

VIA FACSIMILE AND REGULAR MAIL

October 24, 1994

*Also Admitted to Oregon Bar

Mr. Steve McLellan, Secretary
Washington Utilities and
Transportation Commission
1300 Evergreen Park Drive South
P. O. Box 9022
Olympia, WA 98504-9022

Re: The Disposal Group, Inc. v. Waste Management Disposal Services of Oregon
Cause No. TG-941154
Our File No. 144-3 (146)

RECEIVED
94 OCT 27 19:09
STATE OF WASH.
UTIL. & TRANSP.
COMMISSION

Dear Mr. McLellan:

Pursuant to the Commission's Order on Prehearing Conference, The Disposal Group, Inc. submits the following list of rebuttal documents to be entered into the record:

1. Letter dated August 9, 1994 from Horenstein & Duggan to Aluminum Company of America;
2. Letter dated August 10, 1994 from Davis Wright Tremaine to Aluminum Company of America;
3. Letter dated August 12, 1994 from Aluminum Company of America to Horenstein & Duggan; and
4. Letter dated August 16, 1994 from Horenstein & Duggan to Aluminum Company of America.

All of these documents were attached to the Complaint, Amended Complaint and Commission staff's investigative report and, thus, copies are not enclosed.

5. Declaration of Wes Hickey (copy enclosed).

Also enclosed is an unsigned Declaration of Patricia Vernon, Solid Waste Policy Manager with the Oregon Department of Environmental Quality. Pursuant to my correspondence

Mr. Steve McLellan
October 24, 1994
Page 2

to all parties (faxed this morning) we are obtaining Ms. Vernon's signature on the Declaration. The signed Declaration will be offered into evidence.

Sincerely,



CYNTHIA A. HORENSTEIN

CAH:lk

Enclosures

cc: Mark Leichner, The Disposal Group

00144003.L51

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, by facsimile and first class mail, postage prepaid, to:

John Prusia
Administrative Law Judge
Utilities and Transportation
Subdivision of the Office of
Administrative Hearings
2420 Bristol Court S.W.
P.O. Box 42489
Olympia, WA 98504-2489

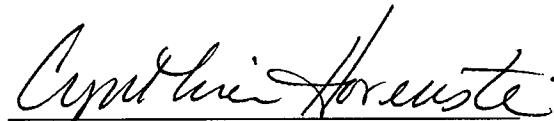
Steven W. Smith
Assistant Attorney General
Heritage Plaza Building
1400 South Evergreen Park Drive S.W.
Olympia, WA 98504-0128

Bill Rasmussen
Davis Wright Tremaine
2600 Century Square
1501 Fourth Avenue
Seattle, WA 98101-1688
Attorney for Waste Management

Jack R. Davis
Allison, Davis & Haffner
1200 Fifth Avenue, Suite 1900
Seattle, WA 98101
Attorney for T&G

Jim Sells
510 Washington Avenue, Suite 300
Bremerton, WA 98337
Attorney for WRRRA/Intervenor

DATED this 24th day of October, 1994.


Cynthia A. Horenstein, WSB #17830
Of attorneys for The Disposal Group,
Inc.

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BEFORE THE UTILITIES AND TRANSPORTATION COMMISSION
OF THE STATE OF WASHINGTON

THE DISPOSAL GROUP, INC., dba)
Vancouver Sanitary Service and)
Twin City Sanitary Service, a)
Washington corporation (G-65);)

CAUSE NO. TG-941154

Complainant,)

DECLARATION OF
WES HICKEY

vs.)

WASTE MANAGEMENT DISPOSAL)
SERVICES OF OREGON, INC., dba)
Oregon Waste Systems,)
a Delaware corporation; and T&G)
TRUCKING & FREIGHT, CO., an)
Oregon corporation;)

Respondents.)

I. WES HICKEY, declare as follows:

1. I am General Manager of Finley Buttes Landfill Company.
I make this Declaration based on personal knowledge.

2. Finley Buttes Landfill Company submitted a proposal to
Rust Remedial Services, Inc. relative to the transportation and
disposal of industrial sludge from the Alcoa facility in Vancouver,
Washington.

3. The transportation portion of the proposal contemplated
the movement of the industrial sludge in ISO containers from the


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Alcoa facility to the Tidewater Barge Lines loading dock approximately 350 feet south/southeast of the Alcoa facility.

4. All transportation from the Alcoa facility to the Tidewater Barge Lines loading dock would have been on a road that lies exclusively on private property.

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

Executed at Vancouver, Washington, this 24th day of October, 1994.


WES HICKEY

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BEFORE THE UTILITIES AND TRANSPORTATION COMMISSION
OF THE STATE OF WASHINGTON

THE DISPOSAL GROUP, INC., dba)	
Vancouver Sanitary Service and)	CAUSE NO. TG-941154
Twin City Sanitary Service, a)	
Washington corporation (G-65);)	
)	DECLARATION OF
Complainant,)	PATRICIA VERNON
)	
vs.)	
)	
WASTE MANAGEMENT DISPOSAL)	
SERVICES OF OREGON, INC., dba)	
Oregon Waste Systems,)	
a Delaware corporation; and T&G)	
TRUCKING & FREIGHT, CO., an)	
Oregon corporation;)	
)	
Respondents.)	

I, PATRICIA VERNON, declare as follows:

1. I am employed by the Oregon Department of Environmental Quality ("DEQ"). I make this Declaration based on personal knowledge.
2. My position with DEQ is Solid Waste Policy Manager. My responsibilities as Solid Waste Policy Manager include oversight of policies and interpretations adopted and implemented by DEQ.
3. Based on Oregon Administrative Rules, DEQ assesses landfill operators solid waste permit compliance fees, per ton solid waste disposal fees and 1991 Recycling Act permit fees ("disposal fees").
4. Because there has been inconsistent calculation of materials received at landfills, upon which the disposal fees are assessed, DEQ adopted "RULE INTERPRETATION FOR OAR CHAPTER 340

1 DIVISION 97: Relating to the Calculation of Disposal Tonnage for
2 Purpose of Fee Payment by Permitted Municipal and Industrial Solid
3 Waste Landfills."

4 5. The Rule Interpretation became effective October 1, 1994.

6 6. Attached as Exhibit "A" to this Affidavit is a true and
7 accurate copy of the Rule Interpretation.

8 7. A typographical error appears in the Rule Interpretation
9 at paragraph B, line 7, as noted by DEQ's interlineation on the
10 attached copy.

11 8. This typographical error is being corrected by DEQ but is
12 not yet complete.

13 9. Until such time as this typographical error is corrected,
14 DEQ is using the Rule Interpretation as if the typographical error
15 had been corrected (i.e., that clean fill is not subject to a
16 disposal fee).

17 10. Upon completion of this correction, the Rule
18 Interpretation will have the same effect as Exhibit "A" currently
19 provides: that clean fill is not subject to disposal fees.

20 I swear under penalty of perjury under the laws of the State of
21 Washington that the foregoing is true and correct.

22 Executed at _____, Oregon, this ____ day of October,
23 1994.

24 _____
25 PATRICIA VERNON
26
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SEP 26 1994



Solid Waste Program
Policy

PERMISSION OFFICE

Mary Wick
Approved

9.23.94
Date Approved

RULE INTERPRETATION FOR OAR CHAPTER 340 DIVISION 97:

Relating to the Calculation of Disposal Tonnage for Purpose of Fee Payment by Permitted Municipal and Industrial Solid Waste Landfills.

A. APPLICABILITY:

1. This interpretation applies to OAR 340-97-110(7) and OAR 340-97-120(3), (4), (5), and (6).
2. The interpretation is applicable to municipal solid waste landfills for payment of permit compliance fee, per-ton solid waste disposal fee, and 1991 Recycling Act permit fee (where appropriate).
3. The interpretation is applicable to non-municipal solid waste landfills for payment of permit compliance fee, and 1991 Recycling Act permit fee (where appropriate).

B. INTERPRETATION:

All materials, both in-state and out-of-state, received by a landfill should be counted in tonnage and fee calculations if that material meets the definition of solid waste and would otherwise be disposed of, regardless of the ultimate use/disposition of the material by the landfill owner/operator.

For the purpose of fee calculation under OAR 340-97-120 (3), (4), (5) and (6), the material received by a landfill should be excluded from the tonnage calculation if it does not meet the definition of solid waste, and is ~~not~~ "clean fill" as defined in OAR 340-93-030 (10).

C. IMPLEMENTATION:

This rule interpretation is effective as of October 1, 1994 and shall be reflected in all tonnage calculations and fee payments due after that date.

DISCLAIMER:

This policy statement is intended solely as guidance and does not constitute rulemaking by the Environmental Quality Commission. It may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law or in equity, by any person. DEQ may take action at variance with this policy statement.