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3 BEFORE THE WASHINGTON UTILITIES AND  
4 TRANSPORTATION COMMISSION

5 In the Matter of Determining the Proper Carrier  
6 Classification of:

7 GLACIER RECYCLE, LLC; HUNGRY  
8 BUZZARD RECOVERY, LLC; AND T&T  
9 RECOVERY, INC.,

DOCKET NO. TG-072226

STATUS REPORT/POSITION OF  
INTERVENORS RESPONDING TO  
NOTICE OF SEPTEMBER 10, 2009

10 / On behalf of the intervenors represented by the undersigned in the above-captioned  
11 proceeding,<sup>1</sup> they file the below statement as required by the Administrative Law Judge  
12 in this proceeding on September 10, 2009.

13 2 As the file in this record will reflect, following Order No. 6 on Partial Summary  
14 Adjudication of June 13, 2008, the proceeding was suspended due to a Commission  
15 rule-making in TG-080591 which, after prolonged review, is now pending revised  
16 stakeholder comments and a significantly more circumscribed draft rule dealing with  
17 the regulation of the collection of mixed recyclables bound for material recovery  
18 facilities (“MRFs”). Essentially, the proposed rule seeks to interpret the applicability of  
19 solid waste certification requirements and the exemption in RCW 81.77.010(8). After  
20 receipt and initial review of the revised rule in November, 2009,<sup>2</sup> intervenors have had  
21 no contact initiated by the respondent and staff with respect to the current posture of  
22 this proceeding.<sup>3</sup> The proposed rule at issue appears to contain provisions regarding at

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24 <sup>1</sup> Murrey’s Disposal Company, Inc., Island Disposal, Inc., Waste Connections of Washington, Inc., Lynnwood  
Disposal d/b/a Allied Waste of Lynnwood, Eastside Disposal d/b/a Allied Waste of Bellevue.

25 <sup>2</sup> Written comments on the revised rule are now due from interested parties on January 8, 2010.

<sup>3</sup> The September 10, 2009 Notice directs separately filed status reports by all parties in the absence of a joint filed report. Since intervenors are unaware of any such proposed joint report circulating as of today’s date, they submit this status report to satisfy the Administrative Law Judge’s requirement.

1 least some of the operational aspects of the complaint in this matter but may not in fact  
2 resolve all of the historic practices of the respondents nor address whether the proposed  
3 rule, if implemented in toto, in fact resolves all elements of the Staff's complaint.

4 3 As intervenors in this proceeding, the companies the undersigned represents obviously  
5 do not have a primary role in either the burden of going forward or of presenting any  
6 evidence in this action. However, in considering the options set forth in the  
7 Administrative Law Judge's "Notice of Requirement to File Final Status Report Prior to  
8 Issuance of New Procedural Schedule" of September 10, 2009, it is their considered  
9 view that a status conference at a minimum should likely be convened to resolve the  
10 unusual current procedural posture of this case.

11 4 The staff of the Commission originally filed this complaint on December 28, 2007. The  
12 parties are aware that under relevant Commission case law, the time for measurement  
13 of the relevant activity subject to the complaint is at the time of filing of a complaint,  
14 and that even a potential joint request by the movant and respondent party does not  
15 necessarily result in dismissal of a complaint under RCW 81.04.510 or RCW  
16 81.04.110. *See*, Order SBC No. 490, *Clipper Navigation, Inc. v. Puget Sound Express,*  
17 *Inc.* – TS-900977 (Feb. 1992).


18 5 The complainant has not proposed dismissal of the complaint nor has any party  
19 articulated, after the proposed rule was issued for stakeholder comments on  
20 November 16, 2009, how the adoption of the proposed or subsequently amended rule  
21 might control the outcome in this proceeding. In the absence of any articulation of how  
22 the newly revised rule, if adopted, would bear upon the issues raised in the original  
23 complaint, these intervenors cannot predicate any further refinement of their legal  
24 position on the issues raised by the December, 2007 complaint and therefore would  
25 currently oppose the dismissal of this action. At a minimum, they oppose any dismissal

1 pending a proposed settlement agreement initiated by respondents and/or complainant  
2 to be reviewed by the intervenors or some other detailed submission outlining how the  
3 proposed rule would resolve all issues set forth in the original complaint. We thus  
4 would urge the convening of an additional status or prehearing conference by the Office  
5 of Administrative Hearings by early February, 2010.<sup>4</sup>

6 DATED this 22<sup>nd</sup> day of December, 2009.

7 Respectfully submitted,

8 WILLIAMS, KASTNER & GIBBS PLLC

9  
10 By   
11 David W. Wiley, WSBA #08614  
12 Attorneys for Intervenors Murreys Disposal  
13 Company, Inc., Island Disposal, Inc., Waste  
14 Connections of Washington, Inc., Lynnwood  
15 Disposal d/b/a Allied Waste of Lynnwood, and  
16 Eastside Disposal d/b/a Allied Waste of  
17 Bellevue

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<sup>4</sup> Counsel for the intervenors is presently unavailable January 11, 12 and 19-22, 2010.

**CERTIFICATE OF SERVICE**

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

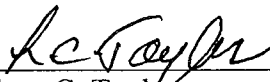
<p><b>Representative:</b> Donald L. Anderson, Esq. Eisenhower &amp; Carlson, PLLC 1200 Wells Fargo Plaza 1201 Pacific Avenue Tacoma, WA 98402 Email: <a href="mailto:danderson@eisenhowerlaw.com">danderson@eisenhowerlaw.com</a></p>	<p><input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email</p>
<p><b>Commission:</b> Washington Utilities and Transportation Commission 1300 S. Evergreen Park Dr. SW P.O. Box 47250 Olympia, WA 98504-7250</p>	<p><input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail <input type="checkbox"/> Via Email <input checked="" type="checkbox"/> Via Web Portal</p>
<p><b>Representative:</b> Jonathan Thompson Assistant Attorney General 1400 S. Evergreen Park Dr. SW P.O. Box 40128 Olympia, WA 98504-0128 Email: <a href="mailto:jthompson@wutc.wa.gov">jthompson@wutc.wa.gov</a></p>	<p><input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email</p>
<p><b>Representative:</b> James K. Sells Ryan Sells Uptegraft, Inc. P.S. 9657 Levin Road NW, Suite 240 Silverdale, WA 98383 Phone: 360.307.8860 Fax: 360.307.8865 e-mail: <a href="mailto:jimsells@rsulaw.com">jimsells@rsulaw.com</a></p>	<p><input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email</p>

1 **Representative:**

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- Via Legal Messenger  
 Via Facsimile  
 Via U.S. Mail  
 Via Email

7 DATED at Seattle, Washington, this 22<sup>nd</sup> day of December, 2009.

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Lyndsay C. Taylor