

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In re Application No. GA-079358 of)	DOCKET NO. TG-050239
)	
DB HAULING LLC,)	ORDER NO. 02
)	
For Authority to Transfer All Rights)	
Under Certificate No. G-198,)	ORDER APPROVING AND
Standing in the Name of Haney)	ADOPTING SETTLEMENT
Truck Line, Inc., to DB Hauling LLC.)	AGREEMENT; GRANTING
)	APPLICATION AS AMENDED
.....)	

Synopsis: This Order resolves all issues in dispute in this application to transfer certificate rights by approving and adopting a proposed Settlement Agreement entered into by all parties: Haney Truck Line, Inc., DB Hauling, LLC, Yakima Waste Systems, Inc., Washington Refuse and Recycling Association, and Commission Staff (the Parties).

1 **Nature of the Proceeding.** Docket No. TG-050239 is a joint application by DB Hauling LLC and Haney Truck Line, Inc. to transfer solid waste Certificate No. G-198 from Haney Truck Line, Inc. to DB Hauling LLC. Certificate No. G-198 authorizes Haney Truck Line to transport cannery waste in Yakima County under contract with Del Monte Corporation and Tree Top, Inc.

2 **Parties:** Don Burke, owner of Applicant DB Hauling LLC (DB Hauling), Yakima, Washington, represents Applicant. Bruce Moorner, owner of the certificate holder Haney Truck Line, Inc.(Haney), Yakima, Washington, represents Applicant-Transferee. Greg W. Haffner, Curran Mendoza P.S., Kent, Washington, represents Protestant Yakima Waste Systems, Inc. (Yakima Waste Systems). James K. Sells, Ryan Sells Uptegraft, Inc., P.S., Silverdale, Washington, represents Protestant Washington Refuse and Recycling Association (WRRRA). Lisa Watson, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (Commission Staff or Staff).

MEMORANDUM

3 **Background.** On January 18, 2005, DB Hauling and Haney filed a joint application to transfer the solid waste certificate held by Haney to DB Hauling. The certificate, Certificate No. G-198, authorizes Haney to transport cannery waste in Yakima County under contract with Del Monte Corporation and Tree Top, Inc. The Commission published notice of the application in its weekly Application Docket of February 28, 2005. Yakima Waste and WRRRA filed timely protests to the Application.

4 The Commission convened a prehearing conference in this matter in Olympia Washington, on May 10, 2005, before Administrative Law Judge Karen Caillé. Among other things, the Commission amended the Application, with agreement of the parties, to include copies of two contracts, one between DB Hauling and TreeTop, Inc. and a second between DB Hauling and Del Monte Corporation; allowed the Applicant to supplement the Application with updated financial statements, and established a procedural schedule with an evidentiary hearing to be held in Yakima, Washington on July 29, 2005.

5 **Settlement Agreement.** On July 14, 2005, the Parties filed a proposed Settlement Agreement that fully resolves the contested issues between them in this proceeding. The Parties agree that Haney and DB Hauling will amend their application to transfer a portion, rather than all, of Haney's certificate to DB Hauling. Under the terms of the settlement, Haney will transfer its authority to transport solid waste consisting of cannery waste in Yakima County under contract with the Del Monte Corporation and Tree Top, Inc., to DB Hauling with the following restrictions:

- 1) The contract with Del Monte Corporation for solid waste collection service shall be limited to cannery waste that cannot otherwise be recycled or

reused, consisting of wet food by-products and processing material containing wet food by-products, from points in the cities of Yakima and Toppenish.

- 2) The contract with Tree Top, Inc., for solid waste collection service shall be limited to: (i) cannery waste that cannot otherwise be recycled or reused, consisting of wet food by-products and processing material containing wet food by-products, from all points in Yakima County; and (ii) cannery waste that cannot otherwise be recycled or reused, consisting of dry refuse, from points in the city of Selah.
- 3) Haney must surrender or cancel that part of Certificate G-198 that is not transferred in Paragraphs 3.2 through 3.4 of the proposed Settlement Agreement.

6 In addition, the Parties agree that the restrictions in Paragraphs 3.2 through 3.4 of the proposed Settlement Agreement will not prevent DB Hauling from transporting cannery waste in the State of Washington that is recyclable or reusable under its common carrier authority, Permit No. CC-61591.

7 **Discussion and decision.** The Commission is persuaded that it is reasonable to accept, and does accept, the proposed Settlement Agreement of the Parties which appears to be fully supported by the facts recited. Based on the record before us, we find the issues are adequately addressed and resolved by the terms of the Settlement Agreement, and that the result is consistent with the public interest. The proposed Settlement Agreement should be approved and adopted as a full and final resolution of all issues pending in Docket No. TG-050239, and the amended application should be approved.

ORDER

8 THE COMMISSION approves and adopts the proposed Settlement Agreement, attached as Appendix A and incorporated by reference into this Order, as a full and final resolution of all issues pending in Docket No. TG-050239. In so doing, the Commission grants application No. GA-079358, as amended. The Commission will issue a permit as set out in Appendix B.

Dated at Olympia, Washington, and effective this 10th day of August, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARK H. SIDRAN, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

NOTICE TO PARTIES: This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-07-850, or a petition for rehearing pursuant to RCW 80.04.200 or RCW 81.04.200 and WAC 480-07-870.

APPENDIX A

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

In the Matter of

D B HAULING, LLC

Application to Transfer Authority from
Haney Truck Line, Inc.

DOCKET NO. TG-050239

SETTLEMENT AGREEMENT

I. PARTIES

1.1 This Settlement Agreement is entered into by Haney Truck Line, Inc. (Haney); DB Hauling, LLC; Yakima Waste Systems, Inc.; Washington Refuse and Recycling Association (WRRRA); and Staff of the Washington Utilities and Transportation Commission (Staff) (collectively, the "Parties") regarding the matters at issue in this proceeding.

II. BACKGROUND

2.1 On January 18, 2005, DB Hauling and Haney filed a joint application to transfer the solid waste certificate held by Haney to DB Hauling. The certificate at issue is Certificate No. G-198, which authorizes Haney to transport cannery waste in Yakima County under contract with Del Monte Corporation and Tree Top, Inc. Notice of the application was achieved through the Commission's Application Docket dated February 28, 2005.

2.2 Yakima Waste and WRRRA timely filed protests to the application, and the matter was set for a prehearing conference, which was held on May 10, 2005, before Administrative Law Judge Karen Caillé.

III. AGREEMENT TERMS

3.1 The Parties agree that Haney and DB Hauling will amend their application to transfer a portion, rather than all, of Haney's certificate to DB Hauling.

3.2 The Parties agree that Haney will transfer its authority to transport solid waste consisting of cannery waste in Yakima County under contract with the Del Monte Corporation and Tree Top, Inc., to DB Hauling with the following restrictions:

3.3 The contract with Del Monte Corporation for solid waste collection service shall be limited to cannery waste that cannot otherwise be recycled or reused, consisting of wet food by-products and processing material containing wet food by-products, from points in the cities of Yakima and Toppenish.

3.4 The contract with Tree Top, Inc., for solid waste collection service shall be limited to: (i) cannery waste that cannot otherwise be recycled or reused, consisting of wet food by-products and processing material containing wet food by-products, from all points in Yakima County; and (ii) cannery waste that

cannot otherwise be recycled or reused, consisting of dry refuse, from points in the city of Selah.

3.5 The Parties agree that Haney will surrender for cancellation that part of Certificate G-198 that is not transferred in Paragraphs 3.2 through 3.4 above.

3.6 The Parties agree that the restrictions in Paragraphs 3.2 through 3.4 above will not prevent DB Hauling from transporting cannery waste in the State of Washington that is recyclable or reusable under its common carrier authority, Permit No. CC-61591.

IV. GENERAL TERMS

4.1 The Parties agree that this Settlement Agreement fully resolves the contested issues between them in this proceeding. The Parties understand that the Agreement Terms contained in Paragraphs 3.1 through 3.6 are not binding on the Commission unless the Commission adopts them.

4.2 The Parties have entered into this Agreement voluntarily to lessen the expense, inconvenience, and uncertainty, and delay of litigation.

4.3 The Parties agree to cooperate in submitting this Agreement promptly to the Commission for adoption. The Parties agree to support adoption of this Agreement in proceedings before the Commission through

testimony or briefing. No party to this Agreement or its agents, employees, consultants, or attorneys will engage in advocacy contrary to the Commission's adoption of this Agreement.

4.4 The Parties recognize that this Agreement represents a compromise of the positions the Parties may otherwise assert in this proceeding. As such, conduct, statements, and documents disclosed during negotiations of this Agreement shall not be admissible as evidence in this or any other proceeding, except in any proceeding to enforce the terms of this Agreement.

4.5 This Agreement shall not be construed against either party because it was a drafter of the Agreement.

4.6 The Parties have negotiated this Agreement as an integrated document to be effective upon execution. This Agreement supersedes all prior oral and written agreements on issues addressed herein.

4.7 The Parties may execute this Agreement in counterparts and as executed shall constitute one agreement. Copies sent by facsimile are effective as original documents.

4.8 The Parties shall take all actions necessary and appropriate to carry out this Agreement.

4.9 In the event that the Commission rejects all or any portion of this Agreement, each party reserves the right to withdraw from this Agreement by written notice to the other party and the Commission. Written notice must be served within 10 days. In such event, neither party will be bound or prejudiced by the terms of this Agreement, and either party shall be entitled to seek reconsideration of the Order rejecting all or part of the Agreement.

This SETTLEMENT AGREEMENT is entered into by each Party as of June 30, 2005.

Haney Trucking, Inc.

By _____
Bruce Moorer

DB Hauling, LLC

By _____
Don Burke

Yakima Waste Systems, Inc.

By _____
Greg W. Haffner
Curran Mendoza P.S.

Washington Refuse and Recycling Association

By _____
James K. Sells
Ryan Sells Uptegraft, Inc. P.S.

Staff of the Washington Utilities and Transportation Commission

By _____
Rob McKenna
Attorney General
Lisa Watson Gafken
Assistant Attorney General

APPENDIX B

D B HAULING, LLC
612 N. 20TH AVENUE
YAKIMA, WASHINGTON 98902

PERMIT NO.
G-000198

REFUSE COLLECTION SERVICE consisting of cannery waste in Yakima County under contracts with DEL MONTE CORPORATION and TREE TOP, INC.

RESTRICTION: The contract with Del Monte Corporation for solid waste collection service shall be limited to cannery waste that cannot otherwise be recycled or reused, consisting of wet food by-products and processing material containing wet food by-products, from point in the cities of Yakima and Toppenish.

RESTRICTION: The contract with Tree Top, Inc., for solid waste collection service shall be limited to: (i) cannery waste that cannot otherwise be recycled or reused, consisting of wet food by-products and processing material containing wet food by-products, from all points in Yakima County; and (ii) cannery waste that cannot otherwise be recycled or reused, consisting of dry refuse, from points in the city of Selah.