

- 1.3) Respondents are:
Points Recycling and Refuse, LLC is a public service company holding solid waste certificate G155 who serves all of Point Roberts, WA.

Whatcom County is the government entity overseeing solid waste and recycling within Point Roberts, WA.

2. RULES AND STATUTES AT ISSUE

- 2.1) RCW 81.77.030(4) requires the commission to supervise and regulate all matters affecting the relationship between solid waste companies and the public they serve.
- 2.2) The commission, by law, must require compliance of the local solid waste plans and related implementation ordinances. RCW 81.77.030(5).
- 2.3) RCW 81.77.040 adopts the categories of garbage, refuse, recyclable materials as solid wastes.
- 2.4) RWC 81.77.090 states that a person is guilty of a gross misdemeanor if he or she violations any provision of chapter 81.77 or “fails to obey or comply with any order, decision, rule, regulation, direction, demand, or requirement of the commission, or any part or provision thereof”.
- 2.5) WAC 480-70-071 requires that all haulers submit annual reports to the WUTC by May 1 of the following year.
- 2.6) RCW 70.95.010(6)(d) requires state government to ensure local governments are providing adequate source reduction and separation opportunities and incentives to all – including persons in urban and rural areas.
- 2.7) RCW 70.95.020(1) requires that each county and city establish a comprehensive solid waste handling and recycling plan while the state reserves functions necessary to assure effective programs throughout the state.
- 2.8) RWC 70.95.090(7)(iv) requires recycling strategies and promote concepts of waste reduction and recycling.
- 2.9) The state and the county, by law, have set waste reduction and recycling, including curbside recycling, as the highest priority in managing solid waste. RCW 36.58.040 and WCC 8.10.020(C).
- 2.10) WCC 8.10.050(A) requires that all certificate haulers shall collect source-separated recyclables from all residences in unincorporated portions of Whatcom County.

- 2.11) WCC 8.10.050(A) also allows for residents who have completed the garbage exemption process to subscribe to recycling-only collection service.
- 2.12) WCC 8.11.010 mandates recycling collection as an objective of the county's solid waste plan and states that the collection district is necessary so that unincorporated areas of the county can meet their solid waste management objectives, including recycling.

3. STATEMENT OF FACTS

- 3.1) Whatcom County Solid Waste Management Plan mandates curbside recycling in all unincorporated areas of the county including Point Roberts. PRR discontinued service beginning January 2008 in direct violation of Whatcom County code. Prior to cancellation, curbside recycling was working and was the most efficient way for residents to source separate all of their recycling for curbside collection and gives everyone an opportunity to participate.
- 3.2) Under Whatcom County Code 8.10.050, certified haulers shall collect source separated recycling from all residences in unincorporated portions of Whatcom County that receive regularly scheduled garbage collection except section K that exempts seasonal and part time residents of Point Roberts.
- 3.3) In July 2008, Whatcom County Council member Sam Crawford proposed a change to WCC 8.10.050 (agenda bill 2008-287) (Exhibit 1) in which he proposed to remove curbside recycling in Point Roberts and allow self haul because self haul had been allegedly documented to receive more materials, although no documentation supports this assertion (Exhibit 1). He states significant support among the residents of Point Roberts without the benefit of a county sanctioned community meeting or any correspondence from any member of the community or the hauler in Point Roberts (Exhibit 1).
- 3.4) On August 22, Councilmember Crawford was asked for clarification on the purpose of his proposed change (Exhibit 2). When specifically asked if he had talked to residents of Point Roberts on both sides of the proposal, Councilmember Crawford stated "didn't talk to anyone" (Exhibit 3). He also states many homes that are seasonal are not prone to use curbside recycling and that their recycling bins sit on the street for days, which is a fundamental misunderstanding of current Whatcom County Code as noted above. (Exhibit 4 is a response to the email found in Exhibit 3.)
- 3.5) The hauler and Council member Crawford neglect to address the issues of public safety as the transfer station is not handicapped accessible, a comfortable environment for the elderly or infirm, nor is it safe. It is an industrial area with open garbage bins, moving vehicles and equipment, and dirt roads which are prone to dust and mud, posing a direct safety issue for children, dogs, or anyone with air quality-related breathing issues.

- 3.6) PRR's systematic manipulation of facts and laws has played on the emotion of its customers and is directly reflected in its behavior towards the community it serves. This has been exhibited by the threats and fear mongering tactics PRR's owner has written in his newspaper advertisements (Exhibits 5, 6, 7, 8), mailings to customers (Exhibits 9, 10, 11), handouts at the transfer station (Exhibits 12 and 13), and signed petitions for violating state and county laws. The result has lead many in the community to believe there was no alternative but to support PRR.
- 3.7) PRR's contempt for authority is demonstrated by: breaking its lease contract (Exhibit 14) with Whatcom County; its refusal to comply with the County's 60 day request to reinstate curbside recycling (Exhibits 15 and 16); its outright refusal to file its annual reports (Exhibit 17); and its refusal to pay its regulatory fees and penalty fees when due. Its contempt for authority is also demonstrated by its inflammatory language used in letters to customers, ads, handouts, and letters to the county and to the WUTC.
- 3.8) WUTC Docket No. TG-061052 is another example of PRR's belief it is above the law by challenging the WUTC with condescending comments, refusal to comply, and knowingly misrepresenting the law. (Exhibit 18)
- 3.9) PRR does not have the best interests of the community at heart, as demonstrated by its continued antagonizing of the county, its condescending attitude toward County Council, and in particular its personal vendetta against Council member Barbara Brenner. (Exhibits 15 and 19)
- 3.10) PRR regularly uses threats to achieve its objectives. This was manifested in a July 14th letter to Whatcom County Health Dept. when it stated that it will remove all improvements to the leased transfer station, making it inoperable and unable to meet the minimal functional standards required for a solid waste operation (Exhibit 20). This threat was made even though improvements to the station were made with rate increases approved by Whatcom County and/or the WUTC.
- 3.11) PRR filed Docket No. 061079 and No. 061193 with the WUTC and requested to update the descriptive wording on its Tariff Title Page for the Service Area to exclude five Point Roberts properties further abusing its authority under county and state laws. (Exhibit 21)
- 3.12) PRR published an advertisement in the local community newspaper, the All Point Bulletin (APB), in February/March/April/May 2007 (Exhibits 5, 6, 7, 8) in which it stated information that was illegal, misleading and misrepresented the facts as outlined under Whatcom County Code 8.10.050. These ads were intentionally designed to appear as though they were official public notices, further misleading the public.
- 3.13) Whatcom County Public Works department was forced to respond by placing an advertisement in the August 2008 edition of the APB to counter the misleading statements created by PRR in its mailings, handouts, ads and letters and to provide the public with the correct information and facts as they apply to county code. (Exhibit 23)

- 3.14) PRR's lack of duty to the community and proof of its own self-interest is shown by its protest against the application of Freedom 2000 (Docket No. TG-081576). Freedom 2000 is proposing to take over the recycling operation of Point Roberts and comply with state and county laws regarding curbside recycling. PRR has repeatedly stated "I will be very clear, that [resumption of curbside recycling] is not going to happen." (See Exhibit 15 and 24)
- 3.15) PRR has shown a pattern of disingenuous and untrustworthy behavior. It purchased its G-155 certificate in 1999. At that time the owner stated his intent to expand recycling and enhance opportunities for both residential and business customers to become the leader in community programs (Exhibit 25). Subsequently, in 2001 the owner changed course and filed Docket No. 010202 wanting to eliminate curbside recycling although it knew its obligation by county and state law and signed the lease contract to provide this service with the county. (Exhibit 26)
- 3.16) PRR has repeatedly claimed that curbside recycling is not economically feasible (Exhibit 27). This is contradicted by the annual reports filed with the WUTC in which PRR has had driver wages and benefit salary increases of 410% from 2003 through 2007 and increased its drivers from 1 to 2 (including the owner/operator). In the same period owner salary has increased 67% with one owner/officer listed. (Exhibit 28)
- 3.17) PRR's claims regarding the cost of a new recycling vehicle were stated to mislead the public. In these statements, PRR has grossly over estimated the appropriate size and relative cost of a replacement vehicle. (Exhibit 29)
- 3.18) Whatcom County Code (as noted above) stated that Point Roberts solid waste customers pay for curbside recycling whether they use it or not. This resulted in a yearly income of over \$21,000 from 2005 – 2007. The revenue stream is now gone since PRR instituted free self haul recycling. (Exhibit 30)
- 3.19) PRR has not taken the initiative in source separating its recycling and has not generated the income that source separating provides other haulers in the county. (Exhibit 30)
- 3.20) In the past, PRR has paid to dispose of its minimally source separated recyclables and now must pay more with self haul with no residential income to offset the cost. PRR's illogical decision to offer free self haul instead of curbside recycling does not stand up as a sound business practice. (Exhibit 30)
- 3.21) Given the increases in salaries and benefits at PRR, PRR's contention about the economic feasibility of curbside recycling, and its dire claims about the overall viability of the company, we fully support the WUTC's investigation of its accounts and practices.
- 3.22) This community lacks the support of Whatcom County in this matter. The county has an apparent willingness to adopt new laws without having a fundamental understanding of the current laws or verifying the facts presented by the hauler. This matter, combined with the continuing hauler's battles with the WUTC and Whatcom County, leaves the


Point Roberts community facing a slippery slope toward the potential degradation or elimination of other essential services the community deserve. We should be able to enjoy the same level of service as other citizens of Whatcom County, be equally able to fulfill our duties toward environmental protection and effective waste management, and not be discriminated against because of our location. (Exhibit 31)

4. RELIEF SOUGHT


- 4.1) Cancellation of G155 certificate held by Points Recycling and Refuse.
- 4.2) Prohibiting respondent Whatcom County from enacting any law or ordinance exempting Point Roberts from curbside recycling.
- 4.3) Impose maximum penalties allowed under all applicable RCWs.

I swear under penalty of perjury of the laws of the State of Washington that the foregoing is true and correct and to the best of my belief.


DATED the 25th day of November 2008.



Shannon Tomsen



Renee Coe



Shelley Damewood