Respondent Envirocon alleges that any prosecution of criminal statutes in this proceeding violates its constitutional rights under the Constitution of the State of Washington and the United States Constitution.

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NINTH AFFIRMATIVE DEFENSE

As a ninth, separate and affirmative defense, Respondent Envirocon alleges that the intervention of Clark County Prosecutorial offices for violation of Clark County Code Chapter 24.12 violates its due process rights under the Constitution of the State of Washington and the United States Constitution.

TENTH AFFIRMATIVE DEFENSE

As a tenth, separate and affirmative defense, Respondent Envirocon alleges that operations at the Evergreen Aluminum Plant were legally proper under color of authority of a demolition permit issued by Clark County and SEPA review by the State of Washington, Department of Ecology and all actions of this answering Respondent were in compliance with said permit and SEPA review.

ELEVENTH AFFIRMATIVE DEFENSE

As an eleventh separate and affirmative defense, Respondent Envirocon alleges that Complainant has failed to follow the administrative procedures under Clark County for complaints of violation of Chapter 24.12 *et seq.* and that such procedures are a condition precedent to its actions in this forum.

TWELFTH AFFIRMATIVE DEFENSE

As a twelfth, separate and affirmative defense, and in the alternative, Respondent Envirocon alleges that Chapter 24.12 is obsolete and ambiguous due to significant portions being repealed and that said statute has not complied with WAC 173-304-011, RCW 70.59.080 and RCW 70.95.110 and is thus unenforceable.

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THIRTEENTH AFFIRMATIVE DEFENSE


As a thirteenth, separate and affirmative defense, Respondent Envirocon alleges that this matter is not susceptible to resolution by a brief adjudicative proceeding because the requirements of RCW 34.05.482 have not been met, and the issues and interests involved in the controversy may warrant use of the procedures of RCW 34.05.413 through 34.05.479.

WHEREFORE, Respondent Envirocon, Inc. prays for the following:

1. Denial of the relief requested by Complainant as to this Respondent;
2. Disposal of Complainant's application pursuant to RCW 34.05.416;
3. An award of attorneys' fees and costs as permitted under applicable law;
4. Dismissal of Respondent Envirocon, Inc.; and
5. All other relief that is deemed just, equitable and proper.

DATED this 29th day of June, 2007.

HERRIG, VOGT & STOLL, LLP.

By: 
John R. Herrig, WSBA No. 8772
Attorney for Respondent Envirocon, Inc.

CERTIFICATE OF SERVICE

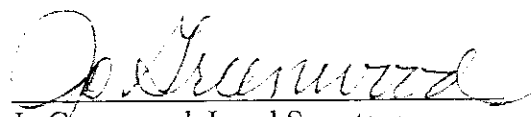
I hereby certify that I have this day service with this document upon all parties of record in this proceeding, by the method as indicated below, pursuant to WAC 480-07-150

<input checked="" type="checkbox"/> Original <input type="checkbox"/> True and Correct Copies (12) via <input type="checkbox"/> FedEx <input type="checkbox"/> Email	Ms. Carole J. Washburn WUTC Executive Secretary Washington Utilities and Transportation Commission PO Box 47250 Olympia WA 98504-7250 records@wutc.wa.gov
<input type="checkbox"/> True and Correct Copy via <input type="checkbox"/> U.S. First Class Mail <input type="checkbox"/> Email	<i>Attorneys for Waste Connections of Washington, Inc.</i> David W. Wiley & Jacob M. Downs Williams, Kastner & Gibbs, PLLC PO Box 21926 Seattle WA 98111-3926 dwiley@williamskastner.com jdowns@williamskastner.com
<input type="checkbox"/> True and Correct Copy via <input type="checkbox"/> U.S. First Class Mail <input type="checkbox"/> Email	<i>Attorney for Waste Management Disposal Services of Oregon, Inc.</i> Polly L. McNeill Summit Law Group 315 - 5th Avenue So. Seattle WA 98104 pollym@summitlaw.com
<input type="checkbox"/> True and Correct Copy via <input type="checkbox"/> U.S. First Class Mail <input type="checkbox"/> Email	<i>Attorney for Washington Refuse and Recycling Association</i> James R. Sells Ryan Sells Uptegraft Inc. PS 9675 Levin Road N.W. Ste. 240 Silverdale WA 98383-7620 jimsells@rsulaw.com
<input type="checkbox"/> True and Correct Copy via <input type="checkbox"/> U.S. First Class Mail <input type="checkbox"/> Email	<i>Clark County Prosecuting Attorney Office</i> Bronson Potter, Deputy Prosecuting Attorney Civil Division PO Box 5000 Vancouver WA 98666-5000 Bronson.potter@clark.wa.gov

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x True and Correct Copy via x U.S. First Class Mail	<i>Registered Agent for Enviro/Con & Trucking, Inc.</i> RCS Corp. 1201 3rd Avenue, Suite 3400 Seattle WA 98101-3034
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DATED at Kennewick, Washington this 2nd day of July, 2007


Jo Greenwood, Legal Secretary