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BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

BASIN DISPOSAL, INC.,

Complainant,

v.

JAMMIE'S ENVIRONMENTAL, INC.,

Respondent.

No. TG-220215

JAMMIE'S ENVIRONMENTAL, INC.'S
ANSWER TO COMPLAINT

INTRODUCTION

1. Jammie's Environmental, Inc.'s ("Jammie's") representatives for purposes of this proceeding are:

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2. Jammie's recognizes the Washington Utilities and Transportation Commission's ("WUTC" or the "Commission") important responsibilities in regulating solid waste collection services in the state. Jammie's is committed to operational excellence and to full compliance with federal and state regulations.

3. Jammie's Answer to Basin Disposal, Inc.'s ("BDI") Complaint served on April 5, 2022, (the "Complaint"), is below.

ANSWER

A. Preliminary Statement

4. Jammie’s admits the allegations in the first sentence of paragraph 1. The second sentence of paragraph 1 contains legal conclusions or allegations to which no answer is required.

B. Jurisdiction / Statute and Rules at Issue

5. Jammie’s admits the allegations in paragraph 2.

C. Statement of Facts

6. Jammie’s admits the allegations in paragraph 3.

7. Jammie’s admits that its address is 128 Industrial Way, Longview, WA 98632, and that it is authorized by the Commission to serve as a common carrier under common carrier permit CC-70115 and is an authorized motor carrier with authority issued by the United States Department of Transportation under MC-390939 and USDOT Number 892456. The last sentence of paragraph 4 contains legal conclusions to which no answer is required. Jammie’s denies the remaining allegations in paragraph 4.

8. Paragraph 5 contains legal conclusions to which no answer is required.

9. As to paragraph 6, Jammie’s admits that, as an incidental part of the services it provides to Packaging Corporation of America (“PCA”), including assisting PCA in managing its old corrugated cardboard (“OCC”) rejects waste (“OCC Rejects”), Jammie’s collects and transports loads of OCC Rejects each weekday for disposal. Jammie’s denies the remaining allegations in paragraph 6.

D. Basis for Complaint

10. Paragraph 7 restates provisions of Washington law and contains legal conclusions to which no answer is required. The statute speaks for itself.

1 11. Paragraph 8 restates provisions of Washington law and contains legal
2 conclusions to which no answer is required. The statute speaks for itself.

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4 12. Jammie's denies the allegations in paragraph 9, which also contains legal
5 conclusions to which no answer is required.
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8 13. Paragraph 10 contains legal conclusions to which no answer is required. To
9 the extent an answer is required, Jammie's denies the allegations in paragraph 10.
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13 **E. Request for Relief**

14 14. Jammie's incorporates by reference its answers to paragraphs 1-10 of the
15 Complaint, as set forth above.
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17 15. Paragraph 11 of the Complaint states legal opinions or conclusions and
18 procedural matters that do not require an answer. To the extent an answer is required,
19 Jammie's denies the allegations in paragraph 11 and disagrees with the relief requested by
20 BDI.
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26 **JAMMIE'S DEFENSES AND AFFIRMATIVE DEFENSES**

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29 **A. Background Facts**

30 16. Jammie's has been providing specialized cleaning services to industrial and
31 commercial clients throughout the western United States since 1999. Jammie's services
32 include but are not limited to industrial cleaning, vacuum truck and tanker services,
33 hydroblasting, vacuum excavation, tank cleaning, and confined space entry. Incidental to
34 these services, Jammie's transports for disposal solid and liquid processed waste, hazardous
35 waste, dangerous waste and/or special waste for its customers. Jammie's does not otherwise
36 dispose of solid waste and does not hold itself out as a solid waste collection company, as
37 those terms are defined in WAC 480-70-041. In total, processing and disposing of solid
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1 wastes represents a small fraction of the services Jammie’s provides and is done only
2 incidentally.
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4 17. Jammie’s has provided industrial cleaning and related services at the paper
5 mill operated by PCA in Walla Walla County for approximately ten years. Jammie’s crews
6 work at the PCA facility daily and work closely with PCA in its day-to-day operations.
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9 18. In March 2021, PCA started manufacturing paper products from OCC.
10 During the OCC manufacturing process, material that cannot be recycled and contaminates
11 the manufacturing process—such as plastic, steel, tape and other non-fibrous, non-recyclable
12 material—is rejected and must be managed separately. The OCC Rejects are an industrial
13 waste and, when stockpiled in large quantities, are a fire and safety hazard.
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16 19. As part of its services to PCA, Jammie’s cleans the process equipment
17 involved in the OCC recycling process and collects for disposal the OCC Rejects that its
18 cleaning activities generate. Jammie’s has provided these services since PCA started the
19 OCC manufacturing process.
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22 20. When PCA first started manufacturing paper products from OCC, BDI—who
23 provides general garbage service at the facility—initially supplied roll off bins into which
24 PCA employees would manually load the OCC Rejects. When the bins were full, BDI
25 would dispose of the OCC Rejects. However, upon information and belief, BDI failed to
26 promptly remove the bins when full, and provided an insufficient number of bins, leading to
27 a large stockpile of OCC Rejects piled up against a PCA building, which created a
28 significant fire and safety hazard for PCA.
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31 21. Upon information and belief, PCA requested on multiple occasions that BDI
32 take actions to reduce or remove the stockpile of OCC Rejects or provide an alternative
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1 method for disposing of the OCC Rejects. BDI, however, did neither and indicated that the
2 services provided were all it could provide—effectively a take it or leave it proposition.
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5 22. In May 2021, Jammie’s was onsite performing industrial cleaning activities,
6 including assisting in processing the OCC Rejects as described above. Given the services
7 Jammie’s already provides at the PCA facility and Jammie’s training and experience in
8
9 managing and disposing of industrial wastes, PCA asked Jammie’s for solutions to eliminate
10 the stockpile of OCC Rejects BDI had not disposed of. As a natural extension of the OCC
11 Rejects services Jammie’s was already providing PCA, Jammie’s proposed a comprehensive
12 plan for quickly eliminating the OCC Rejects stockpile and for managing and promptly
13 disposing of the OCC Rejects going forward. PCA requested that Jammie’s provide the
14 service.
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23 23. On or around the last week of May 2021, Jammie’s started managing—
24 collecting, loading and hauling—the processed OCC Rejects. The service Jammie’s
25 provided with respect to the OCC Rejects was more comprehensive than the service BDI
26 previously provided. While BDI simply hauled the bins that were loaded by PCA, in
27 addition to cleaning the OCC processing equipment, Jammie’s collected and loaded the
28 resulting OCC Rejects and any other uncollected OCC Rejects using its own equipment and
29 transported the OCC Rejects for disposal. Jammie’s quickly eliminated the stockpile of OCC
30 Rejects and the associated fire and safety dangers.
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39 24. Upon information and belief, BDI contacted PCA in the fall 2021 and
40 requested that PCA give BDI a second chance to haul the OCC Rejects. PCA declined given
41 BDI’s inadequate prior service and the resulting fire and safety issues, and Jammie’s
42 training and experience in managing and disposing of industrial wastes, and efficiency and
43 cost-effectiveness in processing and disposing of the OCC Rejects.
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1 25. Upon information and belief, Jammie’s provides more comprehensive OCC
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3 Rejects services to PCA at a lower cost than what BDI charges.

4 26. Upon information and belief, PCA is extremely satisfied with the OCC
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6 Rejects services Jammie’s is providing and would like Jammie’s to continue providing the
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8 service.
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10 27. While Jammie’s manages the OCC Rejects, BDI continues to provide
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12 garbage collection services for the PCA facility.
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15 **B. Jammie’s Defenses and Affirmative Defenses**

16 28. BDI fails to state a claim on which relief can be granted because Jammie’s
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18 processed the OCC Rejects as a “private carrier,” a person who, in his or her own vehicle,
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20 transports solid waste purely as an incidental adjunct to some other established private
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22 business owned or operated by the person in good faith. RCW 81.77.010(5); WAC 480-70-
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24 041. A “private carrier” is not a “solid waste collection company” and does not need a solid
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26 waste certificate. WAC 480-70-011(1)(g).
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28 29. Jammie’s had a just cause to process the OCC Rejects due to the exigent need
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30 to dispose of the stockpile of OCC Rejects caused by BDI’s failure to promptly haul the
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32 OCC Rejects, and to provide and implement a solution to adequately manage the OCC
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34 Rejects when requested by PCA, and Jammie’s good faith belief that it was a “private
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36 carrier” as described in paragraph 28.
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38 30. Based on communications with Commission Staff that took place in January
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40 2022, Jammie’s had a good faith belief that it was a “private carrier” as defined by RCW
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42 81.77.010(5) and WAC 480-70-041, and that a solid waste certificate was not required.
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44 After Commission Staff changed its position and requested that Jammie’s submit an
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46 application for a solid waste certificate, Jammie’s submitted an application for a solid waste
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1 certificate, which is currently pending before the Commission in Docket TG-220243,
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3 notwithstanding Jammie’s continued belief that it was and is a “private carrier” as described
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5 in paragraph 28.

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7 31. BDI has unclean hands and is estopped from asserting any claim against
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9 Jammie’s because BDI failed to properly manage the OCC Rejects at the outset, causing a
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11 fire and safety hazard at the PCA facility, in violation of Chapter 81.77 RCW, its Certificate
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13 of Public Convenience and Necessity, and other applicable laws or regulations.

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15 32. BDI is further estopped from asserting any claim against Jammie’s because,
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17 on information and belief, BDI has been aware that Jammie’s took over disposing of the
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19 OCC Rejects in May 2021 and failed to raise the issue to Jammie’s until around November
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21 2021, and then waited until March 29, 2022, to file its Complaint.

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23 33. BDI’s claims should be dismissed because Jammie’s solid waste application
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25 docket, Docket TG-220243, is the appropriate forum for determining whether Jammie’s is
26
27 authorized to provide the services at issue.

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29 34. While not alleged or sought in its Complaint, any injuries or damages sought
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31 by BDI associated with its claims are barred by its own actions (or inactions), as described
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33 in paragraphs 29 and 31–32, above.

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2 Dated: April 25, 2022
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5 **PERKINS COIE LLP**

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