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BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In re Application No. GA-079251 of)	
HAROLD LEMAY ENTERPRISES, INC.,)	Docket No.TG-040221
ET AL)	Volume V
For an Extension of Certificate)	Pages 148 to 375
No. G-98 for a Certificate of)	
Public Convenience and Necessity)	
_____)	
In re Application No. GA-079254 of)	
KLEEN ENVIRONMENTAL TECHNOLOGIES,)	Docket No.TG-040248
INC.)	
For a Certificate of Public)	
Convenience and Necessity)	
_____)	

A hearing in the above matter was held on
September 27, 2004, from 9:55 a.m to 5:10 p.m., at 220
Fourth Avenue South, Kent, Washington, before
Administrative Law Judge ANN RENDAHL.

The parties were present as follows:

THE COMMISSION, by GREGORY J. TRAUTMAN,
Assistant Attorney General, 1400 South Evergreen Park
Drive Southwest, Olympia, Washington 98504-0128,
Telephone (360) 664-1187, Fax (360) 586-5522, E-Mail
gtrautmawutc.wa.gov.

KLEEN ENVIRONMENTAL TECHNOLOGIES, INC., by
GREG W. HAFFNER, Attorney at Law, Curran Mendoza, 555
West Smith Street, Kent, Washington 98032, Telephone
(253) 852-2345, Fax (253) 852-2030, E-mail
gwh@curranmendoza.com.

Joan E. Kinn, CCR, RPR
Court Reporter

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1 STERICYCLE OF WASHINGTON, INC., by STEPHEN B.
2 JOHNSON, Attorney at Law, Garvey Shubert Barer, 1191
3 Second Avenue, Floor 18, Seattle, Washington 98101,
4 Telephone (206) 464-3939, Fax (206) 464-0125, E-mail
5 sjohnson@gsblaw.com.

6 HAROLD LEMAY ENTERPRISES, INC. and WASHINGTON
7 REFUSE AND RECYCLING ASSOCIATION and RUBATINO REFUSE
8 REMOVAL, INC. and CONSOLIDATED DISPOSAL, by JAMES K.
9 SELLS, Attorney at Law, Ryan Sells Uptegraft, Inc., 9657
10 Levin Road Northwest, Suite 240, Silverdale, Washington
11 98383, Telephone (360) 307-8860, Fax (360) 307-8865,
12 E-mail jimsells@rsulaw.com.

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

2 JUDGE RENDAHL: Good morning, we're here
3 before the Washington Utilities and Transportation
4 Commission, Monday, September 27th, 2004, in Kent,
5 Washington to begin a hearing in Docket Number
6 TG-040248, which is captioned in the Matter of the
7 Application Number GA-079254 of Kleen Environmental
8 Technologies Incorporated for a Certificate of Public
9 Convenience and Necessity. I'm Ann Rendahl, the
10 Administrative Law Judge presiding over this proceeding.

11 The primary issue in this proceeding is to
12 determine whether to grant the application of Kleen
13 Environmental Technologies requesting statewide solid
14 waste authority under Chapter 81.77 RCW for the
15 collection, transportation, and disposal of biomedical
16 waste. In addition to the other requirements for
17 consideration of a solid waste application in RCW
18 81.77.040, the Commission may issue a certificate in
19 areas already served by a certificate holder only if the
20 existing solid waste collection company or companies
21 serving the territory will not provide service to the
22 satisfaction of the Commission.

23 So the purpose of the hearing today and
24 through this week is to hear testimony from the
25 applicant's and protestants' financial and operating

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1 witnesses on the issues in this proceeding and in
2 particular focusing on cross-examination of the
3 witnesses' prefiled testimony.

4 We have talked about the schedule and the
5 hearing, and copies of the original agenda and
6 cross-examination estimates and exhibit lists are over
7 on the chair as well as suggestions from Mr. Haffner as
8 to local eateries for lunch. So let's take appearances,
9 and then we'll move forward. You have all made formal
10 appearances, so if you would state your name and the
11 party you represent, that will be sufficient. Let's
12 begin with the applicant.

13 MR. HAFFNER: Thank you, Your Honor, my name
14 is Greg Haffner, I am the attorney for the applicant
15 Kleen environmental Technologies, Inc.

16 JUDGE RENDAHL: And for the protestant
17 Stericycle.

18 MR. JOHNSON: Your Honor, I'm Steve Johnson,
19 attorney for Stericycle of Washington.

20 JUDGE RENDAHL: And, Mr. Sells, I'm not going
21 to list your protestant clients.

22 MR. SELLS: James Sells for various
23 protestants.

24 JUDGE RENDAHL: LeMay?

25 MR. SELLS: LeMay.

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1 JUDGE RENDAHL: Rubatino?

2 MR. SELLS: Rubatino and Consolidated
3 Disposal and Washington Refuse and Recycle.

4 JUDGE RENDAHL: Thank you.

5 And for Staff.

6 MR. TRAUTMAN: Greg Trautman, Assistant
7 Attorney General for Commission Staff.

8 JUDGE RENDAHL: Thank you. So we have added
9 a few exhibits to the premarked exhibit list, and I
10 think we have addressed the scheduling issues that we
11 needed to take care of. Is there anything else we need
12 to do before we turn to Mr. Haffner's first witness?

13 While we were off the record I marked as
14 Exhibit 20 a Yahoo map of the location of 754 Garfield
15 Street in Seattle, which I assume from Mr. Johnson's
16 discussion is a Kleen Environmental facility, but we'll
17 get that more particularly on the record through
18 Mr. Olson, and as 21 a Mapqwest map of the same
19 location.

20 We also will start at Exhibit 165 for a
21 series of 26 or so photographs that Mr. Johnson will
22 provide through Mr. Olson, and we will number those as
23 we take them up.

24 The only thing I would ask now is that if
25 anybody has a cell phone if you would turn it off or

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1 turn it to silent before we go forward.

2 We'll be off the record for a moment.

3 (Discussion off the record.)

4 JUDGE RENDAHL: Mr. Olson, could you state
5 your full name and address for the record.

6 MR. OLSON: Yes, Robert Lee Olson, my address
7 is 2035 Waverly Place North, Seattle, Washington.

8 JUDGE RENDAHL: And could you raise your
9 right hand, please.

10 (Witness Robert Lee Olson was sworn.)

11 JUDGE RENDAHL: Okay, please go ahead,
12 Mr. Haffner.

13 MR. HAFFNER: Thank you, Your Honor.

14

15 Whereupon,

16 ROBERT LEE OLSON,
17 having been first duly sworn, was called as a witness
18 herein and was examined and testified as follows:

19

20 D I R E C T E X A M I N A T I O N

21 BY MR. HAFFNER:

22 Q. Mr. Olson, I'm handing you a book of
23 different documents that are listed as exhibits in this
24 hearing. They have not been admitted for exhibits yet,
25 but they are all identified by number. Turning to the

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1 first exhibit, which is identified as I believe 1-T, can
2 you take a look at that document and tell us if you
3 recognize it.

4 A. I do.

5 Q. And what is that document?

6 A. It's a testimony that was requested of me
7 prior to this hearing as to what my capacity is, type of
8 things we do at Kleen Environmental Technologies.

9 Q. On the fourth page of that document there's a
10 signature, is that your signature?

11 A. Yes, it is.

12 Q. Do you recall when and where you signed that
13 document?

14 A. No, the date I guess in August 2004.

15 Q. Okay.

16 A. This year.

17 Q. Have there been any changes made to the
18 circumstances that you describe in that document, or is
19 that document still correct as of today's date?

20 A. It is.

21 Q. Okay.

22 A. With the exception of one item. If you go to
23 page 2, we are reevaluating our position to do
24 clandestine drug laboratory decontamination.

25 Q. That's at line 17?

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1 A. That's correct.

2 Q. An item that you specialize in?

3 A. Yes.

4 MR. JOHNSON: Your Honor, I'm sorry, I didn't
5 hear the witness's statement about that line. Could you
6 repeat that for us?

7 THE WITNESS: Certainly.

8 A. We're reevaluating certain clients in doing
9 clandestine drug lab decontamination where a state
10 contractor does that kind of work and your clients are
11 either using home owners, you know, rental property
12 owners or their businesses like storage businesses and
13 things of that nature with these clandestine drug labs
14 are, and we're thinking about only not doing any private
15 homes because of the liabilities.

16 JUDGE RENDAHL: You will need to speak up and
17 not drop off when you finish.

18 A. We're in the process of evaluating whether we
19 want to continue doing that clandestine drug lab
20 decontamination for private home owners.

21 JUDGE RENDAHL: Okay, thank you.

22 BY MR. HAFFNER:

23 Q. Mr. Olson, attached to your prefiled
24 testimony were a number of exhibits, and they have now
25 been identified as I believe Exhibits 2 through 4. Can

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1 you look at Exhibit 2 and tell us if you can identify
2 that document, please.

3 MR. JOHNSON: Mr. Haffner, I'm sorry to
4 interrupt, but isn't it RLO-2 and wasn't the first one
5 you referred to RLO-1T?

6 JUDGE RENDAHL: Well, but it's been marked
7 for --

8 MR. JOHNSON: Oh, I'm sorry, I apologize,
9 we're going down the list.

10 MR. HAFFNER: Correct.

11 JUDGE RENDAHL: And I don't know that we need
12 to go through each document unless Mr. Johnson believes
13 we do. Mr. Johnson, do you need each document to be
14 verified?

15 MR. JOHNSON: I don't think that's necessary.
16 If I have questions about the foundation of the
17 document, I can ask it in cross.

18 MR. HAFFNER: Okay.

19 MR. JOHNSON: Or if there's an issue, we can
20 raise it then.

21 JUDGE RENDAHL: All right.

22 BY MR. HAFFNER:

23 Q. If you could just look through Exhibits 2, 3,
24 and 4, and let me know if there have been any
25 modifications to any of those documents since they were

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1 submitted.

2 A. Not to my knowledge.

3 Q. Okay. Likewise there are some promotional
4 materials listed as Exhibits 5 through 14, if you could
5 briefly go through those documents and let us know if
6 any changes have been made to those documents since they
7 were submitted?

8 A. I think they all look fine.

9 Q. I think that I actually meant 5 through 13, I
10 don't believe that Exhibit 14 was a part of your
11 original record.

12 A. No, it is not, so 5 through 13.

13 Q. So 5 through 13.

14 MR. HAFFNER: All right, I would offer those
15 exhibits at this time.

16 JUDGE RENDAHL: Any objection to admission of
17 exhibits that have been marked as 1-T through 13?

18 MR. JOHNSON: Your Honor, I would like to
19 have the opportunity to cross examine with respect to
20 these exhibits. I don't anticipate a problem with them,
21 but I would like to have an opportunity to waive any
22 objection at the end of cross-examination.

23 JUDGE RENDAHL: All right, well, then we will
24 proceed, Mr. Trautman and Mr. Sells, I guess we will
25 consider that at the end, so let's proceed.

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1 Any additional direct with Mr. Olson,
2 Mr. Haffner?

3 MR. HAFFNER: No, Your Honor.

4 JUDGE RENDAHL: Okay, Mr. Johnson, please go
5 ahead.

6 MR. JOHNSON: Thank you, Your Honor.

7

8 C R O S S - E X A M I N A T I O N

9 BY MR. JOHNSON:

10 Q. Mr. Olson, my name is Steve Johnson, and I'm
11 representing Stericycle of Washington, Inc., a
12 protestant to the application that you have filed on
13 behalf of Kleen. And I might refer to Kleen
14 Environmental Technologies as Kleen if that's all right,
15 K-L-E-E-N, just for convenience.

16 I'm going to ask you about your testimony and
17 about the operations of Kleen Environmental historically
18 and then what is being proposed in the application. If
19 at any time my question is unclear or you're unsure of
20 my meaning, please ask me to clarify.

21 Mr. Olson, would you please state your
22 present position with Kleen.

23 A. I am the President of Kleen Environmental
24 Technologies.

25 Q. Do you have other positions with the company?

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1 A. I act as the General Manager.

2 Q. Are you not also a shareholder?

3 A. I am.

4 Q. What is your percentage interest in the
5 company?

6 A. I believe it's 61%, thereabouts.

7 Q. And are there other shareholders?

8 A. There are.

9 Q. And would you identify them and their
10 percentage interest?

11 A. Darin Perrollaz is the Vice President, and I
12 think his shareholdings are approximately 11%. Ken Lee
13 who is the Secretary and Chief Financial Officer, and I
14 believe his shareholdings are about 31%.

15 Q. And that should round it out?

16 A. Roughly that's 100%.

17 Q. Is there another -- those are the three
18 shareholders; is that correct?

19 A. That's all.

20 Q. Okay, thank you, sir.

21 And in your position as President and General
22 Manager, what's your general function on behalf of the
23 company?

24 A. I generally oversee the day by day activities
25 of the operations including the labor, equipment. I do

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1 a lot of bidding process. I make sure that there's
2 bonding involved on jobs that require that. I do bid
3 submissions, attend prejob conferences, oversee the
4 layout of what we call remediation services.

5 Q. And I assume this role will continue if the
6 application is granted and you also are involved in
7 medical waste collection services?

8 A. I believe so, yes.

9 Q. Would you please sketch for us your
10 employment history. I believe your prefiled testimony
11 indicates that you have been employed with Kleen
12 Environmental for 12 years, basically since its
13 founding; is that correct?

14 A. That's correct.

15 Q. And is that full-time employment?

16 A. Yes.

17 Q. And you have had prior employment in the
18 environmental services industry?

19 A. Yes.

20 Q. Could you please sketch out what your prior
21 employment has been?

22 A. Certainly. I was a Naval officer. I got out
23 of the service in approximately 1971. Went to work for
24 a company in Portland, Oregon called Crosby and Overton,
25 worked for them for 16 years.

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1 Q. Mr. Olson, could you, as you mention your
2 different positions, if you could identify the kind of
3 work you did with those companies.

4 A. Yes, certainly. I started out at Crosby and
5 Overton as a safety engineer. They were in the marine
6 repair business. I was with them for 16 years, worked
7 in Portland and in Oakland, California, two of their
8 locations. I left there after 16 years and went to work
9 for a company called Kleenblast.

10 Q. How do you spell that?

11 A. K-L-E-E-N-B-L-A-S-T.

12 Q. And how long were you employed there, and
13 what were your duties?

14 A. Six years. I was the Vice President of the
15 company.

16 Q. What did the company do?

17 A. We had rights to a copper slag pile in
18 Canada, and we put up a screening plant, and we used to
19 screen copper slag and shipped it by Burlington Northern
20 Railroad and distributed it on the West Coast as a
21 sandblasting grit from Washington, Oregon, Hawaii, and
22 California.

23 Q. And then your next position was with Kleen?

24 A. No.

25 Q. Oh.

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1 A. My next position was I went to work for a
2 company called Riedel Environmental.

3 JUDGE RENDAHL: And how do you spell that?

4 THE WITNESS: R-I-E-D-E-L.

5 JUDGE RENDAHL: Thank you.

6 BY MR. JOHNSON:

7 Q. What were your duties there?

8 A. I was a general manager of their office in
9 Seattle, Washington.

10 Q. And what kind of business was it and what
11 kind of duties?

12 A. Environmental business.

13 Q. What does that mean?

14 A. They did major remediation, waste, you know,
15 particularly petroleum contaminated soil disposals,
16 things of that nature.

17 Q. If I can --

18 A. Spill, spill response.

19 Q. Would it --

20 A. On the Puget Sound.

21 Q. Would it be fair to characterize your work
22 experience as involving, to the extent it involves
23 environmental matters, RCRA, Resource Conservation
24 Recovery Act wastes, and perhaps CERCLA, Comprehensive
25 Environmental Response Compensation Liability Act

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1 wastes, and cleanups in general?

2 A. Yes.

3 Q. You have not had experience in handling
4 medical or infectious waste in these positions; is that
5 correct?

6 A. No.

7 Q. Now in your testimony, which has been marked
8 as Exhibit 1, I'm sorry, 1-T, on page 2 there is a list
9 of, at the top of the page, there is a list of your own
10 industry, environmental industry related experience.

11 Are any of those matters involving handling of
12 infectious waste?

13 A. I'm sorry, you have lost me here.

14 Q. I'm sorry, do you have Exhibit 1-T in front
15 of you?

16 A. Yes.

17 Q. Page 2 at the top?

18 A. Yes.

19 Q. Are any of those experience items of
20 experience that related to handling of infectious waste?

21 A. No.

22 Q. What was your Bachelor's degree in?

23 A. Education.

24 Q. Have you had any other training or
25 postgraduate educational coursework that might be

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1 relevant to this hearing?

2 A. No, international business, Master's.

3 Q. I see.

4 A. It was at an overseas extension when I was in
5 the service in London, England.

6 Q. So the Navy helped you get a Master's Degree?

7 A. Kept me off the streets in London.

8 Q. Looking down in toward the lower half of the
9 page on page 2 of Exhibit 1-T.

10 A. Excuse me, may I -- can I go back to this,
11 your previous question?

12 Q. I would prefer that you stick with me --

13 A. Okay.

14 Q. -- if you would. Your counsel can ask you
15 additional questions later if there's some additional
16 clarification that's needed.

17 A. All right.

18 Q. But if you go down to the list of activities
19 that Kleen has been involved in down starting at about
20 line 13 and going down to line 18 of Exhibit 1-T, again
21 it looks like primarily those activities relate to RCRA
22 and CERCLA matters; is that correct?

23 A. That's correct.

24 Q. So they don't involve handling of infectious
25 waste either, do they?

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1 A. No.

2 JUDGE RENDAHL: Mr. Johnson, would CERCLA be
3 C-E-R-C-L-A?

4 MR. JOHNSON: Yes, it would.

5 JUDGE RENDAHL: And RCRA, R-C-R-A?

6 MR. JOHNSON: Yes, it would.

7 JUDGE RENDAHL: Okay.

8 MR. JOHNSON: Thank you.

9 BY MR. JOHNSON:

10 Q. Let's see, I've got to shift to the new
11 exhibit list. I wanted to ask you a question about the
12 existing finances of Kleen and its recent experience,
13 and I wanted to refer you to one of the exhibits on
14 Mr. Lee's testimony if I could. There's a financial
15 statement that's Exhibit Number 41 in your book. I
16 believe it's financial statements for Kleen
17 Environmental Technologies for the year ended September
18 30, 2003. And while we're at it, I'm going to also just
19 give you a preview, I'm going to refer to the exhibits
20 that are also referenced at 47 and 48, which are the
21 Kleen financials for the prior two years, but for
22 starters let's talk about the year ended September 30,
23 2003. Does this exhibit continue to accurately reflect
24 the financial condition of the company?

25 A. I believe so.

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1 Q. No material changes since -- in the past
2 year?

3 A. I don't understand material changes.

4 Q. Okay, let me ask you this, do you still have
5 the amount of money in the bank that's reflected at cash
6 and equivalent end of year --

7 A. I don't know.

8 Q. -- on page, I guess it's on the page that's
9 headed cash flows from operating activities that would
10 be Exhibit 41?

11 Let me make sure you're looking at the same
12 page I am.

13 That's the one.

14 A. Okay.

15 Q. So it shows that you had cash in the bank at
16 the end of that year of \$136,000 and some -- how much
17 cash in the bank do you have now?

18 A. I don't know.

19 Q. Can you estimate the amount?

20 MR. HAFFNER: Objection, asked and answered.

21 JUDGE RENDAHL: I will ask all attorneys and
22 the witness to try not to speak over each other. If you
23 can pause for a second and make sure that the question
24 has been asked or been answered, that would be helpful.

25 So there's an objection, I think it has

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1 been --

2 MR. JOHNSON: I have no problem, I can
3 withdraw the question, I think he did answer it.

4 JUDGE RENDAHL: Okay.

5 MR. JOHNSON: He doesn't know.

6 JUDGE RENDAHL: And, Mr. Johnson, I have a
7 question for you, which page of Exhibit 41 were you
8 referring to when you --

9 MR. JOHNSON: Well, they're --

10 JUDGE RENDAHL: Paginated on the bottom.

11 MR. JOHNSON: Yeah, they are, but they don't
12 reflect the actual -- it's page 3, but it's as it
13 appears in the exhibit it's page 5.

14 JUDGE RENDAHL: All right.

15 MR. JOHNSON: It's the fifth sheet of paper
16 in Exhibit 41, but it's marked page 3 at the bottom.

17 JUDGE RENDAHL: Okay, just needed to know.

18 MR. HAFFNER: Your Honor, I'm going to object
19 to the questions of this witness regarding this exhibit,
20 I don't think there's been any foundation laid that he
21 has any knowledge about the numbers that are in this
22 exhibit. I think that's evident by his last comment.

23 MR. JOHNSON: Your Honor, Mr. Olson is the
24 President and General Manager and 60 plus percent
25 shareholder of Kleen Environmental Technologies, if he

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1 doesn't know what the financial condition of the company
2 is, I don't know what -- who would. He is in a position
3 of overall supervision and oversight of every activity
4 that Kleen is involved in, and if you look at his
5 prefiled testimony I think it also deals with financial
6 management.

7 JUDGE RENDAHL: Well, why don't you ask
8 Mr. Olson a few foundational questions, because I assume
9 you're going to move on to Exhibits 47 and 48, so why
10 don't you ask him some foundational questions, and if he
11 doesn't know, then it's not going to prove useful.

12 MR. JOHNSON: Okay, I will do that.

13 BY MR. JOHNSON:

14 Q. Mr. Olson, have you seen Exhibit 41 before,
15 the September 30, 2003, financial statements for --

16 A. I have.

17 Q. And are you familiar with that?

18 A. Yes.

19 Q. And you use this document in the management
20 of the business?

21 A. Yes.

22 Q. Are you familiar with the business that has
23 occurred in Kleen since the year end September 30, 2003?

24 A. Yes.

25 Q. Are you familiar with the revenues and

0173

1 expenses of the company?

2 A. Yes.

3 Q. And would that -- would those answers be the
4 same for prior years ending 2002 and 2001?

5 A. Yes.

6 Q. Mr. Olson, the accountants commented in the
7 -- in note 4 of Exhibit 41 that the company no longer
8 has a lease for its facilities; is there any change in
9 that since that comment was made?

10 A. Yes.

11 Q. The company now has a lease?

12 A. They have always had a lease.

13 Q. This says you have a month-to-month rental
14 agreement.

15 A. What page are you on, sir?

16 Q. I'm sorry, this would be the last page of
17 Exhibit 41, Note 4.

18 A. We have always had a lease in place, except
19 we have always been under a three year lease with the
20 landlord. And at the end of that lease, there's a
21 period of negotiation that usually takes about a month,
22 because he always wants a rent increase, and he's
23 connected to COLA generally speaking, and we always
24 counter back that we want to pay or keep the rent the
25 same because of the vacancy rate. There's usually a lap

0174

1 in there, maybe about a month, but we have had a lease
2 on our particular space for about 11 years.

3 Q. So your testimony is that there is a lease in
4 effect now?

5 A. There is a lease in effect now.

6 Q. What is its term?

7 A. Right now it became due in June of this year,
8 wanted to renew a three year lease in the space we're
9 in, but depending on other things that happen,
10 particularly this particular hearing, we opted for a one
11 year lease with two years renewal at our option at the
12 existing rental rate.

13 Q. What was the concern about entering into a
14 new three year lease if that was your practice in the
15 past?

16 A. We think if we were going to do additional
17 work, we would have to have additional storage space and
18 shop space and additional yard space. That perspective
19 was from two point of view, we would also like to have a
20 ten day transfer permit for hazardous waste, which has
21 nothing to do with this hearing.

22 Q. I'm sorry, so you do not have a ten day
23 transfer permit?

24 A. No, we do not.

25 Q. What is that permit?

0175

1 A. That permit allows you to leave hazardous
2 waste on your location for no more than ten days.

3 Q. And is your landlord a problem with respect
4 to that permit?

5 A. We don't have the space to do that.

6 Q. Have you --

7 A. We have never done that, we don't have --

8 Q. Have you asked your landlord for --

9 A. No.

10 JUDGE RENDAHL: Mr. Johnson, if you would
11 wait until the witness is finished, then --

12 MR. JOHNSON: My apologies.

13 JUDGE RENDAHL: -- we'll have a much clearer
14 record and the court reporter won't be screaming at us
15 in a few minutes.

16 BY MR. JOHNSON:

17 Q. Now, Mr. Olson, if you look at Exhibits 47
18 and 48 in the book that's in front of you, 47 is
19 financial statements for the year ended September 30,
20 2001, and it shows I believe if you look at the page
21 that's marked 2 at the bottom, about the fifth page into
22 the document, that you had sales of \$988,000 roughly in
23 that year; is that correct?

24 A. Yes.

25 Q. And if you look at Exhibit 48 and find the

0176

1 comparable page numbered 3, wait a minute, let's see,
2 I'm sorry, it's number 2 on Exhibit 48, you see sales of
3 \$752,000 roughly.

4 A. That's correct.

5 Q. So there's a fairly dramatic drop between
6 2001 and 2002; is that correct?

7 A. It appears so.

8 Q. Is there a -- do you have any explanation for
9 the change?

10 A. No.

11 Q. Is that kind of change unusual in your
12 business?

13 A. No.

14 Q. Would you say your existing business is
15 project oriented, so sort of depends on the size and
16 flow of projects?

17 A. Yes.

18 Q. So ups and downs are a normal part of your
19 business?

20 A. Yes.

21 Q. Mr. Olson, these exhibits don't show any
22 dividends to shareholders as far as I have been able to
23 determine. Is that correct, there have been no
24 dividends to shareholders in the last three years?

25 A. I'm dealing with the term you're using, we

0177

1 paid ourself a bonus.

2 Q. I see, and perhaps a salary as compensation
3 for services?

4 A. That's correct. Our normal practice was not
5 to overly indulge on salaries, but as the fiscal year
6 ends, if there is cash remaining, we break it into a
7 bonus.

8 Q. So you have drawn a salary from the company
9 then and then received bonuses as well as part of your
10 compensation for services?

11 A. Yes.

12 Q. What is your salary?

13 A. It's about \$48,000 a year.

14 Q. And have you drawn that salary consistently
15 in the last three years?

16 A. Yes.

17 Q. And do the other shareholder employees of the
18 company draw salaries with the company?

19 A. Yes.

20 Q. And what are their approximate salaries?

21 A. They're all the same. Mr. Lee's
22 participation is the fact that he works approximately
23 25% of his time, and the salary is adjusted accordingly.

24 Q. So he would get 25% of \$48,000 roughly?

25 A. Roughly speaking.

0178

1 Q. And Mr. Perrollaz and yourself are full time
2 in the business?

3 A. Full time.

4 Q. And so you each receive \$48,000?

5 A. (Nodding head.)

6 Q. And have you -- is that the salary that you
7 have received in the last three years?

8 A. I'm sorry?

9 Q. Have you received the same salary for the
10 last three years?

11 A. Yes.

12 Q. And have you received bonuses then in each of
13 the last three years?

14 A. I believe so.

15 Q. And can you give us the amount of those
16 bonuses?

17 A. I don't remember off hand.

18 Q. Can you give us an approximate amount?

19 A. Well, it depends on what the cash position of
20 the business is, and I believe it was roughly one year
21 around \$19,000.

22 Q. And that would have been for each of you and
23 Mr. Perrollaz?

24 A. Yes.

25 Q. And with Mr. Lee getting his 25%?

0179

1 A. No.

2 Q. No bonus to Mr. Lee?

3 A. No, Mr. Lee -- all three receive the same
4 bonus.

5 Q. Okay, so let me make sure I'm clear. So
6 roughly this \$19,000 bonus has been consistent over the
7 last three years, or it has varied?

8 A. Fairly consistent over the last two years.

9 Q. Over the last two years?

10 A. Yes.

11 Q. Now I assume, Mr. Olson, that you're going to
12 continue to perform your general oversight role in
13 relation to the new or the proposed medical waste
14 collection business; is that right?

15 A. Yes.

16 Q. Mr. Olson, in exhibits that have been marked
17 5 through 13, there are various promotional items or
18 promotional materials for Kleen's business that were
19 attached to your prefilled testimony. A number of those
20 exhibits reflect or at least appear to indicate that
21 Kleen was holding itself out to conduct waste
22 transportation in connection with its business. And I'm
23 looking, for example, at Exhibit 5, second page, the
24 left-hand column, there is a list of hazardous waste
25 services that Kleen suggested, on the left side there's

0180

1 several bullet points, and I believe the fourth one down
2 talks about waste transportation.

3 A. Yes.

4 Q. Did you, in fact, engage in waste
5 transportation?

6 A. No. We are a -- we broker waste
7 transportation generally speaking.

8 Q. So you would hire somebody else to do it?

9 A. Yes.

10 Q. So this is not exactly accurate?

11 A. No.

12 Q. And if there are other references in the
13 exhibits to waste transportation, for example on Exhibit
14 Number 8, the bullet points at the top, that would also
15 be inaccurate; is that right?

16 A. Yes. We arrange transportation to disposal
17 sites usually using their trucking.

18 Q. Mr. Olson, you mentioned that you and
19 Mr. Perrollaz are employed by the company; are there
20 other employees?

21 A. Yes.

22 Q. Could you please identify them and give us
23 their titles and describe their functions.

24 A. Well, Mr. Perrollaz is Vice President, and he
25 is a field chemist. We have a chap by the name of Ray

0181

1 Castillo, he is an operations personnel, considered the
2 lead man.

3 JUDGE RENDAHL: Could you spell
4 Mr. Castillo's name for the record, please.

5 THE WITNESS: C-A-S-T-I-L-L-O.

6 JUDGE RENDAHL: Thank you.

7 A. We have another chemist that was hired about
8 two months ago to help Mr. Perrollaz. We have --

9 BY MR. JOHNSON:

10 Q. What's his name, I'm sorry?

11 A. His name is Mark Volkert.

12 Q. How do you spell his name?

13 A. V-O-L-K-E-R-T.

14 Q. And what do Mr. Castillo and Mr. Volkert do?

15 A. Mr. Castillo is a field person.

16 Q. What does that mean in your business?

17 A. If we had a job, he would be our lead man on
18 the job, he would run that job in the field.

19 Q. So give us a typical job and describe what he
20 would do.

21 A. Let's say we had a contract to remove
22 underground storage tanks, and he would obtain the
23 material, I mean the equipment to do it, he would
24 excavate the tanks, he would make sure that the fire
25 department was present to take the readings, he would

0182

1 clean the tanks, he would drum the sludges, he would
2 arrange for somebody to pick up the sludges using a
3 vacuum truck, he would cut the tanks and make them ready
4 for scrap metal disposal for recycling, he would make
5 sure those tanks were loaded safely on a common carrier
6 truck to take to the disposal site, he would order
7 backfill material for the hole, he would jump impaction,
8 and he would probably do surface.

9 Q. Does he run the backhoe?

10 A. Sometimes he does, a very clever guy.

11 Q. But otherwise you would maybe rent equipment
12 with an operator?

13 A. Normally we do that.

14 Q. And Mr. Volkert, what kind of function does
15 he perform?

16 A. Mr. Volkert is like a technical field
17 chemist. Typical example is we would have a client
18 would call up and say, I have a room full of chemicals
19 or paints or whatever, he would go and do an inventory
20 of those materials, he would find homes, proper homes,
21 you know, depending on what the packing is of those
22 materials and what facility licensing could take those,
23 he would obtain profiles from the facility and get those
24 back, he would write hazardous waste manifests, and he
25 would oversee the shipment of those materials on the

0183

1 truck of the disposal facility, i.e. Phillips
2 Environmental or Teris.

3 Q. Thank you very much.

4 So Mr. Castillo and Mr. Volkert's current
5 function have nothing to do with infectious waste?

6 A. No.

7 Q. Or medical waste management?

8 A. No.

9 Q. And Mr. Perrollaz, do you, as far as you're
10 aware, does he have any experience with infectious waste
11 or infectious waste management?

12 A. Yes, he does.

13 Q. How about transportation experience, do any
14 of these folks have transportation experience?

15 A. All the people have CDL's.

16 Q. By that you mean --

17 A. Hazardous waste --

18 Q. -- commercial driver's license?

19 JUDGE RENDAHL: Please, Mr. Johnson, don't
20 interrupt the witness.

21 Why don't you ask the question again, and
22 please answer.

23 BY MR. JOHNSON:

24 Q. I asked about whether they had transportation
25 experience, and you were --

0184

1 A. Our people all have has HAZMAT CDL licenses
2 that drive trucks.

3 Q. By CDL license you mean a commercial driver's
4 license?

5 A. Yes. They're HAZMAT endorsement licenses.

6 Q. And to what extent do they engage in
7 transportation of hazardous material?

8 A. In transportation -- I'm sorry, ask the
9 question, I don't understand.

10 Q. I'm sorry, you indicated they had commercial
11 driver's licenses associated with transportation of
12 hazardous materials I thought; is that correct?

13 A. That's correct.

14 Q. And to what extent are you engaged in the
15 transportation of hazardous materials?

16 A. Our transportation is limited to perhaps like
17 less than a drum of material. If we went out and did a
18 lab pack on the site and it was manifested it would be
19 less than 1,000 pounds, they would deliver to Phillips
20 Environmental.

21 Q. This would be transportation for disposal
22 then?

23 A. Yes.

24 Q. Now what kind of transportation equipment do
25 you currently have?

0185

1 A. The company has four vehicles, one is a 20
2 foot box van with a lift gate, an Isuzu, and two half
3 ton pickup trucks.

4 Q. Okay, I'm having trouble counting to four.

5 A. Oh, I'm sorry. Mr. Perrollaz has a company
6 Explorer that he uses in the field for field testing.

7 Q. So basically for transportation to and from
8 the job site and bringing supplies and materials and
9 things?

10 A. Yes.

11 Q. Okay. So as far as transportation of
12 hazardous materials, do you use your box van for that
13 purpose?

14 A. Yes.

15 Q. And how about the pickups?

16 A. No.

17 JUDGE RENDAHL: I'm sorry, was that a yes or
18 a no?

19 THE WITNESS: No.

20 JUDGE RENDAHL: Thank you.

21 BY MR. JOHNSON:

22 Q. Mr. Olson, does Kleen have any facilities
23 other than the location at 754 Garfield in Seattle?

24 A. No.

25 Q. What kind of facility is that?

0186

1 A. It's a combination of about 2,000 square feet
2 of office space and approximately 2,000 square feet of
3 shop, slant, or storage space.

4 Q. So a total of --

5 JUDGE RENDAHL: Did you say slant?

6 THE WITNESS: Well, shop or storage space.

7 BY MR. JOHNSON:

8 Q. So if I add this up correctly, you've got
9 about 4,000 square feet?

10 A. Approximately, yes.

11 Q. Do you have bathroom facilities in the space?

12 A. I'm sorry?

13 Q. Do you have bathroom facilities in the space?

14 A. Yes.

15 Q. Do you have showers?

16 A. No.

17 Q. Do you have dressing areas?

18 A. No.

19 Q. Mr. Olson, you're just one tenant among quite
20 a number in this building; is that correct?

21 A. That's correct.

22 Q. Do you know how many tenants are in the
23 building?

24 A. Nine.

25 Q. Nine including Kleen?

0187

1 A. Just guessing.

2 Q. And do you know what the total square footage
3 of the building would be?

4 A. No.

5 Q. Would it be twice what you have or three
6 times?

7 A. I don't know.

8 Q. Okay. Do you have a vehicle storage yard at
9 the facility?

10 A. Are you talking about like parking?

11 Q. A place to store vehicles.

12 A. Yes.

13 Q. That you use.

14 A. Yes.

15 Q. And what kind of vehicle storage or vehicle
16 parking facility do you have?

17 A. It's a -- we have basically three stalls
18 adjacent to our shop area.

19 Q. And are these areas secured by a fence or any
20 kind of barrier to prevent passers by from accessing
21 them?

22 A. No.

23 Q. Okay, well, Mr. Olson, I'm going to ask you
24 to review a series of photographs that I guess it's
25 perhaps not -- that I believe are of your building,

0188

1 let's put it that way.

2 JUDGE RENDAHL: Mr. Johnson, I'm going to
3 suggest that maybe we take our morning break right now,
4 and then we can organize, I can work with you to
5 organize the exhibits, and then it will be more
6 efficient when we get back on the stand. So we will be
7 on break until 5 to 11:00, so let's be off the record.

8 (Recess taken.)

9 JUDGE RENDAHL: While we were off the record,
10 I marked the photographs from Mr. Johnson for Mr. Olson
11 as photo number 1 beginning with Exhibit Number 165 and
12 then sequentially numbered photo number 2 for 166, et
13 cetera, all the way through photo number 26 for Exhibit
14 190.

15 So they have been marked, and, Mr. Johnson,
16 if you need to approach the witness and ask your
17 questions, it might be best just to deliver the photos
18 to him unless you need to use the same set.

19 MR. JOHNSON: I think I need to use the same
20 set, I managed to distribute all the sets out to counsel
21 and yourself, Your Honor.

22 MR. HAFFNER: He can work off of mine if that
23 would make things easier.

24 MR. JOHNSON: That's fine.

25 JUDGE RENDAHL: Okay, why don't we do that,

0189

1 and they should be numbered on the back of the photos,
2 so why don't you go ahead, Mr. Johnson.

3 MR. JOHNSON: Thank you, Your Honor.

4 BY MR. JOHNSON:

5 Q. Mr. Olson, before I go on to the photos, I
6 wanted to clean up something that I might have left open
7 from earlier. You mentioned employees as being
8 Mr. Perrollaz, Mr. Castillo, Mr. Volker, are there any
9 other employees with Kleen currently?

10 A. Yes, we have a haz tech, hazardous waste
11 technician.

12 Q. And what's that person's name, what does a
13 haz tech do?

14 A. It's a classification, we have a haz tech 1,
15 which is a lead man, and a haz tech 2, which are
16 laborers.

17 Q. This would be a laborer, a haz tech 2?

18 A. Yes.

19 Q. And a haz tech1 would be --

20 A. a lead man.

21 Q. -- Mr. Castillo?

22 A. Yes.

23 Q. And is that it for employees?

24 A. Yes.

25 Q. So then there's yourself, Mr. Perrollaz,

0190

1 Mr. Castillo, Mr. Volker, and this haz tech 2. What's
2 his name, please?

3 A. The haz tech 2?

4 Q. Yeah.

5 A. Spruill, Donald Spruill.

6 Q. Can you spell it?

7 A. I will spell, S-P-R-U-I-L-L.

8 Q. So a total of five employees I believe. You
9 don't have any office staff to work with billing or --
10 did you raise your hand --

11 A. No, we have no administrative staff per se.

12 Q. Okay, thank you.

13 Mr. Olson, I would like you to review a
14 series of photographs that I believe are of your
15 building at 754 Garfield Street, and we have numbered
16 these between 1 and 26, and I believe they have been
17 marked for identification as exhibits.

18 JUDGE RENDAHL: 165 through 190.

19 MR. JOHNSON: Okay, thank you, Your Honor.

20 BY MR. JOHNSON:

21 Q. I will ask you to look at Exhibit Number 1
22 first, and can you tell me what that's a picture of?

23 A. That's a picture of the general overall
24 building that we rent in, and this would be the front of
25 the building facing west on Dexter Avenue.

0191

1 Q. Okay. And that address on -- do you have an
2 address on Dexter as well --

3 A. No.

4 Q. -- as on Garfield?

5 A. No.

6 Q. Okay. And could you tell me, can you
7 describe just by looking at Exhibit 1 the space that
8 Kleen rents, or can you even see it from this --

9 A. You can't see it from this side.

10 Q. Okay.

11 A. It's an elevation below the street level.

12 Q. Okay. And so but is this a fair
13 representation of your building from the Dexter Avenue
14 side?

15 A. It is the building.

16 Q. Thank you.

17 Now looking at what's been marked as Number
18 2, this is another photograph of your building. You
19 might want to refer back to Exhibit Number 1, because
20 it's a, I believe it's a Dexter Avenue shot again of
21 your building from that side. Does that represent your
22 building?

23 A. It represents the Dexter level of the
24 building.

25 Q. I see, okay. And there's a for lease sign up

0192

1 in the top right corner of the building; is that right?

2 A. That's correct.

3 Q. Is that because there's vacant space in the
4 building?

5 A. There's always vacant space in the building.

6 Q. All right. And you mentioned before I think
7 that there was something like nine tenants in the
8 building?

9 A. I would guess.

10 Q. Can you identify some of the kinds of
11 businesses that are tenants in the building?

12 A. There's a secretarial service, there's a
13 talent agent, you know, that hires people to do
14 commercials, there's a photograph, couple photographic
15 studios, and most of the offices are like sales
16 representatives.

17 Q. For?

18 A. For other products.

19 Q. Okay. There is another tenant called
20 Smashing Ideas there, or are they still there?

21 A. Smashing Ideas just moved out approximately a
22 month ago.

23 Q. Okay, thank you.

24 Looking at Exhibit Number 3, which is a
25 photograph showing -- purporting to show I guess 1600

0193

1 Dexter Avenue North, and the sign, it has various
2 company names on it, one of which is Kleen Environmental
3 Tech.

4 A. Mm-hm.

5 Q. Is that your sign?

6 A. It was at one time, and the secretarial
7 service, which is on the front of the building, they
8 used to get our mail, and there was some question about
9 if we were in the office because we're -- you say we
10 don't have administrative staff, and the landlord chose
11 to put that sign up there.

12 Q. So how does that keep it from being confused?
13 It has a different address for your business on it.

14 A. Well, we now -- we never had an address --
15 well, we had an address 1600 Dexter Avenue years ago,
16 and approximately eight years ago we moved into another
17 office, and we changed all our letterhead and things of
18 that nature to reflect the 754 Garfield address, and so
19 it's never been a problem.

20 Q. I see, okay, so this is an old address and an
21 old sign perhaps?

22 A. Yes. If you look at the window on the right.

23 Q. Yes.

24 A. That was a two office suite that
25 Mr. Perrollaz and I started out in about 11 years ago.

0194

1 Q. But you're no longer --

2 A. No.

3 Q. -- occupying that space?

4 A. No.

5 Q. What is Kleen Industrial Service?

6 A. Kleen Industrial Service, I mentioned the
7 sandblast company, which is Kleenblast, they originally
8 wanted to open up a service up here to recycle spent
9 sandblasting grit because of the ferrous iron in it,
10 particularly in the concrete business, and they had an
11 office up here, and we were doing the management for
12 them. They're out of Danville, California.

13 Q. Just so you --

14 A. And if --

15 Q. Excuse me, go ahead.

16 A. And if they had a client, they just want to
17 have an address up here.

18 Q. So you're sort of the mail drop for them and
19 a place to meet people?

20 A. Yes.

21 Q. But you're not related to that company --

22 A. No.

23 Q. -- otherwise?

24 A. No.

25 Q. How about --

0195

1 A. I used to work for them.

2 JUDGE RENDAHL: Mr Johnson and Mr. Olson,
3 please remember not to speak over each other, it makes
4 it very difficult, it's going to be a long day if we
5 keep it up. So let's --

6 THE WITNESS: Yes, ma'am.

7 JUDGE RENDAHL: -- be careful.

8 Go ahead, Mr. Johnson.

9 BY MR. JOHNSON:

10 Q. You're not, let's see, I think I was saying
11 you're not related to Kleen Industrial Service, you --

12 A. No.

13 Q. How about CEO Professional Service?

14 A. That is the service next door that's a
15 secretarial service.

16 Q. It's no relation to Kleen --

17 A. No.

18 Q. -- Environmental Technologies? Okay, thank
19 you.

20 And then, Mr. Olson, looking at what's been
21 marked as Exhibit Number 4, that's a for lease sign that
22 we saw earlier on the face of the Dexter Avenue side of
23 the building where you had your offices?

24 A. Mm-hm.

25 Q. And that's there because there's empty space

0196

1 in the building?

2 A. I have no idea.

3 Q. Okay. But it doesn't reflect the landlord's
4 desire to lease your space?

5 A. No.

6 Q. Looking at what's been marked as Exhibit
7 Number 5, is that the Garfield side of the business at
8 the corner of Dexter and Garfield?

9 A. Yes.

10 Q. And can you see your office entrance there?

11 A. Yes.

12 Q. And is it the door with the awning over it
13 behind the --

14 A. Yes.

15 Q. -- behind the vehicle that's shown in the
16 picture?

17 A. Yes.

18 Q. Is this a fair representation of the Garfield
19 Avenue side of your building?

20 A. Yes.

21 Q. Looking down on the far right side of that
22 exhibit, there is a structure there with balconies; do
23 you know what that building is?

24 A. Yes.

25 Q. What is it?

0197

1 A. Apartment complex.

2 Q. Do you know how many people live there?

3 A. No.

4 Q. Is it condominiums or apartments?

5 A. Rentals.

6 Q. Thank you.

7 And then looking at what's been marked as
8 Exhibit Number 6, is that just a closeup shot of your
9 entryway?

10 A. Yes.

11 Q. That is your -- that is the address at 754
12 Garfield, is it not?

13 A. Yes.

14 Q. And do you have access through that larger
15 brown door on the left of it looks like the single door
16 to space behind?

17 A. It's just a common area, not used.

18 Q. So you don't use that door?

19 A. No.

20 Q. So the large double door, what I might call a
21 double door, is not used?

22 A. No.

23 Q. Okay. And is that a fair representation of
24 what your entryway looks like?

25 A. Yes.

0198

1 Q. Showing you what's now been marked as Exhibit
2 Number 7, I think there is a mailbox on the left side of
3 the picture that has your address on it, does it not?

4 A. Yes.

5 Q. That's 754 Garfield?

6 A. Yes.

7 Q. And is this the back side of your building
8 basically showing the first two floors?

9 A. Yes.

10 Q. And is that an accurate representation of
11 what your building looks like from the east side?

12 A. Yes.

13 Q. And is that an alleyway there that runs
14 between your building and the apartment building you
15 referred to earlier?

16 A. Yes.

17 Q. And is that public right of way?

18 A. Yes.

19 JUDGE RENDAHL: Mr. Johnson, if you can refer
20 to the photo number as opposed to exhibit number, then
21 we won't get confused.

22 MR. JOHNSON: Oh, sorry, that was photo
23 number 7.

24 JUDGE RENDAHL: Thank you.

25 MR. JOHNSON: My apologies.

0199

1 BY MR. JOHNSON:

2 Q. Looking at photo number 8, can you tell us
3 what that picture represents?

4 A. That is a parking spot that we rent, three
5 spots, from the landlord that are inclusive of our
6 lease.

7 Q. Okay. And is that where you have your
8 vehicle storage or your parking?

9 A. Yes.

10 Q. So when we referred earlier to parking
11 facilities at 754 Garfield, this is what we were
12 referring to?

13 A. Yes.

14 Q. And is that all you have for parking
15 facilities?

16 A. Yes.

17 Q. Now referring back to photo number 7 that
18 shows the back of the building, could you just explain
19 where the parking facility is in relation to photo
20 number 7?

21 A. It would be just beyond the edge of the
22 building on the right-hand side or to the north.

23 Q. Okay, thank you.

24 JUDGE RENDAHL: So if you were to go around,
25 looking at photo number 7, if you were to proceed along

0200

1 the alley and take a left, is that where the parking
2 facilities are?

3 THE WITNESS: Yes.

4 JUDGE RENDAHL: Thank you.

5 BY MR. JOHNSON:

6 Q. And as you testified before, I believe, this
7 shows there is no fence or other barrier between people
8 moving down the alley and your parking area; is that
9 right?

10 A. No.

11 Q. It is right?

12 A. No fence.

13 Q. Thank you, Mr. Olson.

14 Okay, and then looking at what's been marked
15 photo number 9, is this another angle showing your
16 parking area?

17 A. Yes.

18 Q. Is it a fair representation of what it looks
19 like out there?

20 A. Yes.

21 Q. Now I see above the pickup bed there is a
22 number on a door back there, and I believe the number
23 can be read, I believe it says 758.

24 A. Yes.

25 Q. Is that right?

0201

1 A. I don't know.

2 Q. You can't read it?

3 A. No.

4 Q. Okay. Do you know whose door is that?

5 A. It's our door.

6 Q. Okay. And what does it access?

7 A. We have a storage shop for equipment in that
8 area.

9 Q. Is that what you're talking about the 2,000
10 square feet roughly?

11 A. It's part of the 2,000 square feet.

12 Q. And is that a double door?

13 A. No, personnel door.

14 Q. Personnel door. Is there any other door back
15 there?

16 A. No.

17 Q. So you don't have like a loading dock or a
18 double door access to your storage area?

19 A. No.

20 Q. And this truck on the right, this is the box
21 van I think you referred to in earlier testimony?

22 A. Yes.

23 Q. And it looks like you've got one of your
24 pickups there?

25 A. Yes.

0202

1 Q. And Kleen has rights to all three of these
2 spaces; is that right?

3 A. Yes.

4 Q. Okay. Handing you now or referring to photo
5 number 10, this is again another view of the parking
6 area and vicinity. Is that a fair representation of
7 what it looks like out there?

8 A. Yes.

9 Q. Not that pretty, is it?

10 A. It's not ours.

11 Q. Those aren't your dumpsters?

12 A. No, sir. It's my malady it always -- it's
13 all the tenants in that building just put whatever they
14 want down there.

15 Q. The tenants in your building?

16 A. Yes.

17 Q. So it's the building dumpster?

18 A. It's common to the building.

19 Q. The building that you lease?

20 A. Yes.

21 Q. It looks like somebody used to have a bed in
22 your building.

23 A. God knows.

24 Q. Do people reside in your building?

25 A. We don't know.

0203

1 Q. Is that an official position or is that --

2 A. Yes.

3 Q. -- actual knowledge?

4 A. It's actual knowledge.

5 Q. So it's your testimony that no one lives in
6 your building?

7 A. No, I don't know, I don't know.

8 Q. Is it possible that someone lives there?

9 MR. HAFFNER: Asked and answered, objection.

10 A. I don't know.

11 Q. Thank you.

12 Again referring to exhibit -- what's been
13 marked as photo number 11, this is again a view of the
14 back of your building and the parking area showing your
15 truck and some of the debris around the dumpster. Is
16 that a fair representation of what's out there?

17 A. Dumpsters are.

18 Q. I don't understand your answer.

19 A. On occasion you get like what we call
20 midnight dumping. People go down the alley, and if
21 there's an opportunity to get rid of something rather
22 than take it to a transfer station, it shows up at
23 various sites in the alley.

24 Q. Okay, so this --

25 A. Including the apartment house across the

0204

1 alley.

2 Q. So this could have been dumped by anybody
3 passing by with a truck?

4 A. Anybody.

5 Q. Okay. And that same anybody has access to
6 the alley and immediate access to your parking area; is
7 that right?

8 A. Yes.

9 Q. Now this area on the right, it's a green area
10 there.

11 A. Yes.

12 Q. Is that a vacant lot?

13 A. Yes.

14 Q. Is it perhaps the end of a street?

15 A. No.

16 Q. Okay.

17 Now I will ask you to look at Exhibit Number
18 12, I'm sorry, photo number 12. Photo number 12 is a
19 slightly different angle of the back of the building,
20 and I have it here because I'm going to ask some
21 additional questions with respect to the doors that are
22 back there. But in any event, this is again the back of
23 your building on the alley side; is it not?

24 A. Yes.

25 Q. Looking at photo marked number 13, if you

0205

1 would, that is I believe a double door that is shown in
2 photo number 12; is it not?

3 A. Yes.

4 Q. And it's marked 756; is it not?

5 A. Yes.

6 Q. Is that your door?

7 A. Yes.

8 Q. And what does it access?

9 A. It accesses the storage space.

10 Q. So that's another storage space, you have two
11 storage spaces?

12 A. Yes.

13 Q. Okay. And that double door does work and
14 allows you to offload from a truck to the storage space?

15 A. Yes.

16 Q. Okay.

17 A. It's a roll-up door.

18 Q. All right.

19 Looking at Exhibit Number 14, I'm sorry,
20 photo number 14, this is again another door on the back
21 of the building off the alley, and we're proceeding, on
22 Exhibit Number 12, we're proceeding in the direction
23 that I believe is north along the building, we looked at
24 the double door, now we're at the next single door, and
25 what does that photo represent?

0206

1 A. It's a photo studio.

2 Q. I see. And that's a tenant in the building?

3 A. Yes.

4 Q. That accesses their space off of the alley?

5 A. Yes.

6 Q. And I believe the number on the door is 756.

7 A. Yes.

8 Q. But it's nonetheless your testimony that the
9 other door marked 756 is your space and doesn't belong
10 to this tenant?

11 A. That's correct.

12 Q. Okay. I'm sorry, did you say that is it
13 Andraste, A-N-D-R-A-S-T-E, LM Productions is a photo
14 studio?

15 A. Yes.

16 Q. Okay.

17 A. Best of our knowledge.

18 Q. Okay. But its door is more or less adjacent
19 to your loading door; is that right?

20 A. You mean the storage door?

21 Q. Yes.

22 A. Yes.

23 Q. And their space is sort of right adjacent to
24 your storage area there?

25 A. Yes.

0207

1 Q. Okay. Then referring to photo number 15,
2 again we're proceeding along the east side of the
3 building in a northerly direction, we're coming to the
4 next door after the 756, the door at 756 there, can you
5 represent what that is?

6 A. Best of my knowledge that's the actual photo
7 studio.

8 Q. Okay, so this belongs to the --

9 A. Andraste.

10 Q. -- Andraste folks --

11 A. Yes.

12 Q. -- that we referenced in the earlier picture?

13 A. Yes. We have never seen them.

14 Q. Okay. And then your parking area is shown
15 here as just around the corner from that studio; is that
16 right?

17 A. Yes.

18 Q. How far would you say it is between the front
19 of your truck and the public right of way there?

20 A. Ten feet approximately.

21 Q. Mr. Olson, looking at photo number 16, does
22 that -- can you describe what that photo represents?

23 A. No.

24 Q. This isn't the north side of your building?

25 A. Oh, it's the north side of the building, but

0208

1 we have no knowledge of what's inside of those doors,
2 what kind of tenants or --

3 Q. But there are other tenants that access --

4 A. I don't know, I don't know.

5 Q. Okay. But this is an accurate representation
6 of what's along the north side of your building?

7 A. It is, yes.

8 Q. Asking you to refer now to photo number 17,
9 can you tell us what that photo represents?

10 A. No. It's the same -- it's the north side of
11 the building with the stairway going up to various
12 little cubbyholes.

13 Q. Isn't this from the Dexter Avenue uphill end?

14 A. It's Dexter Avenue looking down and to the
15 east.

16 Q. Okay. And so this reference to the studio
17 there, apparently a Dexter Avenue North address?

18 A. I don't know.

19 Q. That's what the photo represents, doesn't it?

20 A. I don't know.

21 Q. Can you see it?

22 MR. HAFFNER: Asked and answered, objection.

23 A. I don't know what that sign represents.

24 Q. Okay. But it is a sign that's on the
25 stairway from the Dexter Avenue side; is that right?

0209

1 A. I have never seen the sign.

2 Q. Okay. But you recognize the stairway, do you
3 not?

4 A. I do.

5 Q. And then, Mr. Olson, asking you to look at
6 photo number 18, is this a photograph that fairly
7 represents the east end of your building on Garfield
8 Street and then the adjacent apartment building?

9 A. Yes.

10 Q. Okay, Mr. Olson, then on -- referring to
11 photo number 19, is this another photo of -- does this
12 represent the -- that same apartment building shot from
13 Garfield Street?

14 A. Yes.

15 Q. Is that a fair representation of what it
16 looks like there?

17 A. Yes.

18 Q. Okay. Mr. Olson, referring to photo number
19 20, I believe the dumpster in the picture is a dumpster
20 we have seen before in earlier photographs, correct?

21 A. Yes.

22 Q. And is that green space in front of the green
23 car the vacant lot that we saw before?

24 A. Yes.

25 Q. And then is the -- what is that building then

0210

1 that -- on the north side of your building?

2 A. It's mixed use, rental apartments and office
3 space on the main floor.

4 Q. Okay. And does that fairly represent what it
5 looks like from your alley?

6 A. Yes.

7 Q. And then referring to photo number 21,
8 Mr. Olson, there's the dumpster again with an angle a
9 little bit to the right or to the east, and there's
10 another building. You see open stairwell I guess there
11 in the picture. Can you describe what -- can you tell
12 us what that building is?

13 A. Condominiums.

14 Q. Okay. And is this a fair representation of
15 what it looks like from sort of in front of your parking
16 area?

17 A. Yes.

18 Q. And I will ask you to note this multicolored
19 truck parked across the alley for another question.

20 Referring to photo number 22, you can see
21 that same multicolored truck, and can you tell us what
22 that walkway leads to there?

23 A. I believe it's a residence.

24 Q. Is it a single family home?

25 A. I think it might be an up and down duplex.

0211

1 Q. Okay. And is that basically right across the
2 street from your parking area?

3 A. It's a little farther to the north,
4 approximately 30 feet.

5 Q. So the picture that we had as photo number 21
6 shows sort of its relationship to the dumpster, which is
7 on the edge of your lot, right?

8 A. Yes.

9 Q. Or on the edge of your parking area?

10 A. Yes.

11 Q. Is that a fair representation, is photo
12 number 22 a fair representation of what it looks like,
13 what that structure looks like?

14 A. Yes.

15 Q. Referring to photo number 23, is that a fair
16 representation of the yard adjacent to that single
17 family residence or multi or duplex that is in fact
18 directly across from your parking area?

19 A. Yes.

20 Q. It looks like they've got picnic gear out
21 there; is that right?

22 A. I don't know.

23 Q. Do you ever see people out there in the
24 summertime?

25 A. No.

0212

1 Q. I see a Tiki torch; do you see that on the
2 left side?

3 A. (Indicates.)

4 Q. Yeah.

5 A. Yes.

6 Q. Mr. Olson, referring to what we marked as
7 photo number 24, you can see sort of a bamboo screen
8 there and a barrier. Is that bamboo screen and the
9 barrier directly across from your parking facility?

10 A. Yes.

11 Q. And is that bamboo screen and barrier
12 directly above the yard that we just looked at in photo
13 23?

14 A. Yes.

15 Q. And is that the apartment complex that we
16 looked at before that's directly to the east of your
17 building on Garfield Street?

18 A. Yes.

19 Q. And does this fairly represent what that
20 looks like out right in front of your parking area?

21 A. Yes.

22 Q. Mr. Olson, referring now to photo number 25,
23 can you tell us what that photo represents?

24 A. It's a restaurant on Westlake Avenue at the
25 bottom of the hill where Westlake and Garfield

0213

1 intersect.

2 Q. Isn't it actually Eighth Avenue there?

3 A. Is it Eighth Avenue?

4 Q. I think the back, this is the back side,
5 isn't it?

6 A. This is Eighth Avenue, the front door is on
7 Westlake.

8 Q. The front door is on Westlake?

9 A. Yes, I'm sorry.

10 Q. Excuse me.

11 A. This is Eighth Avenue here.

12 Q. Right, and that's right at the foot of
13 Garfield, is it not?

14 A. Yes, it is.

15 Q. And that's a pizzeria in there?

16 A. I don't know.

17 Q. Well, that's what it says, isn't it?

18 A. It's a pizzeria.

19 Q. Have you ever eaten there?

20 A. No. I have had take out.

21 Q. Was it any good?

22 A. No.

23 Q. Okay, Mr. Olson, referring to what's been
24 marked as exhibit, I'm sorry, photo number 26, and for
25 this purpose I'm going to refer back a little bit to an

0214

1 earlier photo that we looked at, we looked earlier at
2 photo number 5, I will give you another copy of it,
3 which showed the Garfield side of your building; am I
4 correct?

5 A. Yes.

6 Q. And now photo number 26, what does photo
7 number 26 represent?

8 A. I don't know.

9 Q. Is there a number on the door?

10 A. Yes, but I can't read it.

11 Q. Okay. Well, I can read it, it appears to be
12 790, it appears to say studio. Isn't it a fact that
13 this is another tenant whose entryway is on Garfield --

14 A. Yes.

15 Q. -- just in front of the vehicle that's shown
16 in --

17 A. Yes.

18 Q. Excuse me.

19 -- just in front of the vehicle shown in
20 photo number 5?

21 A. Yes.

22 Q. So, in fact, you do recognize that door?

23 A. Yes.

24 I don't know what the business is.

25 Q. Understood.

0215

1 Mr. Olson, maybe we got the cart before the
2 horse slightly, but I would like you to look at a couple
3 of additional exhibits that have been marked as 20 and
4 21. Exhibit 20 is the Yahoo map showing the Seattle
5 area and the location of 754 Garfield Street. Does that
6 in a very rough approximation describe the location of
7 your facility at the point marked B?

8 A. Yes.

9 Q. And now handing you what's been marked as
10 Exhibit 21, does that not show sort of the closer area
11 in the Westlake neighborhood where your facility is
12 located at 754 Garfield Street?

13 A. Yes.

14 Q. And the streets are, as we discussed,
15 Garfield Street foots down to Eight Avenue, and then
16 Eighth leads into Westlake?

17 A. Yes.

18 Q. So that pizzeria, for example, is at Eighth
19 and Garfield?

20 A. Yes.

21 Q. And the apartment complex that's just to the
22 east of your building is at Eighth and Garfield also?

23 A. Yes.

24 MR. JOHNSON: Okay.

25 Your Honor, I would request that based on

0216

1 Mr. Olson's identification and testimony with respect to
2 Exhibits 20 and 21 and photos 1 through 26 that they be
3 admitted into the record of this proceeding.

4 JUDGE RENDAHL: Mr. Haffner.

5 MR. HAFFNER: No objection.

6 JUDGE RENDAHL: Okay. Any other objections?

7 MR. SELLS: No, Your Honor.

8 JUDGE RENDAHL: All right, those exhibits
9 will be admitted. I will admit what's been marked as
10 Exhibit 20 and Exhibit 21, which are the Yahoo map and
11 the Mapqwest map, as well as what has been marked as
12 Exhibit 165 through Exhibit 190, which are the photos
13 numbered 1 through 26.

14 Mr. Johnson, approximately how much more do
15 you have for Mr. Olson?

16 MR. JOHNSON: I believe I have a bit more
17 than the time left before lunch.

18 JUDGE RENDAHL: Well, why don't we keep going
19 and see where we get.

20 MR. JOHNSON: Okay, thank you.

21 BY MR. JOHNSON:

22 Q. Mr. Olson, are you familiar with the
23 capitalization inventory list that is attached to
24 Mr. Lee's testimony and now marked as Exhibit 43? I
25 will ask you to take a look at it in the book in front

0217

1 of you there if you would. Do you have it in front of
2 you, sir?

3 A. I do.

4 Q. And were you involved in the financial
5 requirements of the proposed medical waste business
6 that's the subject of this application proceeding?

7 A. I was.

8 Q. And did you investigate costs, capital costs
9 that would be required to put this business together?

10 A. Mr. McCloskey and Mr. Lee did that.

11 Q. But you did not directly participate in that
12 activity?

13 A. No.

14 Q. So, for example, the bar code tracking
15 system, you have no idea whether the value or the dollar
16 amount adjacent to it on Exhibit Number 43 is correct?

17 A. Only through the perusal of Mr. McCloskey's
18 work.

19 Q. So you have reviewed his work but did not
20 independently attempt to --

21 A. I did not go over the prices.

22 Q. Okay. Now this list shows three trucks, and
23 apparently originally the plan was to use three trucks
24 for the service. Is that still the plan?

25 A. Yes.

0218

1 Q. It talks about personnel training, and it
2 refers to the, in the purchase from column, it refers to
3 Argus. Do you know what Argus is?

4 A. It's a training, professional training
5 facility.

6 Q. What's --

7 A. That does multitudes of training from the
8 HAZWOPER training to confined space training to medical
9 waste training, a myriad of services.

10 Q. You believe they have medical waste training
11 experience?

12 A. Yes, or are willing to offer a curriculum.

13 Q. So they might develop a curriculum even if
14 they don't have a curriculum?

15 A. I don't know that for sure.

16 Q. Now how about the building modification, it
17 says cooling unit; do you know what that is?

18 A. At one -- at someplace we were going to have
19 to put in a dedicated space to put waste in that recoils
20 for any kind of temperature holding, so we were going to
21 -- wherever we were going to be, we're looking for new
22 spaces now, we would dedicate a space that would be held
23 at a temperature with refrigeration.

24 Q. But you have only the existing space at 754
25 Garfield Street now, right?

0219

1 A. At the present time, yes.

2 Q. So was it your plan or is it your plan to
3 install a cooling facility there?

4 A. No.

5 Q. Well, referring to Exhibit 42, which is a
6 letter to you from Mr. Lee, if you would look in your
7 book, dated April 19, 2004, at the bottom of the list or
8 at the bottom of the first page of that letter it talks
9 about building modifications and this \$15,000 number.
10 Now the statement there seems to suggest that you're
11 going to have your -- are you unable to find it?

12 MR. HAFFNER: Exhibit 42.

13 A. Very good, I have it.

14 Q. Look at the last two lines there. Have you
15 read those two lines?

16 A. Yes.

17 Q. Isn't it Mr. Lee's representation that your
18 existing landlord is going to fund your building
19 modifications?

20 A. We have had discussions with the landlord
21 about that.

22 Q. Well, I mean first let's start with isn't
23 that what he said in his letter, that your landlord,
24 your current landlord, was going to fund these building
25 modifications?

0220

1 MR. HAFFNER: Objection, the letter speaks
2 for itself. If you want to ask Mr. Lee what he
3 intended, you can ask Mr. Lee.

4 JUDGE RENDAHL: Objection granted.

5 MR. JOHNSON: Your Honor, it seems to me I
6 ought to be able to inquire with respect to Mr. Olson's
7 understanding of the intention.

8 THE WITNESS: May I respond?

9 MR. JOHNSON: Please proceed.

10 JUDGE RENDAHL: Well, wait, Mr. Olson.
11 Can you state your objection again?

12 MR. HAFFNER: The objection is his question
13 was what Mr. Lee's intention was with that sentence, and
14 I objected to his inquiring about Mr. Lee's intention as
15 written in this letter.

16 JUDGE RENDAHL: And I will grant, sustain
17 that objection because I think you can't inquire into
18 Mr. Lee's intent through Mr. Olson, but you can inquire
19 as to Mr. Olson's understanding of the letter.

20 BY MR. JOHNSON:

21 Q. My question is, didn't you understand this
22 letter to indicate that your current landlord would fund
23 your building modification?

24 A. No.

25 Q. So which landlord was going to fund your

0221

1 building modification?

2 A. When we originally took the space that we had
3 at the present time, it was a wide open arena, it was
4 just a wide open room, and we built all the offices into
5 it by putting, you know, floor to ceiling non-bearing
6 walls, windows, light, locks. And at that particular
7 time, the landlord, we kept track of all the expenses
8 that we put into it, and he adjusted our lease to
9 reflect those until that capitalization cost was
10 liquidated, and then our lease went to a normal square
11 footage. He, in fact, paid for what we call sweat
12 equity modifications to our space.

13 Q. Isn't it the case that you advanced the funds
14 and then he --

15 A. Correct.

16 Q. -- reduced your lease; is that correct?

17 A. Yes.

18 Q. So it isn't exactly the case that the
19 landlord is funding the modification; it's you funded it
20 and then you received a reduction in your rent?

21 A. That's correct.

22 Q. Well, was it your understanding that you were
23 going to use the same approach with these building
24 modifications that are referred to in Exhibit 43?

25 A. We had some discussions about that.

0222

1 Q. With your current landlord?

2 A. I don't think we will.

3 Q. I'm sorry --

4 A. We will not.

5 Q. You had discussions with your current
6 landlord?

7 A. Yes.

8 Q. And what was his --

9 A. Mainly my discussions were with Mr. Lee.

10 Q. I'm sorry, I didn't get --

11 A. Mainly our discussions were with Mr. Lee.

12 Q. Mr. Lee had discussions with the landlord?

13 A. I had discussions with Mr. Lee, and his
14 experience had been that's how we had done previous
15 modifications to the building.

16 Q. So this plan to have the landlord fund your
17 building modifications was a plan based on your
18 experience at 754 Garfield; is that right?

19 A. That's correct.

20 Q. And was it your intention in fact to modify
21 the building at 754 Garfield for this purpose?

22 A. No.

23 Q. So which building were you going to modify?

24 A. We have actually been looking at buying
25 another building and been seeking out one and made two

0223

1 offers in the last two years that were unaccepted. Part
2 of that purchase agreement would have been the option
3 for the seller to do that or for us to do that.

4 Q. So it's not your intention to put your
5 storage facility for infectious medical waste at 754
6 Garfield?

7 A. That's correct.

8 Q. But you don't have any other facility for
9 this storage purpose; is that correct?

10 A. That's correct.

11 Q. Do you think storage is necessary for you to
12 be successful in the medical waste business?

13 A. Yes.

14 Q. And do you plan to store at a building
15 location?

16 A. Present location?

17 Q. Do you plan to modify a building?

18 JUDGE RENDAHL: Mr. Johnson, can you let
19 Mr. Olson finish his answer, because I think he wasn't
20 completely finished.

21 THE WITNESS: I got off the track here
22 because there was too much coming at one time.

23 JUDGE RENDAHL: Okay, let's please --

24 THE WITNESS: Could you ask the question?

25 BY MR. JOHNSON:

0224

1 Q. Do you plan to build a storage facility at
2 some future location?

3 A. Yes.

4 Q. And would it be installed in a building
5 located at that site?

6 A. At 754 Garfield?

7 Q. No, at this other site that you are looking
8 for.

9 A. Yes.

10 Q. And do you think this \$15,000 figure that's
11 referenced in Exhibit 43 is an accurate reflection of
12 what it would cost to install a refrigerated storage in
13 some unknown future building?

14 A. Yes.

15 Q. Are you relying on others for the cost
16 estimate, or do you have independent knowledge of that
17 issue?

18 A. We did all the framing and all the structural
19 work in the building we're in now, so I have used those
20 experiences to build a storage area.

21 Q. What about the cooling unit, that would be an
22 additional cost?

23 A. That would be subcontracted out to somebody
24 else.

25 Q. Would that be in addition to the \$15,000?

0225

1 A. I don't know.

2 Q. So you don't know what a cooling unit would
3 cost?

4 A. No.

5 Q. Do you know what the size of the refrigerated
6 storage is that would be required for the business you
7 plan?

8 A. I believe we're talking about 4,000 square
9 feet total area storage.

10 Q. So the 4,000 square feet figure you just gave
11 me was for the actual refrigerated storage facility; is
12 that right?

13 A. No, we're talking about the whole storage
14 facilities and additional space for DB would be between
15 4,000 and 6,000 square feet. The actual determination
16 of the square footage for the storage space would
17 probably be dictated by the needs of the business. We
18 don't exactly have a square footage in mind per se out
19 of that 4,000 square feet.

20 Q. So I'm having trouble following your answer.
21 You said something about 4,000 to 6,000 square feet, is
22 that office, storage, everything?

23 A. No, that would be 6,000 square feet of
24 storage. Some of it would be controlled temperature
25 storage.

0226

1 Q. Okay, so you're just talking about the amount
2 of storage, some would be refrigerated storage for
3 medical waste, and some would be other types of storage?

4 A. That's correct.

5 Q. And you're anticipating a need of 4,000 to
6 6,000 square feet for that storage requirement?

7 A. Total, yes.

8 Q. Okay. And you only have 4,000 square feet
9 where you currently are located; is that right?

10 A. That's correct.

11 Q. So your current facility is not adequate for
12 the business you intend; is that right?

13 A. That's correct.

14 Q. And you do not know the cost of either lease
15 costs or other costs that would be associated with this
16 future facility that you intend to acquire?

17 A. In our looking for additional spaces over the
18 last two years, we have been using a square foot cost
19 for rental of about \$1.25 a square foot per month for
20 office space and about 50 to 60 cents a square foot for
21 shop or storage space.

22 Q. Would this be, the 50 to 60 cents a square
23 foot, do you think that would be the price that a
24 landlord would charge for a facility to store infectious
25 medical waste?

0227

1 A. I don't know what a landlord would charge for
2 it. I can only tell you what basically the going market
3 is for storage space, warehousing.

4 Q. But this isn't for infectious medical waste
5 storage that you referred to? I mean that's not a
6 market for that kind of storage space, is it?

7 A. I don't understand the question.

8 Q. I'm wondering if you have investigated what
9 landlords would charge you per square foot or otherwise
10 for a building space dedicated to infectious medical
11 waste storage?

12 A. I don't know what that cost would be.

13 Q. Have you discussed your plans to build a
14 medical waste storage facility at any of these locations
15 where you have sought to lease space in the past couple
16 of years you mentioned?

17 A. We have told them the nature of our business.

18 Q. Did you tell them that you intended to store
19 medical waste on the facility?

20 A. We told them what our business was, both the
21 RCRA waste and medical waste.

22 Q. Do you know what kind of zoning area would be
23 required to accept that kind of a facility?

24 A. No.

25 Q. Have you investigated the zoning

0228

1 requirements --

2 A. No.

3 Q. I'm sorry, what --

4 A. No.

5 Q. Your answer is you have not investigated --

6 A. No.

7 Q. -- the zoning --

8 A. No.

9 Q. Excuse me, let me finish before you answer.

10 You have not investigated what kind of

11 zoning, what area, what kind of zone would be

12 appropriate for that kind of a facility?

13 A. No.

14 Q. Do you know whether a permit would be

15 required to build a infectious medical waste storage

16 facility in a building?

17 A. No.

18 Q. You have not investigated --

19 A. No.

20 Q. You mentioned you're looking for 4,000 to

21 6,000 square feet of storage area; are you looking for

22 anything special in terms of vehicle storage or yard

23 space?

24 A. Yes.

25 Q. And how much, how many square feet of that

0229

1 are you looking for?

2 A. An optimum would be a lot of about 30,000
3 square feet or about three quarters of an acre.

4 Q. Do you think it should be fenced and
5 otherwise secured from access by the public?

6 A. Yes.

7 Q. And have you investigated the cost of
8 acquiring that 30,000 square feet?

9 A. Yes.

10 Q. And what is your estimate of the cost of that
11 kind of a facility?

12 A. Varies all over. We have looked some places
13 where the estimate was to buy about \$5.80 a square foot
14 raw land. Recently we looked at a space and they wanted
15 \$45 a square foot.

16 Q. So you basically just don't know, depends on
17 what you can find out there?

18 A. Basically went through brokers. We tell them
19 what business we're in and what we would expect to be
20 in, we asked them to check the zoning to see if it's
21 applicable to the piece of property they have for sale.
22 We run comps with real estate companies, Mr. Lee does
23 that, to find out what the going rate is in that
24 particular area. And depending on how well it would
25 serve our needs, we either make an offer or we pass on

0230

1 it.

2 Q. And so far you haven't had your offers
3 accepted?

4 A. We have made two offers, and they were both
5 rejected.

6 Q. Have you estimated the cost of fencing a
7 30,000 square foot vehicle storage yard?

8 A. Both facilities we looked at it was already
9 fenced.

10 Q. Do you know whether this storage facility
11 you're talking about would be regulated as a solid waste
12 handling facility?

13 A. I don't know that.

14 Q. Am I correct, is my memory correct that you
15 indicated that the facility at 754 Garfield Street would
16 not be an appropriate facility for this kind of storage?

17 A. No, would not be.

18 Q. Why is that, sir?

19 A. It's a residential neighborhood, mixed use,
20 it doesn't have enough parking space, square footage for
21 storage is too low, parking for employees is at best
22 taxed, street parking. Those are the major reasons
23 there and the fact that we would like to have a better
24 secure space.

25 Q. For parking --

0231

1 A. A better secure space.

2 Q. For parking your vehicle?

3 A. Yes.

4 Q. Mr. Olson, I believe you have testified in
5 your prefiled testimony that you had one previous
6 citation for violation of law, or Kleen has had one
7 previous citation?

8 A. Yes.

9 Q. And I believe that citation is found at
10 Exhibit Number 19, if you will take a look at that.
11 Could you confirm that that citation is the one you're
12 referring to in your prefiled testimony?

13 Some of it is a little hard to read.

14 JUDGE RENDAHL: Let's be off the record while
15 the witness reviews the document.

16 (Discussion off the record.)

17 BY MR. JOHNSON:

18 Q. Mr. Olson, so is this the citation you refer
19 to in your testimony?

20 A. Yes.

21 Q. And what was the problem that led to the
22 citation?

23 A. I'm sorry, would you repeat?

24 Q. I'm sorry, what was the violation that was
25 noted in the citation?

0232

1 A. The citation was given to Kleen Environmental
2 in as much as that we handled some trans-site pipe
3 without asbestos trained workers.

4 Q. And was that something, that requirement,
5 something you were aware of or not aware?

6 A. I am aware of that.

7 Q. So you were aware of it before you received
8 the citation?

9 A. Yes.

10 Q. And so you nonetheless delegated untrained
11 people to work on an asbestos abatement project?

12 A. No, we did not work on asbestos abatement
13 projects.

14 Q. I'm sorry, this project that you just
15 described.

16 A. Can I allude to the project?

17 Q. (Nodding head.)

18 A. We have a client, existing client, who had
19 worked, pulled this trans-site pipe out of the ground.
20 He's an underground utility contractor. He had double
21 wrapped the pipe in accordance -- and I had a PSAPCA
22 permit to do the asbestos remediation.

23 JUDGE RENDAHL: Can you spell PSAPCA or tell
24 us --

25 THE WITNESS: PSAPCA, Puget Sound Air

0233

1 Quality.

2 MR. JOHNSON: Air Pollution Control
3 Authority, P-S --

4 THE WITNESS: A-P-C-A I believe.

5 JUDGE RENDAHL: All right, or close enough,
6 thank you.

7 BY MR. JOHNSON:

8 Q. I'm sorry, could you --

9 A. The contractor called our office. We have
10 one of our employees is a asbestos, a AHERRA inspector,
11 which means he can go and evaluate jobs. He went to the
12 person's site, and the pipe was all double wrapped in
13 visqueen, taped up, and the contractor had brought it
14 back to his site and just put it on the ground there. A
15 disgruntled employee turned that contractor in to PSAPCA
16 and to WSHA. He asked us to dispose of the pipe that
17 was wrapped up. We went down, the AHERRA inspector
18 looked at it and said it was wrapped appropriately, we
19 went and picked up the pipe and took it to Long's
20 Services, who has an asbestos disposal business. They,
21 in fact, then turned that pipe.

22 Now it was our belief that we did not do a
23 remediation, because remediation had been done by the
24 contractor under permit. We looked at the pipe as being
25 a collateral waste. My argument would have been, we do

0234

1 emergency response, if it fell on the highway, we
2 wouldn't have to go get a demolition permit to pick up
3 it up and clear the highway. We made that point known
4 to WSHA, we had an informal hearing, and they came down
5 with this ruling.

6 Q. So basically the indication is that you
7 failed to give proper notice of a remedial project
8 involving asbestos?

9 A. Normally you're supposed to get an asbestos
10 permit to do remediation. That permit had already been
11 obtained by the contractor it was told to us, and it was
12 already wrapped up and taken out of the ground.

13 Q. I understand your position, but WSHA thought
14 otherwise, right?

15 A. They thought otherwise, yes.

16 Q. Okay. Aren't there really two issues here,
17 because I'm looking at a couple pages in here, it says
18 citation 2, item 2; is this the same incident?

19 A. Same incident.

20 Q. But in this case they're tagging you for not
21 having a written respiratory protection program?

22 A. We have a written respiratory protection
23 program.

24 Q. Okay. Do I misunderstand the nature of the
25 citation? Oh, you failed to include certain provisions,

0235

1 procedures for proper use of respirators?

2 A. Yeah. My understanding when we went for our
3 hearing, that that should have been part of the asbestos
4 workers program, and we don't have -- we don't do
5 asbestos work, we have a AHERRA inspector, but we don't
6 do asbestos remediation.

7 Q. So they decided you did -- you were doing
8 asbestos remediation and you didn't have something
9 necessary in your plan for that kind of work?

10 A. To the best of my knowledge, yes.

11 Q. Okay, thank you.

12 A. We have a respirator protection program.

13 JUDGE RENDAHL: Mr. Olson, just to make the
14 record clear, when you say AHERRA, what does that --

15 THE WITNESS: AHERRA, it's another one of
16 those acronyms.

17 JUDGE RENDAHL: If you could just spell the
18 acronym.

19 THE WITNESS: A-H-E-R-R-A I believe.

20 BY MR. JOHNSON:

21 Q. What does it mean?

22 A. I don't know.

23 Q. Is it an enforcement official associated with
24 WSHA?

25 A. I think it's more of a governing agency of

0236

1 the asbestos certified industrial hygienists
2 nomenclature.

3 Q. Anyway it's somebody with authority to tell
4 you what to do?

5 A. My understanding is that that person goes
6 through training, and he will go to a spot that they're
7 going to do a demolition, and he will identify, has been
8 trained to pick out all the asbestos that has to be
9 removed so none of the particulate becomes an airborne
10 matter. But we're not authorized to go do that -- to
11 take up that asbestos or take it out of the building.

12 Q. Okay. Now in your testimony what's been
13 marked as you said 1-T starting at line 13, there's a
14 sentence that says:

15 We have had one minor citation and have
16 otherwise complied with all applicable
17 rules and regulations.

18 Do you find that on page 2 of Exhibit 1-T,
19 lines 13 and 14?

20 MR. HAFFNER: This is Exhibit 1, page 3.

21 A. I have that.

22 Q. Is that still your testimony?

23 A. What line are you on, sir?

24 Q. I'm sorry, line -- it's a sentence that
25 begins on line 13. It says:

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1 We have had one minor citation and have
2 otherwise complied with all applicable
3 rules and regulations.

4 Is that still your testimony?

5 A. Yes.

6 Q. Mr. Olson, I thought the Washington Utilities
7 and Transportation Commission Staff had advised you that
8 you were operating unlawfully without a permit when you
9 transported recyclable materials for your client; isn't
10 that correct?

11 A. I don't -- we have not been cited for that.

12 Q. Well, that wasn't the question. The question
13 was whether you were operating in violation of law.

14 A. I don't think so.

15 Q. Were you advised that you needed a permit
16 that you didn't have?

17 A. We -- they started a new program for dental
18 waste, and we looked at the bringing of dental waste,
19 it's a combination waste, some of it's hazardous and
20 some of it's recyclable, and we would -- the program has
21 been in effect for about a year, and we do all the
22 management of the program for dentists, instructing them
23 of which of the products are hazardous, and we would
24 deliver them containers to put the products in and then
25 take them for disposal. We --

0238

1 Q. So you were engaged in transportation of
2 recyclables and waste for disposal?

3 A. In the dental field, yes, sir.

4 JUDGE RENDAHL: Mr. Johnson, let me ask you
5 are you intending to ask a number of questions on this
6 topic to the witness?

7 MR. JOHNSON: I am, just a few more
8 hopefully.

9 JUDGE RENDAHL: Okay, I was just wondering
10 whether we should break now and later delve into those
11 questions or if you can finish them up in a few minutes.

12 MR. JOHNSON: It's going to take me a little
13 bit of time.

14 JUDGE RENDAHL: All right, I think it's best
15 if we take our lunch break now. We will come back at
16 1:30, and we'll begin with this line of questioning
17 then. Let's be off the record.

18 (Luncheon recess taken at 12:00 p.m.)

19

20 A F T E R N O O N S E S S I O N

21 (1:30 p.m.)

22

23 JUDGE RENDAHL: We're starting our afternoon
24 session of Monday's hearing, and I think we're still
25 continuing with your cross-examination, Mr. Johnson.

0239

1 MR. JOHNSON: Thank you, Your Honor, if I
2 could have the court reporter perhaps read the last
3 question and answer.

4 (Discussion off the record.)

5 MR. JOHNSON: Let me just go ahead and ask my
6 question.

7

8 C R O S S - E X A M I N A T I O N

9 BY MR. JOHNSON:

10 Q. I think, Mr. Olson, that before lunch we were
11 talking about the legal compliance history of Kleen
12 Environmental, and I had directed your attention to a
13 statement in your prefiled testimony on page 3, which is
14 Exhibit 1-T, and at line 13 through 14 there was a
15 statement that you had one minor citation, otherwise
16 complied with all applicable rules and regulations. I
17 think my question was, is that still your testimony?

18 A. Yes.

19 Q. Now did you not have an interaction with the
20 Commission Staff with respect to some of your
21 transportation activities?

22 A. Yes, to the best of my recollection it was
23 subsequent to this document being sent out.

24 Q. Okay, well, I'm now going to refer you to
25 Exhibit 75 and Exhibit 76. Now I don't know if you have

0240

1 seen Exhibit 75 before. Have you seen Exhibit 75
2 before?

3 A. No.

4 Q. Okay. This is a letter to me from the
5 Commission Secretary, Carole Washburn, dated September
6 2, 2004, responding to an inquiry I had made to them.

7 And Exhibit 76 is another document, have you
8 seen that document before?

9 A. No.

10 Q. Well, let me, if I may, just simply say that
11 if you look at the third page of Exhibit 76, in the last
12 three line paragraph it states:

13 Kleen Environmental Technologies was in
14 violation of RCW 81.80.070 as it did act
15 as a common carrier without obtaining a
16 common carrier permit as required.

17 Was that, was the content of that statement
18 communicated to you?

19 A. No.

20 Q. Did you talk to Mr. Mark Halliday of the
21 Commission Staff?

22 A. No, I didn't.

23 Q. The first line of his memo, which is Exhibit
24 76, says, on August 4, 24, and 25, I contacted
25 Mr. Robert Olson.

0241

1 A. I did not talk to this gentleman.

2 Q. I guess it was John Foster that would have
3 talked to you?

4 A. I talked to John Foster.

5 Q. I'm sorry, I asked the question incorrectly.
6 This is a memo from John Foster to Mark Halliday of the
7 Commission Staff. So this memo that says item 76 or
8 Exhibit 76 that references a violation of the common
9 carrier statute is signed, do you see, at the end by
10 John Foster? Did John Foster talk to you about the
11 issue of the common carrier permit?

12 A. Yes.

13 Q. Did he explain to you that you were in
14 violation of the permit requirement of RCW 81.80.070?

15 A. No.

16 Q. Did he indicate that you should get a permit
17 for intrastate transportation of recyclable material?

18 A. That's my recollection, we had already
19 applied for a permit prior to that, and we told that to
20 John. It was probably just preceding any notification
21 from the UTC.

22 Q. So you had applied for the permit before
23 being contacted?

24 A. Yes.

25 Q. But I believe that at least the report

0242

1 indicates you had been transporting recyclables without
2 a permit before you obtained a permit; is that correct?

3 A. Yes.

4 Q. So that was another violation of law?

5 A. Not to -- I never -- not to my knowledge it
6 wasn't.

7 Q. Okay. It was never put in those terms to
8 you; is that correct?

9 A. No, sir.

10 Q. But you do acknowledge that you were carrying
11 recyclables without intrastate common carrier permit
12 before you got the permit --

13 A. Yes.

14 Q. -- that authorizes that carry?

15 A. I'm sorry?

16 Q. You do acknowledge that you were carrying
17 those -- you were transporting recyclables and
18 intrastate commerce without the required permit?

19 A. Yes.

20 Q. Okay.

21 A. We were not aware of the program we were
22 supporting required that permit. It was a new program
23 that started between King County Health Department and
24 the dentists and had just started. I think we had like
25 three customers or four customers, and they had

0243

1 recyclable products that we put in the fuel blended
2 program.

3 Q. You had not investigated the transportation
4 law requirements applicable to that service?

5 A. I assumed that anything to do with
6 transportation was ancillary to the other work that we
7 were doing in terms of the regulatory management of
8 waste, particularly since some of the waste was mercury.
9 And as we only had like three customers and we would
10 supply them, one, with management services, two,
11 containers, and then three, we would pick it up and take
12 it to Phillips Environmental treatment disposal
13 facility.

14 Q. But apparently the Commission Staff thought
15 that it was not ancillary and therefore required a
16 permit?

17 A. I haven't seen this, so I don't know exactly
18 what -- when we talked to Mr. Saunders I believe.

19 Q. Faster.

20 A. Foster, he really didn't make any
21 determination while we were talking.

22 Q. He never gave you a report?

23 A. No, sir.

24 Q. Mr. Olson, I would like to refer you to a
25 couple of other exhibits. I would like to refer you to

0244

1 Exhibit Number 15 and 16 in your book. Now on Exhibit
2 Number 15 is merely Stericycle's data requests to Kleen,
3 the first data requests, and the only reason I offered
4 it as an exhibit is that Kleen's responses don't include
5 the question, so in order to understand the responses,
6 you have to have the questions, and so the two are
7 together here as Exhibits 15 and 16. Do you recognize
8 Exhibit 15, Stericycle's first data requests?

9 MR. HAFFNER: We won't object to the
10 admission of Exhibit 15 as your data requests, but it is
11 still important that he know whether he has seen it.

12 Q. Did your counsel provide you a copy of this
13 and ask for your help in answering the questions?

14 A. I believe he contacted Mr. McCloskey.

15 Q. So perhaps you were not involved in answering
16 the questions?

17 A. Not to the best of my knowledge.

18 Q. Okay. And I will refer you to Exhibit 16,
19 which is Kleen's responses to Exhibit 15. Is that a
20 document with which you are familiar?

21 A. Prepared by Mr. McCloskey.

22 Q. Okay. But that's your counsel's signature
23 there at the end on page 6 I take it?

24 A. Our counsel did you say?

25 Q. Yes.

0245

1 A. Yes, I guess.

2 THE WITNESS: Is that your signature?

3 MR. HAFFNER: (Nodding head.)

4 A. Yes.

5 BY MR. JOHNSON:

6 Q. Okay, then I would like to refer you to
7 Exhibits 17 and 18, 17 being Stericycle's second data
8 requests and 18 being Kleen's second responses or
9 responses to the second data requests. Are you familiar
10 with I guess we will assume that Exhibit 17 will be
11 admitted, but Exhibit 18 is Kleen's responses. Were you
12 involved in preparing these responses?

13 A. Mr. McCloskey and our attorney prepared the
14 responses I believe.

15 Q. Would you look at Data Request Number 5, the
16 response to Data Request Number 5?

17 A. Would that be your Exhibit 18?

18 Q. I'm sorry, in the Exhibit 18, yes.

19 A. Okay, I have looked at it.

20 Q. Have you read the response; is that accurate?

21 A. Yes.

22 Q. I'm sorry?

23 A. Yes.

24 Q. Thank you.

25 Now in connection with the response to Data

0246

1 Request Number 5, I'm assuming that Kleen's existing
2 business is going to continue even if this application
3 is granted in this matter; is that correct?

4 A. Yes.

5 Q. So you're going to continue using all the
6 employees you currently are using in your existing
7 business in that business?

8 A. We haven't made that decision yet. We expect
9 new employees.

10 Q. You expect to hire new employees?

11 A. Yes, we do.

12 Q. And do you have an idea how many new
13 employees and for what positions?

14 A. I believe we have targeted one new employee
15 at onset and then additional employees as it dictates in
16 our proforma in terms of clients.

17 Q. And the one new employee would be -- would
18 hold what position?

19 A. Basically driver technician.

20 Q. Basically to drive a route collection truck?

21 A. Yes, a pickup person.

22 Q. But the other employees that you have now in
23 your existing business are all fully occupied in that
24 business?

25 A. Generally we operate at about 75% billable

0247

1 hours on them, about 25% G&A, general administrative
2 costs, i.e., truck maintenance, shop maintenance, things
3 of that nature.

4 Q. But essentially what you are saying
5 nonetheless is that they are fully employed in the
6 existing business, right?

7 A. Yes.

8 Q. Mr. Olson, how do you keep up with regulatory
9 changes that might affect your business?

10 A. Just a myriad of different ways. Basically
11 most of the regulatory issues that affect our business
12 are usually done in the hazardous waste side of it,
13 which Mr. Perrollaz is our health and safety officer as
14 well as does regulatory work in that area, and he
15 basically advises that as things change.

16 Q. Okay, thank you.

17 And are you familiar with the regulations and
18 statutes that deal with the packaging and transportation
19 of hazardous materials?

20 A. Generally speaking, yes.

21 Q. Are you familiar with the application of
22 those rules to infectious substances in regulated
23 medical waste?

24 A. No.

25 Q. Are you familiar with the hours of service

0248

1 requirements for drivers that are employed in
2 transporting hazardous materials under the Department of
3 Transportation regulations?

4 A. I assume it's normal DOT, ten hours.

5 Q. I'm sorry, would you explain that for me?

6 A. To the best of my knowledge, I think
7 according to the log books a driver has, he should not
8 operate more than ten hours without a break in that
9 service.

10 Q. Is that the only hour of service rule that
11 you're aware of?

12 A. Yes.

13 Q. And are those rules applicable to your
14 drivers in their transportation functions?

15 A. We have never made any long haul
16 transportation that would exceed any of those limits.

17 Q. But do they attempt to comply with the DOT
18 hazardous material regulations?

19 A. Yes.

20 Q. And do they maintain logs of their hours of
21 service?

22 A. Yes.

23 Q. Are you familiar with the Occupational Safety
24 and Health Administration's blood work pathogen
25 standard?

0249

1 A. No.

2 Q. Do you anticipate becoming familiar with that
3 standard?

4 A. Yes.

5 Q. But you are not currently?

6 A. No.

7 Q. When you described the persons employed by
8 Kleen earlier in your testimony, you didn't refer to
9 Mr. Allen McCloskey, is Mr. McCloskey an employee of
10 Kleen?

11 A. No.

12 Q. What's his position?

13 A. He operates with us under -- as an
14 independent consultant.

15 Q. So he's an independent contractor?

16 A. Yes.

17 Q. Do you have a consulting relationship with or
18 a contract relationship with him?

19 A. Yes.

20 Q. Do you have a consulting contract, a written
21 contract?

22 A. No.

23 Q. How is Mr. McCloskey compensated under the
24 arrangement you do have with him?

25 A. He bills us on a semimonthly basis with the

0250

1 hours that he works on projects.

2 Q. And what's his hourly rate?

3 A. I think it's \$18.50 per hour.

4 Q. Now in some of the testimony that's been
5 prefiled, there's an indication that Mr. McCloskey will
6 perform some ongoing functions for Kleen if the
7 application is granted; is that correct?

8 A. Yes.

9 Q. Have you --

10 A. We would consider that.

11 Q. I'm sorry?

12 A. Yes, we are considering that.

13 Q. You're considering it or it's an agreement?

14 A. We have not made an agreement with

15 Mr. McCloskey regarding that.

16 Q. So there is no contract with Mr. McCloskey
17 for services following the grant of the application?

18 A. No.

19 Q. Have you made any effort to estimate the
20 amount of time that would be required if you do use
21 Mr. McCloskey's services after the grant of an
22 application, of this application? I mean have you made
23 an estimate of the cost of Mr. McCloskey's services to
24 Kleen to perform the functions that you anticipate for
25 him if the application is granted?

0251

1 A. We would assume that would be a full-time
2 position.

3 Q. But have you -- and do you have a -- have you
4 agreed on a salary, or would he continue to be under the
5 hourly rate?

6 A. No to both questions, we have not agreed upon
7 a salary.

8 Q. And you have not agreed on an hourly rate?

9 A. No.

10 Q. Okay. Does Mr. McCloskey's consulting
11 relationship have a duration, or is it just as long as
12 you're happy with him?

13 A. As long as I'm happy with him.

14 Q. That's what I anticipated.

15 Mr. McCloskey lives in California, doesn't
16 he?

17 A. No.

18 Q. Where does he reside?

19 A. Edmonds, Washington.

20 Q. Is that a new residence?

21 A. No, it's been about a year.

22 Q. About a year?

23 A. Mm-hm.

24 Q. Is Mr. McCloskey currently working for other
25 clients besides Kleen?

0252

1 A. He had been working for other clients besides
2 Kleen, but this has pretty much captured most of his
3 time.

4 Q. So are you --

5 A. This process we're going through now.

6 Q. So the current process is taking up a lot of
7 his time, but you don't know for sure how much time of
8 his you will use in the future?

9 A. Not at this point.

10 Q. And you have made no commitment to him to use
11 him for any amount of time in the future; is that right?

12 A. No, sir.

13 Q. Now, Mr. Olson, when you indicated a few
14 minutes ago that you were going to hire maybe one
15 additional person to add to your staff if your medical
16 waste application was granted, you indicated that person
17 would be a driver I believe?

18 A. That's correct.

19 Q. Is there anyone going to be managing the
20 transportation, the development of shipping papers,
21 manifests, and the assignment of routes to the driver?

22 A. Yes.

23 Q. Who would that be?

24 A. We haven't selected that person yet.

25 Q. Would that be an additional person?

0253

1 A. Yes.

2 Q. And would somebody be involved in customer
3 service?

4 A. Yes.

5 Q. Would that be another person or the same
6 person?

7 A. Same person.

8 Q. And how about marketing, do you anticipate a
9 marketing effort to solicit business for your medical
10 waste services if your application is granted?

11 A. Be inclusive with that person.

12 Q. Now does marketing in your mind envision a
13 function that can be performed in the office, or is it
14 an out of the office function?

15 A. Both.

16 Q. But customer service, I assume someone has to
17 answer the phone?

18 A. Yes.

19 Q. So you will have to have someone in the
20 office?

21 A. Yes.

22 Q. So how will that work?

23 A. There's always somebody in the office,
24 otherwise my phone rings more than three times it goes
25 to an answering firm, and we have an on call emergency

0254

1 response line that contacts us immediately if somebody
2 calls.

3 Q. So your answering service would call you on
4 your cell phone or something of that kind?

5 A. Yes, they have protocol they follow.

6 Q. And how about billing and billing questions,
7 is that going to be somebody else, or is that this same
8 person?

9 A. That would be probably fall under our current
10 CFO, Mr. Lee.

11 Q. Would you anticipate him expanding his
12 percentage, the percentage of his time employed with
13 Kleen or not?

14 A. I would think he would have to expand his
15 time. Currently he works about 25% of the time on our
16 financial aspects.

17 Q. So what would you anticipate, maybe half
18 time?

19 A. I would say half time maybe probably after
20 the first of the year.

21 Q. Mr. Olson, in the prefiled testimony there's
22 reference to somebody on your staff performing on-site
23 packaging of medical waste on behalf of the generator.
24 Who do you anticipate would perform that function?

25 A. We probably -- we would probably have the

0255

1 drivers or additional people as dictated by the
2 marketplace. The reason we added that is some people
3 had expressed a view they would want to have that, and
4 basically in the hazardous waste business that's what
5 these people do now is they package hazardous waste.
6 But nobody has indicated specifically they want to have
7 that done, they were looking at options, do you do that.

8 Q. I see, so no generator has indicated a
9 particular interest in that, it's just an idea you folks
10 have?

11 A. Yes, we did a survey of the types of things
12 that they would like to see us do, and a couple of them
13 have come up and said they would like to just put it on
14 a dock and you guys package it. But we have never
15 discussed to what extent they want to have that done or
16 what their interpretation of that would be.

17 Q. Do you have a marketing plan for making
18 generators of medical waste aware of your services
19 throughout the state of Washington if your application
20 is granted?

21 A. Specifically no.

22 Q. How about nonspecifically?

23 A. Most of the people that we would think that
24 would commence if we had this G permit to be able to do
25 this, a lot of them are existing clients of our

0256

1 hazardous waste business. And when we did surveys of
2 those people, they kind of gave us general ideas of what
3 they wanted or the type of services they wanted, and
4 that's how we developed probably the first year or two
5 years of marketing in particular. And other ways we
6 would market it, we have done mass mailings for like the
7 dental waste, use a mailing list. And we haven't
8 proceeded to the point until we get into operation to
9 see how expansive that could be and how quickly we could
10 be up to speed doing certain things.

11 Q. So your basic plan is to provide an
12 additional service to existing customers; is that
13 correct?

14 A. Yes.

15 Q. Mr. Olson, have you been involved in
16 investigating the hydroclave processing facility that's
17 operated by Hospital Sterilization Services Incorporated
18 in British Columbia?

19 A. No.

20 Q. Do you know anything about it?

21 A. Only what the equipment operates but
22 generally only through marketing brochures.
23 Mr. McCloskey has visited that facility and can relate
24 to those issues.

25 Q. Does Kleen have a contract with Hospital

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1 Sterilization Services for processing of medical waste?

2 A. No.

3 Q. Do you know anything about the processing
4 costs that Kleen would incur if it took its waste to the
5 hydroclave?

6 A. Again, please.

7 Q. Do you know anything about the processing
8 costs that Kleen would incur to process medical waste at
9 the hydroclave in British Columbia?

10 A. No.

11 Q. And so I take it you don't know anything
12 about border procedures or permits that might be
13 required, if any, in Canada or really anything related
14 to the logistics or practicality of using that
15 processing facility?

16 A. No.

17 Q. One of the things that prefiled testimony on
18 behalf of -- well, let me go back one step.

19 Are you familiar with the Covanta
20 incineration facility in Brooks, Oregon?

21 A. Yes.

22 Q. And what do you know about it?

23 A. I visited the site. I have watched their
24 operation. We timed trucks going through there, we
25 watched how they handled their waste. We had a meeting

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1 with the clients to avail that information to them. I
2 heard a presentation at that meeting of Covanta, and we
3 have a cost to operate, a cost of them to do the
4 disposal.

5 MR. HAFFNER: Your Honor, I guess I would
6 like to, I don't know if I want to make an objection,
7 but I guess maybe a point of clarification for the
8 process. I'm afraid we're going to be here for a couple
9 of weeks if we're going to ask every witness every
10 possible question of every facet of this proposed
11 service. I thought that was the idea of having prefiled
12 testimony was to identify those people that had
13 knowledge of certain areas and to cross examine those
14 people that have knowledge. He may have some knowledge,
15 but if we're going to ask every person what they know
16 about every aspect, we're going to be here a long time.

17 JUDGE RENDAHL: Mr. Johnson.

18 MR. JOHNSON: Your Honor, we may be here a
19 long time. I think we're going to be here a long time
20 pretty much no matter how we structured -- this hearing
21 is set for four days at least. My intention is to
22 address Mr. Olson as the President, CEO, General
23 Manager, and largest shareholder of Kleen Environmental
24 with the critical issues that are being touted by Kleen
25 in support of its application. I understand your point

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1 that there may be other people with knowledge, I'm not
2 trying to belabor Mr. Olson if he doesn't know.

3 MR. HAFFNER: Let me raise an objection, let
4 me object to the scope of the cross-examination, that
5 it's outside the direct testimony.

6 JUDGE RENDAHL: Mr. Johnson.

7 MR. JOHNSON: Your Honor, I think the direct
8 testimony is so broad in general of Mr. Olson that it
9 encompasses the entire application, and I believe it
10 would be frankly a travesty not to allow me to question
11 Mr. Olson about the critical elements of the service
12 that Kleen is proposing since he is the President and
13 General Manager of Kleen Environmental. I also note
14 that his current involvement with the company, which he
15 has testified will continue under the medical waste
16 application, includes all facets of his business.

17 MR. HAFFNER: Your Honor, may I respond?

18 JUDGE RENDAHL: Yes.

19 MR. HAFFNER: Had we chosen to put on
20 Mr. Olson as a witness with knowledge of every aspect of
21 this testimony, we would have identified him as a
22 witness with such knowledge. Had Mr. Johnson chosen to
23 identify Mr. Olson because of his position as General
24 Manager as a witness to support his case, he could have
25 called him as a direct witness. He didn't do so. He

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1 did not identify him through his discovery process as a
2 person with such knowledge. He had the opportunity to
3 do so in discovery and he chose not to identify him as a
4 witness to put his case on. It's not the time to do it
5 during cross-examination. The cross-examination should
6 be limited to the scope of the direct testimony.

7 JUDGE RENDAHL: Mr. Johnson, how much further
8 do you have for Mr. Olson, and what areas are you
9 intending to inquire into?

10 MR. JOHNSON: Well, let me try to review that
11 here. I was going to ask him about several service
12 features that have been identified as differentiating
13 the service proposed by Kleen from the services
14 currently provided by existing carriers. I was going to
15 ask Mr. Olson a series of questions about those service
16 features, and I think that would take me to the end of
17 my questioning.

18 JUDGE RENDAHL: And do you intend to ask the
19 same questions you asked of Mr. Olson to Mr. McCloskey?

20 MR. JOHNSON: I may ask some of the same
21 questions. I mean it -- we have heard some testimony
22 here just a few minutes ago that Mr. Olson is, you know,
23 again, he is Kleen Environmental. Mr. McCloskey is a
24 consultant. Mr. McCloskey has no sort of commitment for
25 an ongoing relationship to Kleen. So the extent of -- I

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1 think I understand Mr. McCloskey is being advanced as
2 the person with sort of come up with some of these
3 ideas, but it's Mr. Olson who's going to have to make
4 them fly. And so I intend to ask Mr. McCloskey a number
5 of questions about his testimony, and it will include
6 some of these same items.

7 But again, I think -- I think that this is a
8 legitimate use of the hearing. And, you know, we don't
9 have a situation where we have had elaborate discovery
10 and deposition process, we had some written discovery.
11 But we've got Mr. Olson who is, for all practical
12 purposes, is Kleen Environmental, and I think to limit
13 the scope of cross-examination would be -- would not be
14 appropriate.

15 JUDGE RENDAHL: Mr. Haffner, is there another
16 witness for Kleen other than Mr. McCloskey who can
17 testify to these issues, or is it impossible for
18 Mr. Olson, does he just have no knowledge of these
19 issues?

20 MR. HAFFNER: The testimony for -- well, it
21 depends on what issues.

22 JUDGE RENDAHL: Well, the issues about the
23 comparison between Kleen and the other carriers, what
24 distinguishes them.

25 MR. HAFFNER: That would be Mr. McCloskey and

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1 Mr. Perrollaz, and that would be the only two.

2 JUDGE RENDAHL: All right. Well, I would
3 hate to have Mr. Perrollaz come up and say he's not as
4 aware of it as Mr. Olson and then have to bring
5 Mr. Olson in, so I'm going to allow some limited
6 questions to Mr. Olson to delve into his knowledge in
7 the area, and then I think we need to move on,
8 Mr. Johnson.

9 MR. JOHNSON: Thank you, Your Honor, I will
10 do my best.

11 BY MR. JOHNSON:

12 Q. We talked a little bit about the hydroclave,
13 we don't need to talk about it any further. I don't
14 mean to belabor you on points where you don't have
15 knowledge, please believe me on that.

16 Prefiled testimony in support of Kleen's
17 application indicates that some kind of on-line posting
18 of customer shipping documents and shipping information
19 is a feature that Kleen would propose to offer. Are you
20 familiar with that concept?

21 A. The concept, yes.

22 Q. Do you know how it would be provided; do you
23 know the computer systems, software, hardware,
24 personnel?

25 A. No, Mr. McCloskey has researched that.

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1 Q. Okay. So you really do not know anything
2 about this, the idea of the on-line posting of documents
3 or account information?

4 A. Not specifically. I'm not a systems analyst
5 person --

6 Q. And you don't --

7 A. -- with computers.

8 Q. And you don't know anything about the cost
9 that would be involved in creating such a system?

10 A. Mr. McCloskey researched that cost.

11 Q. Are you aware of issues that have been raised
12 by generators with respect to certificate of
13 destruction, certificates of destruction provided by
14 existing carriers and any inadequacies with respect to
15 those?

16 A. Only what I have heard in meetings.

17 Q. Okay. Do you know, is Kleen planning to
18 provide some kind of new different certificate of
19 destruction?

20 A. We, in our hazardous waste business, we have
21 always provided a certificate of destruction. We intend
22 to continue to do that with the medical waste business.

23 MR. JOHNSON: I'm not aware that any example
24 of that certificate of destruction is included in the
25 exhibits, Mr. Haffner, is it?

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1 MR. HAFFNER: I think it is, but I don't know
2 where I could find it.

3 MR. JOHNSON: Well, there is one exhibit
4 attached to Mr. McCloskey's testimony.

5 MR. HAFFNER: That would be the likely place.

6 MR. JOHNSON: Pardon me?

7 MR. HAFFNER: That would be --

8 JUDGE RENDAHL: I believe it's Exhibit 27.

9 MR. TRAUTMAN: Yep.

10 MR. JOHNSON: Yes.

11 BY MR. JOHNSON:

12 Q. If you look at Exhibit 27, and I understand
13 that this reference to this document comes from
14 Mr. McCloskey's testimony, but is this the document
15 you're referring to as the Kleen certificate of --

16 A. It's --

17 Q. -- treatment or disposal?

18 A. It's not Kleen's certificate of destruction,
19 it's the facility that destroyed the material or treated
20 the material's certificate.

21 Q. So does Kleen have a different form?

22 A. No, we provide this certificate to our
23 customers.

24 Q. So this is the type of certificate that you
25 would anticipate providing under the new medical waste

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1 service?

2 A. Yes.

3 Q. Mr. Olson, do you have a sense for the cost
4 of insurance that Kleen currently has with respect to
5 its vehicles and its general liability coverage?

6 A. Yes.

7 Q. What is that cost?

8 A. Our general liability policies including the
9 pollution release or pollution liability insurance runs
10 about, it fluctuates depending on the marketplace,
11 around \$13,000 a year. Our automobile insurance general
12 liability runs about, oh, about \$1,000 or \$1,200 per
13 year per vehicle.

14 Q. I'm sorry, \$1,000 to \$1,200 per year?

15 A. Per year.

16 Q. Per vehicle?

17 A. Per vehicle.

18 Q. Now this general -- is this kind of -- would
19 you anticipate costs similar to these in covering your
20 medical waste business?

21 A. Yes.

22 Q. So would that add cost, or would this be
23 included within the costs you have given me already?

24 A. I don't understand the question.

25 Q. I'm sorry. This is the cost you're currently

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1 using, you're currently incurring in your existing
2 business. If your application is granted and you're
3 allowed to go into the business of collecting and
4 transporting medical waste for disposal, would you
5 anticipate additional cost?

6 A. Additional cost per vehicle, yes.

7 Q. How about general liability?

8 A. No, I would not see it as additional cost.

9 Q. And have you obtained any quotes from any
10 insurance brokers with respect to the proposed medical
11 waste service?

12 A. We have discussed our desires to do this, and
13 the major impact we have been told would be on the
14 additional truck insurance, which would probably be
15 rated the same way our other trucks are now.

16 Q. Have you disclosed to the brokers your plan
17 to have your personnel package medical waste?

18 A. We package waste now under our --

19 Q. But you package hazardous waste?

20 A. Yes.

21 Q. My question is, have you disclosed to the
22 insurance carriers you have consulted your intention to
23 package medical waste?

24 A. No.

25 Q. Have you disclosed to them your intention to

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1 store medical waste on your premises?

2 A. No.

3 Q. Do you think those features of the proposed
4 service might affect your liability insurance?

5 A. No.

6 MR. JOHNSON: Your Honor, at this point I
7 think that would conclude my questioning of Mr. Olson.
8 The only thing I would like to do is make sure that the
9 exhibits that he has identified that we have discussed
10 have been admitted.

11 JUDGE RENDAHL: Well, I believe Mr. Haffner
12 had offered Exhibits 1 through 13, and you had held off
13 on your --

14 MR. JOHNSON: Right, and I have no problem
15 with admitting all of those exhibits.

16 JUDGE RENDAHL: All right, so I will admit
17 Exhibits 1 through 13.

18 And then Exhibits 14 through 19 were the
19 cross-examination exhibit that you had sent to us and I
20 had marked, and I'm assuming you're planning to offer
21 those now.

22 MR. JOHNSON: Yes, I would like to offer
23 those at this time.

24 JUDGE RENDAHL: Any objections to Exhibits 14
25 through 19?

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1 Hearing no objection --

2 MR. HAFFNER: Pardon me, Your Honor.

3 JUDGE RENDAHL: Oh, I'm sorry.

4 MR. HAFFNER: I'm looking 15 through 19 I
5 don't have a problem, I just want to check on 14.

6 No problem.

7 MR. JOHNSON: 14 is just your application.

8 MR. HAFFNER: Yeah.

9 MR. JOHNSON: Your Honor, there are a couple
10 of others that we talked about that I think could be
11 admitted now as well.

12 JUDGE RENDAHL: All right, well, before we go
13 there, I didn't formally admit them --

14 MR. JOHNSON: I'm sorry.

15 JUDGE RENDAHL: -- because of Mr. Haffner's
16 question, so they are now admitted, I have now admitted
17 Exhibits 1-T through 19, we admitted Exhibits 20 and 21
18 earlier as well as Exhibits 165 through 190. Are there
19 any other exhibits at this point you need to offer?

20 MR. JOHNSON: Yes, Your Honor, I think we
21 would offer the financial statements that are identified
22 as Exhibits 41, 47, and 48. I believe Mr. Olson has
23 identified those.

24 MR. HAFFNER: No objection.

25 MR. SELLS: What were those numbers again,

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1 I'm sorry?

2 JUDGE RENDAHL: Exhibit 41, which is marked
3 KRL-2, it's the 2003 financial statements, and Exhibits
4 47 and 48 are the 2001 and 2002 financial statements.

5 So Exhibits 41, 47, and 48 are admitted.

6 Is there anything else, Mr. Johnson?

7 MR. JOHNSON: I believe that's all, Your
8 Honor.

9 JUDGE RENDAHL: All right.

10 MR. HAFFNER: Your Honor, one moment please,
11 if I could check, I thought there were some other
12 exhibits referred to.

13 MR. JOHNSON: There were some others referred
14 to.

15 MR. HAFFNER: 75 and 76 he did not identify.

16 MR. JOHNSON: Right.

17 MR. HAFFNER: Exhibit 27 was referenced, and
18 he did testify about that.

19 JUDGE RENDAHL: So you're offering 27,
20 Mr. Haffner?

21 MR. HAFFNER: Yes.

22 MR. JOHNSON: No objection.

23 JUDGE RENDAHL: So admitted, Exhibit Number
24 27.

25 Any other exhibits?

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1 All right, we will continue with the
2 cross-examination by Mr. Sells and then Mr. Trautman,
3 and then we'll go to you, Mr. Haffner, for redirect.

4 MR. HAFFNER: Thank you.

5 MR. SELLS: Thank you, Your Honor.

6

7 C R O S S - E X A M I N A T I O N

8 BY MR. SELLS:

9 Q. Mr. Olson, my name is Jim Sells, I'm here
10 representing the Washington Refuse and Recycling
11 Association and three of its members, Harold LeMay
12 Enterprises, Consolidated Disposal, and Rubatino Refuse.
13 Are you familiar with any of those companies?

14 A. What were the three?

15 Q. Harold LeMay Enterprises.

16 A. I know --

17 Q. Rubatino -- no, go ahead.

18 A. Yes, I am familiar.

19 Q. Rubatino Refuse?

20 A. Yes, I am.

21 Q. And Consolidated Disposal?

22 A. No.

23 Q. Now I know on your application that you have
24 asked for authority to serve the entire state of
25 Washington; is that correct?

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1 A. Yes.

2 Q. And in listening to your testimony, is it my
3 understanding that at least initially if this is granted
4 you will have one driver; is that correct?

5 A. Yes.

6 Q. And you will have one vehicle providing
7 medical waste services?

8 A. Yes.

9 Q. Where will that driver and vehicle be
10 located?

11 A. Right now we're looking for additional space
12 and have been for two years, and it's undetermined at
13 this point.

14 Q. Is that additional space going to be in the
15 King County area?

16 A. Yes.

17 Q. It's not going to be, for example, down in
18 Olympia?

19 A. No.

20 Q. Wouldn't be over in Ephrata?

21 A. No, sir.

22 Q. So do you understand that if this authority
23 is granted that you are required to serve any customer
24 who calls you with a need for your service?

25 A. Yes, sir.

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1 Q. Well, let's just say on your second day in
2 business, and I'm a veterinarian over in Electric City
3 in Grant County, and I'm mad at Consolidated Disposal
4 and I don't want to deal with them anymore, so I call
5 you and say I need a pickup today or tomorrow, medical
6 waste; how are you going to do that?

7 A. My understanding of the business as it is
8 today is we would try to consolidate that with other
9 people in that area. And still if it came down to the
10 point we had to go pick up that one person by the
11 demands of that customer, we would go do that.

12 Q. When would you do that?

13 A. When would I do that?

14 Q. Sure. Would you do it right when you hung up
15 the phone?

16 A. Probably negotiate in the next day or the
17 following day.

18 Q. Well, what about all your customers over here
19 in King County that your one employee is picking up with
20 his one truck, who is going to take care of them while
21 you're driving to Electric City?

22 A. As those problems or opportunities would
23 present itself, that's why we laid out the fact that we
24 are going to put additional drivers on.

25 Q. And the additional drivers are --

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1 A. I can't answer the question because I really
2 don't --

3 Q. Well, isn't it -- are you also aware that you
4 have to go as far east as Pullman, for example?

5 A. Yes, sir.

6 Q. Have you ever driven to Pullman from here?

7 A. Yes, sir.

8 Q. How long does it take?

9 A. Three and a half hours.

10 Q. So a seven hour round trip, you're willing to
11 make that for one customer?

12 A. Yes, sir.

13 Q. And lose money doing that?

14 A. Yes, sir.

15 Q. How long can the new company stand to do that
16 and lose money?

17 A. Not very long, but we -- and be able to --
18 our marketing plan is the hope that when we do that and
19 we have to service that area that we can consolidate
20 five, six, or seven pickups at that time.

21 Q. So once you get those five, six, or seven
22 pickups somewhere between here and Pullman, then you're
23 going to put on another driver?

24 A. We haven't anticipated exactly when we would
25 put on that other driver, it would depend on the

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1 participation of clients.

2 Q. Well, isn't it true that you hope or you
3 expect maybe is a better word that most of your business
4 is going to be in the King, Snohomish, Pierce County
5 area?

6 A. I would say that we probably think so,
7 because in fact that's where our office is.

8 Q. And isn't it --

9 A. And that's where our current clients are.

10 Q. And as I understand your previous testimony,
11 your interest is really in the start anyway offering
12 some of your current clients a new service?

13 A. Yes, sir.

14 Q. Is that correct?

15 A. Yes, sir.

16 Q. Do you understand though, if this is granted,
17 it's not going to be limited to your current clients?

18 A. Yes, sir, I understand that.

19 Q. And you have to provide the service if asked?

20 A. Yes, sir, I understand that.

21 Q. Would you prefer just to do King County for
22 example?

23 A. No, sir.

24 Q. Why not?

25 A. I just think if you're going to provide a

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1 service, you should provide the service.

2 Q. Even if you can't make a dime at it?

3 A. Eventually we had hoped in the proforma that
4 we're going to lay forth through Mr. Lee as to where
5 those break even points are, and we have anticipated
6 some losses of service in the customers you're speaking
7 there of.

8 Q. If you lose enough, would you pull out of the
9 business?

10 A. No, sir.

11 Q. Go on forever continuing losing money?

12 A. I don't expect to continue to lose money.

13 Q. Well, let me put a hypothetical, let's say
14 you lose money on this service for two years, would you
15 pull the plug at that point?

16 A. No.

17 Q. Five years?

18 A. I'm sorry?

19 Q. Five years?

20 A. I can't answer that question.

21 Q. And let me make sure I've got the rest of
22 this straight too. As we sit here today, and if the day
23 after this permit is granted if it is granted you have
24 no physical facilities, is that correct, for medical
25 waste?

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1 A. That's correct.

2 Q. You have --

3 A. For storage.

4 Q. You have no vehicles to collect medical waste
5 with?

6 A. About 48 hour turnaround.

7 Q. The question was, will you have any vehicles
8 on that day with which to collect medical waste?

9 A. If we have a permit? If we have a permit?

10 Q. The day you get the permit.

11 A. Yes.

12 Q. So you're going to buy one between now and
13 when Her Honor rules?

14 A. No, we're going to purchase on the lease is
15 how we have looked at this thing, and the vehicles are
16 available when we lease them.

17 Q. Is there going to be testimony in this
18 hearing as to the type of vehicle, from whom you're
19 going to lease it, how it's going to be outfitted, any
20 of that?

21 A. Yes.

22 Q. Who is going to offer that?

23 A. That would be Mr. Lee.

24 Q. All right. Now back to our first day after
25 you get your permit, you will have no personnel devoted

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1 to medical waste; is that correct?

2 A. No, that's correct.

3 Q. That is correct?

4 A. Yes.

5 Q. You will have no contract for the disposal of
6 medical waste?

7 A. We have a contract with Covanta.

8 Q. With whom?

9 A. We have a contract in place with Covanta.

10 Q. That's the Oregon --

11 A. Yes, sir.

12 Q. -- incineration facility?

13 A. Yes, sir.

14 Q. Is that contract in evidence here?

15 MR. JOHNSON: It is.

16 Q. It is, all right.

17 And you will have no office personnel billing
18 staff for medical waste?

19 A. We have office staff in billing related with
20 our other business. I think I testified that probably
21 Mr. Lee would have to work another 25% to cover up that
22 initial there.

23 Q. So Mr. Lee would be the one answering the
24 phone, sending out the bills?

25 A. No, sir. We would send out the bills from

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1 our Garfield office. Mr. Lee works in another area in
2 Bellevue.

3 Q. Well, who staffs the Garfield office?

4 A. The people we testified to, Mr. Perrollaz,
5 myself, the haz techs, the chemists.

6 Q. But I thought, and correct me if I'm wrong, I
7 thought I heard that you had no office staff such as --

8 A. We have no office staff.

9 Q. All right. So you're going to have to add
10 that, aren't you?

11 A. I'm sorry?

12 Q. You're going to have to add that?

13 A. Yes, I understand that.

14 Q. And you won't have that the day that this --

15 A. On the day we start, no.

16 Q. You indicated that you have done some surveys
17 of potential customers?

18 A. Mr. McCloskey did, yes.

19 Q. Are you aware of the geographical areas that
20 those surveys were done?

21 A. Generally, yes.

22 Q. And what are they?

23 A. Mainly the greater King County area.

24 Q. Do any Aberdeen?

25 A. Yes.

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1 Q. Centralia?

2 You can't look at someone else to answer the
3 questions, you have to answer yourself.

4 A. (Nodding head.)

5 Q. Centralia?

6 A. No.

7 Q. Chehalis?

8 A. No.

9 Q. Ephrata?

10 A. No.

11 Q. Soap Lake?

12 A. No.

13 Q. Moses Lake?

14 A. No.

15 Q. Coulee City?

16 A. No.

17 Q. Shelton?

18 A. No.

19 Q. Olympia?

20 A. No.

21 Q. Yet you're asking for authority in all those
22 places, are you not?

23 A. (Nodding head.)

24 MR. SELLS: I have no further questions, Your

25 Honor.

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1 JUDGE RENDAHL: Mr. Trautman.

2 MR. SELLS: Thank you, Mr. Olson.

3 JUDGE RENDAHL: Mr. Trautman.

4 MR. TRAUTMAN: Thank you.

5

6 C R O S S - E X A M I N A T I O N

7 BY MR. TRAUTMAN:

8 Q. I just have a few follow-up questions. I'm
9 Greg Trautman, Assistant Attorney General for the
10 Commission Staff.

11 You had indicated I believe to Mr. Johnson
12 when you were talking about the existing facilities and
13 whether -- and what would be stored there that I believe
14 you said that medical, biomedical waste would not be
15 stored there; is that correct?

16 A. No, it would not be.

17 Q. And this is the area that's the non-secured
18 area, correct?

19 A. Yes.

20 Q. Would there ever be a time when hazardous or
21 when biomedical waste would ever be present in that
22 area, in transit or --

23 A. Possibly on a truck, yes.

24 Q. And for how long?

25 A. One day perhaps, just long enough to, you

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1 know, to take it to the disposal facility.

2 Q. And so would it be kept overnight?

3 A. Possibly, yes.

4 Q. And this would be -- and this is the area
5 where there is no security?

6 A. Yes.

7 Q. And that's the only time?

8 A. Yes. We have very strict rules in the
9 hazardous waste business about storage.

10 Q. But can you ensure that nobody will come in
11 off the street --

12 A. Yes.

13 Q. -- onto the site?

14 A. We can.

15 Q. How can you do that?

16 A. We have a practice that any of our trucks has
17 got any kind of waste on it has to be secured, and the
18 loading and the unloading doors are pressed up against
19 the building so you can not swing the doors open for
20 inadvertent somebody looking inside your truck for
21 whatever it is. The box is really in close.

22 Q. So even though you said the area was not
23 secure, are you saying that nevertheless because of the
24 positioning of the trucks that there would be no chance
25 whatsoever that --

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1 A. To the best of my knowledge, no, we have
2 never had any problem.

3 JUDGE RENDAHL: Mr. Olson, please wait until
4 the question is asked.

5 Q. That there would be no possibility that the
6 biomedical waste could --

7 A. No.

8 Q. -- escape?

9 And the reason -- okay.

10 Another line of questioning involved I
11 believe a reference to Exhibit 5, and in connection with
12 that I don't know that I need to -- and that was one of
13 your promotional materials. The question was whether
14 your company engaged in transporting solid waste, and I
15 believe you said that Kleen brokers solid waste
16 transportation?

17 A. Yes.

18 Q. But does not engage in it; is that right?

19 A. (Nodding head.)

20 Q. And then you indicated I believe that your
21 personnel did have hazardous material or HAZMAT
22 commercial driver's licenses; is that correct?

23 A. CDL HAZMAT endorsement.

24 Q. Okay. And that you -- and then I think you
25 said that you transported small amounts of materials up

0283

1 to one drum for disposal?

2 A. Yeah, I believe the exemption is at 1,000
3 pounds, and it's usually materials we pack on site.

4 Q. And when you say exemption, what do you mean
5 by that?

6 A. My understanding is that if you go to do a
7 job and you package material and you provide those
8 services of labor on site and materials and it's less
9 than 1,000 pounds, you can transfer that to a TSD
10 facility. Anything above and beyond that we use common
11 carriers.

12 Q. And is this transportation, is this part of a
13 larger --

14 A. Yes.

15 Q. -- project?

16 A. Yes.

17 Q. And could you describe that?

18 A. We might -- we do a lot of work in the
19 biochemical business where they have laboratories, and
20 they periodically will collect a lot of different
21 chemicals. And they hire us to come out there, and we
22 do an inventory of those chemicals, we put those on
23 profile, we submit them to the treatment storage and
24 disposal facility. We then transport drums and
25 packaging materials to their site.

0284

1 The haz techs then go through and they
2 package these commodities in different small packages so
3 they're not reactive to one another in vermiculite, and
4 you might have a couple small drums, mainly because you
5 can't put two different types of chemicals in the same
6 package, DOT packaging law. And the other part of that
7 thing is to take those to Phillips Environmental and
8 drop them off at the TSD facility.

9 Larger, we have other clients that they
10 package their own waste, and the only thing we do is
11 offer them management services. We do the manifesting
12 and the profiling, and then for example the disposal
13 site is Teris in Arkansas, which is an incinerator, and
14 they have a truck that's a common carrier that comes up
15 and picks up those anything more than a drum, and they
16 transport it to Arkansas, or sometimes Phillips does the
17 same thing.

18 Q. I wanted to go back to an area I referred to
19 before when I was talking about the current area where
20 the trucks are kept and whether biomedical waste would
21 ever be present there, and I think you said it could
22 stay there as often as overnight.

23 A. You can leave that waste on a truck for a
24 period of ten days in transport. You can never take
25 that waste off of the truck and set it on the ground

0285

1 unless you're a treatment disposal facility.

2 Q. Do you anticipate the situation where the
3 biomedical waste could be in the trucks overnight at the
4 current Garfield site; do you expect that that
5 possibility could continue indefinitely into the future
6 if your application is granted, or do you anticipate
7 that eventually the trucks will never come to that area?

8 A. I would say there would be occasion where
9 that truck would be there overnight. The ideal
10 situation would be to be able to pick up the waste and
11 schedule your pickups to the point that you have a full
12 truck that you would put immediately on the road to
13 disposal.

14 Q. You were also asked questions regarding what
15 the cost of space would be if you were trying to find
16 additional storage space for biomedical waste.

17 A. Yes, sir.

18 Q. And I believe you indicated that looking at
19 the general warehousing prices it was about 50 to 60
20 cents per square foot per month?

21 A. Yes.

22 Q. But then when you were asked what the cost
23 would be if the space were dedicated for medical waste
24 storage, I believe you said you didn't know what that
25 would be?

0286

1 A. No.

2 Q. Would any of the other witnesses in this case
3 know that?

4 A. No, I -- no.

5 Q. So you --

6 A. We have talked -- we have solicited brokers
7 that sell and lease property, which we have been for
8 approximately two years, and these figures -- and we
9 tell them what our services are going to be. They don't
10 make a discrimination between like the hazardous waste
11 business and the medical waste business in terms of cost
12 per square foot.

13 Q. And so in making estimates of what you would
14 have to pay, have you just relied on the general
15 warehousing cost estimate?

16 A. We have relied on the general warehousing
17 costs as been dictated to us and what we're paying now.

18 MR. TRAUTMAN: That's all I have.

19 JUDGE RENDAHL: All right, and I don't
20 believe I have any questions, Mr. Olson, I think it's
21 been pretty thorough up to now.

22 Mr. Haffner, do you have any redirect of your
23 client?

24 MR. HAFFNER: I do, Your Honor.

25 JUDGE RENDAHL: Let's be off the record, and

0287

1 then when you're ready, you can let me know.

2 (Discussion off the record.)

3 JUDGE RENDAHL: Go ahead, Mr. Haffner.

4 MR. HAFFNER: Thank you, Your Honor.

5

6 R E D I R E C T E X A M I N A T I O N

7 BY MR. HAFFNER:

8 Q. Mr. Olson, in your testimony this morning,
9 Mr. Johnson was asking you several questions about your
10 prefiled testimony, and you were indicating to me that
11 there was something you wanted to address regarding page
12 2 of that document. Can you take a look at the first
13 exhibit in this hearing. Mr. Johnson was asking you
14 questions about your experience, and was there something
15 that you were wanting to add to your testimony regarding
16 that?

17 A. If I remember correctly, Mr. Johnson was
18 asking about the experience level and where you get the
19 experience to do these type of things. I originally
20 worked for a company in Portland that was a ship repair
21 firm, and when the RCRA laws were adopted, we looked at
22 our current facilities that we had, and we had made a
23 conscious effort to go into the hazardous waste
24 remediation business. And the only thing I have to say
25 is my 20 years of experience basically was converting

0288

1 that business from a ship repair facility into a
2 hazardous waste facility, a much more highly regulated
3 business.

4 Q. Okay, thank you.

5 A. My background, of course, is a Bachelor's of
6 Science not in hazardous waste or medical waste.

7 Q. Let's take a look at Exhibit 8. During
8 Mr. Johnson's testimony he asked you a question as to
9 whether it was inaccurate for that document to describe
10 your service to include waste transportation; is that
11 still your testimony?

12 A. Yes, we -- if we -- depending on the type of
13 job that it is, and I go back to one of our clients
14 where we offer management services, packaging services,
15 and application services at treatment, storage, and
16 disposal facilities, we arrange for waste transportation
17 of that material, whether it's to Phillips or it's to
18 Teris in Arkansas. We act as a broker of
19 transportation.

20 JUDGE RENDAHL: Can you spell is it Teris?

21 THE WITNESS: Teris, T-E-R-R-I-S, it's a
22 hazardous waste incinerator.

23 JUDGE RENDAHL: In Arkansas?

24 THE WITNESS: In Arkansas.

25 JUDGE RENDAHL: Thank you.

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1 MR. HAFFNER: As opposed to what I hope
2 nobody else was thinking, but I was hearing him say
3 terrorists in Arkansas.

4 THE WITNESS: I thought maybe you were
5 familiar with our invoices from them.

6 MR. JOHNSON: I was familiar with the
7 exhibits.

8 THE WITNESS: Our invoices, we think they're
9 terrorists sometimes too.

10 BY MR. HAFFNER:

11 Q. Mr. Olson, when you were asked about the
12 presence, you were asked by Mr. Johnson about the
13 presence at your current site of a shower or a dressing
14 area, and I believe you said that you have no such
15 facilities, correct?

16 A. No.

17 Q. Are you intending to include such facilities
18 in your new space?

19 A. Yes.

20 Q. Are you aware of any regulations that
21 currently require you to have a secured storage area for
22 your vehicles when they have hazardous waste on board?

23 A. No, not unless you have a ten day permit.

24 Q. You were describing some of your employees to
25 Mr. Johnson when he asked you the number of employees

0290

1 and who they were and what they did. I believe you said
2 to me that you omitted one employee, can you identify
3 who that other employee is?

4 A. Yes, we have a project manager, his name is
5 Alan Swift.

6 Q. What does Mr. --

7 A. He's a high maintenance employee, I'm trying
8 to forget him.

9 MR. JOHNSON: Alan swift?

10 THE WITNESS: Alan Swift, right.

11 BY MR. HAFFNER:

12 Q. What does Mr. Swift do?

13 A. He's a project manager for field operations.

14 Q. When Mr. Johnson was showing you the various
15 pictures of your building at Garfield, one of -- several
16 of the pictures had different address numbers than what
17 is your current address, but you testified that those
18 doors on which those numbers were located were doors for
19 your business. Can you explain why those doors have
20 different numbers?

21 A. No, they have just always been there.

22 Q. Are you receiving mail at those different
23 addresses?

24 A. No, we receive mail one place.

25 Q. In your testimony in response to

0291

1 Mr. Johnson's questions, you identified a number of
2 different tenants that are also using the same building
3 where your offices are located on Garfield. Do any of
4 those tenants have access from their space to any of
5 your spaces?

6 A. No.

7 Q. Can you tell us what materials, if any, you
8 store at your site on Garfield?

9 A. The only thing we store empty drums, metal
10 drums, open top and closed top drums, we store empty
11 fiberglass drums for lab packing, we store vermiculite,
12 and that's the material you put in the drums to soften
13 any kind of bottles clashing together, we store high
14 pressure washers, wash machines, pumps, things of that
15 nature you would use in the field.

16 Q. And just so I'm clear, these are items that
17 you would store in the building?

18 A. In the building, everything is stored in the
19 building.

20 Q. I want to make sure that we clarified this,
21 regarding the questions by Mr. Johnson about statements
22 in your prefiled testimony regarding citations and
23 compliance with rules and regulations. Was it your
24 testimony that your prefiled testimony was signed before
25 you knew any of the results of that audit by the WUTC?

0292

1 A. Yes.

2 Q. Are you aware of whether the WUTC has issued
3 a citation to your company for the results of that
4 audit?

5 A. I haven't seen one, no.

6 Q. Mr. Olson, if your company is granted this
7 application, do you intend to comply with all applicable
8 laws and rules and regulations that govern the type of
9 business you're seeking to provide?

10 A. Yes.

11 MR. HAFFNER: No further questions, Your
12 Honor.

13 JUDGE RENDAHL: Any redirect, Mr. Johnson, I
14 mean recross.

15 MR. JOHNSON: Recross.

16 JUDGE RENDAHL: It's the afternoon.

17 MR. JOHNSON: I have no further questions.

18 JUDGE RENDAHL: All right, well, I think at
19 this point we are done with questioning for Mr. Olson.
20 Mr. Olson, you may step down, thank you very much for
21 appearing this morning and this afternoon, and let's be
22 off the record for a few minutes while we change
23 witnesses.

24 (Brief recess.)

25 JUDGE RENDAHL: Mr. Haffner, you have the

0293

1 next witness.

2 MR. HAFFNER: Thank you. Do you want to
3 swear him in?

4 JUDGE RENDAHL: Please.

5 Mr. McCloskey, if would state your full name
6 and address for the record.

7 MR. MCCLOSKEY: Allen McCloskey, I live at
8 8327 - 233rd Street Southwest, Edmonds, Washington.

9 JUDGE RENDAHL: All right, if you would raise
10 your right hand, please.

11 (Witness Allen McCloskey was sworn.)

12 JUDGE RENDAHL: Please go ahead, Mr. Haffner.

13 MR. HAFFNER: Thank you, Your Honor.

14

15 Whereupon,

16 ALLEN MCCLOSKEY,
17 having been first duly sworn, was called as a witness
18 herein and was examined and testified as follows:

19

20 D I R E C T E X A M I N A T I O N

21 BY MR. HAFFNER:

22 Q. Mr. McCloskey, can you take a look at what's
23 been marked for identification as Exhibit 2, no, I'm
24 sorry, 24-T, actually 25 in that book.

25 A. Okay.

0294

1 Q. If you will review that document and let me
2 know if you're familiar with it.

3 A. I am.

4 Q. And can you tell us what that document is?

5 A. My prefiled testimony.

6 Q. Is that your signature on page 9?

7 A. It is.

8 Q. Do you recall when and where you signed that
9 document?

10 A. I remember where I signed it, but I guess I
11 didn't date it.

12 Q. Do you recall approximately?

13 A. Yeah, I do.

14 Q. Where did you sign it?

15 A. At the office there at Kleen Environmental in
16 Seattle.

17 Q. I believe there's a date stamp on the fax
18 version of these documents that looks like August 12,
19 2004; is that approximately when you signed it?

20 A. That's about right, uh-huh.

21 Q. If you could wait until I finish the question
22 so that the reporter can get it.

23 JUDGE RENDAHL: It is a bit nerve racking,
24 but if you can just remember to pause and then answer.

25 THE WITNESS: Just frown at me for a little

0295

1 while.

2 JUDGE RENDAHL: All right, I will do that.

3 BY MR. HAFFNER:

4 Q. Mr. McCloskey, are there any changes that you
5 believe need to be made to your prefiled testimony?

6 A. Not necessarily. You know, there are some
7 things such as packaging of this waste that is found
8 within my prefiled testimony, but I'm not going to go
9 into great detail on it, because it's not my area of
10 expertise. I think that would be something that would
11 be better covered by Mr. Perrollaz.

12 Q. All right. Otherwise do you find all of the
13 information in that prefiled testimony to be accurate
14 and true as of today?

15 A. I do.

16 Q. Okay. Attached to your prefiled testimony
17 were several exhibits, and they are in the binder in
18 front of you now as Exhibits 26 through 21, I'm sorry,
19 26 through 31. Can you take a look at those exhibits
20 and tell me if you're familiar with them.

21 A. Yeah, I am.

22 Q. And are these all exhibits that -- all
23 documents that you have used in your business?

24 A. Yes.

25 Q. If you could take a look at -- were you also

0296

1 involved in the preparation of the tariff for your
2 proposed service?

3 A. I was.

4 Q. Can you take a look at the document at
5 Exhibit tab 45?

6 A. Okay.

7 Q. Is that the tariff that you prepared for
8 submittal to the WUTC?

9 A. It is.

10 Q. Did you participate at all in the preparation
11 of information used in the preparation of your company's
12 proforma statements used in this hearing?

13 A. It was a collaborated effort between myself
14 and Mr. Lee.

15 Q. Will you look at the documents behind Exhibit
16 or tab 46, can you tell me what that document is?

17 A. Well, we've got a profit and loss analysis
18 sheet, proforma balance sheet analysis, and proforma
19 assumptions.

20 Q. Did you contribute in the production of that
21 document?

22 A. Yes.

23 Q. Let me have you look at also Exhibit 44, can
24 you identify those documents, please.

25 A. Basically you've got the same information

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1 here, we have just gone one step further and broken it
2 down as we defined, you know, per region.

3 Q. Did you --

4 A. And then we have, I'm sorry, and then we have
5 a combined.

6 Q. Did you participate in the production of
7 these documents?

8 A. I did.

9 MR. HAFFNER: Can we go off the record?

10 JUDGE RENDAHL: Let's be off the record for a
11 moment.

12 (Discussion off the record.)

13 MR. HAFFNER: At this time I would offer the
14 exhibits, the testimony of Mr. McCloskey, Exhibits 26
15 through 31 and Exhibits 44, 45, and 46.

16 JUDGE RENDAHL: Mr. Johnson.

17 MR. JOHNSON: Your Honor, as we did
18 previously, I would like to cross examine Mr. McCloskey
19 with respect to the exhibits before deciding whether I
20 have any objection.

21 JUDGE RENDAHL: All right, then let's go
22 ahead with your cross, Mr. Johnson.

23 MR. JOHNSON: Thank you, Your Honor.

24 JUDGE RENDAHL: And again I will advise both
25 you, Mr. Johnson, and you, Mr. McCloskey, to wait until

0298

1 the question is asked and until the answer is completely
2 given until you cross over one another.

3 Go ahead.

4 MR. JOHNSON: Thank you, Your Honor, I'm
5 practicing pausing.

6

7 C R O S S - E X A M I N A T I O N

8 BY MR. JOHNSON:

9 Q. Mr. McCloskey, my name is Steve Johnson, I'm
10 an attorney, I represent Stericycle of Washington,
11 protestant in this proceeding. I'm going to ask you a
12 series of questions about your prefiled testimony, and
13 if at any point I'm unclear with respect to my question,
14 please ask for clarification. We want to make sure that
15 we make a clear record as to what your testimony is.

16 Mr. McCloskey, would you tell us a little bit
17 about your personal background, your education and
18 employment history?

19 A. Well, I have a Bachelor's Degree in business
20 administration. Most of my professional career has been
21 spent working for my father and my uncle's company, a
22 California corporation. And in my capacity in working
23 for my father's company, I did various business
24 development strategy and analysis plans for Native
25 American gaming operations and various businesses

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1 located within the boundaries of the reservation.

2 Q. And that company, is this the company you
3 refer to in your prefiled testimony as I think McCloskey
4 Enterprises?

5 A. Yes.

6 Q. So most of your experience has been business
7 development in connection with tribal projects?

8 A. Mm-hm.

9 Q. Have you done prior projects involving
10 infectious medical waste?

11 A. Not infectious medical waste.

12 Q. All right.

13 A. But other endeavors related to
14 transportation.

15 Q. Okay. So what kind of background have you
16 got in transportation matters?

17 A. Well, as you know, working in Indian country,
18 well, you may not know, but working in Indian country is
19 a lot different than working within the purview of the
20 state. And so basically what we would do is we would
21 go, if someone had a transportation endeavor that they
22 wanted to pursue and that endeavor was going to be
23 operated or incorporated within the boundaries of the
24 reservation, there were certain regulatory issues that
25 came into play once you left the confine of the

0300

1 reservation. Basically we would research and perform
2 analysis on those regulations and give our client a
3 final opinion as to whether or not they should pursue
4 that endeavor based on the, you know, the stringent
5 regulations that be.

6 Q. So these were businesses based in Indian
7 country you say?

8 A. Mm-hm.

9 Q. Is that correct?

10 A. Mm-hm.

11 Q. So, Mr. McCloskey, when did you receive your
12 BA?

13 A. Well, I received it from Humbolt State
14 University in I think it was August of '92.

15 Q. And since that time you have been employed in
16 your father's business, McCloskey Enterprises?

17 A. Yeah.

18 Q. When did you become acquainted with the folks
19 at Kleen?

20 A. Well, my relationship with Kleen
21 Environmental derived out of a contract relationship
22 that my father's company had with one of the Pacific
23 Northwest tribes, with the Makah tribe or the Makah
24 Nation. We were actively working with the Makah tribe
25 to pursue a resort development within the boundaries of

0301

1 the reservation. One of the projects or one of the
2 projects that was brought into the scope of work that we
3 were to perform on the reservation was the
4 revitalization or rehab of several lots on the
5 reservation, one of which was the demolition of a former
6 Chevron gasoline storage tank farm. Our company handled
7 the procurement process with that project and worked
8 with the Office of Trade and Economic Development to
9 properly manage the funds used to clean up that site.
10 We put out a solicitation for a contractor, Kleen
11 Environmental then responded to that solicitation, and
12 the relationship just kind of blossomed from there.

13 Q. And your first business relationship with
14 Kleen was then when?

15 I guess I should revise that question. In
16 terms of your personal consulting services, I guess that
17 would have been the first business relationship you had
18 directly with Kleen personally?

19 A. Directly and personally with Kleen
20 Environmental I would say about a year and a half ago
21 approximately.

22 Q. And what was your -- what was the nature of
23 that relationship?

24 A. Well, at that time there was discussion among
25 the partners of Kleen Environmental to pursue the

0302

1 endeavor that has brought us here to this table today,
2 and they were looking for someone to facilitate that
3 effort.

4 Q. Okay. So they hired you to do that, and you
5 have been working then since that time as an independent
6 contractor consulting with them?

7 A. Yes.

8 Q. You're not employed by Kleen?

9 A. No.

10 Q. Now Mr. Olson testified that Kleen had made
11 no commitment to retain your services or employ you as
12 an independent contractor or in any other capacity for
13 any period of time after this application is granted if
14 it is granted; is that correct?

15 A. Formally yes, there has no -- there has been
16 no discussion or any written agreement.

17 Q. Is there an agreement, some other agreement?

18 A. I think if anything we could call it a
19 gentleman's agreement, that I have gathered and gained a
20 certain level of knowledge in regards to this particular
21 process, and I think they -- I think it is the opinion
22 of the shareholders of Kleen Environmental that I would
23 be an asset to the company to continue implementing, you
24 know, each step of this endeavor.

25 Q. So is it fair to say that that's your

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1 expectation?

2 A. Yes.

3 Q. Okay. In your testimony if you look at your
4 prefiled testimony, let's see if I can find an exhibit
5 number.

6 JUDGE RENDAHL: It's Exhibit 25.

7 Q. Yes, Exhibit 25, on the first page, line 14,
8 it says:

9 If the certificate is granted, I will be
10 responsible for oversight and
11 implementation of the services provided
12 pursuant to that certificate.

13 That's stated as a fact, that's more than
14 expectation, is it not?

15 A. Well, I think the best way to answer that,
16 Mr. Johnson, is to say that's what's anticipated at this
17 time. I mean I or they don't know what's going to take
18 place between now and the time that this particular G
19 permit is granted.

20 Q. That's what you would anticipate, is that not
21 the case?

22 A. Well, I --

23 Q. You're not really in a position to speak for
24 Kleen, are you?

25 A. No. So to answer your question directly,

0304

1 this is what I anticipate.

2 Q. Okay, thank you.

3 In your employment with McCloskey
4 Enterprises, have you actually managed a transportation
5 company before?

6 A. No.

7 Q. Have you dealt directly with issues related
8 to hazardous materials handling?

9 A. No.

10 Q. Have you dealt with the regulations and
11 statutes regulating transportation packaging and, I'm
12 sorry, the transportation packaging of hazardous
13 materials?

14 A. No.

15 Q. Have you worked in any capacity in connection
16 with infectious waste handling or transportation?

17 A. No.

18 Q. Mr. McCloskey, approximately how much are you
19 earning monthly now in your relationship with Kleen?

20 A. Well, it varies, Mr. Johnson, dependent upon
21 the amount of time that I spend on this particular
22 issue.

23 Q. Well, let me ask you this. If we were to go
24 forward and your expectations are met with respect to
25 your role with Kleen, what would your services -- what

0305

1 would the cost of your services be to Kleen?

2 A. Well, I think what we, as I understand it,
3 what is to be anticipated is that it would require a
4 full-time person to in a sense manage this endeavor.

5 Q. And would you anticipate then becoming a
6 full-time employee at Kleen?

7 A. I think it's feasible, yes.

8 Q. But have you had any discussions with respect
9 to what salary level and benefits and so forth would be
10 involved?

11 A. No.

12 Q. So you're really not in a position to project
13 your own personal costs as an element of the Kleen cost
14 structure assuming the application is granted?

15 A. I think it's a little premature. I mean
16 until they get a G permit, I mean we're not going to sit
17 down and negotiate out a contract that says this is what
18 you're going to get paid, these are your benefits, and
19 this is your --

20 Q. I understand the problem.

21 MR. JOHNSON: Pardon me, Your Honor.

22 BY MR. JOHNSON:

23 Q. Did you finish?

24 A. Yeah.

25 Q. Mr. McCloskey, in your testimony you identify

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1 a variety of ways in which you think that the proposed
2 service that would be offered by Kleen would be
3 different from services offered by existing biomedical
4 waste collection companies, and I'm going to try to pick
5 those out and ask you a series of questions about them.
6 I think most of them appear on pages 2 and 3 roughly of
7 your prefiled testimony, Exhibit 25. So if you would
8 direct your attention there, we'll start down that path.

9 In the first sentence of the second
10 paragraph, it says, Kleen is proposing to offer a full
11 service waste management service. What does that mean
12 to you?

13 A. Well, personally I see a big difference
14 between general curbside service as opposed to, you
15 know, a truck just pulling up, backing up to a loading
16 dock, and loading boxes onto a truck and transporting
17 for disposal. I see Kleen Environmental or it is my
18 recommendation to Kleen Environmental that they provide,
19 you know, a full on hands service, a value added service
20 to each of their, you know, their existing clientele and
21 their future clientele. Full service to me, you know,
22 entails packaging and properly tracking and managing
23 that waste, you know, cradle to grave approach.

24 Q. Is it your understanding that existing
25 carriers do not perform these services?

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1 A. Based on the conversations that I have had
2 with certain generators, yes.

3 Q. In the second sentence of this second
4 paragraph it says:

5 We will offer clients a closer disposal
6 facility for incineration, Utah versus
7 Brooks, Oregon.

8 A. Mm-hm.

9 Q. Is it your understanding that a substantial
10 portion of existing biomedical waste collected in
11 Washington goes to Utah?

12 A. It is.

13 Q. What proportion would that be?

14 A. I can't answer that.

15 Q. But you're proposing that 100% of the waste
16 that you handle would go to Brooks, Oregon; is that
17 right?

18 A. Yes.

19 Q. Now do you know that Stericycle has a
20 processing facility at Morton, Washington?

21 A. I do.

22 Q. Do you know where that is?

23 A. Yes.

24 Q. Do you know whether that's closer to Seattle,
25 for example, than Brooks, Oregon?

0308

1 A. Well, it's located here in Washington, not
2 Oregon, so I would assume it's much closer.

3 Q. Right. So whatever is transported by
4 Stericycle leaves to that processing facility at Morton,
5 Washington would be transported to a much closer
6 processing facility, would it not?

7 A. Yes. However, in the conversations that I
8 have had with certain generators, they are not able to
9 determine whether or not that waste is going to Morton
10 or it's going to Utah. What I'm saying is in the cases
11 that it may be going to Utah, we are providing a closer
12 facility and a facility which these generators are much
13 more familiar with.

14 Q. Mr. McCloskey, you're really not familiar
15 with the Stericycle service though, are you?

16 A. In what aspect?

17 Q. Well, would it surprise you that only
18 path-chemo waste is transported to Utah for
19 incineration, which is a very small fraction of the
20 total waste transport?

21 A. Well, I mean if that's what you're telling
22 me, then that's what I have to assume.

23 Q. Well, is that new, would that be news to you?

24 A. Here's the spirit of my comment here --

25 Q. I'm just asking you to --

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1 A. Let me speak, please.

2 Q. -- answer my question.

3 A. The spirit of what I'm saying here is that
4 when I talk to these generators, you know, they're
5 concerned with like for example the issue of
6 certificates of destruction, it does not clearly
7 identify where that waste was taken.

8 Q. I thought we were talking about --

9 A. We are.

10 Q. -- whether the facility is, the disposal
11 facility, is closer.

12 A. And that's what I'm saying. They are not
13 able to determine that. In the cases that it's being
14 taken to Utah, your other facility, we would then be
15 providing a facility that is closer.

16 Q. But with respect to the vast majority of the
17 waste that's handled at Morton, processed at Morton, you
18 would be transporting the waste to a facility that's
19 much farther; is that not true?

20 A. Based on what you're telling me, yes.

21 Q. Okay. Now are you aware that Stericycle's,
22 and it's all in the testimony of Mr. Philpott that's
23 prefiled, are you aware that Stericycle collects
24 path-chemo waste in different containers and uses
25 different labels that identify that waste as destined

0310

1 for incineration at the Utah incineration facility?

2 A. Yes, I did read that in his prefiled
3 testimony.

4 Q. Okay. So with respect to the general medical
5 waste transportation and processing that we're talking
6 about, that I'm talking about here, Brooks, Oregon is
7 much further than Morton, and so medical waste that is
8 not transported to Utah and would be transported to
9 Morton goes a short -- much shorter distance, does it
10 not?

11 A. I think I have already answered that, and I'm
12 going to say it again, yes.

13 Q. Thank you.

14 Now proceeding on to the next sentence, you
15 indicate that Kleen will offer an on-line interactive
16 generator profile system.

17 A. Mm-hm.

18 Q. That will allow generators to view various
19 documents associated with their waste, and then you
20 identify several of them, and any other documents
21 associated with transport and disposal of their waste.

22 A. Mm-hm.

23 Q. Tell us a little bit about how that system
24 would work.

25 A. Well, as you know, in the age of technology I

0311

1 mean there's a vast -- the capabilities are getting to a
2 point to where they're basically unlimited. And in our
3 discussions with the manufacturers of the bar code
4 tracking system that we have identified that we will be
5 using in this process, one of the options was to have a
6 system and the software that would support an on-line
7 generator profile. You know, basically what we hope to
8 do here through this full service approach as I called
9 it is to create transparency in this process for the
10 generators.

11 Q. Okay, thank you.

12 A. I wasn't finished.

13 JUDGE RENDAHL: Mr. Johnson, he was not
14 finished.

15 MR. JOHNSON: I thought he had finished
16 answering my question and was going to give a speech
17 here.

18 BY MR. JOHNSON:

19 Q. Go ahead, sir.

20 A. I'm done.

21 Q. My question here goes this way, have you
22 included any of the costs of this program in your
23 proforma?

24 A. No, we haven't, and we didn't include it for
25 a reason. And that reason is you can't, you know, until

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1 you go to each of these generators and identify the
2 need, what is it that you want to see in this system,
3 what is it that's going to make this on-line generator
4 profile user friendly, until you identify each and every
5 one of those components, you can not nail down a cost
6 for this system.

7 Q. Okay. So basically you have not identified
8 the scope, content, parameters for the system that
9 you're describing here; is that correct?

10 A. We haven't, and if you -- and if we went out
11 and tried to do that, it would be premature.

12 Q. Okay. Have you talked to generators about
13 what it is they would like to have in this regard?

14 A. I mean there has been general discussion as
15 to, you know, with a few generators as to, you know,
16 what kind of information they would like to have stored
17 on the system, but as far as the overall market all
18 together, no.

19 Q. So you don't know exactly what this system
20 would be composed of, what its constituent elements
21 would be?

22 A. Not without first talking to the generators.
23 I mean you can't go out and build a system for people
24 until you identify what it is they want to see on the
25 system.

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1 Q. I completely agree.

2 Now in the sense that you described it as
3 interactive, what is your concept there?

4 A. Interactive, I guess what I'm saying there is
5 that we would upon creating a generator profile, a
6 standing profile for, you know, a hospital or a clinic
7 or a doctor's office, we would assign them a user name
8 and a password to be able to sign onto the system and
9 have access to documents that were generated through,
10 you know, throughout the process of transporting their
11 waste, whether it's manifest, certificates of
12 destruction, weight tickets, et cetera.

13 Q. So by interactive you don't mean that the
14 generator could actually change the information, it
15 would just be the generator would be able to go on line
16 and view the information posted there?

17 A. Like I said, they would have access to
18 documents that were generated throughout the process of
19 transporting their waste. They would also be able to
20 schedule pickups through that system.

21 Q. Oh, so your concept now is that they would be
22 able to schedule pickups through the system?

23 A. Yeah.

24 Q. Okay. I don't believe it says that in your
25 prefiled testimony, so this is an element that --

0314

1 A. You asked me what I meant by interactive,
2 that's what I mean by interactive.

3 Q. Okay.

4 A. That they could interact with someone in our
5 office to be able to schedule that pickup.

6 Q. And again, you haven't done any evaluation of
7 the cost of such a program?

8 A. The things that I'm talking about with you
9 here today, Mr. Johnson, are things that have been
10 brought up through general discussion with a handful of
11 generators. Like I said, without going and talking to
12 each of them, you know, we can't really go into great
13 detail on costs for a system like this.

14 Q. So you haven't really fully evaluated
15 generator need or requirements in this area?

16 A. That's not what I said. What I'm saying is
17 we have identified a key group of people who, you know,
18 for the most part -- for example, we went to the HELP
19 group, the MIRT group, and a few other groups.

20 Q. I'm sorry, can you say that again, I didn't
21 catch it.

22 A. The MIRT group, the HELP group. You know,
23 basically in this health care -- actually, you were at
24 one of the meetings that I went to, you guys gave a
25 presentation on some information. But anyway, in the

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1 health care industry they have these groups,
2 cooperatives or whatever you want to call them, and they
3 have meetings where they get together and discuss
4 concerns or things that are happening at their
5 facilities. I have had the opportunity to present some
6 or attend some of these meetings and have general
7 discussion with these folks about, you know, what is it
8 that you want to see if you had the opportunity to have
9 a new service provider. These were some of the things
10 that were identified.

11 Q. Was this an idea that you brought to them or
12 something they brought to you?

13 A. Believe it or not, Mr. Johnson, you know,
14 Kleen Environmental didn't just up and decide let's do
15 medical waste. Their existing clientele has been asking
16 them and pushing them for some time to pursue the
17 endeavor of providing the service.

18 Q. But that's not what I asked you. I asked you
19 whether you proposed this interactive on-line generator
20 profile system to these groups that you were mentioning
21 or whether they requested it from you?

22 A. Many of them because they generate hazardous
23 waste also are very familiar with the phillipnow.com
24 service which is offered through Phillips Services.
25 Because they're familiar with that on-line generator,

0316

1 you know, interactive profile, they would like to have
2 that same service with medical waste. So to answer you
3 directly, it was something that was brought up by the
4 generators, not something that I proposed to them.

5 Q. Okay.

6 Mr. McCloskey, do you have any idea what
7 percentage of Washington medical waste generators have
8 access to the Internet at their offices?

9 A. No.

10 Q. Do you think it's, well, you just don't know?

11 A. Without looking at statistics or, you know, I
12 mean I don't know.

13 Q. You haven't investigated it?

14 A. No.

15 Q. Now towards the bottom of page 2 here I
16 believe you say, we will offer the generator the
17 opportunity to consolidate their waste disposal needs.

18 A. Yes.

19 Q. I'm unclear why that is the case. The only
20 waste collection authority that you're seeking is
21 medical waste.

22 A. Mm-hm.

23 Q. How are you going to be able to consolidate
24 their waste disposal needs?

25 A. Again, this is based on discussion that we

0317

1 have had with generators, and basically what they would
2 like to do is to have a single service provider. You
3 know, if we are there on site, and this is basically
4 savings from an administrative standpoint, if we are
5 going to have someone there on-site packaging and
6 manifesting and managing hazardous waste, it would just
7 make sense to do business with the same company so you
8 could also have invoices and correspondence with based
9 on a service related to medical waste as opposed to
10 dealing with multiple service providers.

11 Q. But, Mr. McCloskey, Kleen is not going to
12 have authority to collect hazardous waste for disposal,
13 so you're going to have to contract with a separate
14 independent contractor to dispose of the waste anyway,
15 aren't you?

16 A. That's not necessarily true. There are
17 hazardous materials that we can transport under the
18 common carrier permit, and there are those hazardous
19 waste materials that are ancillary to our primary
20 service.

21 Q. And what is the primary service, packaging?

22 A. Well, It's a culmination of things really. I
23 mean it's not only packaging, but it's management.

24 Q. Well, I --

25 A. And that entails --

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1 Q. Excuse me, sir, go ahead.

2 A. It entails, you know, several things, you
3 know, whether it's manifesting or profiling or chemical
4 identification, air monitoring, you know, ergonomics, I
5 mean whatever the case may be, it's transporting any
6 kind of material is not a primary service that Kleen
7 Environmental provides.

8 Q. Well, it sounds like it here in your
9 testimony, you're going to have them consolidate their
10 waste disposal needs, but you're not going to be able to
11 collect any other solid waste except medical waste under
12 this application.

13 A. That's right, and there may be, you know,
14 there may be situations where we do the same that we're
15 doing now where we broker that waste out to either Teris
16 or Phillips, but nonetheless we're still managing that
17 waste.

18 Q. I would like to ask you a few questions about
19 the hydroclave system.

20 A. Okay.

21 Q. The hydroclave facility in British Columbia
22 that's referenced in your testimony. You indicate on
23 page 3 of your testimony that Kleen will be offering an
24 additional method of disposal not currently offered by
25 existing providers, i.e., hydroclave. Mr. Olson

0319

1 testified that Kleen has no contract with Hospital
2 Sterilization Services for processing at the hydroclave
3 facility in British Columbia. I'm a little bit at a
4 loss to understand why we're talking about it if you
5 don't have a contract.

6 A. Well, one, the hydroclave corporation and
7 Iatron, its parent company, do not require people who
8 bring waste to that facility to have a contract with
9 them.

10 Q. Have you asked them for a contract?

11 A. We have approached the idea, but again, you
12 know, their response was, you know, we don't do
13 contracts, we never really have. I guess we could if
14 you got your G permit. So it's, you know, I guess now I
15 go back to saying it's a little premature to go and get
16 a contract with them when they really don't do that
17 unless we, you know, we have a G permit to go do
18 business.

19 Q. How could we be sure in this hearing that you
20 have access to that facility?

21 A. Well, as you are well aware, there's a
22 gentleman that's going to be coming from hydroclave to
23 speak about the technology and who can identify existing
24 working relationship with the BC facility.

25 Q. I'm a little bit unclear on that, because at

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1 least the Vanderwal testimony suggests that he is with a
2 company that is a different company than the one that
3 actually operates hydroclave; is that correct?

4 A. Mm-hm.

5 Q. So the person that's coming to replace
6 Mr. Vanderwal is from this second company; is he not?

7 A. He is.

8 Q. And is there some relationship between those
9 companies and Hospital Sterilization Services?

10 A. Yeah, they all work together. You know,
11 hydroclave and Iatron are the parent company, you know,
12 and basically they own HSS.

13 Q. Is that your testimony, do you know that for
14 a fact?

15 A. It's my understanding.

16 Q. So it's your understanding that the person
17 that will testify later in the proceedings, Mr. Graves,
18 will be able to speak for Hospital Sterilization
19 Service; is that right?

20 A. To the best of my knowledge, yes.

21 Q. Do you know what unused capacity the
22 hydroclave facility has?

23 A. Well, they have several units, you know, and
24 these hydroclave units come in it's almost like talking
25 about cars, you know, they have a 250 model and a 350

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1 model and a 450 or however those increments go up. And
2 each of those units has various capacities. As to what
3 their current operating capacity is at this time, I
4 couldn't tell you, I'm not sure. But I'm sure, you
5 know, Mr. Graves could help you with that.

6 Q. So you don't know what their unutilized
7 capacity is currently?

8 A. I know they're -- it's my understanding
9 because I went up and visited this facility up in Port
10 Coquitlam, and during my visit it was identified that
11 they were not operating anywhere near their capacity.

12 Q. Isn't it true that there's only two
13 hydroclave units at the Port Coquitlam facility?

14 A. They have two of the larger hydroclave units,
15 yes.

16 Q. Are you suggesting there are other smaller
17 ones, or are you just agreeing with me that there are
18 two?

19 A. I'm agreeing with you that there are two, and
20 there were two that were shown to me when I visited this
21 facility.

22 Q. So when you said several, that wasn't quite
23 right?

24 A. I think we're just picking hairs here, but
25 two.

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1 Q. Thank you.

2 In fact, your proformas do not assume that
3 any of the waste that Kleen would haul would go to
4 hydroclave, isn't that right?

5 A. No, the proformas don't, you know, reflect
6 anything going to hydroclave. They were based purely on
7 taking waste for incineration at the Marion County
8 facility.

9 Q. Why is that?

10 A. Well, I mean it's one of those technologies
11 that, you know, you have to go out and present to the
12 generator and show them the spec sheets and show them
13 the benefit of using that facility. You know, some of
14 -- we have had a couple of folks that said, I think that
15 I would like to use that technology or I would like to
16 know more about it or I would like to go up and perform
17 an audit on the facility. I'm sure you know that a lot
18 of these folks in the health care industry, I mean they
19 don't sneeze until they get a group of people together
20 and go and perform an audit and decide that it's okay to
21 send their waste there because of the liability
22 associated with the waste that they're generating.

23 Q. Do you know what the cost would be to process
24 waste at hydroclave?

25 A. Well, I think it's, well, you know what, I

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1 don't want to guess. I don't know.

2 Q. Yeah, I prefer you don't, so you don't know?

3 A. No, we haven't negotiated a set dollar price
4 to take medical waste there.

5 Q. Do you know what the waste segregation
6 requirements are at the hydroclave in Port Coquitlam?

7 A. Well, they have some, you know, some internal
8 policies about how medical waste comes into their
9 facility, and they basically have a color coding system
10 that they use for various waste types, and it's based on
11 the constituencies of that waste that come into their
12 facilities.

13 Q. Isn't it the case that they do not process
14 sharps waste together with other general --

15 A. This is true.

16 Q. So that the generator who was going to use
17 that facility would have to segregate its sharps waste
18 from its general medical waste?

19 A. Ideally what I would want Kleen Environmental
20 to do --

21 Q. Wait a minute, could you answer that
22 question, then you can please go forward with your
23 statement.

24 A. Yes, they would have to segregate those
25 sharps from the rest of their waste.

0324

1 Q. So they would have to use, a typical
2 generator that produces both sharps waste and other
3 types of waste would have to use two containers to ship
4 to hydroclave when one container would work fine for
5 shipping to say Stericycle?

6 A. Yes, they would have to use two containers.

7 Q. And couldn't that radically affect their cost
8 of service?

9 A. It could. However, a lot of these people
10 don't just look at it from a cost perspective.

11 Q. Okay, I'm just asking from the cost
12 perspective for the moment.

13 Do you know what types of container sizes can
14 be accommodated at the Port Coquitlam hydroclave
15 facility?

16 A. Well, basically it's my understanding that
17 they don't have a set unit size that they take at that
18 facility as opposed to if you take it to the Morton
19 facility where they want you to bring waste in a certain
20 size corrugated box. The waste that's put through the
21 hydroclave --

22 MR. JOHNSON: Your Honor, I have to object to
23 that comment, because there is nothing in the record
24 that suggests that the Morton facility requires
25 generators to transport their waste to that facility in

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1 a corrugated box of any size.

2 JUDGE RENDAHL: Well, Mr. Johnson, I think
3 you can bring that testimony in through your own
4 witnesses. This is the witness's own understanding, and
5 he's not an employee of Stericycle, so if there's a
6 different requirement, then you can make that known
7 through your witnesses.

8 MR. JOHNSON: We have already put our
9 testimony on the record, but I will do my best to
10 correct it then.

11 JUDGE RENDAHL: Well, you can ask a question
12 as needed with your witnesses.

13 MR. JOHNSON: Okay, Your Honor.

14 BY MR. JOHNSON:

15 Q. I asked you a question about container sizes
16 that could be accommodated at the hydroclave facility,
17 and you were commenting about that.

18 A. Well, it's my understanding that the unit --
19 the whole unit itself does not go into the hydroclave
20 chamber. The waste is in essence, I guess for lack of a
21 better term, dumped into the hydroclave unit. I mean
22 the whole unit itself does not go into it.

23 Q. But have you investigated whether the
24 hydroclave processing facility can handle all of the
25 container sizes that are described in your tariff? And

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1 that by the facility I mean both the hydroclave itself
2 and the tub washing system that exists at that facility.

3 A. Say that again, I mean you sort of asked me
4 two questions there.

5 Q. Okay, I'm asking the same question I asked
6 before I believe, which is, can the hydroclave -- are
7 there any limitations on the size of the containers that
8 the hydroclave facility in Port Coquitlam, British
9 Columbia can handle, both in its hydro -- in the dumping
10 system and in the tub wash system?

11 A. Well, I would rather you asked Mr. Graves
12 that question.

13 Q. Is it true that you don't know?

14 A. That's what I'm saying, I don't know.

15 Q. Okay.

16 Mr. McCloskey, have you evaluated the
17 transportation costs that would be associated with
18 transporting the generators' medical waste to the
19 hydroclave facility in British Columbia?

20 A. Now when you say transportation, do you
21 mean --

22 Q. I'm thinking of just the travel time say from
23 Seattle with a load to that facility and return.

24 A. Well, the hydroclave facility is closer than
25 say the Covanta facility in Brooks, Oregon.

0327

1 Q. But, Mr. McCloskey, I asked you if you had
2 evaluated the cost of transportation.

3 A. No, our proformas are not based on taking
4 waste to the hydroclave.

5 Q. You haven't evaluated, for example, delay at
6 the border coming and going. There is an international
7 border there, right?

8 A. Yeah.

9 Q. Have you evaluated what types of permits or
10 approval would be required for the British Columbia,
11 province of British Columbia or the government of Canada
12 to take medical waste into Canada?

13 A. Well, in my conversations with the various
14 people that manage the hydroclave facility, they -- I
15 guess they actually have a compliance officer who
16 assists people in those international issues as far as
17 permitting and what's required by the Canadian
18 government, you know, as far as managing and
19 transporting that waste.

20 Q. But there are some Canadian regulations that
21 are relevant?

22 A. There are.

23 Q. And you do not know what they are?

24 A. Specifically no, because I mean I'm not a
25 specialist in, and we have identified that through me

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1 testifying about my experience in this area, I don't do
2 this, but I know that there are certain permits that
3 need to be in place before waste crosses that
4 international border.

5 Q. Mr. McCloskey, as you have indicated, your
6 proformas are based on disposal at Covanta for all the
7 waste you handle; is that correct?

8 A. Yes.

9 Q. What does Kleen propose to do with medical
10 waste it collects if the Covanta facility is shut down
11 for repair, maintenance or otherwise?

12 A. Well, when Mr. Olson and I visited the
13 Covanta facility, it was identified that that facility,
14 you know, historically speaking only shuts down for two
15 days a year. And in those two days, I mean I don't
16 foresee that to be a problem as far as scheduling for us
17 to either refrigerate or temporarily store that waste
18 for that two day period and then make a run down there
19 to dispose of that waste through the regular
20 incineration process.

21 Q. Mr. McCloskey, are you aware that there's a
22 regulation in this state that requires a backup facility
23 to be identified?

24 A. Yes.

25 Q. For processing and disposal of waste?

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1 A. Yes.

2 Q. But you have no backup facility identified
3 for Covanta; is that right?

4 A. Well, that's not necessarily true. We have
5 had conversations with -- there's a autoclave facility
6 in Puyallup, and I think it's operated by Recovery
7 something or other, Land Recovery. And there's also --
8 did I miss something, Mr. Johnson?

9 Q. No, I'm sorry, I apologize.

10 A. Okay. So there's also a municipal waste
11 incinerator located in Spokane County.

12 Q. And have you investigated --

13 A. I have -- I'm sorry.

14 Q. -- whether those facilities would be
15 available to you?

16 A. Yes.

17 Q. And none of this is in your prefiled
18 testimony; is this a recent investigation you performed?

19 A. Well, I wouldn't say it's recent. Recent
20 compared to this, yes.

21 Q. I'm sorry, recent compared to?

22 A. To my prefiled testimony.

23 Q. So since your prefiled testimony you have
24 come up with a backup, these additional options?

25 A. Yes.

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1 Q. And is there anything in this record that
2 indicates that those facilities would be available to
3 you, anything from those facilities? I don't believe
4 so.

5 A. No, there's not. But in my conversations
6 that I have had with the representative at the autoclave
7 facility and a representative at the incineration
8 facility, both stated that a contract was not required
9 to bring waste to their facility. You were required to
10 go through the process of setting up an account and
11 developing not really a credit line, well, more or less,
12 yeah, a credit line to be able to bring waste to that
13 facility.

14 Q. But are you aware of the terms that would be
15 required? I mean to the extent that you're just
16 bringing waste on an occasional basis, is there some
17 reason to believe that they would accept your waste
18 every time you show up with a truck? I mean I'm a
19 little bit at a loss here.

20 A. It would not be a regular practice of Kleen
21 Environmental to take its waste to those other two
22 facilities. As I said, the proformas are based on
23 taking waste to Covanta, and that's where waste would be
24 taken at all times whenever possible. However, in my
25 conversations with them, they said they did not have a

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1 problem with us bringing waste to their facility. Now
2 it wasn't discussed on whether or not it would be taken
3 occasionally or biannually or -- as I explained it, and
4 I explained it to them just the way you have brought it
5 up here today, is that we are required to have a backup
6 facility.

7 MR. JOHNSON: Your Honor, I have to object to
8 the responsiveness here. Mr. McCloskey is repeating
9 what people apparently have told him, and I believe that
10 is hearsay in this context, and I would like to have it
11 noted as such. It seems to me that best evidence of
12 availability of these other facilities would be some
13 indication from them that they are willing to accept
14 this waste, and we don't have that in the record.

15 JUDGE RENDAHL: Well, I think the evidence is
16 what it is, and as you stated, documents indicating such
17 an agreement are more definitive than, you know, oral
18 testimony, but it is what it is.

19 MR. JOHNSON: Okay, Your Honor.

20 BY MR. JOHNSON:

21 Q. Mr. McCloskey, are you aware that the Covanta
22 facility was shut down for an extensive period of time
23 early this month?

24 A. No, I'm not. But as I said, it shuts down
25 every year for a period of time.

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1 Q. Right, and do you know what that normal
2 period of time is?

3 A. I don't specifically recall. I know there
4 was a conversation in regards, you know, it's an
5 anticipated shutdown. They have a process that they
6 have to go through every year to test I guess, you know,
7 the omission standards and whether or not they're in
8 compliance on those. It's basically an audit on their
9 facility, that's my understanding.

10 Q. Well, proceeding on with your testimony with
11 respect to differences in the service that you propose,
12 let's see, I would like to draw your attention to one
13 other, I'm having a hard time finding it, bear with me
14 for just a moment. I'm looking for the reference to
15 Exhibit B in your prefiled statement, maybe you can help
16 me find it.

17 JUDGE RENDAHL: Let's be off the record for a
18 moment.

19 (Discussion off the record.)

20 JUDGE RENDAHL: We have located the
21 identification of Exhibit B on page 8 on line 15 of
22 Exhibit 25-T.

23 MR. JOHNSON: Right, and thank you, Your
24 Honor.

25 BY MR. JOHNSON:

0333

1 Q. Mr. McCloskey, at line 15 of page 8 of your
2 prefiled testimony.

3 A. Yep.

4 Q. It indicates that:
5 Kleen will take care to produce paper
6 documentation (see attached Exhibit B)
7 that clearly without question outlines
8 the chain of custody; date of pickup;
9 load-unload of each container; date of
10 transport for disposal; signed off by
11 treatment facility at point of delivery.
12 Do you see that sentence?

13 A. Yeah.

14 Q. And then you refer to Exhibit B. Now Exhibit
15 B, do you have that, that's now identified as --

16 A. 27.

17 Q. -- Exhibit 27. And apparently you are
18 referring to the use of this certificate of destruction
19 that's shown as Exhibit 27 as providing the advantages
20 that you are suggesting Kleen would provide with respect
21 to this documentation; is that correct?

22 A. Not wholly, no. This is strictly in relation
23 to certificate of disposal and the documentation to show
24 that.

25 Q. Well, your statement seems to say that

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1 Exhibit B is proper documentation of disposal that has
2 these various features associated with it; is that not
3 correct?

4 A. Well, I think you and I both know that what I
5 say there and what I show here are two different things.

6 Q. Right, I was going to ask you some questions
7 about the different points that you make there. For
8 example, where in this does this show the date of pickup
9 on Exhibit 27?

10 A. Well, Mr. Johnson, it doesn't.

11 Q. It doesn't?

12 A. No.

13 Q. Well, it doesn't show load and unload of each
14 container either, does it?

15 A. And it's not going to show the other ones
16 you're going to list either.

17 Q. Right, it doesn't show date of transfer for
18 disposal, and it's not signed off by anybody. There's a
19 printed name down at the bottom. So I guess I'm trying
20 to find out what Exhibit B illustrates.

21 A. It's purely an example that was provided to
22 us by one of the facilities that we use.

23 Q. Well, it's not a very good example, is it, in
24 relation to these items that you think are important?

25 A. It's a good example when -- it's a good

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1 example when you're speaking about, you know, a
2 certificate of destruction and having it signed off by a
3 facility representative as opposed to a regional
4 marketing manager or someone else who has not
5 necessarily witnessed the transportation and the final
6 destruction of that waste.

7 Q. Well, this doesn't have anybody's signature
8 on it.

9 A. Because it's an example.

10 Q. Did you prepare this, or is this --

11 A. This is an example. This is what Teris would
12 send out to, you know, from their facility in El Dorado,
13 Arkansas if someone -- if a client or somebody wanted to
14 see an example.

15 Q. Right, and this doesn't have, this
16 certificate of destruction doesn't have any of the
17 advantages that you're anticipating Kleen would provide,
18 does it?

19 A. No, we would develop a form that would
20 specifically address each of those areas that I just
21 listed in my prefiled testimony.

22 Q. But you haven't given us the form?

23 A. No, I haven't. I mean it's -- why would you
24 go and develop a form for a business that you are not
25 necessarily guaranteed you're going to be able to do and

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1 that you haven't spoken to a vast majority of generators
2 to identify everything they want to see on that form.

3 Q. Okay. And, Mr. McCloskey, is this form that
4 you're going to develop one that will be signed by Kleen
5 Environmental?

6 A. It will be signed by several people. It will
7 be signed by our transporter, and it will be signed by a
8 facility representative certifying that that waste is
9 now taken on by that facility and will be disposed of
10 properly.

11 Q. Now, Mr. McCloskey, you have never discussed
12 this with the people at Covanta, have you?

13 A. Yes, I have.

14 Q. You have?

15 A. Yes.

16 Q. And what did they tell you? They do not
17 provide a certificate of destruction of any sort that
18 identifies documents or identifies waste by manifest
19 number or other identifiable container or unit?

20 A. It was communicated between me and Russ
21 Johnson from Covanta that they would work with us to
22 help us meet these parameters that I have identified,
23 you know, to have a facility representative assert that
24 that waste has been destroyed. You know, for example,
25 the waste facility there in Spokane County, they

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1 actually have a person there that that's all they do is
2 provide certification, more or less a witness burn if
3 you will.

4 Q. But you're not talking about taking your
5 waste to Spokane County, you're talking about taking it
6 to Covanta; isn't that right?

7 A. All I'm saying is it's not unfeasible,
8 Mr. Johnson, to have someone from that facility sign off
9 on that CD.

10 Q. I would like you to look at Exhibit Number it
11 appears to be 138, but it's a difficult exhibit to read.

12 A. Mr. Johnson --

13 MR. HAFFNER: We're going to need a copy of
14 that, because I didn't bring all of those exhibits.

15 MR. JOHNSON: Okay, I can help you with that.

16 JUDGE RENDAHL: Is this an attachment to
17 Mr. Meany's --

18 MR. JOHNSON: And for some reason I have
19 Exhibit 139 as being essentially the same thing. I
20 don't know if everyone else has it, but it is a
21 duplicate.

22 JUDGE RENDAHL: Let's be off the record for a
23 moment.

24 (Discussion off the record.)

25 JUDGE RENDAHL: While we were off the record,

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1 we determined that the delivery receipt included an
2 exhibit what's been marked as Exhibit 138 is exactly the
3 same as what was attached in Exhibit 139 to the bill of
4 lading, and so we can remove the additional copy of the
5 delivery receipt in Exhibit 139, and we're discussing
6 Exhibit 138 right now. Go ahead, Mr. Johnson.

7 MR. JOHNSON: Thank you, Your Honor.

8 BY MR. JOHNSON:

9 Q. Referring to Exhibit Number 138 which you now
10 have in front of you, is this not the delivery receipt
11 that a waste hauler receives from Covanta currently?

12 A. When I called down to --

13 Q. Could you just start with answering my
14 question, and then we'll go from there.

15 A. Ask it again, please.

16 Q. Is this not the delivery receipt that is
17 issued by Covanta for on delivery of medical waste at
18 that facility?

19 A. I have never seen this.

20 Q. So you do not know what Covanta does in terms
21 of receipting for medical waste that they receive and
22 incinerate at their facility?

23 A. I wouldn't say that I don't know. I would
24 say that based on the conversations that I have had with
25 Russ Johnson and the environmental officer there for the

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1 facility, they said based on what I needed to have on
2 that certificate of destruction that they would work
3 with us to meet those parameters that we have outlined.

4 Q. So again, you're reporting conversations from
5 others.

6 The attachment to Mr. Meany's prefiled
7 testimony is a delivery receipt with the heading Covanta
8 Marion, Inc., at the top.

9 A. Mm-hm.

10 Q. It's dated 2-3-04, it has company, and it has
11 LeMay, truck number.

12 A. Yeah.

13 Q. Weight in and weight out.

14 A. Yeah.

15 Q. And net weight. And then it has a signature
16 or a name of the driver, and it has a signature of the
17 operator.

18 A. Mm-hm. Now I have --

19 Q. And that is all that is on it. It doesn't
20 reflect the date of pickup, the date of delivery, the
21 date of load-unload, or any other aspect of this new and
22 improved certificate of destruction that you're
23 suggesting that Kleen would offer in its proposed
24 service; is that right?

25 A. This one that you have shown me, no.

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1 However, as I should explain that several of those
2 components that I identified in my prefiled testimony
3 would be things that a staff person or a truck driver
4 for Kleen Environmental would be asserting to, not
5 necessarily a facility representative. The facility
6 representative would be confirming that that waste had
7 been brought to that facility and destroyed.

8 Have you ever seen the documents they provide
9 to the county, to Marion County, for the waste that they
10 bring to that facility? It's much more in depth than
11 this one is. That's the one that I have seen.

12 JUDGE RENDAHL: Generally the format is that
13 the attorneys ask the questions, so sorry, it's not
14 necessarily a two-way street.

15 THE WITNESS: Sorry.

16 JUDGE RENDAHL: So he doesn't have to answer
17 your question.

18 THE WITNESS: Okay.

19 BY MR. JOHNSON:

20 Q. Well, Mr. McCloskey, this is the kind of
21 receipt that a waste hauler gets when they deliver to
22 Covanta Marion?

23 A. This is what you get when you go to Covanta.

24 Q. This is what everyone gets?

25 A. This is what you get.

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1 Q. And certainly you haven't gotten anything
2 different, have you, because we don't have it in the
3 record, do we?

4 A. I'm not going to answer that.

5 Q. If I understood your last question that you
6 did answer, via your last answer you're suggesting that
7 some of the documentation advantages that Kleen proposes
8 to provide would be documentation to be issued by the
9 waste hauler, is that right, not by the disposal
10 facility?

11 A. Yes.

12 Q. So that is not really an issue of a
13 certificate of disposal at all?

14 A. No, it would be more due diligence on our
15 part.

16 Q. It would be more shipping documentation or
17 evidence of chain of custody by the transporter?

18 A. Yes.

19 Q. Now, Mr. McCloskey, are you aware of the type
20 of containers that can be handled at Covanta?

21 A. Well, it was communicated to us by the
22 representatives of Covanta that because of the feed
23 hopper that goes or because of the system they have in
24 place, the feed hopper and the conveyer belt that feeds
25 up into the hopper which feeds into the incinerator,

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1 because of that system they have in place, they are only
2 allowed to take boxes of certain dimensions.

3 Q. We're talking about cardboard boxes, are we
4 not?

5 A. Corrugated boxes, yeah.

6 Q. And isn't that the only container that
7 Covanta will handle?

8 A. Yes.

9 Q. But, Mr. McCloskey, your tariff is full of
10 various container types and sizes, reusable and
11 otherwise, that Covanta can not handle. If a generator
12 uses any of the reusable containers identified in your
13 tariff, what's the result; can those containers be
14 handled at Covanta?

15 A. No, they can not, and, you know, I guess my
16 response to your question, Mr. Johnson, is, you know,
17 these tariff prices that I developed were developed
18 rather early in this whole proceeding, and it is my
19 understanding after, you know, having conversations with
20 the UTC staff in Olympia that there are separate
21 procedures for tariff pricing, so I didn't go through
22 the process of putting out the effort to change those
23 tariffs given that information.

24 Q. So the tariff you filed is basically not one
25 that Kleen can implement or even intends to implement?

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1 A. I mean that's -- not wholly, no. I mean we
2 have identified prices in there for boxes. We have
3 also, like I said, we have had discussions with
4 generators also about how do you want to get rid of this
5 waste. They prefer to use corrugated boxes. Excuse me,
6 Mr. Johnson, you know, this --

7 Q. Mr. McCloskey, just stick with me here, I'm
8 just trying to get square on what Covanta can use and
9 can't use. You have put together a proforma that shows
10 all of the waste that Kleen Environmental would handle
11 going to the Covanta incineration, yet your tariff has a
12 raft of container types that can not be used at that
13 facility, as you have just testified.

14 A. So then I take it --

15 Q. So it's clear that your tariff can not be the
16 basis for a medical waste service using Covanta as a
17 disposal facility.

18 A. And it is my understanding --

19 MR. HAFFNER: Objection, is there a question
20 there?

21 Q. Is that correct?

22 A. Repeat your question.

23 Q. Is it correct that your tariff can not be
24 used as the basis for a medical waste collection service
25 using Covanta as the disposal facility?

0344

1 A. Using tubs, no. But as I said, I didn't
2 think these tariffs were set in stone. It is still my
3 understanding, and I will state that for the record,
4 that it is still my understanding that those tariff
5 prices are not set in stone. Because after speaking
6 with UTC staff, they identified that there's a separate
7 process for laying out and having your tariffs approved
8 by the UTC.

9 Q. Of course that's true, Mr. McCloskey, but the
10 application procedure and the application proceeding
11 we're involved in requires that you file a tariff, and
12 you filed one, and that's what we're looking at.

13 I would like to refer you to the tariff for a
14 moment. It's shown in Exhibit 45. Mr. McCloskey, this
15 looks by the way rather similar to the Stericycle
16 tariff; is that where it's derived from?

17 A. Well, for the most part, Mr. Johnson, it kind
18 of mirrors Stericycle's format, because when I
19 originally started to put this together, I called I
20 think it was Bonnie Allen or one of the other UTC staff,
21 and I said, what's the format for putting together a
22 tariff, and what key points do you have to identify.
23 This was the format that was provided to me.

24 Q. We have no problem with copyright here, so
25 that's not an issue. But the question here is, did you

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1 intend to adopt the rules and standards of the
2 Stericycle tariff that we can use in interpreting what
3 you meant here? Because it does derive or it appears to
4 be essentially an exact copy of the Stericycle tariff.

5 A. You would be correct, yes.

6 Q. So, for example, if we look at page 3, the
7 different container sizes shows a -- these are container
8 sizes that then reappear in the rate section of the
9 tariff, which is item 30. But these container sizes,
10 you've got a small tub which is 10 gallons, you've got
11 the small medium 21 gallon which is a steritub, again a
12 reusable tub in the Stericycle system, you've got a
13 medium tub of 21 gallons, you've got a medium large tub
14 28 gallons, you've got medium large 32 gallon steritub,
15 you've got a large tub which is 40 gallons, and a large
16 48 gallon steritub. None of those containers could be
17 used with the service that's being proposed; is that
18 right?

19 A. Yes.

20 Q. So we've got rates then over under item 30
21 for all of these different container sizes, and so all
22 of those rates that are for reusable containers would
23 not be usable, a generator would find that it was not
24 actually able to use these container sizes?

25 A. Again yes.

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1 Q. Are you aware too that a biomedical waste
2 collection company is required by law to comply with its
3 tariff, so if you offer a service in a certain way that
4 you must perform that service?

5 A. It's my understanding that once those tariffs
6 are approved by the WUTC, yes, you must operate
7 according to those tariffs. These are premature. I
8 mean this was submitted for the sake of submitting so we
9 could go through this process, Mr. Johnson.

10 Q. So this is not a serious effort to generate a
11 tariff for this service?

12 A. That's not what I said.

13 (Recess taken.)

14 JUDGE RENDAHL: We're continuing our
15 cross-examination of Mr. McCloskey. Mr. Johnson.

16 MR. JOHNSON: Thank you, Your Honor.

17 BY MR. JOHNSON:

18 Q. Mr. McCloskey, I'm referring again to item
19 45, which is the tariff filed by Kleen with its
20 application. And by the way, it shows your name on it,
21 I guess you prepared this, did you not?

22 A. Yes.

23 Q. Okay. If you look at item 90.

24 JUDGE RENDAHL: What page is that on?

25 Q. I'm sorry, it's page 9 of Exhibit 45, item 90

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1 states rates for chemotherapy, pathological, and
2 pharmaceutical waste. These are wastes that at least in
3 the Stericycle program are incinerated, and there is a
4 flat charge per box with several different types of
5 boxes or types of containers identified in the item. In
6 that particular item, you will notice that the only
7 reusable tub is the 28 gallon tub, and then there are
8 two boxes identified as corrugated boxes. Now if you
9 are going to follow your tariff when you take path-chemo
10 waste to Covanta, you're not going to be able to use the
11 medium large tub; isn't that right?

12 A. Yes.

13 Q. So you will have to use, the generator will
14 have to use either the medium large box or the small
15 box. If you go over to item 15 and look at the maximum
16 weight, you will find that the 28 gallon medium large
17 tub has a 60 pound maximum weight limit.

18 A. Item 15?

19 Q. This is on page 3 of the tariff.

20 A. Are you asking about the --

21 Q. I'm asking if you see the line that says
22 medium large tub 28 gallons with a maximum weight 60
23 pounds, right?

24 A. Yes.

25 Q. But your customers would not be able to use

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1 that, right, for their path-chemo waste, right, or that
2 size tub with that maximum weight?

3 A. No.

4 Q. So they will have to use either the small box
5 or the medium large box that are identified in item 90,
6 and the small box has a weight limit of 40 pounds, does
7 it not?

8 A. Yes.

9 Q. And the medium large box has a weight limit
10 of 40 pounds as well, right?

11 A. Yes.

12 Q. So the way this works is that use of the
13 corrugated boxes for -- could require a generator to use
14 more containers to handle the same waste; isn't that
15 right?

16 A. Yes.

17 Q. So your item 90 would actually involve a
18 substantial rate increase for generators of path-chemo
19 pharmaceutical waste over what Stericycle would charge
20 for a 28 gallon reusable tub; isn't that right?

21 A. Yes.

22 Q. Then if you look down in the rules under your
23 item 90, doesn't it say that Kleen will require
24 path-chemo and pharmaceutical waste to be packaged by
25 the generator in reusable plastic medium large tubs?

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1 A. It does, yes.

2 Q. But that doesn't make any sense with a
3 disposal option limited to Covanta incineration, does
4 it?

5 A. No.

6 Q. When you copied the Stericycle tariff, I
7 think you copied a version that was an early version,
8 because also your note, let's see, I guess it's the
9 second note at the bottom of item 30 provides for a
10 minimum stop charge, a minimum charge of \$40, a minimum
11 of \$40 will be charged for scheduled pickup. Would it
12 surprise you to know that the Stericycle tariff has a
13 \$20 minimum stop charge?

14 A. I wasn't aware of that, if that's what you're
15 asking.

16 Q. Right. So your minimum stop charge is higher
17 than the Stericycle stop charge. We can look at it if
18 we have a question.

19 A. I believe what you're saying.

20 Q. Okay. It's attached to the prefiled
21 testimony of Mike Philpott.

22 Also I noticed that your item 85 states a
23 charge of \$160 if a generator cancels service and then
24 reinstates within 12 months.

25 MR. HAFFNER: What item was that?

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1 Q. I'm sorry, item 85, page 9. Why would you
2 impose a \$160 charge on a generator who cancels service
3 an then renews within 12 months? That seems like a
4 penalty.

5 A. Well, I wouldn't necessarily call it a
6 penalty as much as, you know, there's going to be time
7 spent for us to reenter that person into our system.

8 Q. That's true at the front end when any
9 customer comes onto your system, is it not?

10 A. Yes.

11 Q. And you don't charge them at that point in
12 time?

13 A. No.

14 Q. Why would you charge them if they canceled
15 and then came back?

16 A. Well, as I said, we put that in there, and we
17 would consider that enough dollars to recoup the time
18 spent to reenter that person into the system and rework
19 them into the schedule.

20 Q. Now I think maybe what you did is you deleted
21 one of the Stericycle items, I think it's item 80, which
22 provides for non-call service, provides for a monthly
23 charge, I believe it's \$10 a month, for non-call service
24 under item 80. In that context, the reinstatement
25 charge makes some amount of sense, the reinstatement

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1 charge that Stericycle has in its item 85 is \$120.

2 MR. HAFFNER: Objection, move to strike,
3 argumentative.

4 JUDGE RENDAHL: Sustained.

5 And, Mr. Johnson, if you want to insert
6 testimony about Stericycle, you can do so through your
7 own witnesses. That's not what's on the exhibit here,
8 and so you may need to rephrase your question.

9 MR. JOHNSON: I will try to do so, Your
10 Honor.

11 BY MR. JOHNSON:

12 Q. I guess my point is, do you -- your item 85
13 is or seems like a penalty for a customer that leaves
14 and comes back, and I'm wondering if that's what you
15 intended?

16 A. No.

17 Q. But that's what it says?

18 A. That's how you read it.

19 Q. Well, how do you read it?

20 JUDGE RENDAHL: Your question should be
21 directed to the witness, and the witness's answer should
22 be directed to me. There should not be an argument
23 going on between the two of you, so let's keep it to the
24 question and answer.

25 Mr. Johnson.

0352

1 BY MR. JOHNSON:

2 Q. Mr. McCloskey, how would you read item 85,
3 the charge there?

4 A. Well, I think I have answered that, and I
5 think the reason, as I said, why we put it in there was
6 to compensate for the time and effort that would be put
7 forth to reenter that person into the system and set
8 them back up on that pickup schedule.

9 Q. Now another feature here is that your item 90
10 requires a separate charge and a different system of
11 charge, you know, flat rate per box for path-chemo
12 waste, whereas your item 30 states a series of rates
13 based on the number of containers delivered in each
14 pickup. When all of the waste is going to an
15 incinerator, why is there a need to separate those two
16 rates out, why did you decide to impose different rates
17 for path-chemo, and it would appear to be a higher rate
18 for path-chemo waste going to Covanta than the rates
19 shown in item 30 for other types of waste also going to
20 Covanta?

21 A. It is my understanding through conversations
22 that I have had with Mr. Perrollaz that it's a little
23 more laborious to deal with these particular waste types
24 as far as manifesting and whatnot, and that would be the
25 basis for setting these prices that we have here.

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1 Q. What kind of additional manifesting would be
2 required?

3 A. I really couldn't answer that. I mean I'm
4 not -- I don't know the packaging standards for this
5 particular waste type. That would be something you
6 would want to ask Mr. Perrollaz about.

7 Q. So your testimony is that these rates are
8 different because the packaging requirements are
9 different; is that correct?

10 A. Yes.

11 Q. Do you know whether that's the case, or is
12 that a guess?

13 A. What's that?

14 Q. I said, do you know whether that's the case,
15 or is that a guess?

16 A. It's my understanding, as I said, through
17 speaking with Mr. Perrollaz, who knows the requirements
18 for transporting and packaging this waste, that it would
19 be more tedious to deal with this waste type and that we
20 should have special pricing for these waste types.

21 Q. Mr. McCloskey, you have a supplement number
22 7, which is at the tail end of the tariff, which
23 provides rates and charges for on-site packaging.

24 A. Yes.

25 Q. Have you included any cost for revenue

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1 projections in your proformas for either the cost of
2 on-site packaging pursuant to supplement number 7 or
3 revenues related to this charge per hour for on-site
4 packaging?

5 A. No, we didn't work these into -- through the
6 proformas, because we had not yet identified how many,
7 if any, generators will be using the service, the
8 packaging service.

9 Q. So you're not sure at this point whether you
10 will have any revenue under that item or that
11 supplement?

12 A. Well, I think it's feasible to say based on
13 the meetings, the several meetings that we have had with
14 generators, there have been generators that have
15 identified -- I mean we originally were not going to
16 offer packaging service as a service until it was a need
17 that was identified by the generators.

18 Q. Let's see, I have a couple of questions in
19 connection with the packaging that I believe relate to,
20 yes, it looks like Exhibit 36, which is an attachment to
21 Mr. Perrollaz's prefiled testimony. It's a -- do you
22 have that in front of you, Mr. McCloskey?

23 A. Yes, I do.

24 Q. It's a biomedical waste standard operating
25 procedures, at least that's the title.

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1 A. Mm-hm.

2 Q. And at one point in that exhibit, there is,
3 if you turn to page 8, these pages are not numbered but
4 I numbered them in my working copy, it's headed
5 repackaging at the top, and it says, repackaging shall
6 be the responsibility of KET authorized personnel. Now,
7 Mr. McCloskey, I believe you're identified as the author
8 of this document; is that correct?

9 A. Well, I drafted this document based on input
10 from Mr. Perrollaz, yes.

11 Q. Okay. This issue of repacking, I guess it
12 says repacking actually is the responsibility of KET
13 authorized personnel. What does that mean?

14 A. Well, I think it's an -- I think it relates
15 to two issues. One, if repackaging service or packaging
16 services are used, that that service would be provided
17 by Kleen Environmental, but more importantly in
18 relationship to the implement of a cleanup.

19 Q. Okay, the reason I ask is that in the tariff
20 -- now I have lost my place again here, let's see.

21 JUDGE RENDAHL: The tariff is Exhibit 45.

22 MR. JOHNSON: Thank you, Your Honor.

23 BY MR. JOHNSON:

24 Q. Back to Exhibit 45 at the front end of the
25 tariff, page 4, it says that, if you look at item 20,

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1 limitations of service, it says:

2 Kleen Environmental Technologies, Inc.
3 will not knowingly accept shipments
4 including containers which are not
5 properly packaged or identified.

6 A. Yes.

7 Q. Is that consistent with the provision of the
8 operating plan that I referred to before that says that
9 repacking is the responsibility of Kleen personnel?

10 A. No.

11 Q. So the tariff is not right, or the operating
12 plan is not right?

13 A. No, no, no. The tariff is referring to waste
14 that is packaged by the generator. The operating plan,
15 the operating plan is referring to waste that is
16 repackaged by a KET employee.

17 Q. Right, but assume that your driver shows up
18 at a generator's facility and the waste is not properly
19 packaged, does that mean that the, under your operating
20 plan, that repacking that waste in a form that was
21 suitable for transportation is the responsibility of
22 Kleen?

23 A. If that generator chose to use our packaging
24 services at the packaging rate, we would provide that
25 service.

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1 Q. So if the generator had subscribed to the
2 sort of Kleen on-site packaging service, then that
3 improperly packed material or material not yet properly
4 packaged would be packaged, and you would charge that
5 under item or supplement number 7?

6 A. Yes.

7 Q. And that's \$48.50 per hour?

8 A. Mm-hm.

9 Q. How does that work in relation to item 70,
10 which provides for special handling or packaging
11 charges? It's on page 9 of the tariff.

12 A. Well, I think in the case that the person was
13 not or did not want to use Kleen Environmental on a
14 continual basis for packaging services, they would be
15 addressed that \$2 per gallon in addition to the unit
16 price.

17 Q. I see. Is there any relationship between
18 that charge and the \$48.50 per hour described in
19 supplement number 7?

20 A. No.

21 Q. So they're just unrelated?

22 A. Yes.

23 Q. Now with respect to the operating plan,
24 Mr. McCloskey, you indicated you drafted, are you not
25 taking sort of a claiming authorship of the content, or

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1 you mentioned Mr. Perrollaz may have given you input,
2 whose document is that?

3 A. Mr. Perrollaz.

4 Q. Okay. So you were a scribe with respect to
5 that document?

6 A. More or less, yes.

7 Q. Mr. McCloskey, are you familiar with the
8 statutes and regulations related to the transportation
9 and packaging of hazardous materials?

10 A. To some extent, yes.

11 Q. Well, could you describe a little bit about
12 your knowledge there and how you derived it?

13 A. Well, my knowledge first of all is nowhere as
14 in depth as Mr. Perrollaz, who does this every day in
15 and out and knows these regulations by heart because
16 that's what he does. My understanding of these is
17 limited just to what I have been exposed to through this
18 process, and those that I have been exposed to are
19 listed on the last page of the operating procedures.

20 Q. You haven't had any training, formal training
21 or coursework, in the hazardous materials regulations,
22 have you?

23 A. No.

24 Q. How about bloodborne pathogens, do you have a
25 working knowledge of the bloodborne pathogens standard?

0359

1 A. No.

2 Q. No training in that regard?

3 A. No.

4 Q. No training or familiarity with the
5 infectious waste handling rules that apply in the state
6 of Washington?

7 A. No.

8 Q. Yet I believe it's your testimony that you
9 would be supervising the implementation of the Kleen
10 program if the application is granted?

11 A. From a business perspective, yes.

12 Q. Mr. McCloskey, are you aware that waste
13 destined for Covanta could not be shipped to hydroclave
14 as a backup?

15 A. It is my understanding that based on the
16 constituencies of the waste, you know, those
17 constituencies govern how that waste can be disposed of.

18 Q. Right, so because the segregation rules would
19 not be followed on Covanta destined waste, it couldn't
20 be diverted to hydroclave?

21 A. Yes.

22 MR. JOHNSON: Your Honor, I think that
23 concludes my cross of Mr. McCloskey.

24 Thank you, sir.

25 JUDGE RENDAHL: Thank you, Mr. Johnson.

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1 Mr. Sells.

2 MR. SELLS: Thank you, if Your Honor please.

3

4 C R O S S - E X A M I N A T I O N

5 BY MR. SELLS:

6 Q. Mr. McCloskey, just a couple questions here.

7 These groups that you met with concerning their

8 infectious waste needs, can you give me their names

9 again?

10 A. Mr. Sells, as I'm sure you are aware, Judge

11 Rendahl has decided that we're going to release those

12 names of those shipper witnesses one week prior to --

13 Q. I'm sorry, I wasn't aware they were shipper

14 witnesses. If they're shipper witnesses, I don't want

15 to ask.

16 JUDGE RENDAHL: Maybe could you restate your

17 question.

18 Q. Well, let me go on to something else. The

19 groups that you met with, the hospitals, were they

20 hospitals?

21 A. Well, it was a -- some of them were

22 hospitals, yes.

23 Q. Where were they located?

24 A. For the most part those people that we did

25 converse with at these group meetings were from the

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1 western part of the state.

2 Q. Were they from the Puget Sound area mostly?

3 A. For the most part, yes.

4 Q. Were there any from say Bellingham area?

5 A. Yes.

6 Q. Did you travel to Bellingham?

7 A. No.

8 Q. Were these represented by people who had, and
9 I'm not suggesting this is one of them, Group Health,
10 for example, that has branches in different cities?

11 A. We did meet with Group Health.

12 Q. And without identifying some of those people
13 who are going to testify as shipper witnesses here; is
14 that correct?

15 A. What's that?

16 Q. Without identifying them today, some of these
17 groups are going to testify as shipper witnesses on your
18 behalf; is that correct?

19 A. Yes.

20 Q. All right. Now can you give me the name of
21 the person you talked to at Land Recovery Incorporated
22 in Puyallup?

23 A. I don't remember his name off hand,
24 Mr. Sells.

25 Q. It wasn't LeMay, was it?

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1 A. What?

2 Q. It wasn't LeMay, was it, L-E capital M-A-Y?

3 A. No. It was a gentleman, I forget the name of
4 the company, but they're out of California.

5 Q. Well, now I'm confused, I thought that you
6 spoke with somebody in Puyallup who owned an autoclave.

7 A. Uh-huh.

8 Q. Is that correct?

9 A. Mm-hm.

10 Q. And the name of the company was something
11 like Land or Recovery; is that right?

12 A. Yeah.

13 Q. And I assumed, maybe incorrectly, that you
14 had spoken to somebody from Land Recovery, Incorporated,
15 which is a Washington corporation.

16 A. Mm-hm.

17 Q. Does that square with your recollection?

18 A. No, the conversation that I had with the
19 gentleman, I specifically asked, you know, who manages
20 or who owns this facility. And like I said, I forget
21 the name of the company, but it was a group out of
22 California.

23 Q. Can you tell me where this autoclave is
24 located as best you can?

25 A. Well, I had called several facilities before

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1 I got to this gentleman.

2 Q. Did you go look at it?

3 A. What's that?

4 Q. Did you go look at it?

5 A. No.

6 Q. And he indicated to you that they had an
7 autoclave, it was owned by a company out of California,
8 and you could burn your medical or treat your medical
9 waste there; is that correct?

10 A. Yes.

11 Q. How long ago did this conversation take
12 place?

13 A. About two and a half weeks ago I guess.

14 Q. And your recollection was this was in
15 Puyallup?

16 A. Yeah.

17 Q. You have indicated also that Kleen desires to
18 be I think the term was a single service provider to
19 hospitals; is that correct?

20 A. Yeah.

21 Q. And tell me again what you mean by that.

22 A. I think you have to look at what I'm saying
23 is consolidating from an administrative standpoint and
24 from an accountability standpoint. In essence I guess
25 what we're saying is by consolidating, like I said,

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1 you're using one service provider as opposed to many.

2 Q. So in your view if a hospital was able to use
3 just one single provider to meet all of their waste
4 needs, that would be better for the hospital than using
5 two or three?

6 A. Well, not all of their waste needs, but waste
7 needs in respect to the services we provide.

8 Q. Well, what about if there were a single
9 provider that could provide all of their waste needs?

10 A. If that person provided a quality service,
11 it's my opinion that yes, they would save
12 administratively by using that one provider.

13 Q. So, for example, if you had a G certificated
14 carrier let's say in Lakewood who had the general
15 garbage authority, which medical waste goes with it, and
16 has a certificate to collect hazardous waste, then that
17 provider could provide all of the hospital's waste
18 needs, correct?

19 A. It would be an option.

20 Q. All right. And in general I think you said
21 that that would be probably better for the hospital than
22 to have two or three different providers?

23 A. Yes.

24 Q. You have not -- well, strike that.

25 This hospital out in Lakewood, Lakewood

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1 General we'll call it, even if this authority is granted
2 here, Kleen would not be able to provide the, for lack
3 of a better term, regular garbage service to that
4 hospital, would it?

5 A. No, it would never be our intention to
6 provide that service.

7 Q. So you could never, you being Kleen, could
8 never provide the kind of service that the previous --
9 that a regular G certificate holder could, could you?

10 A. No. But as I said, it would be based on
11 those services that we offer.

12 Q. The tariff that you and Mr. Johnson discussed
13 at great length, am I to understand that the tariff that
14 is attached to your application is not the tariff that
15 you propose to use if granted this certificate?

16 A. Yes.

17 Q. So that is not your proposed tariff?

18 A. Not in its entirety, no.

19 MR. SELLS: I have no further questions,
20 thank you.

21 JUDGE RENDAHL: Mr. Trautman.

22 MR. TRAUTMAN: Thank you.

23

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1 C R O S S - E X A M I N A T I O N

2 BY MR. TRAUTMAN:

3 Q. Greg Trautman, Assistant Attorney General for
4 the Commission Staff, I just wanted to follow up on the
5 tariff, and you just indicated that Exhibit 46 I believe
6 it is, is not the proposed tariff?

7 A. No.

8 Q. Okay. And are you familiar with the
9 Commission Rules and the Washington Administrative Code?

10 MR. JOHNSON: Mr. Trautman, that's Exhibit
11 45.

12 MR. TRAUTMAN: Oh, is that Exhibit --

13 MR. JOHNSON: To clarify the record.

14 MR. TRAUTMAN: Oh, the tariff is Exhibit 45,
15 all right, I stand corrected.

16 BY MR. TRAUTMAN:

17 Q. Are you familiar with the rules in the
18 Washington Administrative Code, one of which says that a
19 certificate application must include among other things
20 a proposed tariff?

21 A. Yes, proposed tariff.

22 Q. Right. And I think the question was whether
23 this was the proposed tariff, this being Exhibit 45?

24 A. No, no, it's not.

25 Q. It's not.

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1 And when you indicated you had discussions
2 with UTC staff members, now they didn't indicate that
3 the tariff that you would file with the application
4 would be a dummy tariff of some sort, did they?

5 A. Those exact terms, no.

6 Q. Isn't the tariff that's filed supposed to
7 include the terms and the conditions and services and
8 the proposed prices even if those prices are not exactly
9 firm?

10 A. Yes.

11 Q. And would you say that your tariff Exhibit 45
12 includes the terms and conditions and proposed prices?

13 A. Yes and no.

14 Q. How so?

15 A. You know, at this -- at this point I think
16 it's fair to say that we have determined that we're not
17 going to be using the tubs. If we're not going to be
18 using the tubs, then I think it would be fair to say
19 that we would want to make a, you know, amend the tariff
20 as it stands just to reflect the use of corrugated
21 boxes.

22 Q. And you're not using the tubs because of the
23 restrictions at Covanta; is that right?

24 A. Yes.

25 Q. And other than that, other than that item you

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1 mentioned, is the tariff in Exhibit 45 otherwise the
2 tariff that you would propose to be used?

3 A. Yes.

4 MR. TRAUTMAN: I don't have anything further.

5 JUDGE RENDAHL: Thank you, Mr. Trautman.

6 Mr. McCloskey, I have a few questions for
7 you.

8

9 E X A M I N A T I O N

10 BY JUDGE RENDAHL:

11 Q. In answering questions from Mr. Johnson,
12 there was some discussion about the Brooks, Oregon
13 facility versus the Morton facility and the Utah
14 facility. Is it your understanding that the Brooks
15 facility is a treatment or a disposal facility?

16 A. They are a disposal facility.

17 Q. And is the Utah facility a treatment or a
18 disposal facility in your understanding?

19 A. In my understanding it's a disposal facility.

20 Q. And is the Morton facility a treatment or a
21 disposal facility?

22 A. My understanding is it's a treatment
23 facility.

24 Q. All right. Then you had some discussion with
25 Mr. Johnson about a bar coding tracking system with an

0369

1 on-line process. In your experience as a business
2 development consultant, do you have experience in
3 working with computer software design engineers?

4 A. Have I ever worked with those type of people?

5 Q. Yes.

6 A. Yes.

7 Q. Approximately how long would you estimate it
8 would take such engineers to develop a program that
9 you're talking about, understanding you don't have the
10 specifics involved, but once you have the specifics
11 identified, about how long would it take a software
12 engineer to design such a program and have it up and
13 working?

14 A. Well, I haven't really -- the person that I
15 have been communicating with on this -- well, for
16 example, my experience with these tracking systems has
17 been in regards to, for example, if a casino wants to
18 start tracking, you know, slot machines coming in or
19 inventory or what have you. Most of these systems, and
20 especially something like this, I don't really think you
21 could use a template system, if you will. It's
22 something that would have to more or less be designed to
23 meet the requirements that we want to have in there, if
24 you get what I'm saying.

25 Q. I understand that. But just in your general

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1 experience, do you have any estimate of how long it
2 would take, that you would estimate in developing the
3 business plan for how long it would take an engineer, a
4 software engineer, to develop something and then test it
5 to put it into place; are we talking a year, are we
6 talking two years?

7 A. I don't know, I would say four months, five
8 months. I mean if you're dealing directly with a person
9 who this is all they do, you know, an IT person who
10 designs these systems.

11 Q. That's what I'm asking.

12 All right, and then in your discussion about
13 meeting with groups of generators, I just want to
14 clarify, you talked about a MIRT group and a HELP group,
15 are those acronyms or --

16 A. They're acronyms, and if you're going to ask
17 me what they stand for, I mean it's an acronym.

18 Q. All right, so MIRT would be M-E-R-T, and it's
19 an acronym for something?

20 A. Yeah.

21 Q. And HELP is also an acronym?

22 A. It's Medical Industry --

23 MR. JOHNSON: Round Table.

24 A. There you go.

25 Q. So it's --

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1 MR. JOHNSON: It's M-I-R-T.

2 A. M-I-R-T.

3 Q. M-I-R-T.

4 And then the HELP is also an acronym?

5 A. Yeah.

6 Q. All right. And then one last question having
7 to do with waste segregation. You talked a bit about
8 the waste segregation requirements of the Covanta
9 facility versus the hydroclave facility in British
10 Columbia. In your discussions with the person
11 concerning the Land Recovery facility in Puyallup or the
12 Spokane autoclave facility, did you have any discussions
13 about the waste segregation requirements at those
14 facilities?

15 A. Well --

16 Q. Or are you aware of them?

17 A. It's my understanding that, as I said, based
18 on the constituencies of the waste there's certain ways
19 that it has to be disposed of, and the autoclave as I
20 understand it is limited in what it can treat.

21 Q. So is there any waste that Kleen is proposing
22 to collect for treatment and disposal that the LRI
23 facility could not handle?

24 A. Yes.

25 Q. And what waste would that be, to your

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1 knowledge?

2 A. It's my understanding that the things that
3 have heavy traces of either bloodborne pathogens or
4 other blood soaked materials, for example carcasses or
5 what have you, would need to be incinerated as opposed
6 to going through the steam sterilization.

7 Q. All right. And about the Spokane facility,
8 did you have a similar understanding as to what's
9 acceptable and not and what needs to be segregated?

10 A. Yes.

11 Q. And can you explain that?

12 A. It is my understanding that they are not as,
13 being, you know, being an incinerator, they are not as
14 limited in their ability to take certain materials.

15 Q. So you wouldn't be required to separate out
16 sharps and other medical waste at the incinerator?

17 A. Actually, that's one, I apologize, that's
18 actually one that they don't take.

19 Q. They don't take sharps?

20 A. Sharps.

21 Q. And is that the same for the LRI facility, or
22 do they take sharps?

23 A. It is my understanding that they take sharps.

24 MR. JOHNSON: I'm sorry, I didn't get the
25 understanding.

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1 A. It's my understanding that they do.

2 MR. HAFFNER: Can I get a point of
3 clarification of LRI, are we talking is that Covanta?

4 JUDGE RENDAHL: No, that's the Puyallup
5 autoclave facility operated by Land Recovery, Inc. that
6 there's been some discussion that there's some lack of
7 clarity based on your cross-examination, but I wanted to
8 get some sense of --

9 MR. SELLS: So he can clarify that issue with
10 Mr. Meany tomorrow, he's familiar with that facility.

11 JUDGE RENDAHL: All right.

12 MR. JOHNSON: So for now we're calling it
13 Land Recovery, we don't know exactly what it is.

14 JUDGE RENDAHL: Correct, from the witness's
15 understanding, and that's what I'm basing my questions
16 on. And with that, I don't have any further questions.

17 And it's now a little after 5:00,
18 Mr. Haffner, do you have any redirect?

19 MR. HAFFNER: I will.

20 JUDGE RENDAHL: And would you like to wait
21 for the morning?

22 MR. HAFFNER: I would.

23 JUDGE RENDAHL: All right, so with that we
24 will be --

25 MR. SELLS: Your Honor, if I may just 30

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1 seconds before we go off the record, I'm greatly
2 concerned about the lack of a tariff attached to this,
3 and I'm going to think about it tonight, and I don't
4 want to come in here and try to surprise anybody with a
5 motion. But I think that this, unless I can convince
6 myself otherwise overnight, this is not a complete
7 application, and we're going to move to have it
8 dismissed or have this hearing adjourned until there is
9 a proposed tariff attached to this application. The
10 witness clearly stated through a simple question and he
11 gave a simple answer, this is not their proposed tariff.
12 They are required, as we all are, by
13 480-70-091(2)(3)(e), to have a proposed tariff, and it's
14 not there. This application shouldn't even be being
15 heard.

16 JUDGE RENDAHL: All right, well, everyone is
17 on notice and I suppose we will address that first thing
18 in the morning.

19 MR. SELLS: Thank you.

20 JUDGE RENDAHL: And given the schedule, we
21 may have time to do that anyway, so we will take the
22 redirect and recross and then take up the motion that
23 you may wish to propose before we move on to
24 Mr. Perrollaz.

25 MR. HAFFNER: I'm not opposed to having that

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1 motion heard before we pick up the redirect, I think
2 it's an important point.

3 JUDGE RENDAHL: All right, well, then that
4 will be the first point of the morning, so we'll
5 reconvene here at 9:30, let's be off the record until
6 tomorrow morning.

7 (Hearing adjourned at 5:10 p.m.)

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