

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

MURREY'S DISPOSAL COMPANY, INC.,

Complainant,

v.

WASTE MANAGEMENT OF
WASHINGTON, INC., WASTE
MANAGEMENT DISPOSAL SERVICES OF
OREGON, INC., AND MJ TRUCKING &
CONTRACTING,

Respondents.

MURREY'S DISPOSAL COMPANY, INC.,

Complainant,

v.

WASTE MANAGEMENT OF
WASHINGTON, INC., WASTE
MANAGEMENT DISPOSAL SERVICES OF
OREGON, INC., AND DANIEL ANDERSON
TRUCKING AND EXCAVATION, LLC,

Respondents.

DOCKET TG-200650 and
TG-200651 (*Consolidated*)

**RESPONDENTS' SUPPLEMENTAL
BRIEF IN SUPPORT OF MOTION TO
DISMISS**

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	ARGUMENT	1
A.	The ICC’s Understanding of “Property” in the 1960s and 1970s Was Muddled.	1
B.	The Old ICC Cases Are Irrelevant in Interpreting the ICCTA Preemption.	2
C.	The Washington Supreme Court Also Recognized that the ICCTA Preemption Includes Rail Transportation of Solid Waste.....	4
D.	The CRA Confirms STB Jurisdiction Over the Rail Transportation of Solid Waste.	5
E.	Congress Clearly Intended the FAAAA Not to Preempt Solid Waste Regulation.	8
F.	State Regulation of COFC Transportation of Solid Waste Is Preempted.	9
	CERTIFICATE OF SERVICE	12

I. INTRODUCTION

1. Pursuant to the Presiding Officer's direction, Respondents address whether solid waste is "property" for purposes of Interstate Commerce Commission Termination Act ("ICCTA") preemption in light of the Interstate Commerce Commission's ("ICC") 1965 *Joray* decision. Solid waste is property under the ICCTA irrespective of *Joray*. In the Clean Railroads Act of 2008 ("CRA"), Congress clearly spoke to this issue and confirmed that the rail transportation of solid waste falls within the exclusive jurisdiction of the Surface Transportation Board ("STB").

II. ARGUMENT

2. The rail transportation of solid waste, like any other commodity, is regulated exclusively by the STB. The ICC's determination in *Joray* that solid waste was not property under the Interstate Commerce Act ("ICA") is contradicted by other old decisions of the ICC and more recent court and STB decisions and has no bearing on the scope of ICCTA preemption. To the contrary, the ICCTA has long regulated rail transportation of solid waste. In the CRA, Congress confirmed in 2008 that rail transportation of solid waste is part of the broad grant of exclusive STB jurisdiction. Hence, the ICCTA preempts state regulation of solid waste transported via container-on-flat-car ("COFC").

A. The ICC's Understanding of "Property" in the 1960s and 1970s Was Muddled.

3. "Prior to its abolishment in 1996, the Interstate Commerce Commission ('ICC') was vested with jurisdiction over interstate transportation by a motor carrier transporting passengers and property." *Polesuk v. CBR Sys., Inc.*, No. 05 CV 8324(GBD), 2006 WL 2796789, *7 (S.D.N.Y. Sep. 29, 2006).¹ In the context of a common carrier application 55 years ago, the ICC issued a 700-word opinion, citing only Black's Law Dictionary, in which it ruled that "debris," which "has a negative value as a commodity," "does not have the attributes commonly associated with the word property." *Joray Trucking Corp.*, 99 M.C.C. 109, 110 (I.C.C. 1965).

¹ A copy of any authority cited in this brief will be provided to the Presiding Officer upon request.

Hence, the ICC concluded that “debris and rubble should not be considered property as affects the jurisdictional scope **of the Interstate Commerce Act.**” *Id.* (emphasis added).

4. But, even in the context of the ICA, the ICC’s rulings were not “consistent on this point.” *Raymond v. Mid-Bronx Haulage Corp.*, No. 15 Civ. 5803 (RJS), 2017 WL 1251137, *3 n.2 (S.D.N.Y. Mar. 31, 2017). The *Joray* “negative value” test has not fared well over the past 55 years. “In another ruling on whether nuclear waste constituted ‘property,’ the ICC indicated that having a value, whether negative or positive, was not conclusive, but rather that ‘property’ connotes ownership as well as value. Something that is owned can be ‘property’ notwithstanding its lack of economic value.” *Id.* (quoting *Nuclear Diagnostic Labs., Inc.*, 133 M.C.C. 578, 580 (1979)). The federal courts of appeal have recognized the ICC’s jurisdiction over such value-less waste. *See, e.g., Akron, Canton & Youngstown RR Co. v. ICC*, 611 F.2d 1162 (6th Cir. 1979); *Consolidated Rail Corp. v. ICC*, 646 F.2d 642 (D.C. Cir. 1981).

5. Over the past 55 years since *Joray*, courts have taken inconsistent positions with respect to *Joray*’s reliance on whether something must have value to be property.² Even Black’s Law Dictionary, on which *Joray* relied, does not support the economic value criteria. Black’s Law Dictionary (11th ed. 2019) (“property” includes “any external thing over which the rights of possession, use, and enjoyment are exercised”).

B. The Old ICC Cases Are Irrelevant in Interpreting the ICCTA Preemption.

6. In 1995, Congress enacted the ICCTA. It abolished the ICC, transferred regulatory functions to the STB, and significantly reduced regulation of the railroad industry. *BNSF Ry.*

² *See, e.g., Graham v. Town & Country Disposal of W. Mo., Inc.*, 865 F. Supp. 2d 952, 957 (W.D. Mo. 2011) (“An interpretation of trash as property is reasonable under the natural and ordinary meaning of ‘property,’ which is not limited to goods with a positive economic value.”); *Vanartsdalen v. Deffenbaugh Indus.*, No. 09-2030-EFM, 2011 WL 1002027, at *3 (D. Kan. Mar. 18, 2011) (“Because the DOT is exercising such jurisdiction, it must necessarily have adopted the position that trash is property, otherwise it would have no basis for regulating Defendant’s residential trash hauling business. Therefore, in light of this exercise of authority, the Court concludes that the DOT treats trash as being property.”); *Raymond*, 2017 WL 1251137 at *3 (“But even if the materials hauled by Plaintiffs were limited to garbage without scrap metal, the Court would still find that garbage constitutes property for the purposes of the MCA exemption.”); *but see ICC v. Browning-Ferris Indus., Inc.*, 529 F. Supp. 287, 293 (N.D. Ala. 1981).

Co. v. Cal. Dep't of Tax & Fee Admin., 904 F.3d 755, 760 (9th Cir. 2018). “The regulation of railroad operations has long been a traditionally federal endeavor, to better establish uniformity in such operations and expediency in commerce and it appears manifest that Congress intended the ICCTA to further that exclusively federal effort.” *Friberg v. Kan. City S. Ry. Co.*, 267 F.3d 439, 442 (5th Cir. 2001).

7. The ICCTA’s express preemption clause is the best reflection of Congress’ intent. *Sprietsma v. Mercury Marine*, 537 U.S. 51, 62-63 (2002). The clause is 49 U.S.C. § 10501(b), which provides that the STB has “exclusive” jurisdiction over “transportation by rail carriers.” The STB and the courts recognize its breadth. “It is difficult to imagine a broader statement of Congress’ intent to preempt state regulatory authority over railroad operations.” *City of Auburn v. U.S.*, 154 F.3d 1025, 1030 (9th Cir. 1998). The STB has ruled that “there can be no state or local regulation of matters directly regulated by the Board ...” *CSX Transp., Inc. – Pet’n for Decl. Order*, FD 34662, 2005 WL 1024490, *2 (S.T.B. May 3, 2005); *accord New Orleans & Gulf Coast Ry. Co. v. Barrois*, 533 F.3d 321, 332 (5th Cir. 2008) (approving STB ruling).

8. Interpreting ICCTA preemption, the STB and the courts have **not** looked to the conflicting old ICC decisions regarding “property” under the ICA and repeatedly have ruled that rail transportation of solid waste is preempted.³ The STB held that intermodal containers of municipal solid waste “which would be transferred directly from trucks to rail cars” were subject to its exclusive jurisdiction. *In re New England Transrail, LLC*, FD 34797, 2007 WL 1989841, *8-*9 (S.T.B. June 29, 2017). The transfer of pre-baled municipal solid waste from trucks to rail cars also was subject to exclusive STB jurisdiction. *Id.* Likewise, the STB had exclusive

³ The same is true for the Carmack Amendment to the ICA, also enforced by the STB. It imposes liability upon interstate carriers for “the actual loss or injury to the property” occurring during transportation. 49 U.S.C. § 14706(a)(1). In determining the scope of the Amendment’s preemption of “property” regulation, the Southern District of New York also noted and disregarded the ICC’s conflicting old interpretations of “property.” *Polesuk*, 2006 WL 2796789 at *7. The language of the Amendment along with its purpose “reveals that the term ‘property,’ as used therein was intended to refer generally to any interstate shipment of a tangible item ... as oppose[d] to denoting a particular type or category of property. The Amendment was intended to completely dominate the area of interstate carriers liability for the loss or damage to an item during transportation without regard to the nature of the matter being shipped.” *Id.* at *8 (shipment of umbilical cord blood for the parents of a newborn was “property”).

jurisdiction over bulk municipal solid waste unloaded from trucks onto the floor where it was stored temporarily for later loading into rail cars. *Id.* **All these “activities would be integrally related to transportation and therefore would be covered by the section 10501(b) preemption.”** *Id.* at *9 (emphasis added). In 2012, the STB reaffirmed that “the Board’s preemptive jurisdiction extended to solid waste rail transfer facilities owned or operated by rail carriers.” Solid Waste Rail Transfer Facilities, EP 684, 2012 WL 5873121, *1 (Nov. 14, 2012).

9. Likewise, the courts agreed that solid waste handling associated with rail carriage is “transportation” pursuant to the ICCTA. In regard to a facility that transloaded solid waste from trucks to railroad cars, the Third Circuit considered solid waste to be “cargo”:

[O]perations of the [waste handling] facilities include dropping off cargo, loading it onto Susquehanna trains, and shipping it. Thus the facilities engage in the receipt, storage, handling, and interchange of rail cargo, which the [ICCTA] explicitly defines as “transportation.” *See* 49 U.S.C. § 10102(9)(B). These operations fit within the plain text of the [ICCTA] preemption clause.

N.Y. Susquehanna & W. Ry. Corp. v. Jackson, 500 F.3d 238, 247 (3rd Cir. 2007); *accord Waste Mgmt. of N.J., Inc. v. Union Cty. Utils. Auth.*, 945 A.2d 73, 86 (N.J. Super. Ct. App. Div. 2008).

C. The Washington Supreme Court Also Recognized that the ICCTA Preemption Includes Rail Transportation of Solid Waste.

10. The Washington State Supreme Court also has relied on ICCTA preemption applying to the transportation of solid waste. In *Regional Disposal Co. v. City of Centralia*, 147 Wn.2d 69, 51 P.3d 81 (2002), the Court reviewed a similar transportation arrangement whereby Regional Disposal Company (“RDC”) and its hauler LeMay Enterprises⁴ (“LeMay”) provided COFC services through the City of Centralia. RDC and LeMay challenged a city tax on the rail transportation of solid waste. Represented by the same counsel who represents Murrey’s Disposal here, RDC and LeMay successfully relied on the fact that the rail transportation of “solid waste” falls within the ICCTA’s exclusive grant of STB jurisdiction. RDC and LeMay

⁴ LeMay and Murrey’s are both owned by Waste Connections, Inc. *See* <http://www.lemayinc.com/AboutUs.html> (last visited Sept. 25, 2020); <https://www.murreysdisposal.com/> (last visited Sept. 25, 2020).

argued that the tax violated the Railroad Revitalization and Regulatory Reform Act because it discriminated against rail transportation of solid waste. *Id.* at 74. That statute prohibits a “tax that discriminates against a rail carrier providing transportation subject to the jurisdiction of the [STB] under this part.” 49 U.S.C. § 11501(b)(4). “This part,” is Part A, governing “rail.” The “jurisdiction of the Board” in Part A is set forth **only** in 49 U.S.C. § 10501 which makes “exclusive” the STB’s jurisdiction over “transportation by rail carriers.” *Id.* § 10501(b).

11. RDC and LeMay’s challenge was predicated on the solid waste it transported being “property” under the ICCTA. The trial court agreed and “ruled that 49 U.S.C. § 10501(b)(2) preempts Centralia’s tax because the [STB] is given exclusive jurisdiction” Brief of City of Centralia, *Regional Disposal Co. v. City of Centralia*, 2001 WL 34797765, *9 (Oct. 19, 2001).⁵ The Supreme Court affirmed. 147 Wn.2d at 77. If solid waste were not property under the ICCTA, the Washington Supreme Court could not have reached its holding.

D. The CRA Confirms STB Jurisdiction Over the Rail Transportation of Solid Waste.

12. Recognizing the broad scope of ICCTA preemption, in 2008 Congress slightly limited its scope in the CRA, while confirming the STB’s exclusive jurisdiction over rail transportation of solid waste. The CRA added a carve-out from the grant of “exclusive” jurisdiction to the STB over “transportation by rail carriers,” 49 U.S.C. § 10501(b): “Except as provided in paragraph (3), the [STB] does not have jurisdiction under this part over ... a solid waste rail transfer facility as defined in section 10908 of this title, except as provided under sections 10908 and 10909 of this title.” *Id.* § 10501(c)(2)B). So, with some exceptions, Congress withdrew from STB jurisdiction authority over solid waste rail transfer facilities, which “shall comply with all applicable Federal and State requirements.” *Id.* § 10908(a).

13. The STB recognized that:

[S]olid waste rail transfer facilities, which, in the absence of the CRA were, or would have been, subject to the Board’s jurisdiction and thus shielded from

⁵ Respondents were unable to obtain the trial court’s decision and therefore rely on the quotation of that decision in the Supreme Court briefs.

state and local regulation by federal preemption, must now comply with certain types of federal and state requirements in the same manner as non-rail solid waste management facilities that do not fall within the Board’s jurisdiction or qualify for federal preemption under 49 U.S.C. 10501(b).

Town of Babylon & Pinelawn Cemetery – Pet’n for Decl. Order, FD 5057, 2009 WL 3329242, *5 (S.T.B. Oct. 15, 2009) (emphasis added); *accord* EP 684, 2012 WL 5873121 at *1.

14. In the CRA, Congress defined a “solid waste rail transfer facility” as: “the portion of a facility owned or operated by or on behalf of a rail carrier ... where **solid waste, as a commodity to be transported for a charge**, is collected, stored, separated, processed, treated, managed, disposed of, or transferred, **when the activity takes place outside of original shipping containers**” 49 U.S.C. § 10908(e)(1)(H)(i) (emphasis added). The STB regulation that followed confirmed that the CRA’s withdrawal of STB jurisdiction, **did not** apply to:

The portion of a facility to the extent that activities taking place at such portion are comprised **solely of the railroad transportation of solid waste** after the solid waste is loaded for shipment on or in a rail car, including railroad transportation for the purpose of interchanging railroad cars containing solid waste shipments; or ... A facility where **solid waste is solely transferred or transloaded** from a tank truck directly to a rail tank car.

49 C.F.R. § 1155.2(a)(10) (emphasis added).

15. Congress and the STB thus affirmed that “solid waste, as a commodity to be transported for a charge,” 49 U.S.C. § 10908(e)(1), is subject to the STB’s exclusive jurisdiction **except** when it concerns a solid waste rail transfer facility. Moreover, Congress did not withdraw from the STB’s exclusive jurisdiction the handling of solid waste by a rail carrier that **does not** “take[] place outside of original shipping containers,” as is the case with COFC transportation. *Id.* The rail transportation of solid waste in intermodal containers that remain sealed from pickup at the customer until delivery to a landfill was not of concern in the CRA because the containerized solid waste is not “collected, stored, separated, processed, treated, managed, disposed of, or transferred” at a solid waste transfer facility.

16. The House sponsor of the CRA emphasized that COFC services are regulated exclusively by the STB and nothing in the new statute changed this. “[T]he amendment does not apply to

containerized facilities. **They still are subject to the Federal preemption.**” Federal Railroad Safety Improvement Act of 2007, 153 Cong. Rec. H11671-02, H11691, 2007 WL 3024635 (Oct. 17, 2007) (emphasis added). The legislative history makes it clear that the purpose was to curtail the use of federal preemption in siting solid waste transfer facilities at rail yards and not federal preemption of rail transportation of solid waste itself. *Id.* (“[T]here is a growing concern in the Northeast that some railroads are using Federal preemptions standards to shield themselves from important State and local environmental laws which are leading to a lack of environmental and health-related oversight of [municipal waste transfer facilities].”).

17. The STB recognized that the CRA “excludes from the definition the portion of a facility where the only activity is **railroad transportation of solid waste** after the waste has been loaded for shipment in or on a rail car, including interchanging rail cars of solid waste,” like COFC. “In such cases, assuming the facility, or portion thereof, meets the other necessary qualifications, **it would be subject to the Board’s general jurisdiction over rail transportation and entitled to preemption from most state and local laws**” Solid Waste Rail Transfer Facilities, EP 684, 2009 WL 94517, *4 (S.T.B. Jan. 14, 2009) (emphasis added). If rail transportation of solid waste were not already within the STB’s jurisdiction – which is exclusive – this provision of the statute would be meaningless. Congress would not need to exempt state permitting regulation from federal preemption if it did not otherwise fall within the scope of the ICCTA preemption.

18. The CRA carve-out had immediate effect. In *New Jersey Department of Environmental Protection v. J.P. Rail, Inc.*, the court reconsidered federal preemption based on the CRA’s passage while the case was pending. No. C-41-06, 2009 WL 127666 (N.J. Super. Ct., App. Div. Jan. 21, 2009). The trial court had ruled the solid waste transfer facility and the transloading process preempted by the ICCTA: “federal preemption barred [New Jersey] from requiring defendants to obtain permits and approvals” *Id.* at *2-*3. The appellate court concluded that the intervening action by Congress now allowed for state regulation over the facility. *Id.* at *8.

19. The CRA confirmed that rail transportation of solid waste was part of the STB’s exclusive jurisdiction of “transportation by rail carrier” under 49 U.S.C. § 10501(b) as the STB and the courts had previously held. *See* S EP 684, 2009 WL 94517 at *4 (prior to the CRA, solid waste rail transfer facilities “came within the Board’s jurisdiction **as part of transportation by rail carrier**”) (emphasis added). Other than withdrawing solid waste transfer facilities from the STB’s jurisdiction, Congress left untouched the longstanding rulings that the STB regulated the transportation by rail carrier of solid waste. *Wash. Natural Gas Co. v. Pub. Util. Dist. No. 1*, 77 Wn.2d 94, 98, 459 P.2d 633 (1969) (*expressio unius est exclusio alterius*). Those rulings govern.

E. Congress Clearly Intended the FAAAA Not to Preempt Solid Waste Regulation.

20. Unlike the ICCTA, Congress expressly intended to exclude solid waste regulation from the Federal Aviation Administration Authorization Act of 1994 (“FAAAA”). In the FAAAA, a statute that **does not** implicate rail transportation, Congress narrowly preempted transportation of “property.” “[A] State ... may not enact or enforce a law, [or] regulation ... related to a price, route, or service of any motor carrier ... or any motor private carrier, broker, or freight forwarder with respect to the transportation of property.” 49 U.S.C. § 14501(c).

21. In addressing the scope of preemption, congressional intent is “the ultimate touchstone.” *Ingersoll-Rand Co. v. McClendon*, 498 U.S. 133, 138 (1990). So, in considering whether the FAAAA preempted WUTC regulation, the Washington Court of Appeals relied on Congress:

The conferees further clarify that the motor carrier preemption provision **does not preempt State regulation of garbage and refuse collectors**. The managers have been informed by the Department of Transportation that under ICC case law, garbage and refuse are not considered “property.” Thus garbage collectors are not considered “motor carriers of property” and are thus unaffected by this provision.

W.U.T.C. v. Haugen, 94 Wn. App. 552, 555, 972 P.2d 1280 (1999) (quoting H.R. Conf. Rep. No. 103-677, at 85 (1994)) (emphasis added). Therefore, the Court easily concluded that Congress did not intend in the FAAAA to preempt garbage from state regulation. *Id.*

22. While Congress’ intent for the FAAAA was plain, the ICC regulatory history was not. *See supra* ¶¶ 3-5. The Ninth Circuit concluded that the ICC precedent “which Congress was told

did not consider garbage and refuse ‘property’” was of “debatable” import because the old ICC rulings were “equivocal as to whether it could be ‘property’ or not.” *AGG Enters. v. Wash. Cnty.*, 281 F.3d 1324, 1329 (9th Cir. 2002). The lack of clarity in the ICC rulings was irrelevant, though: “**We are not concerned with what ICC case law says**, but with what Congress intended in its statute and at most with what Congress *thought* ICC case law said.” *Id.* (underlined emphasis added); *accord Polesuk*, 2006 WL 2796789, *7 (“the ICC case law interpreting the term ‘property’ is irrelevant for purposes of a preemption analysis”). “Even if Congress was misinformed as to what ICC case law held, it believed that the statute it was passing would not affect local regulation of garbage and refuse collection.” *AGG Enters.*, 281 F.3d at 1329. The Ninth Circuit too found “unambiguous” “Congress’ intent *not* to preempt the area of solid waste collection” in the FAAAA. *Id.* at 1330.

F. State Regulation of COFC Transportation of Solid Waste Is Preempted.

23. As noted, the STB’s grant of authority to regulate “transportation by rail carrier” comes solely from 49 U.S.C. § 10501(b), a section denominated “General jurisdiction.” Under this exclusive grant of authority, the STB may regulate **and** may exempt from regulation. 49 U.S.C. § 10502 sets forth the Board’s “authority to exempt rail carrier transportation.” The STB is authorized to exempt from federal regulation “a matter related to a rail carrier **providing transportation subject to the jurisdiction of the Board under this part**” *Id.* § 10502(a) (emphasis added). “This part,” as with the Railroad Revitalization and Regulatory Reform Act, is Part A, governing “rail.” *See supra* § II.C. The “jurisdiction of the Board” in Part A is set forth **only** in 49 U.S.C. § 10501. In other words, the authority to exempt applies only to “transportation by rail carrier” that **already** is subject to the Board’s exclusive jurisdiction. While the exemption authority makes plain just how broad STB’s exclusive jurisdiction is, the exemption is not a free-floating, separate grant of *nonexclusive* jurisdiction as Murrey’s urges.

24. The D.C. Circuit, in an opinion by then-Judge Ruth Bader Ginsburg, confirmed that the STB’s **exemption** authority is not, itself, jurisdictional. *Central States Motor Freight Bureau*,

Inc. v. ICC, 924 F.2d 1099, 1102 (D.C. Cir. 1991) (“we do not regard [now section 10501] as ‘jurisdictional’”). The D.C. Circuit ruled that “[e]xercise of the ICC’s section [10501] exemption authority neither lodges nor dislodges agency jurisdiction; instead, it *presupposes* ICC jurisdiction over the persons or services exempted.” *Id.* Hence, the STB’s exemption of COFC services from federal regulation “regardless of the type, affiliation, or ownership of the carrier performing the highway portion of the service,” 49 C.F.R. § 1090.2, confirms those services are subject to exclusive STB jurisdiction under 49 U.S.C. § 10501(b).

25. The STB’s exercise of its authority to exempt its own regulation does not somehow override the ICCTA’s preemption of state regulation in that area. The ICCTA exclusive jurisdiction clause was originally enacted as part of the Staggers Rail Act of 1980. *Fayus Enters. v. BNSF Ry. Co.*, 602 F.3d 444, 448 (D.C. Cir. 2010). In the Staggers Act, Congress “reaffirm[ed] that where the [ICC] has withdrawn its jurisdiction to regulate, the State could not assume such jurisdiction.” *Id.* at 451-452 (quoting the Congressional record).

26. In granting the STB exclusive jurisdiction over rail “transportation,” Congress did not limit that jurisdiction based on the commodity being transported. The meaning of “property” under the ICCTA was not tied to *Joray* or any of the other old, disparate ICC interpretations of the scope of the ICA. Indeed, the opposite is true. The courts “are not concerned with what ICC case law says, but with what Congress intended in its statute” *AGG Enters.*, 281 F.3d at 1329. As described above, the courts have long held that, as used in the ICCTA’s broad grant of exclusive jurisdiction, “transportation” includes solid waste. And Congress affirmed the inclusion of solid waste transportation in the STB’s exclusive jurisdiction when it passed the CRA. Congress left undisturbed the preemption of rail transportation of solid waste, including COFC services.

27. The ICCTA preempts WUTC regulation of COFC transportation of solid waste.

RESPECTFULLY SUBMITTED this 8th day of October, 2020.

SUMMIT LAW GROUP PLLC

By s/ Jessica L. Goldman

Jessica L. Goldman, WSBA #21856

Jesse L. Taylor, WSBA #51603

315 Fifth Avenue So., Suite 1000

Seattle, WA 98104

Tel: (206) 676-7000

jessicag@summitlaw.com

jesset@summitlaw.com

Attorneys for Respondents

By s/ Andrew M. Kenefick

Andrew M. Kenefick, WSBA #18374

720 Fourth Avenue, Suite 400

Kirkland, WA 98033

(425) 825-2003

akenefick@wm.com

*Attorney for Respondents Waste
Management of Washington, Inc. and
Waste Management Disposal Services of
Oregon, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, by the method as indicated below, pursuant to WAC 480-07-150.

<p><i>Attorneys for Complainant Murrey's Disposal Co., Inc.</i></p> <p>Blair I. Fassburg, WSBA #41207 David W. Wiley, WSBA #08614 WILLIAMS, KASTNER & GIBBS PLLC 601 Union Street, Suite 4100 Seattle, WA 98101-2380 Legal Asst: Maggi Gruber dwiley@williamskastner.com bfassburg@williamskastner.com mgruber@williamskastner.com</p>	<p><input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email</p>
--	--

DATED this 8th day of October, 2020.

s/Sharon Hendricks

Sharon Hendricks, Legal Assistant
sharonh@summitlaw.com