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(Appearances continued.)

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1 P R O C E E D I N G S

2 JUDGE TOREM: Good afternoon. Let's be on the
3 record. This is Administrative Law Judge Adam Torem. This
4 is Docket TG-072226. It's Tuesday the 8th of February, a
5 little after 1:30 p.m., as designated by those ringing in on
6 the bridge line right on time.

7 This is the matter of determining a proper carrier
8 classification for three respondent companies, they are
9 Glacier Recycle, LLC; Hungry Buzzard Recovery, LLC; and T&T
10 Recovery, Incorporated.

11 We're conducting this conference today as a status
12 conference based on a notice the Commission issued on 12th
13 of January. And I want to go around and take appearances in
14 just a moment. Our main agenda item today is sort of to
15 answer the question "now what?" And figure out a
16 recommendation to the commissioners as to where to take this
17 docket, if anywhere, now that certain things did or didn't
18 occur from last summer's expectations.

19 So let me go around and take appearances and start
20 with Commission staff.

21 MS. BROWN: Sally Brown, Senior Assistant Attorney
22 General, appearing on behalf of Commission staff. I filed a
23 notice of appearance yesterday.

24 JUDGE TOREM: That's part of the record now.
25 Thank you, Ms. Brown.

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1 For the WRRRA.

2 MR. SELLS: Thank you. If Your Honor please,
3 James Sells appearing on behalf of Washington Refuse and
4 Recycling Association. You want the full addresses today?

5 JUDGE TOREM: We have it in the record.

6 Mr. Wiley, if you want to list your clients in this matter?

7 MR. WILEY: I was just trying to find that list,
8 Your Honor, as we speak. Thank you. I'm appearing today on
9 behalf of Murrey's Disposal Company, Inc.; Waste Connections
10 of Washington, Inc.; Lynnwood Disposal, d/b/a Allied Waste
11 of Lynnwood; Eastside Disposal Company, d/b/a Allied Waste
12 of Bellevue. Those appear to be the companies that I'm
13 representing.

14 JUDGE TOREM: Thank you. And, Ms. McNeill.

15 MS. MCNEILL: Thank you. Polly McNeill
16 representing Waste Management of Washington. And with me
17 today is Andrew Kenefick, in-house counsel for Waste
18 Management of Washington.

19 JUDGE TOREM: I don't see Don Anderson here in the
20 room in Olympia. Mr. Anderson, are you on the line?

21 MR. ANDERSON: Yes, I am. This is Don Anderson
22 for the respondents.

23 JUDGE TOREM: All right, excellent. So we have
24 all of our counsel present. As was summarized in the
25 notice, we had an expectation last July when the final order

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1 was issued that a temporary exemption from administrative
2 code provisions would be resolved in an ongoing rule-making.

3 Unfortunately, at the end of last year, in
4 November, the Governor issued an executive order terminating
5 a variety of rule-makings of agencies around the state. And
6 Docket TG-080591, I guess depending on your view, died a
7 timely or untimely death, but without resolution of the
8 issues it took up.

9 This docket in the Hungry Buzzard case was one
10 that we had depended on resolving some definitions and a new
11 solid waste rule that is not going to come to fruition. At
12 this time my understanding is that the Governor's edict
13 about rule-making extends for this entire calendar year of
14 2011. Whether that would be renewed again for 2012 remains
15 to be seen. So paragraph 36, and any other related
16 paragraphs of the order that assume that the exemption was
17 going to expire sometime this calendar year, I suppose,
18 won't happen. So we have right now to clarify I think.

19 My discussion with the commissioners before the
20 notice went out is that the exemption is still in place but
21 we just have some confusion as to if or when it might
22 terminate. The parties I hope will have a chance to give
23 their various views today and make some recommendations to
24 me. If there's some joint recommendations that would be
25 helpful, as well, as to how the Commission would go forward.

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1 Among the options, but certainly not a limitation, is
2 resuming the process with a hearing based on the decisions
3 that were left to be made on the respondent companies for
4 Mr. Anderson's clients as to the quantification of the waste
5 that they were moving under the existing rules as again they
6 now stand.

7 One other procedural point, and it came very
8 quickly in the middle of January. Mr. Anderson, one of your
9 clients indicated, I believe it was Glacier Recycle, that
10 they may no longer actually be your client, they may be a
11 whole new entity? Do you want to speak to that or have one
12 of the other counsel in the room do that?

13 MR. ANDERSON: No. Glacier Recycle is in fact our
14 client and is an entity that still exists. Substantially
15 all the assets of Glacier Recycle were sold to Waste
16 Management.

17 JUDGE TOREM: Is Glacier still engaging in the
18 recycling that it was doing in its previous incarnation?

19 MR. ANDERSON: No, it has no active business of
20 that nature. It's basically winding up.

21 JUDGE TOREM: So Waste Management of Washington
22 now owns those assets?

23 MR. ANDERSON: Yes, and the right to do business
24 under that name.

25 JUDGE TOREM: Okay. Ms. McNeill, is Waste

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1 Management now -- have they amended the G-certificate to
2 include those operations?

3 MS. McNEILL: No. Your Honor, Waste Management
4 has acquired the assets of Glacier Recycle and has commenced
5 taking over the operations of Glacier Recycle. The
6 acquisition doesn't change Waste Management's operations in
7 terms of its collection activities. It continues to comply
8 with the State statutes, both 81.77 putting aside any
9 municipal contracts or exemptions to that statute. But
10 nonetheless, its collection operations will not be
11 influenced by its acquisition of Glacier Recycling's assets.

12 The operations of the material recovery facility
13 as a MRF, as it's called, are really the cornerstone of the
14 asset acquisition. And Waste Management is undertaking a
15 transition in terms of taking over the operation of that and
16 transferring the solid waste handling permit functions and
17 approval from the department of -- I think it's the King
18 County Seattle Department of Public Health and Department of
19 Ecology.

20 Long answer, but there will be no difference in
21 Waste Management's collection operations that would be
22 influenced by its acquisition of the assets. There were no
23 certificate rights transferred. There were no collection
24 rights transferred except, of course, to the extent that
25 commercial recycling which Waste Management operates

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1 throughout the state in compliance with the regulations and
2 statutes that affect that.

3 JUDGE TOREM: So I'm not hearing you say that
4 Waste Management's takeover of Glacier's operations would
5 require an ongoing exemption for Glacier and its operations
6 because it would fall under Waste Management and not -- you
7 will no longer be conducting anything that would require an
8 exemption; is that correct?

9 MS. MCNEILL: That is correct.

10 JUDGE TOREM: All right. So it would appear
11 then--and I would hear from other parties if they see it
12 differently--that, Mr. Anderson, as far as Glacier goes
13 there may be an appropriate motion to dismiss them from the
14 case at this time unless there's going to be a look-back
15 that Staff wants to do in classifying their previous
16 operations. That may or may not be relevant, but I'll leave
17 that to Commission staff's discretion. If you want maybe
18 before we close this afternoon, or at a later date, file a
19 motion to remove that client from the case we'll take that
20 up either today or when you file it. Does that make sense
21 to you, Mr. Anderson?

22 MR. ANDERSON: Yes.

23 JUDGE TOREM: Maybe we'll go and hear directly
24 from you, Mr. Anderson, first, on the remaining clients that
25 are still, I believe, conducting the operations with the

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1 benefit of the temporary exemption under Hungry Buzzard and
2 T&T. First, are your clients interested in maintaining that
3 exemption? And if so, for the foreseeable future? For a
4 set period of time?

5 MR. ANDERSON: Yes, Your Honor, under the
6 current -- under current operations and for quite some time
7 Hungry Buzzard hasn't been operating a MRF. Their CDL
8 collections have been taken to other facilities. They
9 haven't been direct hauls to disposal or brought to their
10 own facilities to sort. So their -- and they have been
11 filing with the Department of Ecology, and I think their
12 percentage should be down to zero as far as any materials
13 that aren't recycled because of that. So I think they would
14 be -- there's really no need for an exemption because they
15 aren't involved in the complaint of activity.

16 That really leaves T&T. And T&T is interested in
17 continuing the exemption. There are really two options
18 here, you know. It's hard to predict with the budgetary
19 situation what is going to happen.

20 I think the first offense that may shed some light
21 on both rule-making and the administrative process of the
22 government in general at the state level is going to be the
23 conclusion of the legislative session. And I don't know
24 that we can anticipate that the Governor's imposed plan on
25 rule-making is really going to last for a year until we see

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1 what happens then. But I think it would be appropriate to
2 carry it out a year under the current situation and see
3 where that rule-making authority is at that point. I think
4 both Ecology certainly has an interest in following up on
5 this, and I think it's important for both the budding
6 industry and the G-certificate haulers to have some
7 definition of where this is going.

8 JUDGE TOREM: Let me ask Commission staff what
9 their intentions might be if the rule-making is something
10 that they're aware of they want to take up if given an
11 opportunity. Or what direction Staff might want to see this
12 case go, especially now. Thanks, Mr. Anderson, for the
13 explanation of the scales down from three companies to a
14 single company that's seeking to maintain the exemption that
15 was provided.

16 MS. BROWN: Thank you, Your Honor. Currently
17 Staff is not interested in actively pursuing solid waste
18 rule-making.

19 JUDGE TOREM: Okay. What about the position on
20 then the remaining request of one of three to continue the
21 exemption in some form or another?

22 MS. BROWN: Well, Staff's position, if you see my
23 argument, that contrary to what you said, Your Honor,
24 Staff's position that the exemption, temporary exemption
25 from WAC 480-70-016(1), expired 30 days after the

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1 rule-making closed on December 9th.

2 JUDGE TOREM: Okay. Is there language in the
3 order that you point to for that or do you have more
4 detailed --

5 MS. BROWN: It's expressly in Order 08.

6 JUDGE TOREM: Okay. So Staff's taking the
7 position then, to sum it up, that the exemption has already
8 expired in December?

9 MS. BROWN: It expired 30 days after the
10 Commission closed the solid waste rule-making docket on
11 December 9, 2010, in response to executive order 1006.

12 JUDGE TOREM: So approximately January 9th or
13 10th, depending on how we count the days?

14 MS. BROWN: Correct.

15 JUDGE TOREM: All right. Almost the same day we
16 got the notice out.

17 Let me ask the parties what their positions might
18 be with regard to that. Let me start with Mr. Sells and
19 work my way around the table.

20 MR. SELLS: If it's okay with Your Honor we're
21 going to start with Mr. Wiley?

22 JUDGE TOREM: Okay.

23 MR. WILEY: Your Honor, obviously this record is
24 protracted over about three and a half years, and so there's
25 a number of source documents to pull in coalescing a

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1 position. Let me just say that I agree with Ms. Brown. I
2 agree that the conditional granting of the exemption which
3 was uniquely based upon a pending rule-making that had gone
4 on for two years evaporated under the expressed terms of
5 Order No. 08--I believe it is paragraph 36--30 days after.
6 Thus, I believe the only position that whatever remaining
7 companies are the respondents in this action is is that they
8 must conform their operation to current existing law. It's
9 a pretty simple analysis from my standpoint.

10 JUDGE TOREM: Okay. Thank you, Mr. Wiley.

11 MR. SELLS: Thank you, Your Honor. We're in basic
12 agreement with that. The exemption has in fact gone away.
13 And if it's going to be continued in any manner it's going
14 to have to be done pursuant to some sort petition from T&T
15 or whomever. We remain concerned about footnote 11 on page
16 12 of Order 08, which leaves an unresolved issue, I think.
17 And whether or not further hearing is needed, at some point
18 it seems in this docket the issue of the transfer of solid
19 waste residual from a MRF has to be addressed.

20 But we also, at the same time we agree that we are
21 now back to whatever rules were in place and whatever
22 statutes were in place when this thing started. And the
23 most important thing from our perspective is that the
24 existing rules and the existing statutes be enforced. But
25 this issue of the residual haul is going to have to be

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1 resolved somewhere somehow.

2 JUDGE TOREM: Ms. McNeill, what is your client's
3 position?

4 MS. MCNEILL: Well, our client's -- thank you,
5 Your Honor. Waste Management's position has really been
6 consistent throughout this proceeding, and that is its
7 interest was very much in curtailing and precluding the haul
8 of the what's so-called industrial waste stabilizer to a
9 landfill, any landfill. In this case, it was the one in
10 Cowlitz County operated by Weyerhaeuser. But the claim that
11 that somehow converted a solid waste collection activity to
12 commercial recycling was the main concern that Waste
13 Management had in this proceeding. And it continues to be
14 the paramount concern both stated, we think, in the
15 complaint and also in the resolution of the settlement. And
16 one of our interests is to ensure that the finality of Order
17 06 that Order 08 ordered remains the effective outcome on
18 that.

19 We agree that the issue with regard to the need
20 for the respondent companies and all of the companies in the
21 state to comply with regulations and rules that are in
22 effect, if that is the outcome of eliminating any further
23 proceeding in this matter and the interpretation of the
24 Commission. We certainly agree that everybody should comply
25 with those rules. And Waste Management does and continues

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1 to abide by them.

2 We had a concern, of course, and one of the
3 reasons that we came down here presently today is because
4 Waste Management did acquire the assets of Glacier, and we
5 wanted to be sure that somehow didn't convert us so having a
6 seat on both sides of the table. And we certainly support a
7 dismissal of Glacier as an entity since it no longer
8 operates any recycling.

9 JUDGE TOREM: Mr. Anderson, I hope you could hear
10 the other counsel around the table. But I think I can sum
11 up that no one around the table, speaking for a party in the
12 case, believes that the exemption is still operational and
13 believes that the exemption should be revived. Although I
14 believe Mr. Sells indicated that would only be if your
15 client T&T filed a petition to make a specific request to
16 extend it. Did you want to speak further to the issue?

17 MR. ANDERSON: I don't think a footnote in that
18 regard controls the intent of the order. It was in a
19 different context, and the context was that the rule-making
20 process would end with an order with respect to the new
21 amended or retained rule. That didn't happen. And so there
22 wasn't -- our position would be there wasn't an event that
23 terminated -- there wasn't a contemplated event that
24 terminated the exemption.

25 JUDGE TOREM: That's the contemplated event in

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1 paragraph 36 that Ms. Brown referred to that -- her
2 interpretation is once the rule-making itself was terminated
3 that that was the operational event; is that correct,
4 Ms. Brown?

5 MS. BROWN: Can I be heard on that?

6 JUDGE TOREM: Yes, please.

7 MS. BROWN: I just want to get across here that
8 it's Staff's position that this classification proceeding
9 should be terminated without further process based on the
10 language of footnote 11 in Order 08 which clearly states
11 that the settlement agreement is effective only until the
12 conclusion of the solid waste rule-making. That rule-making
13 has concluded, and it's our position that the parties then
14 return to the status quo entity.

15 I think to hold otherwise would ignore the many
16 "for the time beings" in Order 08 which clearly indicates
17 that the Commission intended the exemption and settlement
18 agreement to be somewhat of a stop-get measure, temporary
19 measure and not intended to permanently resolve all issues
20 of the docket. In fact, I think it was the Commission's
21 intention that the rule-making order adopting the rules
22 would actually supersede the settlement agreement. And
23 admittedly at the time no one contemplated or anticipated
24 that the Commission in December 2010 was going to terminate
25 the solid waste rule-making in response to the executive

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1 order, but that's exactly what happened. And it's our view
2 that the effect of the moratorium was to conclude the solid
3 waste rule-making, and as a result the settlement is no
4 longer valid.

5 So I think that the context of this case -- I
6 agree with Mr. Anderson, the context changed dramatically
7 throughout the past year, but I think the context supports
8 Staff's position here.

9 JUDGE TOREM: When you asked originally to be
10 heard, you said Staff's position on the case though and
11 posture is that the entire docket should be terminated
12 without any further proceedings?

13 MS. BROWN: Yes.

14 JUDGE TOREM: If I recall when this originally
15 started Staff was seeking to classify these three companies,
16 whose operations have changed over the course of time now.
17 Now I think there would only be one company left that's
18 relevant. Does Staff no longer wish to seek classification
19 of T&T as a solid waste collection company?

20 MS. BROWN: Yes, that's my final point here. I
21 want the Commission to remain mindful of the fact that this
22 classification proceeding was instituted by the Commission
23 at the request of Commission staff. And now evidently Staff
24 is satisfied with what's happened and with Glacier's
25 acquisition by Waste Management and suggests that no further

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1 process is warranted.

2 JUDGE TOREM: So Staff is no longer concerned with
3 Glacier or Hungry Buzzard. Is there any specific concern to
4 be stated as to T&T which continues its operations at some
5 level?

6 MS. BROWN: No.

7 JUDGE TOREM: Thank you.

8 Let me hear from other parties at the table on
9 Staff's position on what the Commissioners should do
10 assuming they agree that the exemption has been terminated
11 and the settlement agreement has run its course. Mr. Wiley.

12 MR. WILEY: Yeah, I think one thing is important
13 to know, we do have concurrence--at least with the parties
14 at the table--that the prior and now existing rules do apply
15 to all the operations. And the reason I think that's a
16 point that your order -- your prospective order might
17 address is that if you recall, and you'll recall the
18 April 16, 2010 -- or mid April hearing on the settlement,
19 the WRRRA and the intervenors that I represent opposed the
20 settlement on the basis that the Staff -- that then Staff's
21 recommendation violated WAC 480-70-016(1). And on that
22 basis the Commission concurred with our position allowing
23 the settlement, which we did not agree with, but conditioned
24 the settlement on the acknowledgment that the Staff's
25 position, then position, contravened the rule.

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1 So if in making her request, Ms. Brown--and I
2 believe she's saying that--acknowledges that 480-70-016(1),
3 applies to the activities in question, the rule applies.
4 And what happens after that is something that this record
5 may not need to dispose of, no pun intended, but it has to
6 acknowledge that operations of CDL haulers must comply with
7 that rule.

8 MS. BROWN: Your Honor, may I be heard?

9 JUDGE TOREM: Please.

10 MS. BROWN: I don't believe it's necessary for you
11 or the Commissioners in the order to restate existing law.
12 I think it was said here earlier that the statutes and
13 regulations are what they are, they speak for themselves.
14 With regard to enforcement of Commission statutes and rules
15 the Commission, as you're well aware, can exercise
16 prosecutory discretion.

17 As I understand it, the legislature recently
18 appropriated another \$100,000 for the Commission to pursue
19 solid waste enforcement actions. And as recently as
20 yesterday the announcement came out that Commission staff
21 hired a solid waste investigator. Now, can I make a
22 commitment as to where those dollars will be allocated and
23 the time spent? No.

24 MR. WILEY: Your Honor, if I can respond briefly
25 to that? I do think that while it's true the law is the

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1 law, and that adage goes without argument, the original
2 Staff complaint at paragraph 5, sub 1 and sub 2, made
3 allegations about the operations that your Order No. 7
4 addressed as still outstanding. So I don't think it's
5 entirely correct to characterize the record at present as
6 completely disposing of all the original issues raised by
7 the Staff. And that's particularly why the applicability of
8 that general rule that's mentioned so prominently in order
9 08 is important to us.

10 JUDGE TOREM: Other counsel at the table?

11 MR. SELLS: If I may, Your Honor. As just a
12 practical situation we're facing here, if you recall back in
13 April Mr. Troy Lautenbach testified that his sole disposal
14 site was the Weyerhaeuser facility. Now, as long as the
15 exemption was in place I'm presuming that he continued to go
16 to that facility because he would be allowed to pursuant to
17 the exemption. If Your Honor finds that the exemption has
18 expired, which I wish I had thought of that, as I think back
19 now it has already expired. And we're running as we sit
20 here today without that exemption. We're concerned with the
21 practicalities. Where is T&T going to take its stuff now
22 that they can't take it to Weyerhaeuser anymore? Do we need
23 to have some sort of testimony, some sort of sworn statement
24 on that? Does the enforcement staff need some direction
25 from the Court? I don't know. But those are the

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1 practicalities that we're looking at here.

2 JUDGE TOREM: Understood. Thank you, Mr. Sells.

3 MS. McNEILL: If I may? Again, Polly McNeill for
4 Waste Management.

5 Mr. Sells said that he was troubled by footnote
6 11. And I think we're all talking here about footnote 11,
7 and I think there is a remaining troubling aspect to
8 footnote 11. I'm not suggesting that I would advocate any
9 other outcome than what Staff is requesting, but it seems to
10 me that footnote 11 says that the legal issue about the
11 hauling of the residual waste from a MRF is at the heart of
12 the pending rule-making and will be more fully determined
13 there as informed by the facts of solid waste and recycling
14 industries presented in that docket.

15 So I want to be clear that when we talk about a
16 dismissal of this case the legal issue that is presented in
17 footnote 11, in my mind, is not resolved. And I think that
18 is what Staff is saying. But everybody's sort of using
19 these generic terms of compliance with regulations and
20 rules. And I just want to be specific that it is that
21 particular aspect of this order that is still left
22 unresolved. And my client is -- does not oppose terminating
23 the proceeding for that reason. I just would want to be
24 clear that we all understand that that is a legal issue that
25 has not been resolved.

1 JUDGE TOREM: Certainly the Commission had two
2 different competing proceedings going on that might have
3 reached different outcomes. That's why each was
4 alternatively paused to allow the other to come to
5 conclusion so there would be some harmony and the Commission
6 would speak in one voice.

7 I think Commission staff's position, that was well
8 taken, that the law and the existing regulations are what
9 they are. If they were confusing back in 2007 to some
10 hopefully some of these proceedings and the discussion at
11 the rule-making helped provide some clarification. But the
12 words that were enacted and adopted are still the same as
13 they were before either of these proceedings got started,
14 and nothing here has changed existing law.

15 The temporary exemption. If the Commission is to
16 concur with those here in Olympia that it no longer applies;
17 or if the commissioners determine it does still apply but
18 they wish to terminate it on their own accord based on
19 unforeseen events, then again those rules would be in
20 effect. I don't think anybody is going to argue the legal
21 theory there.

22 For Mr. Anderson's client, the remaining client
23 that wants to continue to benefit from the outcome of the
24 settlement agreement and the temporary exemption,
25 Mr. Anderson, you will have to wait and see what the next

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1 order says. I need to confer with the commissioners, pass
2 along the parties' various positions, and ask them what they
3 want to do, because that's the voices that will really count
4 in this. If the exemption no longer applies clearly
5 enforcement staff may take an interest in interviewing your
6 client and determining what its plans might be.

7 If the exemption does stay in place then
8 certainly, as it has been since July, it will continue and
9 we may have additional proceedings. But it doesn't sound as
10 though that's what Staff is advocating for today. In fact,
11 I know it sounds like Staff is not advocating for that.

12 Mr. Anderson, did you want to add anything based
13 on everything you have heard now?

14 MR. ANDERSON: Your Honor, I would concur with
15 Staff. At a dismissal my client doesn't have any issue with
16 further investigation or cooperation. I would represent, we
17 haven't put it on the record, but at present there is no
18 direct haul to Weyerhaeuser, for example, and it is the
19 residual from the operation. And Staff's determination as
20 to whether there is compliance with the existing regulation
21 would be fine.

22 MR. WILEY: Your Honor, I would just point out the
23 concept of a direct haul was a legal issue in and of itself
24 in that proceeding. And we may have differing
25 interpretations of what constitutes a direct haul. So

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1 that's just an example of the kind of hangover issues we may
2 have.

3 JUDGE TOREM: I actually heard the double-meaning
4 that could be taken from that as well, Mr. Wiley. And it
5 sounds as though Mr. Anderson, on behalf of his client, is
6 willing to let Commission staff use their prosecutorial
7 discretion to make an issue of that, or not, outside of this
8 case if the proceedings are terminated. Mr. Anderson, did I
9 get that right?

10 MR. ANDERSON: That's correct, Your Honor.

11 JUDGE TOREM: It does sound then that everybody is
12 in agreement that there shouldn't necessarily be any further
13 proceedings required here. That one way or the other the
14 commissioners can decide how and when the exemption they
15 granted last summer will continue for a short while, or will
16 be terminated effective with the next order, or was already
17 terminated by operation of the terms of the settlement
18 agreement. But however it goes it sounds as though the
19 recommendation to commissioners is that there's no ongoing
20 need for the exemption, nor for any further proceedings in
21 this case, and that a concise and short order saying as
22 much. And perhaps if the commissioners agree with
23 Mr. Wiley, a quick reminder to all parties that the law and
24 regulations apply, with no exemptions to be interpreted,
25 that Staff will be executing its discretion based only on

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1 what's previously been adopted by the Commission, not what
2 was simply considered or talked about during the course of
3 this docket or the rule-making docket. That sounds like a
4 unified recommendation from all concerned.

5 All right, I'm seeing nods here in Olympia and not
6 hearing any objection from the bridge line.

7 MR. ANDERSON: No objection.

8 JUDGE TOREM: I'll certainly carry that
9 recommendation forward to the commissioners later this week.
10 Is there anything else we need to take up today, assuming
11 they follow your recommendation and that order is
12 forthcoming?

13 MS. BROWN: I don't believe so.

14 MS. McNEILL: I don't think so.

15 JUDGE TOREM: Okay. I don't see anything else.
16 If that's the case then, Mr. Anderson, it won't be necessary
17 to make any separate motion with regard to Glacier. If this
18 docket terminates we won't need to worry about it. If
19 something goes other than what's recommended by the parties
20 then we can take up a motion to dismiss Glacier and/or
21 Hungry Buzzard based on facts that you would characterize in
22 a motion and allow me to rule on that separately. But we
23 only need to do that, and burn up anymore of your billable
24 time for your clients, if absolutely necessary.

25 MR. ANDERSON: Thank you, Your Honor.

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1 JUDGE TOREM: Counsel, anything else here in
2 Olympia? Seeing none. Mr. Anderson, anything there in
3 Tacoma?

4 MR. ANDERSON: No, Your Honor.

5 JUDGE TOREM: Okay. Thank you. A little bit
6 after 2:00, we are adjourned.

7 (Whereupon, the proceedings went off
8 the record at 2:05 p.m.)

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C E R T I F I C A T E

I, TAMI LYNN VONDRAN, a Certified Court Reporter,
do hereby certify that I reported in machine shorthand the
foregoing proceedings in the above-entitled cause; that the
foregoing transcript was prepared under my personal
supervision and constitutes a true record of the testimony
of the said witness.

I further certify that I am not an attorney or
counsel of any parties, nor a relative or employee of any
attorney or counsel connected with the action, nor
financially interested in the action.

DATED at Edgewood, Washington this 18th day of
February, 2011.

Tami Lynn Vondran, CCR
Certified Court Reporter
License No. 2157