



Christine O. Gregoire

ATTORNEY GENERAL OF WASHINGTON

Utilities and Transportation Division

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November 8, 1994

Mr. John Prusia
Hearings Examiner
Washington Utilities and
Transportation Commission
PO Box 47250
Olympia, WA 98504

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COMMISSION

Re: The Disposal Group, Inc. v. Waste Management Disposal Services of
Oregon, Inc.
Cause No. TG-941154

Dear Mr. Prusia:

Enclosed for the record in the above captioned matter is the original Stipulated Facts which has been signed by counsel for all parties.

Very truly yours,

Steven W. Smith
Assistant Attorney General

cc: Cynthia Horenstein
William Rasmussen
Jack R. Davis
James K. Sells

smith/tg941154

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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

STIPULATED FACTS

Complainant,)

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.)

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COMMISSION

1. Rust Remedial Services ("RUST") is a large multi-state environmental company performing land remediation and cleanup operations. It is majority owned by WMX.

2. Waste Management Disposal Services of Oregon, Inc. dba Oregon Waste Systems ("OWS") is the operator of a recycling center and landfill at Arlington, Oregon, commonly known as Columbia Ridge Landfill and Recycling Center ("CRLRC"). OWS is wholly owned by Waste Management, Inc. which is wholly owned by WMX.

3. RUST was a successful bidder for cleanup and remediation of industrial sludge at the Alcoa plant at or near 6200 Old Lower

1 River Road, Vancouver, Washington ("Alcoa site"). RUST entered into
2 a contract with Alcoa on July 20, 1994.

3 4. Findley Buttes Landfill Co. in conjunction with Tidewater
4 Barge Company submitted a bid to RUST for transportation and
5 disposal services in connection with Alcoa industrial sludge. RUST
6 did not accept the bid.

7 5. The Disposal Group, Inc. ("TDG") did not bid on collection
8 and transportation of the industrial sludge from the Alcoa site.

9 6. When RUST submitted its bid for the cleanup and
10 remediation, it worked with OWS as a subcontractor. Neither OWS nor
11 RUST included the 4.6% Washington State refuse collection taxes in
12 the bid.

13 7. As part of the contract with Alcoa, RUST is required to
14 remove the sludge from the Alcoa site.

15 8. RUST operates construction and land clearing equipment in
16 removing the sludge from the Alcoa site and loads it into top
17 loading containers mounted on wheeled trailers or chassis at the
18 site.

19 9. RUST contracts with OWS to have the sludge delivered to
20 CRLRC to be used solely as alternate daily cover ("ADC").

21 10. It has been and at all times continues to be the fixed and
22 persisting intent of RUST that the sludge be moved from the Alcoa
23 site in Vancouver, Washington to the CRLRC in Arlington, Oregon in
24 continuous movement.

25 11. OWS contracts with the Union Pacific Railroad and with T&G
26 Trucking and Freight Co. ("T&G") for movement of the loaded
27 containers of sludge from the Alcoa site over the public highways of
28 the States of Washington and Oregon to a railroad siding at or near
29 Portland by T&G for loading onto flat cars operated by Union Pacific
30 for movement in container on flat car ("COFC") for delivery to CRLRC
31 in Arlington, Oregon.

1 12. On or about August 22, 1994, T&G began transporting the
2 sludge from the Alcoa site over the public highways of the States of
3 Washington and Oregon to the railroad siding at or near Portland,
4 Oregon, for loading on Union Pacific rail cars for ultimate delivery
5 at CRLRC.

6 13. T&G and Union Pacific Railroad are compensated by OWS for
7 such transportation.

8 14. By letter dated August 22, 1994, OWS requested the Oregon
9 Department of Environmental Quality's ("DEQ") "written notice to
10 proceed with a suitability study for the use of sludge material as
11 an alternative to daily soil cover (ADC) at CRLRC."

12 15. By letter dated August 26, 1994, the DEQ authorized "OWS
13 to proceed with an evaluation of sludge as ADC" at CRLRC ("DEQ's
14 authorization").

15 16. After the sludge from the Alcoa site is delivered to
16 CRLRC, it is used for ADC.

17 17. DEQ's authorization allows:

18 OWS to conduct a test study [of using sludge as
19 ADC] through April 30, 1995. In order for
20 extended approval to be considered, we [DEQ]
21 require OWS to submit a report to DEQ by
22 March 31, 1995, documenting the results of the
23 evaluation of the sludge as ADC. At anytime
24 during the test period, if the Department
25 determines that the material is not performing
26 adequately as ADC, the test shall be
27 discontinued. The receipt of this waste must
28 follow your [OWS'] special waste management
29 protocol.

30 18. RUST pays OWS a fixed rate to receive the sludge at CRLRC.
31 The price falls within the range of fifty to seventy percent
32 (50-70%) of OWS' posted gate rate for solid waste.

 19. OWS accepts materials from other sources at CRLRC at rates
below the posted gate rate.

1 20. OWS is required to provide daily cover at its landfill
2 pursuant to 40 CFR Section 258.21 and OAR Section 340-94-040 (7) and
3 (8).

4 21. The sludge has value to OWS as alternate daily cover.

5 22. If the sludge material is not useable as ADC, OWS would
6 charge RUST a higher fee for receiving the material at CRLRC.

7 23. If OWS is not permitted to use the sludge material as ADC,
8 OWS will need to locate alternative material for ADC at an expense
9 to OWS.

10 24. TDG provides refuse collection services pursuant to
11 Certificate of Public Convenience and Necessity No. G-65 in the
12 unincorporated areas of Clark County. Such authority includes
13 service to the Alcoa site.

14 25. OWS does not hold a certificate of authority from the
15 Washington Utilities and Transportation Commission to collect and
16 transport solid waste in the State of Washington pursuant to Chapter
17 81.77 RCW.

18 26. T&G Trucking does not hold a certificate of authority from
19 the Washington Utilities and Transportation Commission to collect
20 and transport solid waste in the State of Washington pursuant to
21 Chapter 81.77 RCW.

22 27. The parties hereto stipulate that the foregoing facts are
23 accepted as true and accurate representations without prejudice to
24 the presentation of additional facts at the brief adjudicative
25 proceeding regarding the issues presented.

26 SUBMITTED October 25, 1994.

27 HORENSTEIN & DUGGAN, P/S.

28
29 Dated: October 24, 1994

30 By: Cynthia Horenstein
31 CYNTHIA A. HORENSTEIN, WSBA #17830
32 Of Attorneys for The Disposal
Group, Inc.

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DAVIS WRIGHT TREMAINE

Dated: October 26, 1994

By: W. K. Ras
WILLIAM RASMUSSEN, WSBA #20029
Of Attorneys for Waste Management
Disposal Services of Oregon, Inc.

McCLUSKEY, SELLS, RYAN, ET AL

Dated: _____

By: [Signature]
JIM SELLS, WSBA #6040
Of Attorneys for Washington Refuse
and Recycling Association

ALLISON, DAVIS & BALDWIN

Dated: OCTOBER 26, 1994

By: [Signature]
JACK R. DAVIS, WSBA #2071
Of Attorneys for T&G Trucking
and Freight, Co.

ATTORNEY GENERAL OF WASHINGTON

Dated: November 8, 1994

By: Steven W. Smith
STEVEN W. SMITH, WSBA #6853
Assistant Attorney General