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BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION

WASTE CONNECTIONS OF  
WASHINGTON, INC,

Complainant,

v.

ENVIRO/CON & TRUCKING, INC., a  
Washington corporation; and, WASTE  
MANAGEMENT DISPOSAL SERVICES OF  
OREGON, INC.,

Respondents.

No. DOCKET NO. TG-071194

CLARK COUNTY'S REPLY IN SUPPORT  
OF MOTION FOR LEAVE TO FILE  
AMENDED COMPLAINT AND IN  
OPPOSITION TO MOTION TO DISMISS

1. While this matter is characterized as a private enforcement proceeding, it is not without public interest. The public interest in the regulation of the collection and transportation of solid waste is fundamental and cannot be denied. *See Chapter 81.77, RCW*. The Commission is charged with supervising and regulating solid waste companies, including “requiring compliance with local solid waste management plans and related implementation ordinances.” *RCW 81.77.030(5)*. The collection and transportation of solid waste has been recognized as a matter of effecting fundamental public health, safety, and welfare. Citizens for Clean Air v. Spokane, 114 Wn.2d, 20, 39, 785 P.2d 447 (1990). The purpose for establishing a comprehensive statewide waste program is to prevent land, air and water pollution and to conserve the resources of the state. *RCW 70.95.020*. The primary responsibility for adequate solid waste handling is delegated to local jurisdictions, such as Clark County. *RCW 70.95.020*. The authority of local jurisdictions to regulate solid waste management was recently recognized in Ventenbergs v. City of Seattle, 163 Wn.2d 92, 178 P.3d 960 (2008).

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2. Clark County has implemented a single coordinated solid waste management program to ensure the protection, health, safety, and general welfare of the citizens of Clark County. *CCC 24.12.020*. To that end, the County has designated its transfer stations as the initial disposal site for solid waste generated within Clark County. "Solid waste" is defined to include construction and demolition waste. *CCC 24.12.050, WAC 173-304-100(73); and WAC 173-350-100*.
  3. In a private enforcement proceeding, the Commission has the authority to determine whether practices engaged in are unreasonable, illegal or unfair and, if they are, the Commission has the power to correct the abuse complained of by (among other things) establishing practices in lieu of those complained of to be observed by all such competing public service companies in the locality or as shall be found to be reasonable, legal and fair by the Commission. *RCW 81.04.110*. Additionally, upon finding a violation pursuant to a complaint filed under *RCW 81.04.110*, the Commission has the authority to impose penalties. *RCW 81.04.405*.
  4. Waste Management admits that it has transported construction and demolition waste in Clark County.<sup>1</sup> In the County's view, justice would not be served by allowing Waste Management to successfully oppose a requested accelerated hearing; finish the illegal activity it engaged in; and avoid any consequence by claiming that the matter is moot and the Commission is without authority to hear this matter.
  5. The Commission may allow amendments to "promote fair and just results." *WAC 40-07-395(5)*. Meaningful relief is available to the parties. The Commission may determine whether or not Waste Management engaged in activities that are unreasonable, illegal, or unfair and it may establish rules, regulations or practice in lieu of those complained of to be observed by all competing public service companies in Clark County. *RCW 81.04.110*. Additionally, the Commission may, upon upholding the complaint filed under *RCW 81.04.110*, impose penalties. *RCW 81.04.405*. The fact that such a review is

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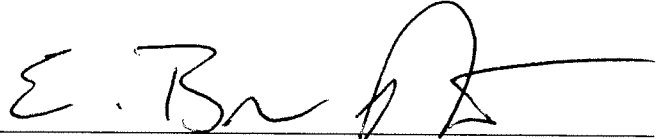
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<sup>1</sup> See Declaration of Troy Tyacke attached as "Exhibit 1" to Waste Connections Motion for Leave to File Amended Complaint.

1 meaningful should be abundantly clear from the amount of time and effort the parties  
2 have invested in this proceeding to date.

- 3  
4 6. Waste Connections' Motion to File the Amended Complaint should be granted and Waste  
5 Management's Motion to Dismiss should be denied.

6 Respectfully submitted this 14th day of September, 2009.

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 14<sup>th</sup> day of September, 2009, I have served this document upon all parties of record in this proceeding, by the method(s) indicated below, pursuant to WAC 480-07-150.

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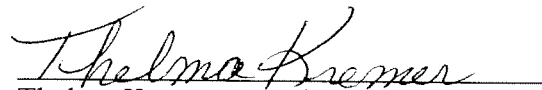
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DATED this 14<sup>th</sup> day of September, 2009, in Vancouver, Washington.

  
Thelma Kremer, Legal Secretary