



UTC

Washington Utilities
and Transportation
Commission

Investigation Report

Somers Sunrise Enterprises LLC

TG-230191

Kathryn McPherson
Compliance Investigations

April 2023

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PURPOSE, SCOPE, AND AUTHORITY

Purpose

The purpose of this investigation is to determine if Somers Sunset Enterprises LLC (Somers) operated as a solid waste collection company for compensation on the public highways of the state of Washington without the necessary certificate required for such operations by RCW 81.77.040.

Scope

The investigation focuses on information obtained by Washington Utilities and Transportation Commission (Commission) staff relating to Somers.

Authority

Commission staff (staff) undertakes this investigation under the authority of the Revised Code of Washington (RCW) 81.01.010, which adopts RCW 80.01, which directs the Commission to regulate transportation providers in the public interest, and to adopt such rules and regulations as may be necessary to do so. In addition, RCW 81.04.510 directs the Commission to conduct such an investigation. Appendix A includes relevant laws and rules.¹

¹ Attachment A - Applicable laws and rules.

INVESTIGATION

Overview

On December 17, 2021, staff received an inquiry from Mark Wash, General Manager with Consolidated Disposal Services, Inc. Wash reported that Somers transported waste for private orchards in Grant County and surrounding areas.² Staff investigated Somers operations and licensing, and believes the company is operating as a solid waste collection company without a certificate of convenience from the Commission, in violation of RCW 81.77.040.

Staff found that the company transported solid waste as follows:

1. Somers transported 90 loads of solid waste to the Grant County Landfill between July 1, 2022, and January 31, 2023.

Company Information

Somers registered with the State of Washington Business Licensing Service under UBI 604-455-229.³ Governing person for the business is Roger Somers, Jr. The Company's physical address is 12146 Road 13 NW, Quincy, Washington, 98848, and the mailing address is PO Box 51, Quincy, Washington, 98848.

Commission History

At the time staff received the inquiry about the Company, the Commission had no record of Somers.

Technical Assistance

On December 17, 2021, staff received an inquiry from Consolidated about the activities of Somers. Staff reviewed the operating authority of Somers and determined that Somers had no record with the Commission.

On January 6, 2022, Staff contacted Roger Somers to provide technical assistance regarding the transportation of waste without a certificate. Staff explained the Revised Code of Washington (RCW) 81.77.040. Staff explained to Somers that the Company cannot dispose of waste at a disposal facility that is generated and loaded into drop-boxes by their customers. Staff informed Somers that this business model requires a solid waste certificate.⁴

On January 10, 2022, staff sent a technical assistance letter to Somers for follow-up.⁵

² Attachment B – Email from Mark Wash, Consolidated Disposal Services, Inc.

³ Attachment C - Business License Department of Revenue.

⁴ Attachment D – Staff documentation of technical assistance provided January 6, 2022.

⁵ Attachment E – Copy of letter to Somers dated January 10, 2022.

On June 15, 2022, staff spoke with Somers to follow up on Company activities. Somers stated that he planned to resume business in the fall. Somers stated the company had been unable to contact licensing. Staff agreed to follow up by texting the licensing phone number to Somers.⁶ On June 15, 2022, Staff sent Somers a text with the correct number for licensing.⁷

On February 15, 2023, Staff received a complaint from Wash via email stating Somers continued to haul to the Grant County Landfill.⁸

On February 16, 2023, Staff requested all of Somers' transport information between July 1, 2022, and January 31, 2023, from the Grant County Solid Waste Supervisor, Jason Collings via email.⁹ Collings responded by email with Somers' transport information showing 90 transports totaling 552.04 tons of waste disposed during the requested dates.¹⁰

On February 17, 2023, Wash sent staff an email including photos of Somers at the Grant County Landfill.¹¹

STAFF FINDINGS AND RECOMMENDATIONS

Staff Findings

Commission staff finds that Somers knowingly violated RCW 81.77.040 at least 90 occurrences by engaging in the business of solid waste transportation without first having obtained a certificate from the Commission to do so. Specifically, Somers operated as a solid waste collection company when it:

1. Transported solid waste from private orchards in Grant County to a solid waste facility for disposal on at least 90 occasions between July 1, 2022, through January 31, 2023, for three facilities without first obtaining a solid waste certificate as it was previously instructed to do.

Staff Recommendations

Staff recommends that the Commission institute a classification proceeding under RCW 81.04.510 to determine whether Somers is operating as a solid waste collection company in Washington without the certificate required for such operations by RCW 81.77.040.

Staff recommends that the Commission file a complaint for penalties of up to \$1,000 per violation for a total of \$90,000, as authorized by RCW 81.04.380, against Somers for

⁶ Attachment F – Staff notes from June 15, 2022.

⁷ Attachment G – Text to Company.

⁸ Attachment H – Email from Wash dated February 15, 2023.

⁹ Attachment I – Email to Grant County Solid Waste.

¹⁰ Attachment J – Email from Grant County Solid Waste.

¹¹ Attachment K – Email from Wash dated February 17, 2023.

Somers Sunset Enterprises LLC
Docket TG-230191

engaging in the business of a solid waste carrier without obtaining the required certificate from the Commission.

Attachment A

Applicable Laws and Rules

RCW 80.04.405 allows the commission to assess an administrative penalty for any violation by a regulated company of a statute, rule, the company's own tariff, or commission order.

RCW 81.04.510 Duties of attorney general. It shall be the duty of the attorney general to represent and appear for the people of the state of Washington and the Commission in all actions and proceedings involving any question under this title, or under or in reference to any act or order of the Commission; and it shall be the duty of the attorney general generally to see that all laws affecting any of the persons or corporations herein enumerated are complied with, and that all laws, the enforcement of which devolves upon the Commission, are enforced, and to that end he or she is authorized to institute, prosecute, and defend all necessary actions and proceedings.

RCW 81.01.010 Adoption of provisions of chapter 80.01 RCW. The provisions of chapter 80.01 RCW, as now or hereafter amended, apply to Title 81 RCW as fully as though they were set forth herein.

RCW 81.04.380 allows the commission to assess a penalty not to exceed \$1,000 for each violation following a hearing.

Docket A-120061 - Enforcement Policy of the Washington Utilities and Transportation Commission – Section V.

Attachment B

McPherson, Kathryn (UTC)

From: MARK WASH <markwash1957@gmail.com>
Sent: Wednesday, February 15, 2023 10:51 AM
To: McPherson, Kathryn (UTC)
Subject: ILLEGAL HAULERS
Attachments: IMG_0803.JPG; IMG_1350.JPG; IMG_1341.JPG

External Email

Katherine,

Consolidated Disposal Services, Inc. G-190 still has at least two illegal haulers working in our WUTC Regulated Area.

2nd is Roger (Guy) Somers, company name Somers Sunrise Enterprises. I also petitioned Grant County to get a list of loads he has hauled into the Grant County Landfill. I'll send these photos in a separate email.

PLEASE let me know if anything is being done to curb these haulers from operating in our territory!

Mark Wash / General Manager
Consolidated Disposal Services, Inc.

Attachment C

License Information:	New search Back to results	
Entity name:	SOMERS SUNRISE ENTERPRISES, LLC	
Business name:	SOMERS SUNRISE ENTERPRISES LLC	
Entity type:	Limited Liability Company	
UBI #:	604-455-229	
Business ID:	001	
Location ID:	0001	
Location:	Active	
Location address:	12146 ROAD 13 NW QUINCY WA 98848-9419	
Mailing address:	PO BOX 51 QUINCY WA 98848-0051	
Excise tax and reseller permit status:	Click here	
Secretary of State status:	Click here	
Governing People <small>May include governing people not registered with Secretary of State</small>		
Governing people	Title	
SOMERS, JR., ROGER		
Registered Trade Names		
Registered trade names	Status	First issued
SOMERS SUNRISE ENTERPRISES LLC	Active	May-20-2019

Attachment D

3/29/23, 9:52 AM

Motor Carrier Activities - Telephone call to company

SharePoint

Newsfeed OneDrive Sites McPherson, Kathryn (UTC)  

Activity Date 1/6/2022 1:08 PM
 Title Telephone call to company
 Activity Status Complete
 Activity Due Date
 Activity Type [Phone call](#)
 Activity Mode
 Activity Contact Name Roger Somers
 Activity Contact Email
 Activity Contact Phone 509-750-9385
 Activity Contact Address
 Activity Contact Location

Desc Telephone call to company. I spoke with Roger. He states that he has been transporting mylar and apple wood for various orchards in his area. He states the orchard staff loads his containers. The mylar is taken to Wenatchee and the wood is transported to Oregon to make BBQ wood chips. I explained that these transports may be considered commercial recycling, which will require a common carrier permit. He states sometimes there is too much and he takes to waste station. I explained that would be unallowed unless he or his staff is clearing and cleaning land prior to loading. The orchard staff could not self load or else it is commercial garbage which requires a certificate. I stated I will follow up with him by letter and send via email for his reference. It will include the rules and a common carrier application. He says currently he is not active as it is not farming season.

UTC Staff Members McPherson, Kathryn (UTC)

InvestigationItemSPID 1,163

Activity Document Count 0

Is Reportable No

Investigation ID

Content Type: MotorCarrierInvestigationActivity
 Created at 1/6/2022 3:53 PM by McPherson, Kathryn (UTC)
 Last modified at 1/6/2022 3:53 PM by McPherson, Kathryn (UTC)

Close

Attachment E



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

621 Woodland Square Loop S.E. • Lacey, Washington 98503
P.O. Box 47250 • Olympia, Washington 98504-7250
(360) 664-1160 • TTY 1-800-833-6384 or 711

January 10, 2022

Roger Somers
Somers Sunset Enterprises LLC
PO Box 51
Quincy, WA 98848

Re: Technical Assistance Solid Waste Transportation

Dear Roger Somers,

The Washington Utilities and Transportation Commission (Commission) recently spoke with you regarding educational materials and offer technical assistance to companies transporting solid waste. Commission staff wants to ensure that your company has a clear understanding of the laws and rules surrounding the transportation of solid waste.

Solid waste collection includes residential and commercial garbage, residential recycling, yard waste, and drop box service. Companies operating as a solid waste transporter without the required operating authority may be subject to a penalty of \$1,000 per violation.¹ Until a company obtains a solid waste hauling certificate it must immediately cease and desist from operating or advertising as a solid waste transportation in Washington.

Solid waste collection does not include collecting or transportation solid waste as part of incidental waste from a residential or commercial project your company is working, such as junk hauling. Hauling must include the clearing, loading, and hauling by your employee, using company-owned equipment. It cannot include curbside or driveway pickups.

¹ Revised Code of Washington 81.04.380

Roger Somers
January 10, 2022
Page | 2

Solid waste hauling does not include recyclable material from a drop-box or recycling buy-back center, or collecting or transporting recyclable materials by or on behalf of a commercial or industrial generator of recyclable materials to a recycler for use or reclamation.²

Solid waste definitions subject to jurisdiction from the commission include the following per Washington Administrative Code 480-70-041:

- Garbage; Rubbish; Refuse; Swill; Ashes; Industrial wastes; Sewage sludge;
- Demolition and construction wastes; and
- Source-separated recyclable materials collected from single and multifamily residences.

"Construction debris" or "construction waste" means solid waste resulting from the building or renovation of buildings, roads, and other man-made structures. Construction debris includes, but is not limited to, materials such as plasterboard, cement, dirt, wood, and brush.

"Demolition waste" or "demolition debris" means solid waste resulting from the demolition or razing of buildings, roads, and other man-made structures. Demolition waste includes, but is not limited to, concrete, brick, bituminous concrete, wood and masonry, composition roofing and roofing paper, steel, and minor amounts of other metals like copper.

"Yard waste" or "yard debris" means plant material commonly created in the course of maintaining yards and gardens and through horticulture, gardening, landscaping, or similar activities. Yard waste includes, but is not limited to, grass clippings, leaves, branches, brush, weeds, flowers, roots, windfall fruit, and vegetable garden debris.

Solid Waste Certificate application

To provide solid waste collection services, including advertising, your Company must first submit a solid waste application. Your Company cannot operate until the Commission grants a solid waste certificate.

All applications are subject to public protest and your application must demonstrate that the current solid waste collection Company in your proposed service area is not providing the service your Company will offer. The Commission only grants new certificates if the current Company is unfit, unwilling, or unable to provide the service.

Common Carrier permit application

A certificate of convenience is not required for companies transporting waste derived from residential or commercial projects considered private carriage. Junk removal, where the Company's employees load and transport the waste using Company-owned equipment is considered incidental to the job performed.

² Revised Code of Washington 81.77.010

Somers Sunset Enterprises LLC
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Roger Somers
January 10, 2022
P a g e | 3

A Company transporting property, including general commodities, requires a common carrier permit per Revised Code of Washington (RCW) 81.80.070. Your Company may need to apply for a common carrier permit with the Commission. Information on how to apply for and obtain a common carrier permit is included in this letter.

Please contact **Kathryn McPherson, Solid Waste Investigator**, if you have questions regarding compliance with solid waste transportation laws. Ms. McPherson can be contacted via email at Kathryn.McPherson@utc.wa.gov, phone (360) 522-6121, or mail to PO Box 47250, Olympia, WA 98504.

Sincerely,

MATHEW PERKINSON
Assistant Director, Transportation Safety

Enclosures

Attachment F

3/29/23, 9:52 AM

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SharePoint

Newsfeed OneDrive Sites McPherson, Kathryn (UTC)  

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Desc Telephone call to company. I spoke with Roger. He states that he has been transporting mylar and apple wood for various orchards in his area. He states the orchard staff loads his containers. The mylar is taken to Wenatchee and the wood is transported to Oregon to make BBQ wood chips. I explained that these transports may be considered commercial recycling, which will require a common carrier permit. He states sometimes there is too much and he takes to waste station. I explained that would be unallowed unless he or his staff is clearing and cleaning land prior to loading. The orchard staff could not self load or else it is commercial garbage which requires a certificate. I stated I will follow up with him by letter and send via email for his reference. It will include the rules and a common carrier application. He says currently he is not active as it is not farming season.

UTC Staff Members McPherson, Kathryn (UTC)

InvestigationItemSPID 1,163


Activity Document Count 0

Is Reportable No

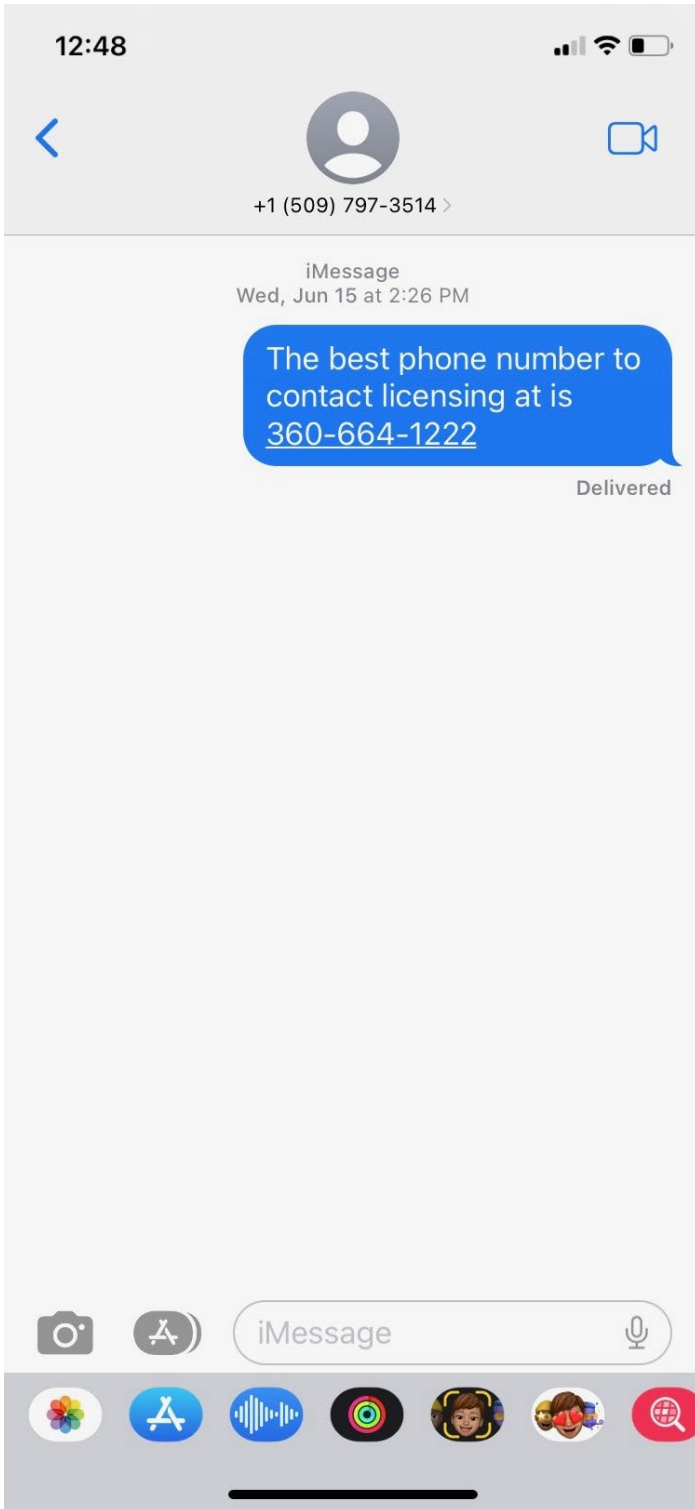
Investigation ID

Content Type: MotorCarrierInvestigationActivity
Created at 1/6/2022 3:53 PM by McPherson, Kathryn (UTC)
Last modified at 1/6/2022 3:53 PM by McPherson, Kathryn (UTC)

Close



Attachment G



Attachment H

McPherson, Kathryn (UTC)

From: MARK WASH <markwash1957@gmail.com>
Sent: Wednesday, February 15, 2023 10:51 AM
To: McPherson, Kathryn (UTC)
Subject: ILLEGAL HAULERS
Attachments: IMG_0803.JPG; IMG_1350.JPG; IMG_1341.JPG

External Email

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2nd is Roger (Guy) Somers, company name Somers Sunrise Enterprises. I also petitioned Grant County to get a list of loads he has hauled into the Grant County Landfill. I'll send these photos in a separate email.

PLEASE let me know if anything is being done to curb these haulers from operating in our territory!

Mark Wash / General Manager
Consolidated Disposal Services, Inc.

Attachment I

McPherson, Kathryn (UTC)

From: McPherson, Kathryn (UTC)
Sent: Thursday, February 16, 2023 3:08 PM
To: JCollings
Subject: RE: Compliance investigation

Thank you. I look forward to the information. Your assistance is appreciated.

Sincerely,

Kathryn McPherson
Investigator, Solid Waste Enforcement
(360) 522-6121

This email/letter states the informal opinions of commission staff, offered as technical assistance, and are 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.

From: JCollings <jcollings@grantcountywa.gov>
Sent: Thursday, February 16, 2023 2:52 PM
To: McPherson, Kathryn (UTC) <kathryn.mcpherson@utc.wa.gov>
Subject: RE: Compliance investigation

External Email

Received. If I don't get this info back to you today It will most likely be Monday.

Jason Collings

Supervisor
Grant County Solid Waste
jcollings@grantcountywa.gov
(509)754-4319 ext.3532

From: McPherson, Kathryn (UTC) <kathryn.mcpherson@utc.wa.gov>
Sent: Thursday, February 16, 2023 2:29 PM
To: JCollings <jcollings@grantcountywa.gov>
Subject: Compliance investigation

****EXTERNAL EMAIL****

This email originated from outside Grant County's network. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good day. Can you please provide all records of loads transported to the Grant County Landfill from July 1, 2022 though January 31, 2023 for Somers Sunrise Enterprises, LLC, UBI # 604-455-229.

Thank you,

Kathryn McPherson
Investigator, Solid Waste Enforcement
Transportation Safety Division
(360) 522-6121
Kathryn.Mcpherson@utc.wa.gov
www.utc.wa.gov



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Attachment J

From: JCollings
To: McPherson, Kathryn [UTC]
Subject: RE: Compliance Investigation
Date: Thursday, February 16, 2023 3:14:17 PM
Attachments: Invoice01.xlsx

External Email

Kathryn,

I have copy & pasted the information you requested below. If you are needing all individual invoices, that would take a bit more time to gather.

BillAcct	CompanyName	Count	GrossTn	TareTn	NetTn	TipFee	TaxFee	SpecFee	TotalFee
SOME00	SOMERS SUNRISE ENTERPRISES	90	1522.26	970.22	552.04	26288.17	946.34	12.01	\$27,246.52

Hope this is what you were looking for,

Jason Collings
 Supervisor
 Grant County Solid Waste
jcollings@grantcountywa.gov
 (509)754-4319 ext. 3532

From: McPherson, Kathryn [UTC] <kathryn.mcpherson@utc.wa.gov>
Sent: Thursday, February 16, 2023 2:29 PM
To: JCollings <jcollings@grantcountywa.gov>
Subject: Compliance investigation

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Thank you,

Kathryn McPherson
 Investigator, Solid Waste Enforcement
 Transportation Safety Division
 (360) 522-6121
Kathryn.McPherson@utc.wa.gov
www.utc.wa.gov



This email letter states the informal opinions of commission staff, offered as technical assistance, and are 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.

Attachment K

From: [MARK WASH](#)
To: [McPherson, Kathryn \(UTC\)](#)
Subject: Illegal Hauler Update
Date: Friday, February 17, 2023 11:36:16 AM
Attachments: [IMG 1767 \(1\).PNG](#)

External Email

Below are pictures of Roger Somers, Somers Sunrise Enterprises, at the Landfill with reflective foil from the Orchards within our territory, CPC Orchards, from yesterday 02/16/2023 and leaving the landfill again today, 02/17/2023 after dumping the same dumpster again.

Thanks,

Mark Wash



