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BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In re Application No. GA-079251 of)	Docket No. TG-040221
HAROLD LEMAY ENTERPRISES, INC.,)	Volume X
ET ALL)	Pages 1094 - 1305
For an Extension of Certificate)	
No. G-98 for a Certificate of)	
Public Convenience and Necessity)	
-----)	
IN re Application No. GA-079254 of)	Docket No. TG-040248
KLEEN ENVIRONMENTAL TECHNOLOGIES,)	
INC.)	
For a Certificate of Public)	
Convenience and Necessity)	
-----)	
In re Application No. GA-079266 of)	Docket No. TG-040553
RUBATINO REFUSE REMOVAL, INC.)	
For an Extension of Certificate)	
No. G-58 For a Certificate of)	
Public Convenience and Necessity)	
To Operate Motor Vehicles in)	
Furnishing Solid Waste Collection)	
Service)	
-----)	

A hearing in the above matter was held on
October 7, 2004, from 9:00 a.m. to 4:15 p.m., at Kent City
Hall, 220 4th Street, Chambers East Room, Kent,
Washington, before Administrative Law judge ANN RENDAHL.

The parties were present as follows:

Jennifer R. Cordner, CCR, Court Reporter

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5 NONE MARKED OR IDENTIFIED

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

2 JUDGE RENDAHL: We are back on the record. We're
3 here for an additional day of hearing on October the 7th
4 before the Washington Utilities and Transportation
5 Commission. I'm the Administrative Law Judge presiding
6 over this proceeding, which is Docket TG-040248, the
7 application of Kleen Environmental Technologies,
8 Incorporated, for statewide solid waste authority to
9 collect, transport, and dispose of biomedical waste. And
10 our first witness this morning is Mr. Barrett.

11 THE WITNESS: Yes.

12 JUDGE RENDAHL: And so, Mr. Barrett, if you could
13 state your name and your work address for the record,
14 please?

15 THE WITNESS: Sure. My name is Nicholas A.
16 Barrett. I currently work at Overlake Hospital Medical
17 Center. Address is 1035 116th Avenue NE, Bellevue,
18 Washington. Zip code actually eludes me right now.

19 JUDGE RENDAHL: That's fine.

20 THE WITNESS: Sorry.

21 JUDGE RENDAHL: If you could just raise your
22 right hand, please?

23 (Witness was duly sworn)

24 JUDGE RENDAHL: Okay. Mr. Johnson, please go ahead.
25 And just remember to wait until Mr. Johnson or another

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1 attorney has asked a question before you speak so we don't
2 talk over, and I think we will be fine.

3 MR. JOHNSON: Thank you, very much.

4 Whereupon,

5 NICHOLAS A. BARRETT,

6 Having been first duly sworn, was called as a witness
7 herein and was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. JOHNSON:

10 Q. Mr. Barrett. My name is Steve Johnson. I'm an
11 attorney representing Stericycle of Washington. I'm going
12 to ask you a few questions and ask for your response. If
13 at some point, you don't understand my question or it's
14 too tangled to respond to it accurately, please stop me
15 and ask me to clarify and I'll do that; is that
16 understood?

17 A. Absolutely.

18 Q. Thank you. Mr. Barrett, will you state your
19 current position, please?

20 A. I am the manager of Environmental Services at
21 Overlake Hospital Medical Center.

22 Q. Okay. And could you tell us just a little bit
23 about Overlake Hospital's Medical Center; what is it and
24 general description?

25 A. It's basically, roughly a 220 bed serving the

1101

1 east side of Seattle. It's a great medical facility.
2 They have an excellent heart -- cardiac care program. I'm
3 actually only in my eighth week now at Overlake. So I'm
4 still relatively new to the facility, but beyond that it's
5 an excellent medical center.

6 Q. Okay. Mr. Barrett and would you describe your
7 present job function?

8 A. Basically, I'm responsible for all 64 of the
9 housekeeping employees throughout the facility. I am
10 personally responsible for seeing to it that the entire
11 facility is cleaned on a daily basis, all the medical
12 waste is disposed of, transported properly, including the
13 regulated medical waste. I'm also responsible for a p.m.
14 and a.m. supervisor, writing and maintaining all the job
15 schedules, and anything else that may come our way.

16 Q. And Mr. Barrett, do you have other prior employee
17 experience in the health care field?

18 A. I do. I actually worked at Valley Medical Center
19 in Renton, Washington for approximately five years as a
20 housekeeper while I was going to school. After that, I
21 was promoted from within to management. I worked there
22 for approximately three years. I became the assistant
23 manager on approximately April of 2002; left and was
24 promoted and went to Overlake on August 2nd of this year.

25 Q. Okay. When you say you were assistant manager,

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1 assistant manager of what?

2 A. The Environmental Services.

3 Q. And at the Valley Medical Center what were the
4 functions of the Environmental Services Department?

5 A. Much the same as at Overlake, basically. It was
6 my responsibility to see to it that all the employees knew
7 their responsibilities, carried them out; I wrote
8 schedules. Basically I was the right-hand-man to the
9 manager of the Environmental Services. Anything he would
10 ask me to do, I would carry out.

11 Q. And did those responsibilities have something to
12 do with medical waste, handling, collection,
13 transportation, disposal?

14 A. Absolutely.

15 Q. And what were those responsibilities?

16 A. Basically all medical waste including pathology
17 waste, chemo waste, sharps containers, and then just
18 standard medical waste. We would be responsible for
19 transporting that from the patient units, or other patient
20 care areas, to a central location -- it was actually off
21 the south dock at Valley Medical Center where we would
22 place those contents into plastic Steri-Tub containers
23 that were provided from Stericycle.

24 JUDGE RENDAHL: And when you say Steri-Tub is
25 that S-T-E-R-I, and then tub?

1103

1 THE WITNESS: Exactly.

2 JUDGE RENDAHL: Okay. Thank you.

3 A. We would place the contents into those
4 containers, label them, with a special label, it also
5 included the date. And then placed all those containers
6 into a central shed from which they would be picked up.

7 Q. Okay. Now, you mentioned that you started at
8 Valley Medical Center, and you were employed for awhile,
9 while you were attending school? Can you give a little
10 bit about your educational background?

11 A. Yeah. I basically received my Associate of Arts
12 degree at Green River Community College. I actually
13 planned on -- I actually enrolled at the University of
14 Washington, and then I was promoted within. So I put
15 school on hold, and I haven't been back since. So I have
16 an Associate of Arts degree from Green River Community
17 College.

18 Q. Thank you. Mr. Barrett, in your work, either at
19 Valley Medical Center, or at Overlake Hospital, or both,
20 have you had experience with the use of cardboard boxes as
21 devices for the collection and storage and transportation
22 of regulated medical waste?

23 A. Actually have.

24 Q. And can you describe what your experience with
25 the use of cardboard boxes has been?

1 A. Sure. When I worked at Valley Medical Center --
2 I would say for the first three to four years -- we
3 actually incinerated all medical waste that came from the
4 birth center, excluding sharps, in an on site incinerator,
5 which was then done away with several years ago. So for
6 approximately the first three to four years, as I worked
7 as a housekeeper, we were responsible for bringing
8 cardboard boxes down that contain waste from the birth
9 center.

10 I can speak firsthand that they would often
11 leak. Leakage was a common problem. You can imagine it's
12 not a pleasant thing to deal with. They would leak
13 throughout the hallways; they would leak in the medical
14 waste collection carts that we used to actually transport
15 them down from the birth center to the location; they
16 would leak once we placed them inside this room. They're
17 not crush resistant.

18 Space is often a premium in hospitals, especially
19 in areas where you have to dispose of medical waste.
20 Oftentimes you have to stack them. It was common that the
21 box on the bottom would crush. It would cause more
22 leakage. You can imagine when a placenta leaks from a
23 cardboard box, it's quite messy. And that was a common
24 occurrence, in my experience, at Valley Medical Center.

25 Q. And you said that this use of cardboard boxes

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1 extended over a period of three years, three to four
2 years?

3 A. In my estimation, approximately three to four
4 years.

5 Q. Okay. And then after that, was there a change in
6 the way Valley Medical handled its medical waste?

7 A. Yes. I should point out, I started there in May
8 of 1995. So for my first three to four years of
9 employment, I would say we used the cardboard boxes. At
10 that point Valley decided to terminate their incineration
11 program. I'm not sure on all the rules and regulations
12 that went into that decision. But for whatever reason,
13 they terminated the incineration program within the
14 hospital. So we stopped using cardboard boxes.

15 Q. Your comments about cardboard boxes had to do
16 with an internal incineration facility that was used by
17 Valley Medical during your employment there; is that
18 right?

19 A. Yes, sir.

20 Q. And during this period of time, was Valley
21 Medical also using another third party medical waste
22 collection company for other types of waste?

23 A. Yes.

24 Q. And who were they using?

25 A. I believe Stericycle. Although, again, during

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1 that time, I was not yet in management, so I wasn't
2 exactly privy to that information. All I knew is that we
3 had a means of disposing of medical waste, sharps
4 containers, aside from what we incinerated from the birth
5 center.

6 Q. Okay. And when you became Assistant Manager at
7 Valley Medical, did you have contacts or dealings with
8 medical waste collection companies outside of the
9 hospital?

10 A. I should clarify. On April 15th of 2001, I
11 actually was promoted from within to a night supervisory
12 position. Then several months later, I moved into the
13 Assistant Manager position. At that time my role and
14 responsibilities did not include, really, any dealings
15 with Stericycle, or the company that was responsible for
16 picking up the medical waste. I was certainly responsible
17 for seeing to it that it was placed in the proper
18 location, and labeled, and disposed of properly. But I
19 didn't have any direct contact with the company itself.

20 Q. Okay. You don't remember what was on the label
21 in terms of what was --

22 A. I don't. At that time -- I don't remember
23 exactly how long we've been using the current Steri-Tub
24 containers at Valley Medical Center, with the labels.
25 It's been some time. I can't remember the exact date.

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1 Q. Am I correct that your testimony is that at the
2 end of your service at Valley Medical that that facility
3 was using Stericycle for its service?

4 A. Exactly.

5 Q. And at that point you were using plastic
6 containers, reusable containers?

7 A. Yes.

8 Q. And did you have the problems with leakage and
9 crushing with those containers?

10 A. None, whatsoever.

11 Q. Other than being messy, is there a problem with
12 leaking medical waste containers?

13 A. Well, anyone who works within a health care
14 facility can tell you infection control is our primary
15 objective. If you have a container that's leaking,
16 whether in a collection container, or in the central
17 location where all the medical waste is stored, you have a
18 serious problem on your hands.

19 Q. So you consider that a safety issue, the
20 infection control issue?

21 A. Yeah, absolutely.

22 Q. With respect to your current position at Overlake
23 Hospital, what types of containers are used there for the
24 collection, storage, and transportation of medical waste?

25 A. We actually use three types of containers. We

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1 have two equal sized containers. One is gray and is used
2 for pathology waste. The other is a standard red Steri-
3 Tub -- not exactly sure what the gallon capacity is -- and
4 then we have another larger-sized red Steri-Tub. So we
5 have two sizes of plastic Steri-Tub containers to contain
6 medical waste and sharps containers. And then a gray
7 container equal to the smaller of the two red Steri-Tub
8 containers, just for pathology waste.

9 Q. So the gray tub is the pathology waste tub?

10 A. Exactly.

11 Q. Are there problems with leakage and crushing with
12 these containers that you use now at Overlake?

13 A. None whatsoever. In fact, we stack those -- we
14 can stack those large-sized Steri-Tubs five on top of one
15 another to maximize space within the shed. If I may add
16 something?

17 Q. Please.

18 A. One of my concerns with the use of cardboard
19 boxes, especially if they're used to contain sharps of any
20 kind, is their inability to be puncture proof. Anybody
21 who works in a hospital setting can tell you that a needle
22 stick can be one of the most feared things. Fortunately,
23 they don't happen often, but in my time at Valley Medical
24 Center, we had three instances of housekeepers being stuck
25 with needles. So it's definitely something that we are

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1 always cognizant of and always trying to prevent and
2 limit; reduce the possibility of that even happening. I
3 would be leery of putting sharps of any kind into a
4 cardboard box and feeling confident that that wouldn't
5 happen.

6 Q. When these needle stick instances occurred, is
7 that because the needles were improperly contained in a
8 sharps container, for example?

9 A. Unfortunately, no. Oftentimes medical staff
10 place sharps into just standard bags of medical waste, in
11 which, there is no protection. The employee will be
12 handling the bag, and a sharp will poke through and stick
13 the employee. In all instances I've dealt with, that's
14 what's happened.

15 Q. Okay. So you can't be sure that sharps or
16 hypodermic needles, after they've been used, will
17 necessarily be only in the hard plastic sharp container?
18 They might be in any part of the medical waste container?

19 A. Yes, sir.

20 Q. Mr. Barrett, if you would just accept my
21 representation that the testimony in this proceeding
22 previously given by the applicant indicated that they
23 would require sharps to be segregated from general medical
24 waste for transportation and disposal. If that were the
25 case, if that were a service offered, would that work for

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1 Overlake?

2 A. We currently segregate chemotherapy waste,
3 pathology waste. We place all the regulated medical
4 waste, aside from those, and sharps containers into the
5 same containers. I would say 80 to 90 percent of all the
6 waste that we generate is between sharps and the standard
7 medical waste. Pathology and chemo waste comprise a very
8 small part. That would probably hurt our productivity.
9 Our employees would have to actually separate those
10 things. We don't currently do that, so I would have
11 concerns about that.

12 Q. Would it add to your costs?

13 A. Probably from a time standpoint. If it hurts
14 productivity, then it will add to our costs.

15 Q. What about if you have to put sharps in one
16 container and general regulated waste in another -- you
17 can't commingle them -- would you end up having to use
18 more containers?

19 A. Yes.

20 Q. And would that add to your costs?

21 A. Yes.

22 Q. The applicant has indicated that they might offer
23 on site packaging service to medical facilities that wish
24 to have them perform that kind of service. I'm trying to
25 get a handle on how that would work in a facility like

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1 Overlake. With the use of cardboard boxes as the only
2 type of container that would be available, would it be
3 practical for a third party vendor to provide on site
4 packaging services to your facility using cardboard boxes?

5 A. I'm trying to think of the logistics of that.
6 Probably it be wouldn't be practical, because we transport
7 all of our medical waste from the areas that generate it
8 down to a central location on the east side of the
9 hospital. We actually take it outside.

10 We have a large storage shed. All of the empty
11 containers are stored alongside that shed. So it's a
12 responsibility to the housekeepers at that point to
13 transfer all of the medical waste into the appropriate
14 container; label it; put a bag on the inside; and then put
15 a lid on top; put it inside the shed. If we were to take
16 all the medical waste down, and then use a third party to
17 package it, I'm not exactly sure where we would store all
18 the waste in the meantime.

19 I can tell you at Overlake right now, they're
20 undergoing a tremendous amount of construction. Space is
21 at an absolute premium. So as far as the logistics of
22 making that happen, I'm not sure how it would work.

23 Q. So let's see if I understand your point, you
24 bring the waste down in carts to the shed where material
25 is short-term there, right?

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1 A. Yes.

2 Q. And you do that every day?

3 A. Yes.

4 Q. So if a third party vendor was going to be
5 involved in moving the waste from those containers where
6 it was initially placed to a transportation container,
7 would they need to be on site every day?

8 A. Well, the way in which you just described it,
9 they would have to be on site 24 hours a day, 7 days a
10 week. My thoughts were -- if we were going to try to do
11 something like that, we would have to actually bring all
12 the waste down to the central location, using those
13 collection carts; place it into another holding area,
14 that's leak proof, fully contained; and then this outside
15 company would have to come in at some point, I don't know
16 how many times per week; and then transport all that waste
17 into the boxes; and take them away.

18 But I want you to understand our people are
19 bringing waste down 24 hours a day, 7 days a week, 365
20 days a year. We don't stop. The hospital never shuts
21 down.

22 JUDGE RENDAHL: How much more do you have?

23 MR. JOHNSON: Just a couple more questions, Your
24 Honor.

25 JUDGE RENDAHL: We have to hurry so --

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1 MR. JOHNSON: Understood, understood, understood.

2 BY MR. JOHNSON:

3 Q. Currently, though, you don't store medical waste
4 as an intermediate step between bringing it down and
5 putting it into transportation containers for off site
6 removal?

7 A. No.

8 Q. That would require creating a new storage
9 facility and new system for holding that waste in a secure
10 fashion until a third party vendor could come on site?

11 A. Yes.

12 Q. And then charge you \$38.15 an hour for that, plus
13 whatever would be involved in creating this new storage
14 facility. Do you think that would be practical?

15 A. No. I don't -- I don't know how my budget could
16 possibly contain that cost.

17 MR. JOHNSON: Thank you. That's all I have.

18 JUDGE RENDAHL: Mr. Haffner.

19 MR. HAFFNER: Thank you, Your Honor.

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

21 BY MR. HAFFNER:

22 Q. Mr. Barrett, my name is Greg Haffner and I'm the
23 attorney for the applicant, Kleen Environmental. Just a
24 couple of questions. You identified how you segregate
25 your waste. Which of those waste items goes to

1114

1 incineration?

2 A. I believe our chemo waste only, and with our
3 chemo waste, we actually place that into a special holding
4 area. It's transported off site and incinerated.

5 Q. How is your pathological waste treated?

6 A. I believe that's -- I believe that's actually
7 incinerated as well.

8 Q. Do you know where that's incinerated at?

9 A. I've believe Stericycle has that plant in Utah;
10 although, I'm not positive on that.

11 Q. What percentage of your waste does your
12 pathological waste make up of your total biomedical
13 waste?

14 A. Small amount.

15 Q. Can you give us a rough estimate of the
16 percentage?

17 A. It would be a rough estimate. I would say
18 probably five to ten percent.

19 Q. What about the percentage of your chemo waste?

20 A. Much smaller, probably two percent.

21 Q. Would you have any preference for incineration
22 taking place at a closer facility than the Utah facility?

23 A. Not necessarily.

24 Q. I assume that Stericycle delivers to you the tubs
25 that you use in your medical waste service?

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1 A. Yes, sir.

2 Q. Are those reusable tubs that you received from
3 Stericycle?

4 A. Yes.

5 Q. Have you ever seen any of those tubs come back in
6 unclean condition?

7 A. No.

8 Q. You mentioned to Mr. Johnson, that you felt that
9 segregating the sharps from your regular biomedical waste
10 would cause your employer to use more containers. Why
11 would that be the case, if your currently mixing
12 biomedical waste with you're sharps -- and it sounds like
13 you have a high volume of waste. Why would it cause you
14 to use more containers if you have to separate sharps from
15 the rest of your biomedical waste?

16 A. Oftentimes when you're mixing the two -- we have
17 a variety of sizes of sharps containers. We have a 5.4
18 quart, three gallon, nine gallon. And when you're mixing
19 and matching the containers in the medical waste,
20 oftentimes you can fit bags. Whereas, with the hard
21 sharps containers you can't. So you may only be able to
22 place one nine gallon container in a Steri-Tub. Whereas
23 when you mix the two, you can put a 9 gallon container and
24 several bags of medical waste.

25 Q. Biomedical waste is more pliable and fills to

1116

1 capacity?

2 A. Yeah, it's in plastic flexible bags.

3 MR. HAFFNER: I have no other questions for the
4 witness, Your Honor.

5 JUDGE RENDAHL: Mr. Sells, do you have anything
6 for the witness?

7 MR. SELLS: No, Your Honor.

8 JUDGE RENDAHL: Mr. Trautman?

9 MR. TRAUTMAN: No, I don't, no.

10 JUDGE RENDAHL: Okay. I just have one.

11 E X A M I N A T I O N

12 BY JUDGE RENDAHL:

13 Q. Mr. Barrett, you're here today speaking on behalf
14 of Overlake Hospital?

15 A. I'm actually here purely at my own discretion.
16 Overlake administration and executive team has no
17 knowledge of me being here.

18 Q. All right.

19 A. I came here at my own discretion. I feel that
20 I've got experience and credibility with this issue. And
21 I just wanted to express my concerns and offer insight.

22 Q. All right. And you're not here speaking on
23 behalf of Valley Medical Center either, are you?

24 A. No, no.

25 JUDGE RENDAHL: Okay. That's all I have.

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1 Anything else Mr. Johnson?

2 MR. JOHNSON: No. Thank you very much,
3 Mr. Barrett.

4 THE WITNESS: You're welcome.

5 JUDGE RENDAHL: Yes. Thank you very much for
6 coming, and fitting us into your schedule, which I know is
7 probably a very long day.

8 THE WITNESS: Thank you.

9 JUDGE RENDAHL: So you're excused. Thanks for
10 coming today. We're off the record.

11 (Discussion off the record.)

12 All right. Let's be back on the record. We have
13 our next witness.

14 Mr. Campbell, if you will state your name and
15 work address for the record please?

16 THE WITNESS: My name is Allen Campbell. I work
17 at ICOS Corporation, 22021, 20th Avenue SE, Bothell,
18 Washington, 98021.

19 JUDGE RENDAHL: All right and is ICOS spelled,
20 I-C-O-S.

21 THE WITNESS: Yes.

22 JUDGE RENDAHL: Would you raise your right hand?

23 (Witness Allen Campbell was sworn.)

24 JUDGE RENDAHL: Go ahead, Mr. Haffner.

25 MR. HAFFNER: Thank you, Your Honor.

1118

1 Whereupon,

2 ALLEN CAMPBELL,

3 having been first duly sworn, was called as a witness

4 herein and was examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. HAFFNER:

7 Q. Mr. Campbell, what is your position with ICOS?

8 A. I'm an Environmental Health and Safety Specialist
9 and in Hazardous Waste Management.

10 Q. How long have you been in that position?

11 A. Six years. I've been with ICOS for four years; I
12 was a long-term temp for two.

13 Q. Can you describe to us what ICOS does?

14 A. ICOS is a Pharmaceutical Research and Development
15 Corporation; drug research.

16 Q. Does that company generate medical waste?

17 A. Yes.

18 Q. How are you involved in the decisions regarding
19 the company's handling of medical waste?

20 A. I pretty much decide on who's going to haul our
21 waste. Who's going to -- you know, I package it up and
22 ship it out.

23 Q. So you're the person responsible for making the
24 decisions on transportation and collection of medical
25 waste?

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1 A. 95 percent of that, yes.

2 Q. Are you authorized by your company to be here and
3 speak on its behalf regarding the transportation and
4 collection of medical waste?

5 A. Yes.

6 Q. Can you tell us where your corporation has
7 locations that generate medical waste?

8 A. Both in King County and Snohomish County. We
9 have buildings in Bothell and Bellevue.

10 Q. And when you say "buildings" are you talking
11 about one location in Bellevue, and one location in
12 Bothell?

13 A. I have -- in Bothell there are six buildings; six
14 different addresses, but all within a three quarter mile
15 area, so that's the main campus. And then we have one
16 building in Bellevue.

17 Q. What type of waste, biomedical waste, does your
18 company generate?

19 A. Chemo, you know, pathological, dry waste, which
20 constitutes as disposable pads, gloves, lab coats,
21 carcasses.

22 Q. Can you give us an idea of the approximate volume
23 of waste that you generate each month?

24 A. At this time we probably generate on average of
25 nine tubs a month from the main campus, which is

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1 approximately 400 pounds.

2 Q. Now, you mentioned the main campus, are there
3 other sources of the medical waste for your company?

4 A. Well, our Building 5 generates, right now, about
5 six tubs every couple of months, six to ten tubs. I have
6 them on schedule and they manage to get picked up every
7 two months.

8 Q. How large are these tubs that you're talking
9 about?

10 A. I don't -- I don't know the size of the tub,
11 okay? I know we put in about -- try to put it about --
12 we're told they can hold 60 pounds of weight and we
13 usually put in an average of 50, at the maximum.

14 Q. When you say that your told that they handle 60
15 pounds max, who has told you that?

16 A. We got a letter from Stericycle.

17 Q. Is Stericycle your current provider in services
18 for transportation and collection of medical waste?

19 A. Yes.

20 Q. Of the types of waste that you describe, what is
21 the largest component of your waste?

22 A. I'm gonna' say carcasses.

23 Q. What type of carcasses are you talking about?

24 A. Rats, mice.

25 Q. Have you contacted any other provider of services

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1 for transportation or collection of medical waste in the
2 last three years, other than Stericycle?

3 A. I have not.

4 Q. Has any other provider of such services contacted
5 you in the last three years?

6 A. They have not contacted me personally, no.

7 Q. How is your current medical waste being disposed
8 of?

9 A. Incineration. Stericycle picks it up for
10 incineration.

11 Q. Do you have a preference for how you would like
12 your waste disposed of?

13 A. Incineration.

14 Q. Why is that?

15 A. Liability, less liability.

16 Q. Do you know where your waste is being incinerated
17 by Stericycle?

18 A. I believe it is in Utah.

19 Q. If could it be closer, would you have a
20 preference to have it be done closer?

21 A. Yes. It would lessen the liability and road
22 time.

23 Q. Are you satisfied with the documentation that
24 you're receiving from Stericycle?

25 A. No.

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1 Q. Why is that?

2 A. Because I'm responsible, cradle to grave and
3 beyond, for our waste. I do not get a signed
4 documentation that it has been incinerated, received and
5 incinerated, like I do with my other waste.

6 Q. When you say other waste, what are you talking
7 about there?

8 A. Oh, I have chemical waste and radioactive waste
9 that I send out. And we get a signed original copy of
10 what we send out that this has been incinerated or
11 whatever's happened to it. We get a signed documentation.

12 Q. Has Stericycle ever charged you for overweight
13 items?

14 A. Yes.

15 Q. Have they provided you with documentation of
16 those charges?

17 A. All I've gotten is a statement from them saying
18 that we had a container that was overweight, and the
19 earlier invoice, and the billing for it.

20 Q. Were you satisfied with how that was handled?

21 A. I have no choice.

22 Q. Are you satisfied with it?

23 A. No.

24 Q. And why not?

25 A. Well, there -- again, I have no certification

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1 that -- I don't know if they just picked it up and decided
2 it was too heavy. I've had the drivers come in and say --
3 lift up a can and say, you know, this is over the weight,
4 you know, we're going to have to charge more for it. They
5 haven't given me a chance -- sometimes they've given me a
6 chance to repack that -- and they've left it, and I've
7 just kept the container and repacked it.

8 Q. Has Stericycle ever provided your company with
9 any training on how to handle your medical waste?

10 A. No.

11 Q. Have they provided you or your company with any
12 manual for handling medical waste?

13 A. No.

14 Q. You mentioned the tubs, are you using any other
15 separative containers, currently, in the handling of your
16 waste?

17 A. Well, there's time -- yes. There's times that
18 there is not enough tubs available from Stericycle, and
19 then they give us cardboard containers.

20 Q. Do you have a preference for the types of
21 containers you would like to use?

22 A. No.

23 Q. Have you had any problems with the tubs provided
24 by Stericycle?

25 A. I've had no problems, no.

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1 Q. You've never received any unclean tubs?

2 MR. JOHNSON: Objection, your Honor. That is a
3 leading question. And asked and answered.

4 JUDGE RENDAHL: Sustained. Mr. Haffner, you'll
5 have to rephrase it.

6 BY MR. HAFFNER:

7 Q. I think you stated that you had no preference
8 for the types of containers that you use. Is it your
9 understanding that tubs are able to be used in the
10 incineration process?

11 A. The tubs are not incinerated. They are -- I've
12 never audited the plant, so I don't know just what happens
13 at that end, but the tub's emptied out. They are
14 cleaned. I don't know how they're cleaned down there.
15 And sometimes they come -- sometimes I get them on --
16 when -- they're slimy, they're greasy. I won't -- I've
17 got the old stickers still on them, so I don't think
18 they're steam cleaned because the steam cleaner would take
19 those little stickers off.

20 Q. Are there concerns that you have with the
21 containers that are provided by Stericycle?

22 A. I tell the people that handle them, the
23 scientists -- the people that handle them when they load
24 them up. I want to make sure that they are wearing their
25 proper protective gear. I mean, not only -- not only

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1 because of the containers but because of what they're
2 handling. I personally -- I don't handle containers
3 without gloves because I don't know that they're -- I
4 don't know that they're clean.

5 Q. Why do you have that concern? Is there something
6 that has made you aware of that?

7 A. There's been nothing said. I mean -- I don't
8 know that there's any problem. I just don't like -- when
9 a tub is cleaned, there's a different feel to it than
10 sometimes when I get it, and I'm not going to take a
11 chance. Microorganisms scare me.

12 Q. How do you currently segregate your medical
13 waste?

14 A. How do I segregate my medical waste? We have the
15 carcasses, we have the dry waste, which constitutes -- dry
16 waste, again, is disposable gloves, lab coats, booties,
17 and sharps.

18 Q. So is that three separations? Carcasses, dry,
19 and sharps?

20 A. Yeah. Because you can get the carcasses, because
21 of their weight, going in the tubs, separate; the dry
22 waste, you can pack more of that in, that's separate; and
23 the sharps, because of the containers that you have to --
24 that we collect the sharps in, they're easier to pack in
25 the tubs.

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1 Q. Is it your understanding that your sharps are
2 going into incineration at this time?

3 A. Yes. All my medical waste is supposed to be
4 incinerated.

5 Q. You may have heard the testimony earlier this
6 morning, from the earlier witness, about they have
7 apparently not been separating their sharps from their
8 dry. Is there a reason that you do separate them?

9 A. Primarily for packing purposes. The tubs do not
10 have straight edges like a carton does. So I can only
11 pack so many of the sharps containers in the tub. I mean,
12 it's a preference. If I had one box of sharps or one
13 container of sharps and that's all I'm sending out, I can
14 pack dry waste around it. But when we pack it -- it's so
15 we can get the most for the buck.

16 Q. Have you had any concerns with the method by
17 which Stericycle picks up the waste from your company?

18 A. Well, I've been -- I've been told that I could
19 leave the containers set out and they would pick them up.
20 In fact, I was rudely told at one point by one of the
21 drivers to do that because that's what they had other
22 people doing -- or other companies. I will not leave my
23 waste set outside and go home. I mean, I'm responsible
24 for it.

25 Q. And why is that a problem? You say you're

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1 responsible for it. What is your concern there about
2 leaving waste outside for Stericycle to come by and pick
3 up?

4 A. Oh, I could wind up in jail, basically. And
5 liabilities accompany. I mean, we have schoolkids -- we
6 have kids that come through there periodically and you got
7 these containers setting out there. Somebody's going to
8 look in it.

9 Q. Mr. Campbell, there's evidence in the record that
10 Stericycle once received a Notice of Violation for not
11 immediately reporting a spill after boxes of medical waste
12 being transported by Stericycle were found along the
13 roadway. Is that a concern to you?

14 A. The concern to me would be: Was any of that my
15 waste? Was there any liability there for me? I don't
16 know, you know, will it happen again?

17 Q. Do you think your service would improve if there
18 was more competition in this field?

19 A. Yes.

20 Q. Why is that?

21 A. Competition. You have better service -- I expect
22 service, and a monopoly does not give you the service
23 that -- they give you the service that they want to give
24 you, have to accept it, or else.

25 Q. How are you familiar with Kleen Environmental

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1 Technologies?

2 A. I've used Kleen -- I constantly use Kleen
3 Environmental, and I personally have used them for the
4 last six years to get rid of my chemical waste.

5 Q. What type of chemicals are we talking about?

6 A. Oh, the gambet pyroforics.

7 JUDGE RENDAHL: You have to spell. I'm sorry.
8 We're getting into an area where you may need to spell it,
9 if you can, for the court reporter.

10 THE WITNESS: Well, I can give it a shot.

11 JUDGE RENDAHL: That's great.

12 A. Pyroforics is, P-Y-R-O-F-O-R-I-C-S, I guess. I
13 don't know.

14 JUDGE RENDAHL: Okay.

15 A. Flammable chemicals, combustible chemicals,
16 metal, you know, metals. I guess that about covers it. I
17 mean if you can think of it, we probably use it.

18 Q. What type of service has Kleen provided you when
19 they've handled your hazardous waste?

20 A. I've been very happy with Kleen service.

21 Q. But in terms of the actual provisions of service,
22 the labor that they have done for you, the help that
23 they've provided you. How would you describe that in
24 terms of the work that they've actually done? What things
25 have they done for you?

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1 A. Okay. What have they done for me? They lab pack
2 chemicals for me, they have -- we moved our processed
3 chemistry from Bellevue to -- or from Bothell, excuse me,
4 to Bellevue. They packed all the scientists chemicals up
5 and transported them to the other store, to Bellevue. And
6 if I've got questions on -- because of the different
7 variations of chemicals we get -- and sometimes I'm not
8 sure just what's going on -- I call them a lot for that.

9 Q. Have they provided you and/or your company with
10 any training on the handling of hazardous materials?

11 A. Yes. In fact we just contracted them. They came
12 in and just did a right-to-know training for us.

13 Q. And I believe that you testified earlier that
14 you're satisfied with the service that they provided you?

15 A. Yes, or else I wouldn't have them.

16 Q. Do you see a benefit in consolidating your
17 hazardous waste management with your biomedical waste
18 management?

19 A. Yes, there could be. I mean, there's a liability
20 issue or benefit and potentially an administrative
21 benefit.

22 Q. Can you describe what kind of an administrative
23 benefit you would get?

24 A. Well, I get one, billing. I get less paperwork.

25 (Discussion off the record.)

1130

1 Q. Mr. Campbell, are you aware of the services that
2 are being proposed in this application by Kleen
3 Environmental Technologies?

4 A. Yes.

5 Q. Are you aware that they are primarily proposing
6 the service, collection and transportation of medical
7 waste in cardboard boxes, primarily for incineration?

8 A. Yes.

9 Q. And is that a service that is acceptable or
10 desirable to you?

11 A. It is acceptable.

12 Q. Would you like to be able to use Kleen for your
13 medical waste transportation needs?

14 A. Yes.

15 Q. Why is that?

16 A. Well, again, competition. I feel it would be a
17 better service overall. My overall experience with
18 Stericycle has not been the greatest, but they have had to
19 work with me, I'm the only thing in town.

20 Q. Would you like to see this application granted?

21 A. Yes.

22 MR. HAFFNER: No other questions for the witness,
23 Your Honor.

24 JUDGE RENDAHL: All right. Mr. Johnson.

25

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

2 BY MR. JOHNSON:

3 Q. Hi, Mr. Campbell. My name is Steve Johnson. I'm
4 an attorney representing Stericycle of Washington. I'm
5 going to ask you a few questions. If my questions are not
6 clear, please stop me and ask me to clarify, so that we
7 can be clear about what your testimony is.

8 You indicated that you're authorized to speak for
9 ICOS. Could you indicate to me what kind of authorization
10 you received to testify here to today?

11 A. My boss originally was going to come here, but
12 then he had eye surgery scheduled. So he asked me if I
13 would be willing to come for his place, and they told me
14 to go ahead and go.

15 Q. And your boss is?

16 A. Brad Wong.

17 Q. Brad Wong, and what's his position?

18 A. My manager, okay. I don't know his title.

19 Q. Okay. And that's the only authorization you
20 received per se?

21 A. Well, the director of my department, Doug Burns,
22 agreed that it was all right for me to come.

23 Q. Okay.

24 A I mean this is -- this is, yeah, we'll just go
25 that way.

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1 Q. Okay. Thank you. I didn't quite get your job
2 title, currently. You mentioned that you're an
3 Environmental Health and Safety Specialist, and then you
4 said you're a --

5 A. And I'm a Hazardous Waste Manager.

6 Q. Okay. You're a Hazardous Waste Manager?

7 A. Management. I should say. I handle the
8 hazardous waste. You know, Brad Wong is my direct
9 manager. You know, I work for Brad Wong, but when it
10 comes down to the handling of the waste, getting rid of
11 the waste, that's my baby. I make the decisions, but if I
12 have a question, my boss is there to go to.

13 Q. And you mentioned Doug Burns, and you mentioned
14 that he heads the department. I'm just trying to get a
15 handle on how the organization works. What is your
16 department in which you function?

17 A. Well, I'm in the Health and Safety Department of
18 which Brad Wong is the manager of the Health and Safety
19 Department. Doug Burns is the overall manager of
20 approximately -- I don't know -- I'm just going to just
21 say five departments.

22 Q. Okay. That sounds good. That clarifies for me
23 what I need. Now, you've been working with Stericycle for
24 quite some time, I believe; is that correct?

25 A. Yeah, since --

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1 Q. I'm sorry.

2 A. Yes.

3 Q. And you have a good relationship with the folks
4 that come to your facility to pick up the waste?

5 A. With the driver that I have now, I have a great
6 relationship.

7 Q. And I think you mentioned something about not
8 wanting to leave your waste outside for pickup; is that
9 right?

10 A. Yes.

11 Q. Is it your understanding that Stericycle
12 recommended that you leave your waste outside for pickup?

13 A. Well, I had a driver tell me two different times,
14 just leave your waste outside, we'll pick it up on our
15 route. And I told them that I wasn't going to do that.
16 And he says, well, other companies do.

17 Q. Do you have the name of this driver?

18 A. I do not. I don't think the driver is with them
19 anymore, even, but I don't know. But I don't have the
20 driver's name, it's been four years, or three years.
21 Right after -- it was right after Stericycle started
22 there.

23 Q. Is there a problem with access to the area where
24 you store biomedical waste prior to pickup. Is that
25 available and accessible to the Stericycle driver when he

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1 comes to pick it up?

2 A. Yeah, he just backs up to the dock, and we've got
3 the stuff there, on the inside of the door.

4 Q. Is he permitted to enter the facility, to pick up
5 the waste?

6 A. Right now the way it goes, the driver shows up; I
7 meet him there at 8 o'clock in the morning; and I open the
8 door for him; and he's got access.

9 Q. So he has a specific appointment with you for a
10 particular time on a particular date?

11 A. We have a window set up. All right? Like I say,
12 with this driver, I have a Thursday pickup. I have it
13 with the driver because I have such an area to cover. The
14 driver tries to be there within this half hour window, and
15 he's usually there around 8 to 8:30. That's not saying
16 that he's going to be there, but that's usually how it
17 goes.

18 Q. My understanding is that works, I mean, you know
19 when he'll be there and he shows up at the time arranged?

20 A. Yeah. If not, I have his cell phone number; he
21 has mine. I mean, like I say, I work with the driver, if
22 the driver's willing to work with me.

23 Q. Doesn't he call you before he shows up,
24 actually?

25 A. No. I expect him to be there. If he's not going

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1 to be there and it's going to be a long amount of time, I
2 won't say he calls me, but I can usually call him to see
3 what's going on.

4 Q. Okay.

5 JUDGE RENDAHL: Let's be careful not to speak
6 over one another.

7 THE WITNESS: I'm sorry.

8 MR. JOHNSON: Thank you, Your Honor. We'll do
9 our best.

10 BY MR. JOHNSON:

11 Q. Mr. Campbell, am I correct that you currently use
12 gray plastic reusable tubs for the collection of the
13 waste?

14 A. At this time, yes. Primarily that's what they
15 give me now. There have been several times that there
16 have not been enough tubs to give me, and then they give
17 me cardboard boxes.

18 Q. Okay. Do you think there is any desirability to
19 the use of reusable tubs in terms of waste production?

20 A. To me, the cardboard boxes were fine. The tubs
21 are fine. The cardboard boxes are incinerated. I don't
22 have to worry about -- I mean they give me clean boxes.
23 When they give me boxes, I know they're clean. I'm not
24 always sure that the tubs are.

25 Q. Do you know whether it's the policy of ICOS

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1 Corporation to reduce the volume of its waste?

2 A. Yes.

3 Q. It has a policy to reduce the volume of its
4 waste?

5 A. Well, I can't say that it is ICOS's policy to
6 reduce the waste, all right. It is in our best interest
7 to reduce waste. The less waste, less cost, less
8 liability. And that's -- within our department, I know
9 that that's our policy because that's my policy, and I
10 handle the waste.

11 Q. Don't you agree that the use of single-use
12 cardboard containers adds to the waste?

13 A. My waste is incinerated. It isn't going to add
14 that much to the waste, you know, it's burnt. It's not a
15 landfill item.

16 Q. Right. But going out the back of the ICOS
17 Corporation, it adds to the waste that you have to
18 transfer to someone for treatment for --

19 A. Okay.

20 Q. Excuse me, for treatment or disposal; isn't that
21 right?

22 A. Yes, it does; it does. But I don't have any
23 possibility with clean boxes of cross-contamination.

24 Q. So that's a concern that overrides the waste
25 reduction objective, in your mind?

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1 A. Liability and cross-contamination, yes.

2 Q. Mr. Campbell, you mentioned that you normally
3 load your tubs to an average of 50 pounds; is that right?

4 A. Yes.

5 Q. Now, are you aware that the cardboard containers
6 have a maximum weight of 40 pounds?

7 A. I'm not aware of what it is at this time. Okay.
8 I know that it states on the box, you know, you do what
9 you're allowed within the limits of what you're allowed to
10 use.

11 Q. Understood. Let's just for purposes of my next
12 question assume, and I believe that the testimony
13 indicates, that the maximum weight for the box that Kleen
14 is producing to you is for the box, for the cardboard box,
15 is 40 pounds. Wouldn't that require you to use more
16 containers to handle a certain quantity of waste if you
17 would have to then pack below the limit of each container
18 up to but no more than 40 pounds?

19 A. There is that potential.

20 Q. So isn't it possible that switching to cardboard
21 boxes as the primary container would increase your cost by
22 a fair amount?

23 A. Well, I'm going to answer that question this way
24 because I'm not just sure how this works. But I know with
25 Stericycle this is set out by tariff. And the more

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1 containers you use, supposedly the least the cost.
2 Theoretically, you know, if you use enough containers you
3 can get your cost down to zero. I don't know.

4 Q. I don't think you believe that, do you?

5 A. Hey. I'm just going by what I read in the
6 tariff.

7 Q. But isn't it the case that you pay by the
8 container, so if you have more containers you pay more?

9 A. Yes.

10 Q. So by switching to a 40 pound cardboard box from
11 a 60 pound reusable plastic tub you're adding to the cost?

12 A. Again, yes, there may be added costs. But with a
13 clean container and no cross-contamination, less liability
14 because it don't come back maybe not cleaned. Okay? I
15 look at liability and I look at the safety of my people.
16 I would rather pay \$40 more a month to know that this is
17 gone, it's done, and it's incinerated; it isn't coming
18 back, that's all.

19 Q. I understand that's your preference --

20 A. Yeah, and it's a preference.

21 Q. And you're willing to pay more?

22 A. You know, I would pay more.

23 Q. And the company you represent would pay more?

24 A. Yes.

25 Q. Are you aware that you can use cardboard boxes

1139

1 now with the Stericycle service?

2 A. Actually, I was told that I couldn't because of
3 the carcasses.

4 Q. I see. Who told you that?

5 A. You know, I do not have a name for you because
6 it's been three or four years, you know. It was when
7 these tubs were brought in and I don't know who I talked
8 to.

9 Q. What was the problem with using the cardboard box
10 for carcasses?

11 A. Well, my understanding -- when it came in they
12 wanted -- Stericycle wanted us to use the tubs and I was
13 told to use the tubs by Stericycle. And I remembered it
14 as being -- as being because of the carcasses.

15 Q. Have you ever asked your current driver, for
16 example, if you could use cardboard instead, if that's
17 your preference?

18 A. No. I mean, I figured if I was told once, this
19 is how the company wants it.

20 Q. Okay.

21 A. The driver -- the driver works for the company.
22 The driver, you know -- and I have good working
23 relationship with this driver. I'm not going to put him
24 on the spot and go against what I know the company has
25 told me.

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1 Q. You feel comfortable asking your driver questions
2 about the service, don't you?

3 A. In regards to how things are, you know, what we
4 can -- I feel comfortable in calling him and saying, hey
5 is there any way -- I'm stuck here in Bellevue. Is there
6 any way that you can work me into your shift an hour
7 later, an hour and a half down the road because I cannot
8 be there. But that's a question I can ask him. I don't
9 ask him -- you know, I don't ask him what his opinion is
10 of company policy. Because A, I'm not going to put him on
11 spot, and B, I don't care.

12 Q. Okay. But you do have a good working
13 relationship in the sense you can call and rearrange the
14 driver by cell phone directly to the driver; is that
15 right?

16 A. As long as -- how do I say this? As long as it
17 is within the scope of what he can do. And if he's in
18 this area for only an hour, he can't do it. It depends on
19 what his pickup schedule is for that day. I mean, if he's
20 going to be in my area for two hours, then he might be
21 able to shift it. But I -- you know, I don't ask too
22 often because this is when he's there.

23 Q. Right. But you personally need to be at the site
24 of each pickup; is that right?

25 A. I've got to sign for the --

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1 Q. You do have a cell phone number for the driver,
2 and you are making adjustments within the perimeter of his
3 route to make that work for you?

4 A. Okay. Yes, but let me also go back to -- I don't
5 have to be there. Somebody has to be there to sign for
6 it. So it's either me or my boss, and I know I have an
7 assistant. So we have one of the three of us who can do
8 it, but somebody has to be there, one of us three.

9 Q. But the issue of rearranging the schedule is the
10 same regardless of who's got the scheduling problem,
11 right?

12 A. Yeah. If it's within the driver's workable -- if
13 he can do it, like I say I have a working relationship
14 with this driver. If I can't do it, he will give me a
15 little bit of leeway. He can't give me a lot of leeway,
16 but he will give me a little bit.

17 Q. Now, when you load the containers that you use
18 for transportation, or that Stericycle uses for
19 transportation, do you segregate your waste? Did I
20 understand you to say that you segregate your waste that
21 you load into containers separately for three separate
22 types of waste?

23 A. Yes. The waste is segregated such that -- and I
24 don't presently segregate it. I've got it set up so that
25 my scientists have the carcasses go into one container

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1 because they're heaviest, they make the bulk weight. The
2 dry waste which is disposable gloves, pads, lab coats,
3 whatever, as long as it isn't sharps, is put into another
4 tub. The sharps are put into a biohazard container, which
5 they give me this container. I do normally pack the
6 sharps.

7 Q. Now you pack the sharps and dry waste together
8 sometimes?

9 A. If I have one or two. If I've only got one or
10 two containers of sharps, and I've got some room for dry
11 waste bulk, I'll put it in there, yes.

12 Q. So basically when you can pack the container
13 efficiently with all sharps, not that they do, but if
14 efficiency of packaging required you to mix sharps and
15 what you call dry waste, you do that?

16 A. I will do that, yes.

17 Q. Okay. So if the applicant proposes that you must
18 segregate your sharps waste into a separate container and
19 therefore can't mix them with the dry waste that would add
20 to the cost, would it not?

21 A. Not significantly, no. Because for me
22 personally, 95 percent of the time I have only sharps in a
23 sharps container. So it's not -- that part of it would
24 not affect me significantly.

25 Q. What percent of your waste is these carcasses?

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1 A. 65 percent, probably.

2 Q. And okay. And what percent is sharps?

3 A. Well, let me do it this way. Set nine containers
4 out here not too long ago. Five of them was carcasses,
5 two of them was sharps, and two was dry waste.

6 Q. Okay. That's a rough approximation of what's
7 typical?

8 A. Yeah.

9 Q. Mr. Campbell, are you at all concerned about
10 incineration in terms of the byproducts of the
11 incineration, namely, incinerator ash and air emissions?

12 A. I'm going to answer that this way. According to
13 audits that have been done on different locations, they're
14 supposed to be scrubbers and what not, set up within this
15 operation to catch any harm the emissions -- yes, it's
16 always a concern of what you're emitting into the
17 atmosphere.

18 Q. So you are concerned about that and ICOS
19 Corporation is concerned about the byproducts of the
20 incineration?

21 A. Yes.

22 Q. Wouldn't that suggest that the incineration
23 should be minimized as soon as possible?

24 A. No. In my case, and not my preference, in my
25 case we are responsible from cradle to grave and beyond,

1144

1 liability wise. Liability wise incineration takes pretty
2 good care of the "and beyond part of it", all right?

3 Q. Do you have any knowledge of your company's
4 responsibility for the Incinerator Act generated by
5 incineration of your waste?

6 A. Well, there is a potential liability. But by
7 going -- going to sites that are government approved --
8 and I'm going to leave it at that one -- for this type of
9 waste and meet regulations. At this time, we are not
10 emitting anything harmful into the atmosphere.

11 Q. Don't you agree that incineration does emit
12 harmful air emissions?

13 A. If I put it up to fire, if I was to incinerate it
14 in a regular fireplace, yes. Going by what I've been told
15 about protective procedures that have been put in place
16 with the scrubbers and this and that, there is a
17 potential.

18 Q. I guess. If I could summarize what I think
19 you're saying and correct me if I misstate it. You
20 understand there is some environmental concerns about
21 incineration, but with respect to your particular waste
22 reading, it's your preference to use that method of
23 disposal?

24 A. Yes.

25 Q. Have you audited or looked at the incinerator

1145

1 facility in Brooks, Oregon?

2 A. I'm assuming we're talking about Morton?

3 Q. No, I'm sorry. We're talking about the Cobanta
4 Incinerator Operation in Marion County in Brooks, Oregon.

5 A. I have not --

6 Q Excuse me.

7 A. -- audited that.

8 Q. Are you aware that the applicant, Kleen
9 Environmental, intends to incinerate all waste that they
10 collect at the Cobanta facility in Brooks, Oregon? And if
11 and when they are granted the application, the facilities
12 will be audited.

13 So at that time you would perhaps travel to
14 Brooks, Oregon and actually observe the operation of that
15 incinerator facility?

16 A. Somebody would, okay? And when I say somebody,
17 if I don't go, my manager or the manager and director
18 would do that.

19 Q. And would you audit Kleen's other facilities at
20 that time before signing on with them as a client?

21 A. Meaning other facilities?

22 Q. Well, truck storage yards, facilities for storage
23 of biomedical waste, while being accumulated to transport
24 to incineration, that kind of thing?

25 A. I would like to see it all -- I mean personally,

1146

1 I would. I want it audited. I want to know what they're
2 doing. Again, I have in this area I'm getting into where
3 the manager and the director may decide that that's their
4 prerogative or based on -- you know, I can't speak for
5 what they would do. For me, yes, it should be audited.

6 Q. So before you actually ship medical waste with
7 Kleen, you want to audit their facilities and their
8 disposal technique and so forth?

9 A. I would want to know where it was going, yes. I
10 would want to know what the operation was.

11 Q. Have you audited Kleen's current operations with
12 regard to their services in the hazardous waste area?

13 A. I have not -- I have not done an audit, no.

14 Q. Has anybody within your organization audited
15 Kleen's existing facilities and operation?

16 A. Well, I've been to their facilities several
17 times. As for your question, I know that -- I can't
18 answer that.

19 Q. Okay.

20 A. I mean, I know -- I know what I think I've been
21 told, but I don't know -- I'm speaking for somebody else
22 now, and I can't say yes or no.

23 Q. Well, I'm sorry. What have you been told?

24 A. Well, when we started using Kleen, they were
25 checked out, they were audited.

1147

1 Q. By someone?

2 A. By someone in the Health and Safety Department.

3 Q. Do you know who?

4 A. But I don't know who, and that's why I'm saying
5 that goes back -- because we used Kleen for years -- that
6 goes back even before I started there. But Kleen -- what
7 Kleen does for us right now is when they do their lab
8 packs, we have another vendor that actually picks the
9 chemicals up from our storage area. And then it is
10 transported on their truck to Arkansas, where it is
11 incinerated or gotten rid of depending on what it is.

12 Q. So you think that the transportation of hazardous
13 waste for incineration in Arkansas is okay in terms of the
14 distance traveled?

15 A. No, liability wise it isn't.

16 Q. But you use it, do you not?

17 A. There isn't a place closer by that we can -- we
18 can do our chemical waste.

19 Q. Are you saying that from your own knowledge that
20 there's no disposal facility for chemical waste closer
21 than Arkansas?

22 A. From my knowledge, yes.

23 Q. Is this what the Kleen people have told you or
24 who?

25 A. No. This is what -- this is what I've gotten

1148

1 from my boss.

2 Q. Okay. Now, Mr. Campbell, you said at one point
3 Kleen picked up one of your labs in Bothell and moved it
4 to Bellevue?

5 A. Yes.

6 Q. And when they did that, did they move it in their
7 own trucks?

8 A. Yes.

9 Q. Okay. And was that a several day operation, or
10 did it all take place in one --

11 A. No. It was a -- it took several days to move
12 this lab. I mean, three days or something like that.

13 Q. Do you know whether any of the lab chemicals were
14 stored overnight by Kleen and his trucks?

15 A. No. No. They were delivered the same day to the
16 Bellevue store, plant.

17 Q. Do you know if Kleen has ever retained your
18 hazardous waste in its trucks overnight at its facilities,
19 current facilities?

20 A. No.

21 Q. Have you been to Kleen's facilities at 754
22 Garfield Street in Seattle?

23 A. Yes.

24 Q. So you're familiar with the truck parking area
25 behind the building --

1149

1 A. Yes.

2 Q. -- off the alley of the building?

3 A. Yes.

4 JUDGE RENDAHL: Mr. Johnson, how many of those
5 pictures are you going to go through?

6 MR. JOHNSON: Well, I'm going to try minimize to
7 it, but I'm going to go through several.

8 JUDGE RENDAHL: Is this a good time to take a
9 break?

10 MR. JOHNSON: I think it probably would be.

11 JUDGE RENDAHL: All right.

12 MR. HAFFNER: Before we go into that, can I ask
13 what's going to be the relevance of this? He's testified
14 that he has no knowledge that any of the waste has been
15 stored or been taken to that facility.

16 MR. JOHNSON: Well, he said that he didn't know
17 whether they had been.

18 MR. HAFFNER: So what's the point of going
19 through the questions of the facilities?

20 MR. JOHNSON: Well, you can object when I ask
21 about them if you think that there's a problem.

22 MR. HAFFNER: Okay.

23 JUDGE RENDAHL: Okay. Let's be off the record.
24 We're going to be on break until 20 to 11. We'll
25 reconvene then. We're off the record.

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1 (A 15 minute recess was taken.)

2 JUDGE RENDAHL: Let's be back on the record. All
3 right, Mr. Johnson, you were asking a few questions about
4 pictures. Let's go ahead and see what's relevant and
5 what's not.

6 MR. JOHNSON: Very good.

7 BY MR. JOHNSON:

8 Q. I think, Mr. Campbell, when we left off before
9 the break, I had asked you about the hazardous waste
10 service provided to you by Kleen, and you had indicated, I
11 believe the record will show, that you were not aware they
12 had stored hazardous materials taken from your company in
13 their trucks at their current facility. And I think I
14 asked you about whether you had done an audit of their
15 facility. You were not aware of it, but someone may have;
16 is that roughly correct?

17 A. Yeah. I didn't -- the first part of your
18 statement there -- to best of my knowledge -- I mean I
19 have never had anything -- in the six years I've been
20 there, I've never had anything kept at Kleen.

21 Q. To your knowledge?

22 A. To my knowledge because it's all -- I mean the
23 way our system is set up, the tariffs -- you know, we
24 have -- Kleen does our lab packing, brokers our lab waste,
25 and the Teris truck is always there to pick up so it's

1151

1 always handed off.

2 Q. Teris, T-E-R-I-S, is that correct?

3 A. Correct.

4 Q. And that's a disposal, hazardous waste disposal
5 truck?

6 A. That is -- that is. Yeah. They're the outfit
7 that transports our chemical waste to Arkansas.

8 Q. Well, let me ask you another question.

9 A. No problem.

10 Q. Excuse me. They're the outfit that transfers
11 your hazardous waste --

12 A. To Eldorado, Arkansas.

13 Q. Thank you. We need to not speak over each other
14 so the court reporter can get it down. We're starting to
15 do that, so remember to pause a minute before you answer
16 so I can be sure to finish my question.

17 Mr. Campbell, do you know what facility Kleen
18 plans to use as a base for its biomedical collection
19 service, if it in fact obtains authority to provide such a
20 service?

21 A. No.

22 Q. Is it your understanding that they would use
23 their current facility?

24 A. I have no understanding. We have not talked
25 about it at all.

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1 Q. Okay. Well, I'm going to hand you what's been
2 marked as, I will refer to it in two ways. It was
3 Photograph No. 10, and in my record it's Exhibit No. 174.
4 And ask you if you recognize that scene that's depicted in
5 Exhibit 174?

6 A. I recognize the trucks.

7 Q. Okay. I'm sorry. And what are the trucks?

8 A. Well, it looks like a Kleen Environmental truck.

9 Q. Okay. Is that the back of the Kleen
10 Environmental facilities at 754 Garfield Street?

11 MR. HAFFNER: Your Honor, I'm going to object. I
12 think it's been established on the record already what
13 this facility is. It's not necessary to have this witness
14 identify what it is. We need to know whether he knows
15 what it is, first.

16 JUDGE RENDAHL: I tend to agree. If you could
17 rephrase your question to ask the witness if he recognizes
18 the scene, I think that would be appropriate.

19 MR. JOHNSON: Okay. Well, I'll try that.

20 BY MR. JOHNSON:

21 Q. Do you recognize the scene? Do you recognize the
22 location where this photograph was taken?

23 A. No. Because I never come in from this
24 direction. I come in from the other direction. It looks
25 like the back of the Kleen Environmental location, but I

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1 never come from this direction, so I don't know. I mean,
2 I honestly don't know what it looks like coming from this
3 direction.

4 Q. Okay. And that would be the back side or the
5 alley side perhaps?

6 A. This is the alley side. I usually come in from
7 the opposite end of the alley. If you've got anything
8 that way, I could give you a better --

9 Q. Now, I'm handing you what's been marked as
10 Exhibit 176, or Photograph No. 12. Does that look like
11 the entry where you normally come in from the alley?

12 A. Yes. That looks like the alley.

13 Q. And what is depicted in that photograph, if you
14 know?

15 A. Back -- I mean back of the building; the back of
16 the building.

17 A.

18 Q. Is that the back of the building where Kleen has
19 its current facilities?

20 MR. HAFFNER: Objection, Your Honor, to the
21 relevance to this line of questioning.

22 JUDGE RENDAHL: Mr. Johnson.

23 MR. JOHNSON: Well, I need to lay a foundation to
24 ask him a question about this facility as it relates to
25 both the hazardous materials and transportation functions

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1 that Kleen has provided to ICOS Corporation, and to the
2 witness's view as to whether this facility would be
3 suitable for biomedical waste collection.

4 MR. HAFFNER: May I address that, Your Honor?

5 JUDGE RENDAHL: Go ahead Mr. Haffner.

6 MR. JOHNSON: I believe the record has already
7 indicated that this facility will not be used for the
8 operations of the transportation of biomedical waste. And
9 I believe this witness has already testified that he does
10 not know if any of his waste has gone to any of these
11 facilities. So, again, I don't see the relevance in this
12 line of questioning.

13 JUDGE RENDAHL: Mr. Johnson, I'm not sure we need
14 the photos. Because he's been there; he's seen the site;
15 he's testified to that; the photos are in the record. I
16 guess I'm going to ask you to ask whatever questions you
17 might have of the witness. I'm not sure the photos are
18 particularly useful in that respect.

19 MR. JOHNSON: Well, I think they are very useful,
20 Your Honor, for simply refreshing his recollection for
21 what the facility looks like, and what it is.

22 JUDGE RENDAHL: I'm going to give you a couple
23 more questions to see if you can get to where you need to
24 go.

25 MR. HAFFNER: And, Your Honor, there is no

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1 evidence that his memory needs to be refreshed at this
2 point.

3 JUDGE RENDAHL: That's my understanding.

4 BY MR. JOHNSON:

5 Q. Well, my question to you, sir, is: Would you
6 agree that this facility would not be an appropriate
7 facility for the storage of hazardous materials in a truck
8 parked in that location that's shown in Exhibit 174?

9 MR. HAFFNER: Objection, Your Honor, as to
10 relevance. There has been no testimony that that type of
11 material will be stored at this facility on behalf of this
12 particular witness's company.

13 JUDGE RENDAHL: Okay. I guess the question had
14 to do with hazardous materials. There has been no
15 testimony -- there has been testimony that medical waste
16 would not be stored here. But my understanding is that
17 there has been testimony that sometimes hazardous
18 materials are stored overnight in the truck. So I
19 understand the question to be addressed to that; is that
20 correct, Mr. Johnson?

21 MR. JOHNSON: That's exactly right, Your Honor.

22 JUDGE RENDAHL: Okay.

23 MR. HAFFNER: But, Your Honor, no hazardous
24 materials from this witness's company has ever been
25 transported here to this witness's knowledge.

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1 JUDGE RENDAHL: I understand that. But I think
2 it's a relevant question, so I'm going to allow it.

3 BY MR. JOHNSON:

4 Q. So if I can try to rephrase my question. Would
5 you agree that this location that's depicted in Exhibit
6 174, Photograph No. 10, would not be an appropriate
7 location to store hazardous materials, in a truck parked
8 in that location?

9 A. I would agree that -- that it would be -- would
10 not be an appropriate place to store hazardous material
11 for a length of time, yes.

12 Q. And why do you think that is the case?

13 A. Well, storage in the back of a truck for two,
14 three months, you know -- overnight is one thing because
15 you drive this a lot, all right. But if this is where
16 you're going to store it for a period of time, you know,
17 to me that's not appropriate.

18 Q. Is that because --

19 A. That's the best way I can answer that.

20 Q. Is that because it's accessible to people in the
21 alley, to the general public?

22 A. It is accessible, yes.

23 Q. Is it your understanding that that truck that's
24 depicted in Picture 174 has a lock on it?

25 A. Yes.

1157

1 Q. Are you personally knowledgeable about whether it
2 has a lock?

3 A. I have seen the padlock on their truck.

4 Q. But do you know whether they regularly lock it?

5 A. I don't know that they lock it, no.

6 Q. Mr. Campbell, you mentioned that you had visited
7 the Kleen offices. Could you tell us what the purpose of
8 your visit was?

9 A. I have -- I also get my lab packing equipment, or
10 materials, from Kleen Environmental, such as fiber
11 containers, 55 polydrums for the chemical waste. And so
12 periodically I have stopped by their place when I have had
13 to have something right away. I drive by their place on
14 the way to work every day. So I have stopped off and made
15 arrangements to pick things up in the morning as I go by.

16 Q. You mentioned that you rely on Kleen
17 Environmental to answer questions that you have from time
18 to time about hazardous materials handling and handling
19 hazardous waste disposal; is that correct?

20 A. Yes.

21 Q. And you believe they have expertise in that area,
22 do you not?

23 A. I believe that -- yes.

24 Q. And who is the individual who has that expertise?

25 A. Well, the person I prefer to talk to is Darren

1158

1 Perrollaz, if I've pronounced his name right.

2 MR. JOHNSON: I believe that's, P-E-R-O-L-L, no,
3 sorry. That's, P-E-R-R-O-L-L-A-Z.

4 Q. Okay. And you believe he had expertise in
5 hazardous materials, handling it?

6 A. Yes.

7 Q. Are you aware that he has no expertise in
8 infectious medical waste handling?

9 A. I'm not aware of what his expertise is in that
10 area, because I haven't worked with him in that area.

11 Q. Do you think expertise is important in the
12 handling of infectious medical waste?

13 A. Well, knowledge is definitely important.

14 Q. Knowledge of the regulations?

15 A. Knowledge of the regulation and knowledge of how
16 the material should be handled.

17 Q. Would that requirement -- excuse me.

18 A. I mean -- I handle the waste in this instance,
19 Kleen Environmental will be doing the same as Stericycle
20 or I'm sorry, Kleen Environmental would be doing the same
21 as Stericycle, in they come by in their truck; I've got
22 the material ready to go. They load it up, they're gone.

23 Q. So you don't think they need experience or
24 expertise in order to provide the service that ICOS
25 Corporation is looking for in the handling of its

1159

1 biomedical waste?

2 A. I think they will need knowledge.

3 Q. What knowledge?

4 A. Well, they need knowledge of the regulations they
5 need knowledge of the handling of the material. Okay?
6 Otherwise it is a hazardous -- it is a hazardous
7 material. It's a biologic, and I know -- you know, Darren
8 and I have talked of -- I have asked him about biologics.
9 I have asked Darren about biologics for information
10 because sometimes I'm not sure what I can -- whether this
11 would go with Stericycle or if this is considered mixed
12 waste -- just how it is shipped. So I have talked to
13 Kleen Environmental then.

14 Q. But you're aware that Kleen Environmental has no
15 experience in the handling or transportation of biomedical
16 waste?

17 A. Right. But I know that he has knowledge.

18 Q. What is his knowledge, again?

19 A. Right. But I know that he's got knowledge of
20 regulations. He's got knowledge of how regulation states
21 material should be handled.

22 Q. And you're talking about biomedical waste now?

23 A. Right.

24 Q. Would you be surprised if his testimony was
25 different from that?

1160

1 A. Well, in what I believe -- okay. And I won't say
2 in what I believe, but I am comfortable with the questions
3 that I've asked him, and he's one of my -- one of the
4 first people I will go to ask for information in hazardous
5 waste. If I don't feel that I'm getting the answer I
6 want, there's other options to go to. But I do know -- I
7 do know that I have made calls to Stericycle to talk to
8 specific people and I've never got called back. Uh, so I
9 mean, I go to where I feel I can get the information -- I
10 need to do my job, to protect myself and my company.

11 Q. Who do you call at Stericycle when you want
12 information?

13 A. I have called and asked for Jeff Norton. I've
14 called and asked for Mike Philpott.

15 Q. And they don't call you back?

16 A. Nope.

17 Q. Ever?

18 A. Nope. Well, no, I won't say that. I haven't
19 called them now for three years because it's taken a
20 couple weeks to get calls back from them, okay. And I'll
21 call or drive there if I have to in regards to where the
22 driver's at and what's going. You know, all I can say is,
23 like I said earlier on, overall, with the exception of a
24 couple drivers, my experience with Stericycle has been
25 poor.

1161

1 Q. And has Stericycle actually come to your facility
2 to meet with you?

3 A. Yes.

4 Q. And when was the last time?

5 A. The last time? I'm going to say approximately
6 three or four months -- time flies, you know. It's been --
7 it's been within the last three, four months, probably.
8 It's been this year.

9 Q. And have they met with you in times past, or with
10 your supervisors or --

11 A. The last time before that, that I remember
12 meeting with anybody from Stericycle, was probably --
13 again, because of time -- probably three years before
14 that. Actually, the only time that I really remember was
15 in the period that the BFI was bought out by Stericycle
16 Waste Management and the transition period, okay?

17 Q. That would have been approximately 1999, I
18 believe? It could be --

19 A. It's been several years.

20 Q. Okay. Now, you've heard from Mr. Haffner that
21 Kleen has proposed to use the facility at 754 Garfield
22 Street to base its biomedical waste collection service in
23 its proposal. Does it trouble you that you don't know
24 what facilities they're going to use or how it would be
25 organized?

1162

1 A. At this point, no. Because when it's done, if
2 Kleen gets the -- is granted the application, they'll make
3 their proposal, we'll check it out.

4 Q. So the basic idea is you'll at that time be able
5 to see what they have to offer, and you'll be able to make
6 a decision at that time whether the service proposed by
7 Kleen meets the needs of your company?

8 A. Well, yeah. I mean, you can't -- you can't make
9 a decision on something you don't know.

10 Q. That's what I would agree. How about the fact
11 that they don't have trucks that's available for this
12 service, does that trouble you?

13 A. No. Because as I, as a business -- I mean, if I
14 was trying to start out a new business -- I mean, I'm not
15 going to go out and buy trucks and everything else, until
16 I know that I've got -- I've got a fighting chance of
17 starting a business. And if I don't even know if I can
18 have an application to apply for the license to run the
19 business, I'm not going to waste the money.

20 Q. Does it trouble you to know that I've asked
21 several Kleen witnesses of what the requirements are with
22 respect to the medical waste cargo area of a truck and
23 that they answered that they do not know what those
24 requirements are?

25 A. Okay. Repeat that.

1163

1 Q. I'll try. I have asked several of their
2 witnesses whether they know what the regulatory
3 requirements are that are applicable to the cargo space on
4 a truck intended for use as a transport biomedical waste
5 and they have testified that they don't know what those
6 requirements are. Does that bother you?

7 MR. HAFFNER: Objection, Your Honor, I believe
8 that might mischaracterize the evidence. I don't know
9 that he's asked several witnesses, I recall him asking one
10 witness yesterday about that.

11 MR. JOHNSON: I believe I've asked all the
12 witnesses that are dealing with trucks including Mr. Lee,
13 Mr. McClausky, I don't recall asking Mr. Philpott, but I
14 remember those two for sure.

15 JUDGE RENDAHL: Well, why don't you rephrase your
16 question, Mr. Johnson, so that there's no issue of
17 recharacterizing or mischaracterizing the testimony.

18 MR. JOHNSON: I agree with you, your Honor.

19 BY MR. JOHNSON:

20 Q. Mr. Campbell, I'll rephrase my question. If it
21 were the case that Kleen's witnesses indicate that they
22 don't know the regulatory requirements applicable to the
23 cargo space, or a vehicle intended to transport biomedical
24 waste, would that trouble you?

25 A. Of what other people -- okay. How do I say

1164

1 this -- of other clients and what their knowledge is, no,
2 it wouldn't.

3 Q. You wouldn't expect a biomedical waste
4 transporter to know what the regulations are that apply to
5 the transportation of biomedical waste in the trucks?

6 A. I would want a transporter to know the
7 regulations. If you're saying the transporter is
8 Stericycle, Kleen Environmental, XYZ Company, I would
9 expect them to know what the regulations are.

10 Q. Right. And that's exactly what I'm saying.
11 Kleen is proposing to collect biomedical waste and
12 transport it in vehicles.

13 A. Um -- Um?

14 Q. And you would expect the company providing that
15 service to know what the requirements are, the legal and
16 regulatory requirements are, that are applied to a vehicle
17 applied to that purpose, would you not?

18 A. Yes, I would.

19 Q. And would it trouble you if they did not know the
20 legal requirements?

21 A. Legal -- I'm not -- I'm going to ask you, and I'm
22 sorry, to repeat that one more time because I'm not just
23 sure in my mind what you're saying. So let's just say it
24 one more time so that I can --

25 Q. I'll try. Just accept the hypothesis for the

1165

1 moment that there are legal regulatory requirements
2 applicable to the cargo area where biomedical waste is
3 transported in a vehicle for disposal purposes. Would it
4 trouble you that a company applying for authority to
5 provide biomedical waste collection services did not know
6 what those regulations required with respect to a vehicle
7 for that purpose?

8 A. It would be -- it would be a concern, and again,
9 it would be something that if they presented a proposal to
10 us would have to be looked at. I worked transportation
11 for many years as a driver and as part owner, you get hit
12 really quick with the regulations. I mean, the overall of
13 how they treated things as it went on would be more of a
14 concern. I mean it's one thing not to know every
15 regulation, it's another thing to show complete disregard
16 of the issuance of the regulations.

17 Q. But when you're handling biomedical waste you
18 have infection concerns, do you not?

19 A. Yes.

20 Q. So you expect that the company who handles your
21 waste will be managing that waste in a manner to avoid the
22 risk of affecting truck drivers, passersby, the general
23 public --

24 A. Yes.

25 Q. All right. So if this regulation is a safety

1166

1 regulated regulation intended to protect against
2 contamination of the vehicle, would you not think that
3 that would not be a regulation --

4 A. Yes.

5 Q. Excuse me, sir. That would be a regulation that
6 accompanied in the applicant's position here should know?

7 A. Yes.

8 Q. And it wouldn't trouble you if they didn't?

9 MR. HAFFNER: Objection. Asked and answered.

10 JUDGE RENDAHL: I am going to sustain the
11 objection.

12 BY MR. JOHNSON:

13 Q. Mr. Campbell, you express some dissatisfaction
14 with documentation provided to you by Stericycle. I want
15 to ask you a few questions about that. What kind of
16 documentation are you currently getting from Stericycle
17 that reflects either the transportation or disposal of
18 your biomedical waste?

19 A. I get -- they are now sending me -- I get the
20 billing that shows that they received the waste. I also
21 get an Email with the manifest cargo. And then when they
22 get rid of the waste, if it showed they match -- they
23 match the manifest with a manifest.

24 Q. So let me just try to clarify?

25 A. I don't know how -- yeah.

1167

1 Q. We're talking about documents. So you get the
2 invoice that identifies the manifest numbers that are
3 reflected or that reflects the waste that they picked up,
4 right?

5 A. Yes.

6 Q. And on that invoice there is a certification that
7 the waste has been probably treated; is that right?

8 A. There is no certification.

9 (Discussion off the record.)

10 Q. Okay so, Mr. Campbell, while we were off record
11 we found Exhibit 67 and you have a copy in front of you,
12 do you not?

13 A. Yes.

14 Q. And this is an invoice from Stericycle in the
15 form that you usually get one?

16 A. Yes.

17 Q. And do you see above the Stericycle logo and name
18 at the bottom of the page that there is a text in a box
19 there beginning with the word certification?

20 A. I see that, yes.

21 Q. So would you read that just for a moment just to
22 yourself and then I want to ask you about it.

23 A. Okay.

24 Q. So wouldn't you agree that that's a certification
25 that your waste had been properly treated? That's what it

1168

1 says, doesn't it?

2 MR. HAFFNER: Objection. Let the witness answer,
3 please.

4 A. How do I answer this without being -- it says
5 it's a certification that the material has been treated in
6 accordance with the state and federal regulations. There
7 is no signed certification there. I get -- I get the same
8 type of thing from an MSDS material and safety data sheet
9 when I get a chemical in from a company, all right? It
10 tells me to treat this in accordance with local and state
11 and federal regulations, but there's nothing that says --
12 I've got nobody that I can go back to. I have no
13 signature.

14 Q. Okay. So it is what it is?

15 A. Text is what it is.

16 Q. But you're not happy with it because there is no
17 signature?

18 A. Right. I mean --

19 Q. And just to clarify what your concerns are?

20 A. Right.

21 Q. And what kind of signature would satisfy your
22 concern? Would it be a signature of the disposal facility
23 or the treatment facility that actually treated or
24 disposed of the waste?

25 A. Yes. That it was treated and disposed of in --

1169

1 you know, by the way that -- you know -- was incinerated
2 at such and such plant, and I -- you know, under my
3 supervision or whatever but somebody's name there.

4 Q. Okay.

5 A. Okay. Because this here, even though I'm still
6 responsible cradle to grave and beyond, I've got nowhere
7 to go with this.

8 Q. I understand. It doesn't have a signature, it
9 doesn't have a name, right?

10 A. Hm-hmm.

11 Q. Now, also you get a signed manifest back from
12 Stericycle reflecting the mode of transportation at the
13 time of pickup and then later at the time, after the waste
14 had been treated?

15 A. The only thing that I know of, to the best of my
16 knowledge, right now, that I get from Stericycle, is when
17 the driver picks up my waste and we sign off -- I sign off
18 that this is what I got. He signs it that he has picked
19 it up.

20 Q. That's the manifest?

21 A. That's the manifest. And then I get the billing
22 of this, which is the invoice billing.

23 Q. Is it possible that Brad Wong receives a signed
24 manifest back from Stericycle?

25 A. No. Because I'll take care of the paperwork and

1170

1 he would give it to me. And in six years, I don't
2 remember anything else other than what I've just told you.

3 Q. Have you requested a copy of the signed manifests
4 back from the disposal facilities?

5 A. Yes. And, in fact, the last time I met with
6 Stericycle representatives one of -- we were told that
7 that was when they came up with what we now get, which we
8 just went over before this, the manifest and the, I don't
9 know what it's called.

10 Q. But let me just ask the question again, because
11 it's really a simple question. Have you requested a copy
12 of the manifest signed by the treatment facility?

13 A. Yes.

14 Q. And did you receive it?

15 A. No.

16 Q. And who did you give this request to?

17 A. Mike Philpott.

18 Q. And it's your testimony here that Mike Philpott
19 of Stericycle of Washington, notwithstanding your request,
20 did not provide you with a copy of the manifest signed by
21 the treatment facility; is that correct?

22 A. I'm saying, I've not received a signed manifest
23 signed by the treatment facility.

24 Q. Ever?

25 A. To the best of my knowledge, ever.

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1 Q. And you have requested one?

2 A. Yes.

3 Q. Have you ever received a container detail report
4 and I'll refer you to --

5 A. And I --

6 Q. Excuse me. I'll refer you to Exhibit 68, to show
7 you at least one that's in the record, that's been
8 referenced. It has the names that are blanked out, but it
9 has a rather extensive list of manifest numbers, and
10 dates, and times of service. Have you ever received such
11 a list?

12 A. Yes.

13 Q. You have received such a document?

14 A. We have received this.

15 Q. And do you receive that regularly?

16 A. Yes.

17 Q. But you haven't received a manifest signed by the
18 complainant?

19 A. No.

20 Q. When did you request a signed manifest, a
21 manifest signed by the plant that processed the waste?

22 A. The last time that we made this concern notice
23 was approximately -- and I'm going to say three to four
24 months ago, which was when this was proposed, and we
25 started receiving this about the same time.

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1 Q. Well, was this the first time you had requested
2 this kind of document?

3 A. No. We have requested, in the last four or five
4 years, we have talked about this at least -- okay, I
5 guess, I've got to go this way with this one. Brad and
6 I -- Brad Wong, my boss, and I have mentioned the need of
7 needing this and --

8 Q. This being --

9 A. The signed --

10 Q. Excuse me. I'm sorry. Be explicit though when
11 you say the need in needing what.

12 A. The signed manifest. We have over the last
13 couple years, or the last few years, tried to contact
14 either Jeff Norton or Mike Philpott in regards to this.
15 And like I say, I never get called back.

16 Q. Not only do you never get called back, you have
17 never received a signed manifest, signed by the plant, who
18 are the waste providers?

19 A. To the best of my knowledge, I have never
20 received a signed manifest.

21 Q. Okay. And you had requested one for a period of
22 four or five years, you say?

23 A. We have requested one over that period of time,
24 yes.

25 Q. And okay. And how about the Container Detail

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1 Report? Have you requested that kind of detail report
2 prior to the meeting you mentioned three or four months
3 ago?

4 A. No.

5 Q. That was the first time that you became aware
6 that that was possible or --

7 A. Yes.

8 Q. Now, Mr. Campbell, you understand that Kleen
9 Environmental is proposing to take all the waste they
10 collect to the Brooks, Oregon incinerator facility; is
11 that correct?

12 A. Yes.

13 Q. And is it your understanding that you will be
14 able to receive a Certificate of Destruction of some kind
15 from that incinerator facility, if the Kleen application
16 is granted and you ship with them?

17 A. Yes.

18 Q. Would it be a problem for you if that wasn't the
19 case?

20 A. It would be -- you know, I don't know how you
21 mean a problem, it would be an issue, as it is now.

22 Q. Right. I thought that this was important that
23 you receive a document signed by the treatment or disposal
24 facility reflecting proper treatment or disposal; is that
25 right?

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1 A. Yes.

2 Q. So if you couldn't get such a document from this
3 incinerator facility, that would be a problem, right?

4 A. That would be -- in that context, that would be a
5 problem.

6 Q. Okay. Has Kleen told you that the Cobanta
7 Incinerator Facility in Brooks, Oregon would provide you
8 with a Certificate of Destruction at some time?

9 A. No. We have not talked about -- I have not
10 talked with them about something that, you know, we're --
11 they're in Stage 1 right now. They're things I will want
12 if their application is granted, if we go with them. At
13 this point in time, no.

14 Q. So although you have complaints about the
15 documentation Stericycle has provided, and I understand
16 what you said. You don't know at this time whether Kleen
17 could provide you satisfactory documents to meet your
18 requirements; is that right?

19 A. I do not know.

20 Q. And that would impact whether you would go with
21 them ultimately or not?

22 A. That would be one of the issues that would
23 impact, yes.

24 Q. Is it your impression there is a legal
25 requirement that you receive a signed manifest signed by a

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1 processing or treatment facility to reflect the processing
2 or treatment of your biomedical waste?

3 A. It is my impression, yes.

4 Q. And has someone told you that?

5 A. You know, I can't answer that. I have been in
6 this field for -- actually working in this field for six,
7 eight years and schooling before that. I know that
8 regulations require certain things. Was I told? Did I
9 read that regulation? I know it helps protect me and it
10 helps my liability issues that's the bottom line.

11 Q. Do you know whether there is different regulatory
12 requirement applicable to hazardous waste disposal versus
13 biomedical waste disposal with respect to this issue?

14 A. There are different regulatory requirements for
15 the different waste.

16 Q. But with the respect to the issue of the
17 returning of the signed manifest, are you aware of
18 differences there between the requirements applicable to
19 hazardous waste and biomedical waste?

20 A. I'm not aware of all specific differences. There
21 are differences, yes.

22 Q. Now, has Mr. Perrollaz indicated to you that you
23 need to have a signed manifest back from the processing or
24 disposal facility to meet your legal requirements?

25 A. For biomedical waste, no.

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1 Q. For biomedical waste, is it your understanding
2 that that is a requirement for hazardous waste?

3 A. Yes.

4 Q. But you're not sure if it's required for
5 biomedical waste?

6 A. I am not absolutely positive. I believe that I
7 have read the regulation that it is, but no, I am not
8 positive.

9 Q. I'm going to ask you to refer, if you would to
10 Exhibit 138, which is --

11 (Finding exhibits off the record.)

12 Q. Mr. Campbell, I've referred you to Exhibit 138.
13 It's a little bit hard to read. But this is something at
14 least that the heading says Cobanta Marion Inc. And down
15 there below it says delivery receipt?

16 A. Okay.

17 Q. If you'll just accept my representation for
18 purposes of the question that this is the only
19 documentation that the incinerator in Brooks, Oregon will
20 provide as a delivered waste to them. Do you believe this
21 delivery receipt would satisfy the requirements of ICOS
22 Corporation for a Certificate of Destruction?

23 A. This to me would not -- would not say anything
24 about the Certificate of Destruction, no.

25 Q. It doesn't say anything about any individual's

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1 generator waste, does it?

2 A. No.

3 Q. It just has weighed-in, weighed-out, net weight,
4 right?

5 A. It's a delivery receipt.

6 Q. As a former driver, this looks sort of familiar
7 to you, I assume?

8 A. Well, yeah. I mean it's -- I drop off my
9 material and they sign they've received it.

10 Q. And they say you've got so much weight, right?

11 A. Right.

12 Q. They don't say anything else. So if that were
13 the kind of documentation that would be provided to you by
14 Kleen for a truck load of waste taken to the incinerator
15 in Brooks, Oregon, that would be no benefit to you, would
16 it?

17 A. I would be no better off than I am now, no.

18 Q. Mr. Campbell, right now you're incinerating all
19 the biomedical waste that Stericycle handles for you; is
20 that right?

21 A. Right now, yes. My biomedical waste, I expect it
22 to be incinerated.

23 Q. And you're packing it all in these gray tubs, or
24 cardboard boxes, if the gray tubs aren't available?

25 A. Yes.

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1 Q. You do understand that if you segregate it into
2 sharps and what you call dry waste, in two separate
3 containers that your cost would be lower, are you not?

4 A. No. I mean I do that anyway, but I'm not
5 aware -- because what I understood from the tariff -- you
6 know, you send out X amount of containers of this stuff,
7 this is what it is.

8 Q. But isn't it the case that you pay a flat charge
9 per container for the waste that's packed in the gray tubs
10 for incineration?

11 A. You pay a per tub fee. But my understanding by
12 the tariffs, like I've stated earlier, the more tubs you
13 got the less the rate is.

14 Q. Well, I'm going to refer to you Exhibit 62. This
15 is sort of a conglomeration of documents. In the middle
16 of it is a Stericycle tariff?

17 (Looking for exhibits off the record.)

18 Q. Mr. Campbell, you've got the tariff open in front
19 of you, that's found in Exhibit 62, do you not?

20 A. Yes.

21 Q. And if you'll flip through a few pages until you
22 get to Item 90. Well, let me ask you a question before
23 that. Are you familiar with the Stericycle tariff?

24 A. I've read it. Yes, I read it once three or four
25 years ago or so.

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1 Q. Okay. Would you look at Item 90, which is on
2 Page 8.

3 A. On page what?

4 Q. On Page 8. It's at the top of the page, it's the
5 First Revised Page 8, up in the corner.

6 A. Okay.

7 Q. And do you see rates for pathological waste due
8 to therapy waste and pharmaceutical waste there?

9 A. Yes.

10 Q. And you see the different charges per container?

11 A. yes.

12 Q. And then as you look down below, it says the
13 rates indicated by this Item 90 are flat rates per
14 container? In the text immediately following the rate.

15 A. Yes, I see that.

16 Q. Okay. Is that something you were not aware of
17 previously?

18 A. That was something that I had not -- yes, that is
19 something I'm not aware of.

20 Q. So you're not aware of how your waste segregation
21 practices affect your rate?

22 A. Well, I'm not as aware as I should have been, I
23 can see that.

24 Q. Because this item indicates a flat fee for
25 materials going to incineration, a flat fee per container,

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1 whereas if you're over -- under Item 30, there you have a
2 graduated rate that you were referring to earlier,
3 depending on how many containers you provide for other
4 types of biomedical waste.

5 JUDGE RENDAHL: Is this a question?

6 Q. Yes, my question is: You apparently are not
7 aware of the way your segregation practices affect your
8 rate; is that right?

9 A. No. I was not aware of the First Revised Page
10 8. Okay? I went to the rate schedule for biomedical
11 waste on Page No. 5A.

12 Q. Okay. So you don't really check your invoices to
13 see whether the charges that are invoiced to you match
14 your expectations; is that correct?

15 A. I checked the invoices to see if, A, the number
16 of containers that I sent out is there. And I see the
17 rate that they charged me and how much it is. I looked to
18 see what the rate is that they charged me.

19 Q. You also looked and checked that all the manifest
20 numbers are there that you've got on your file?

21 A. No. Simply because the manifest -- the invoice
22 that they send me is -- is. No. I checked to make sure
23 the number of boxes are there and the weight to make
24 sure -- to make sure that I'm not overcharged or that I
25 don't have a weight overcharge.

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1 Q. Is there someone else in your department that is
2 more knowledgeable about this Stericycle tariff and how it
3 applies?

4 A. I would imagine that Brad Wong is, but I can't
5 say yes or no.

6 Q. Well, if you'll accept my hypothetical that if
7 you segregated your waste between the pathological waste,
8 which are carcasses, which go to incineration and the
9 softs and sharps, which do not necessarily have to be
10 incinerated, and if you were willing to permit those to be
11 processed without incineration that your charges would be
12 lower, would you take advantage of that option to
13 segregate the waste?

14 A. No. Incineration for us is the way to go because
15 long term liability is priority.

16 Q. Okay. So it doesn't really matter what the cost
17 is. I think we went through that before. I just want to
18 make sure that you understand that; how the tariff worked.
19 Is it your impression that your cost will be lower with
20 Kleen, if they received a grant of authority in this
21 proceeding?

22 A. No. Because regardless who gets it, this is
23 mandated by tariff, if I could use that word, I guess. I
24 don't know just how this system works. The thing that --
25 the thing -- yeah, this has nothing -- you know, I haven't

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1 been told that there would be less cost. It hadn't even
2 been implied, I mean I --

3 Q. Are you familiar with the Bio Track System that
4 Stericycle uses to track each container of waste from
5 pickup to process?

6 A. No.

7 Q. Are you aware that there are bar codes on the
8 labels that you put on your waste?

9 A. I'm aware that there are bar codes.

10 Q. Are you aware that the driver scans those
11 bar codes?

12 A. I'm aware that the driver scans those bar codes.

13 Q. Do you know why he does that?

14 A. Well, it's a tracking record.

15 Q. Okay. And then are you aware that the bar codes
16 are scanned at other points in the handling process?

17 A. No.

18 Q. Have you ever asked about that, or is that of
19 interest to you?

20 A. I have not asked about that, no.

21 Q. If you'll look at Exhibit 66?

22 A. Sorry, I went to sleep there for a minute. Okay.

23 JUDGE RENDAHL: Go ahead, Mr. Johnson.

24 MR. JOHNSON: Thank you, Your Honor.

25 BY MR. JOHNSON:

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1 Q. Mr. Campbell, looking at Exhibit 66, I believe
2 that document is blown up to a larger size than normal,
3 but does that look familiar to you?

4 A. Yeah. This is appearing to be the printout that
5 they give me when they scan the bar codes when they pick
6 up the waste.

7 Q. So the driver, does he give you a report like
8 this?

9 A. Yes.

10 Q. Mr. Campbell, you mentioned that 65 percent of
11 your waste is frozen. I'm sorry, I didn't mean to say
12 frozen, is carcasses of, I believe you said rats and mice?

13 A. Yes.

14 Q. Do you typically freeze this material before
15 shipment?

16 A. Yes. It's kept in freezers. We don't freeze it
17 before shipment per se for shipment. It is kept in
18 freezers until it is ready to be shipped.

19 Q. You don't leave these in the wastebaskets?

20 A. Right.

21 Q. Understood. So when it's ready to be shipped,
22 it's in a frozen condition, right?

23 A. Yes.

24 Q. Wouldn't you say that your waste stream is
25 somewhat unusual for the general biomedical waste stream

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1 that hospitals, health care facilities, and others use?

2 MR. HAFFNER: Objection. No foundation.

3 JUDGE RENDAHL: Can you rephrase your question,
4 Mr. Johnson?

5 BY MR. JOHNSON:

6 Q. Mr. Campbell, it is your understanding that
7 hospitals, and doctor's offices, and dental offices
8 generate substantial quantities of mice and rat carcasses
9 as waste?

10 A. I would say that they probably don't unless that
11 is a research facility.

12 Q. So your laboratory facility or your company is
13 somewhat unusual then in terms of producing the types of
14 waste that it produces?

15 A. It is unusual in the context of hospitals and
16 dental offices.

17 Q. Doctor's offices?

18 A. Doctor's offices. But biotech research, it is
19 not.

20 Q. Right. so it is similar perhaps other biotech
21 companies?

22 A. Yes.

23 Q. And how many would you say there are in the
24 Seattle area?

25 A. I have no idea; I know there's several.

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1 Q. Six, ten?

2 A. Oh, more than that, I mean, I would say, more
3 than that.

4 Q. You don't know?

5 A. I don't know, but, you know, I am sure there's
6 twenty or thirty anyway. Whether -- that's in the Seattle
7 area --

8 Q. But you really don't know?

9 A. But I have no idea.

10 Q. You mentioned the issue of liability related to
11 transporting waste over this. Do you have any concerns
12 about the type of testimony that was given by Mr. Barrett
13 before you came up here with respect to cardboard
14 containers leaking and having their integrity affected by
15 crushing or puncturing?

16 A. I didn't hear all of that from Mr. Barrett, but
17 the only way that I can answer that is; I get cardboard
18 boxes from Stericycle too.

19 Q. I guess my question is: Do you have a liability
20 concern with respect to the use of cardboard boxes if
21 that's the exclusive container for medical waste that
22 you're shipping?

23 A. No. Because the stuff -- the carcasses are
24 double bagged, tied, I mean, and they're sealed in
25 plastic. So I don't have -- I don't have a problem with

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1 it because we've dealt with it since I came -- you know,
2 since I started working with this -- this facility. I
3 mean it's -- it's been something that has been there. It
4 has worked. That's all they use. Stericycle when they
5 took over, that's all they used, to my knowledge. Because
6 that's all I used. The tubs -- no, to answer your
7 question, no.

8 Q. So you don't think the tubs, the plastic tubs,
9 are a safer way to transport medical waste?

10 A. I don't know, okay? I mean, I don't have a
11 problem with tubs or with the cardboard boxes. For me, if
12 you're going to pin me down, like I stated earlier, the
13 cardboard boxes have the convenience of they're gotten rid
14 of. They don't come back. I don't have to worry about
15 cross contamination, if they haven't been cleaned. And
16 I've gotten some tubs back that -- that I've actually left
17 with the drivers because I felt they were -- for lack of a
18 better word and I don't know how to spell it -- grody,
19 okay?

20 Q. Okay. So you're not concerned with the physical
21 integrity of the cardboard as a liability issue?

22 A. I mean it is -- it is an issue, but it's -- it's
23 not the primary issue because I deal with it. I'm dealing
24 with it now. I get tubs; I get cardboard boxes, if they
25 don't have them, I get the cardboard boxes. So if I mind

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1 whether Company A gives me cardboard boxes or a choice.
2 In this case, it isn't a choice, if they don't have
3 cardboard boxes, or if company B just uses cardboard
4 boxes. Everything about the company is looked at, as far
5 as I'm concerned, and it always fits in the points from
6 service to whatever..

7 Q. And so this issue, the issue of the container
8 that's used would be something to evaluate when and if
9 Kleen gets authority to offer it; is that right?

10 A. Yeah. I mean it would be, yes.

11 Q. Would be a factor?

12 A. It would be a factor.

13 MR. JOHNSON: That's all I have, Mr. Campbell.

14 Thank you.

15 JUDGE RENDAHL: Mr. Sells, do you have any
16 questions. Oh, you're not done yet, Mr. Campbell, there
17 are other people, unfortunately that have questions for
18 you. We will take a break in 15 minutes and hopefully, we
19 will let you go at that point.

20 MR. SELLS: Thank you, Your honor. Just one, and
21 maybe the only one.

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

23 BY MR. SELLS:

24 Q. Did I hear you say that you had a facility in
25 Snohomish County or was I --

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1 A. Well, I believe we are in Snohomish County. The
2 Bothell Campus, as I call it, I believe that is in
3 Snohomish County. We are -- our sewage falls under the
4 King County coverage, but I believe we are still in
5 Snohomish County. We're outside of King County in our
6 part of Bothell.

7 Q. Okay. I think you're right. Bothell apparently
8 does cross the county line. Of course, it would not be in
9 the city of Everett, would it?

10 A. No.

11 Q. In the City of Bothell.

12 MR. SELLS: That's all I have, thank you.

13 JUDGE RENDAHL: Okay. Mr. Trautman.

14 MR. TRAUTMAN: That was one of my questions. I
15 thought that Bothell was in King County also.

16

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

18 BY MR. TRAUTMAN:

19 Q. I should say, I am Mr. Trautman, Assistant
20 Attorney General, for Commission Staff.

21 I believe you referred to a Bothell and a
22 Bellevue campus; is that right?

23 A. Yes.

24 Q. Do you know how much of your waste comes from
25 each of those locations?

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1 A. Yes.

2 Q. And how much approximately?

3 A. Right now from the Bothell area -- actually, I'm
4 going to say that at this point a hundred percent of our
5 waste comes from the Bothell area. The reason I say that
6 is because what Bellevue campus generates is sharps, and I
7 don't have a -- I don't have enough containers of sharps
8 to make a shipment. So I don't think that we've actually
9 shipped anything out of our Bellevue area yet.

10 Q. Was the Building Number 5 building you referred
11 to, was that in Bellevue or Bothell?

12 A. That's in Bothell.

13 Q. And Bothell was the main campus that you referred
14 to?

15 A. We have Buildings 1 through 6, with the exception
16 of 5, is considered main campus. Building 5 is
17 approximately three quarters of a mile away from what we
18 call the main campus.

19 Q. And all of those are in the Bothell area, again?

20 A. All of those are in Bothell.

21 Q. All right. Thank you.

22 MR. TRAUTMAN: That's all I have.

23

24

25

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1 E X A M I N A T I O N

2 BY JUDGE RENDAHL:

3 Q. And that was one of my questions that I had for
4 you, Mr. Campbell, where Building 5 was, so that's in the
5 Bothell campus?

6 A. Yes.

7 Q. And that's primarily where Stericycle would come
8 and pick up your waste?

9 A. My primary pickup is in Bothell, at our Building
10 4 facility. They come there once a month. Right now I
11 have them on a monthly pickup cycle. Building 5 is, I
12 think, they are picked up about every other month at this
13 point.

14 Q. Okay. You spoke of some concerns with the driver
15 earlier on. Is it fair to say that you are unhappy with
16 the driver service with Stericycle initially, but now you
17 don't have a problem with diver service?

18 A. Right now, at this time with the driver that I
19 have, I do not have a problem.

20 Q. All right. The other concern I heard you express
21 at Stericycle was the cleanliness with the tubs. Is that
22 a problem initially or is it a continuing problem?

23 A. It happens at various times. So I guess you
24 would say it's continuing.

25 Q. Okay. Are those the two primary concerns you

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1 have with Stericycle at this time, or are there other
2 concerns I haven't expressed in my questions to you?

3 A. Those are the main -- the main concerns. To me,
4 it settles down on service and I don't think the service
5 is what I should reasonably be able to expect as a
6 customer, but I may have high expectations.

7 Q. Does that service relate to the service you have
8 from receiving calls back from the staff members?

9 A. Yes.

10 Q. You were asked some questions about whether you
11 had audited Kleen Environmental's operations. Do you
12 remember those questions?

13 A. Yes.

14 Q. Have you ever audited Stericycle's facilities?

15 A. I have not. It's my belief that they have been
16 audited by members of ICOS Corporation.

17 Q. All right. Have you ever visited the Kent
18 Facility for Stericycle?

19 A. I have not.

20 Q. Do you know if anybody from ICOS has visited the
21 Kent facility?

22 A. I cannot say for sure, no.

23 Q. That's all I have.

24 Mr. Haffner, do you have any redirect for the
25 witness?

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1 MR. HAFFNER: Yes, Your Honor, two questions.

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

3 BY MR. HAFFNER:

4 Q. Mr. Campbell, how long has the current Stericycle
5 driver been providing you with service?

6 A. At least a year. Could be as long as -- could be
7 as long as two.

8 Q. Okay.

9 A. I just don't know, but I know it's at least a
10 year.

11 Q. Based on your experience with Kleen, handling
12 your hazardous materials, do you have confidence that they
13 will comply with the regulations that would be required to
14 provide the service proposed in this application?

15 A. Yes.

16 MR. HAFFNER: I have no questions, Your Honor.

17 JUDGE RENDAHL: Mr. Johnson.

18 MR. JOHNSON: Well, I just had a couple.

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

20 BY MR. JOHNSON:

21 Q. Mr. Campbell, I was confused about your testimony
22 about where the waste is picked up and how much is picked
23 up. My original notes said that Stericycle was picking up
24 about nine tubs per months from the main campus?

25 A. Yes.

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1 Q. And then my notes then said, I thought that
2 Stericycle was picking up six to ten tubs every couple
3 months from Bellevue.

4 A. Okay. That's wrong.

5 Q. That's wrong?

6 A. I may have said Bellevue, I meant Bothell. It's
7 our Building 5 Campus in Bothell.

8 Q. Okay. So that would be Building 5. All right.
9 And then you don't, you said, generate sharps waste at
10 Bellevue?

11 A. Right.

12 Q. Is that a new facility?

13 A. Yeah. I've been there -- I think we started in
14 there, first of the year.

15 Q. Okay. But you haven't yet had a pickup there for
16 sharps waste?

17 A. No. They don't generate a lot of sharps waste.
18 I mean, that's the waste that's generated there. I think,
19 I've got six medium to large sized containers, which is
20 not enough to fill a tub.

21 Q. So you're basically storing it on site, until you
22 get enough for a pickup?

23 A. I have a cabinet I store it in, yes.

24 Q. What's that?

25 A. I have a cabinet I store it in, yes.

1194

1 Q. At Bellevue?

2 A. At Bellevue.

3 Q. Are you concerned with the cleanliness of the
4 tub? You said there was some kind of a film on the tub
5 that you mentioned at one point, some sort of grease
6 or you don't know what?

7 A. At times they're slimy, okay?

8 Q. Slimy?

9 A. Okay. That's the only way I can describe it.

10 Q. You don't know whether that's the result of the
11 disinfecting process that's used on washing or something
12 else?

13 A. No. I do not. I know at other times tubs come
14 in and there's not a problem, but when I've grabbed them
15 with -- I use my nitrile gloves and my hands slide around
16 on them; there's something wrong, okay.

17 MR. HAFFNER: Did we get into the record how to
18 spell nitrile?

19 JUDGE RENDAHL: I think that was yesterday, but
20 today it will be, N-I-T-R-I-L-E, is my understanding. Is
21 that correct?

22 THE WITNESS: (Nods head.)

23 JUDGE RENDAHL: The witness nodded, I will note.

24 THE WITNESS: Oh, yeah. That's correct. Sorry.

25 BY MR. JOHNSON:

1195

1 Q. You're not the only person at ICOS Corporation
2 that deals with Stericycle personnel are you?

3 A. No. I deal with them 95 percent of the time. My
4 assistant, the times that I'm not there.

5 Q. And Brad Wong, as well?

6 A. Brad Wong, if neither one of us is available, he
7 probably deals with them one percent of the time.

8 Q. You're talking about a "coming to pick up
9 relationship" with the context of the driver and all
10 that --

11 A. Yes.

12 Q. -- with you. With the office in Kent, for
13 example, would Brad Wong have more contact than you?

14 A. More than likely, it would be me.

15 Q. But maybe some combination of the two?

16 A. It could happen.

17 MR. JOHNSON: That's all I have.

18 JUDGE RENDAHL: All right. Anything further,
19 Mr. Haffner?

20 MR. HAFFNER: No, Your Honor.

21 JUDGE RENDAHL: Thank you, very much,
22 Mr. Campbell, for being here this morning, and you are
23 excused.

24 THE WITNESS: Thank you.

25 JUDGE RENDAHL: Thank you, very much. And we are

1196

1 off the record.

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

3

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

5 (1:30 p.m.)

6 JUDGE RENDAHL: We have just come back from our
7 lunch, and we're going to take some testimony from
8 Mr. Calney. And if you would state your full name and
9 work address, for the record, please.

10 THE WITNESS: Okay. My name is Christopher Allen
11 Calney and it's 720 Broadway, Seattle, Washington and it's
12 98122.

13 JUDGE RENDAHL: Could you raise your right hand
14 please?

15 (Witness Christopher Allen Calney was sworn.)

16 JUDGE RENDAHL: Okay. Please go ahead,
17 Mr. Haffner.

18 MR. HAFFNER: Thank you, Your Honor.
19 Whereupon,

20 CHRISTOPHER ALLEN CALNEY,
21 Having been first duly sworn, was called as a witness
22 herein and was examined and testified as follows:

23

24

25

1197

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

2 BY MR. HAFFNER:

3 Q. Mr. Calney, can you state the name of your
4 employer, please?

5 A. Pacific Northwest Research Institute.

6 Q. What is the location of that employer?

7 A. 720 Broadway, Seattle, Washington 98122.

8 Q. What is your position with your company?

9 A. I am the Health and Safety Manager.

10 Q. How long have you been in that position?

11 A. Been there since December of 2003, and I've been
12 at Pacific Northwest Research for 4 years.

13 Q. What does Pacific Northwest Research Institute
14 do?

15 A. We're a cancer research, diabetes research
16 non-profit organization. We just recently switched our
17 focus to diabetes and obesity research.

18 JUDGE RENDAHL: Okay. And you want to just slow
19 down just a bit.

20 THE WITNESS: Oh, sorry. You warned me about
21 that. We talk fast in labs. So --

22 BY MR. HAFFNER:

23 Q. What are your responsibilities there with the
24 company?

25 A. My responsibilities, right now, are to manage all

1198

1 the facets of health and safety. So that -- with regards
2 to chemical hazards, radiation lab hazards, ergonomic
3 issues -- basically hazard mitigation for any of the
4 operations that we have at our facility.

5 Q. Thank you. And if you can, as you're doing that,
6 maybe direct your responses more towards the center of the
7 table instead of directly to me?

8 A. Yeah, sure.

9 Q. Do your responsibilities include making decisions
10 for your company in regard to the treatment and disposal
11 of medical waste?

12 A. Yes, they do.

13 Q. What types of waste does your company generate?

14 A. Generates chemical waste, biohazardous waste,
15 radioactive waste, and then just regular universal waste.

16 Q. You say biohazardous waste. What do you consider
17 to be biohazardous waste?

18 A. For our streams, are typically cell culture
19 medium. We have carcasses, rats and mice. We have
20 sharps, which range from razor blades to glass pipe heads,
21 that are used in tissue culture experiments, to needles,
22 predominately. But sometimes broken glass from, you know,
23 that contain either biohazards or chemical substances if
24 there's a spill or a break, that's a sharp, too. So --

25 Q. All right. Can you give us an estimate of the

1199

1 volumes that your company generates each month of these
2 different waste areas?

3 A. Not a very accurate one, no. We have a shipment
4 that's going out pretty soon. We have one, I think it's
5 50 gallon drum of chemical solvent waste, that goes out
6 probably every four months. We have -- as far as
7 carcasses -- we have probably two -- probably, somewhere
8 like between four and seven a month, I would say.

9 Q. Four and seven --

10 A. Sorry. Four and seven tubs, somewhere between
11 four and seven tubs per month. Typically two or three on
12 a two week period, going out.

13 Q. The chemical solvent that you described, is that
14 considered by you to be a medical waste or is that a
15 hazardous waste?

16 A. It's a hazardous waste, unless you drink it.

17 Q. And let me go back to an area that I should have
18 addressed earlier. Where does your facility or business
19 operate in the State of Washington?

20 A. Seattle.

21 Q. And only Seattle?

22 A. Um-um. We have collaborations with other
23 organizations that are all around the world, but we
24 operate our facility our -- my only health and safety
25 scope is within Seattle, actually, at that institute, and

1200

1 then wherever our waste goes.

2 Q. But your Seattle facility is the only facility at
3 that generates medical waste?

4 A. Yes, we're a single-building facility, if that
5 answers your question.

6 Q. Yes. And if you could also try and not talk over
7 the top of me --

8 A. Sorry.

9 Q. -- or any of the other attorneys that are asking
10 questions, as well as the judge.

11 A. Sorry.

12 Q. Who is the current provider of your medical waste
13 transportation collection service?

14 A. Stericycle.

15 Q. Have you contacted anyone else in the last three
16 years to provide that service to you?

17 A. At this moment, there is nobody else to contact.

18 Q. So have you tried to contact any other facilities
19 during that time.

20 A. No, I haven't. When I started in December, I was
21 moving from cancer research to Health and Safety, and so I
22 was learning what the environment was about. And it was
23 made very clear that there weren't any options available
24 from other -- my contemporaries in Health and Safety in
25 other industries and other biotechs.

1201

1 Q. During those last three years, has any other
2 company contacted you or your company about providing
3 medical waste transportation and collection?

4 A. No.

5 Q. Does your company have a preferred method of
6 treatment and/or disposal of medical waste?

7 A. Incineration.

8 Q. Why is that?

9 A. It eliminates everything. So there's no more
10 waste, liability purposes.

11 Q. How is your waste currently being incinerated?

12 A. It's being shipped to Utah and incinerated at the
13 Stericycle facility in Utah.

14 Q. If you had an opportunity to have that
15 incineration occur in a closer facility such as in Brooks,
16 Oregon, would you prefer that?

17 A. Yes, I would, very much.

18 Q. Are you experiencing any problems with
19 documentation of the service provided by Stericycle?

20 A. We would like to have -- and it is for our
21 liability purposes, where it is necessary to have a
22 signature -- and that is industry wide preference that has
23 been asked for repeatedly, over for a very long time to my
24 understanding, from, again, the contemporaries that I talk
25 with.

1202

1 Q. Now, when you say that you want a signature, what
2 are you wanting that signature on, and why do you want
3 that signature?

4 A. Basically as far down the line as possible. We
5 generate our waste at our facility, and then we hand it
6 over to a shipper and transporter. Now, that person is
7 going to sign that they have received that waste -- a
8 certain quantity of that waste, from us -- and then they
9 are going to ship it to where they tell us they are going
10 to ship it.

11 Now, under the current situation we believe our
12 shipments are going to Utah, but there is no validation of
13 that, other than the paperwork that we get back from
14 Stericycle. What we would like to see is that there is a
15 human being signature, someone who is liable, who knows
16 that they have the weight of that responsibility on their
17 shoulders. So that they know, I can't just sign this
18 piece of paper because I have to -- because it's going to
19 be my tail on the line if something happens with this
20 shipment. Right now, it's kind of my tail on the line if
21 I can't validate that that shipment was actually
22 incinerated.

23 Now, if something were to happen, say some -- you
24 know, say the truck was in a car wreck or something and
25 jackknifed, and there was biohazardous debris someplace

1203

1 else or hypothetically we contracted -- the reason the
2 regulations are set up the way they are is so that
3 contract with just anybody, who will actually do due
4 diligence to make sure that they are credible; that they
5 have a facility to treat the actual waste that we're
6 generating. They won't just go dump it out in the woods
7 someplace. So the more we can define that actually to a
8 particular person the less liability that we have. And
9 that's our objective right there. We want somebody who is
10 going to take responsibility to see that that solid waste
11 is going to be destroyed, or as best case scenario, as far
12 down the line as possible, dropping it off at that
13 facility, you know, now that person is liable for each of
14 our boxes of waste, bar code, what have you, and dropped
15 it off at that facility in, hopefully someplace closer
16 than Utah.

17 And then that way if there's an incident and we
18 get inspected, I have all of my details very well
19 defined. And I can say; well, that piece of waste that
20 you're discussing, that bar code, is actually from this
21 shipment and that was last seen by this character, and he
22 dumped it off at the facility. If I can show that, we're
23 clean. Right now we're obligated under the regulations
24 to -- cradle to grave, which I'm sure you guys have heard
25 a hundred of times -- to control to the best of our

1204

1 ability the handling of that waste and any mitigation
2 associated with that waste.

3 So, with that -- for the fact we just get this --
4 a computer generated piece of paper, your waste has been
5 handled in local, state, federal regulatory fashion. The
6 reason that -- I mean, that's just a piece of paper,
7 there's no trail to actually hunt it down, and there's no
8 identity to place on that. In order to do an
9 investigation and to find out what was going on is very
10 unlikely if that were to happen. If something happens
11 they will say how come you weren't sure. It would be
12 easier to -- prosecution would be much easier to land in
13 my lap; how come you didn't know that this was destroyed.

14 But under the circumstances that we have right
15 now, there's no other option. And every time we have
16 asked for these features, and in the past every time the
17 industry has asked for these particular features because
18 these -- these problems have been around for a very long
19 time, and the issue is that we can't negotiate with
20 Stericycle. It's not in their best interest. Their
21 priorities for managing -- it's my perception, the feeling
22 that I'm getting -- I believe that it's not in their --
23 how do I say that -- it's more advantageous for them to
24 take care of other situations as opposed to our liability
25 concerns -- not because they're trying to deliberately

1205

1 skirt it, I'm not saying that -- I'm saying -- I'm just
2 saying that it's not really an issue to them because it
3 doesn't have to be.

4 Q. Have you tried to address this issue, regarding
5 this lack of a signature, the absence of a signature with
6 Stericycle?

7 A. Yes. Well, I called our customer service
8 representative and asked them, because my first
9 introduction to the whole problem -- again, I've been in
10 this situation for less than a year, and my purposes at
11 PNRI are to specifically -- to make the whole operation of
12 waste management quantitative and transparent. That's
13 what I'm after right now. And that's generally the theme,
14 is basically the idea -- kind of a new -- the idea is to
15 take accounting principles and apply them to waste
16 management. That seems to be the direction that it's
17 going in. So, 'cuz it's credible, you know, it's
18 transparent, you can see it.

19 Q. What kind of a response did the customer service
20 representative from Stericycle provide you?

21 A. First, she was very helpful. She was willing to
22 do anything that I would ask her, anything that would help
23 me out. And then I asked her, well, okay, I would like a
24 signature, Certificate of Destruction, and I would like to
25 use a facility that's closer than Utah. And she's like,

1206

1 okay, I'll call; I'll talk to my superiors; and I'll get
2 back to you. And then when she got back to me, all she
3 said was; well, that's the kind of the industry standard,
4 other biotech companies are comfortable with that
5 arrangement. That's all that's being offered. And so it
6 was -- it was the response I expected to get, but I was
7 just following up on what I was hearing from my
8 contemporaries, to make sure that that was in fact the
9 case. And ask if there was any way we could negotiate
10 that or make some other arrangements.

11 I know that there are incineration facilities
12 closer than Utah, and would be in our best interest to not
13 have it not go such a great distance, and she said that's
14 not possible.

15 Q. Okay. What type of containers are you currently
16 using?

17 A. Right now, it's the tubs; it's the regular tubs
18 that everyone else uses.

19 Q. Do you have a preference for the type of
20 container you would like to use?

21 A. Preferably we would like to have cardboard boxes.

22 Q. Why is that?

23 A. Because they will be destroyed entirely. It
24 would be a closed system. So there would be -- like at
25 this point you have a tub -- and this is in our facility,

1207

1 but just in general -- the operators are going to have to
2 open that to dispose of the waste that's inside of it. So
3 there's an open situation. Whereas if it's boxed, they're
4 only handling the box, they put the box in the incinerator
5 and it's gone. And there's no longer -- it's one extra
6 layer from contact to the thread so -- and also when we
7 receive boxes, you know, they're just unpackaged boxes,
8 you know, they have had no previous contact with other
9 facility's waste streams, whereas right now we get tubs
10 back but -- I'm sure -- I mean, I know they steam clean
11 their tubs. I know that they do that, but we work with a
12 lot of, a lot of our waste streams are autoclaved and we
13 have to constantly check that autoclave to make sure that
14 it's operating in the temperature.

15 Now, it doesn't always hit that temperature. You
16 have to monitor it continuously to make sure that it does
17 that, and then occasionally it doesn't hit it, which means
18 it's not killing the bacteria. So I have no way of
19 controlling how diligent their facility is in maintaining
20 the appropriate temperature for destroying all the
21 bacteria. So when I get these tubs, they could very well
22 look clean, but if the microorganisms that previously were
23 on the biohazardous waste from other facilities has not
24 been decontaminated, then that can actually come into our
25 facility.

1208

1 Now, we only use the tubs for our animal
2 facility, and the problem here is that a number of --

3 THE WITNESS: Am I talking too fast? Okay.

4 COURT REPORTER: It's okay.

5 A. -- is that a number of our -- a big problem in
6 the research industry in general with animal facilities is
7 that the mice do not have immune systems, because the
8 immune system attacks things that you're trying to work
9 with, so they're very susceptible to infection, so you
10 have to really watch them very carefully. So any outside
11 contact, any variable that you can mitigate is extremely
12 desirable to mitigate. And we had a recent problem
13 with -- it's Parvo it's mouse and rat,

14 MR. JOHNSON: What was that word?

15 A. Parvo, P-A-R-V-O. It's very common in veterinary
16 clinics or pounds. There's a dog version of Parvo. It's
17 a virus that infects animals. Anytime you have a lot of
18 animals altogether -- I believe there's a chicken Parvo
19 too, but I'm not too certain of that -- but anytime you
20 get a lot of animals together, generally they're very
21 susceptible to Parvo. So it's very infectious, very hard
22 to get rid of, so we actually have a system to -- there's
23 a lot of systems in place to protect you against an
24 outbreak of Parvo. We just recently had two -- what we're
25 calling false positives, but essentially two of our

1209

1 Setinal Mice were infected with Parvo. And this happens
2 in laboratories all the time around -- in the area in
3 particular, and the idea is that it is probably coming
4 from the lab that manufactures those mice, but there's a
5 lot of evidence that would support -- because this is a
6 scientific community -- we analyze things -- and there is
7 a lot of evidence to support that it is not the case that
8 it's coming from someplace else.

9 We would really like to be able to eliminate the
10 tubs as being one of the potential carriers. If we have
11 it in cardboard boxes, it's no longer an issue. If we had
12 the option of switching to cardboard boxes, we can at
13 least test the variables to see that if we maybe use, you
14 know, if we have a Parvo -- if Parvo shows up, maybe three
15 times in two years, if we switch to boxes say for two
16 years, and we get no outbreak then we can be reasonably
17 assured that we've managed the problem.

18 Q. I believe there's --

19 MR. SELLS: Excuse me, Your Honor, this is not an
20 objection, but when I'm reading this testimony a year from
21 now, the very form, I think of the answers, I think is
22 going to create some problems for everybody. I'm thinking
23 that maybe if we had more questions and shorter answers
24 that maybe we would be a lot better off.

25 MR. HAFFNER: They're pretty open-ended

1210

1 questions, Your Honor, and I think he is getting his whole
2 explanation in. This is a witness that does give a lot of
3 information when you talk with him, I agree. But this is
4 the nature of his way of talking.

5 MR. SELLS: And, again, I'm not objecting; I'm
6 just interjecting, I guess. I just think it's going to a
7 be problem down the line somewhere.

8 MR. HAFFNER: Fortunately, we have very few
9 questions left. So it's --

10 MR. SELLS: All right. I should have waited
11 then.

12 JUDGE RENDAHL: Let's keep going.

13 MR. HAFFNER: Thank you, Your Honor.

14 BY MR. HAFFNER:

15 Q. I believe that, and Mr. Johnson will certainly
16 address this, but I believe there is evidence that
17 Stericycle offers not only boxes, but tubs. Have you
18 approached Stericycle about using boxes?

19 A. The information that I have gotten, is that we
20 can just use the tubs, that the boxes go to another
21 facility -- or like a -- or something along those lines.
22 But it was never a very clear definitive answer as to why
23 we couldn't use boxes, it was just because.

24 Q. Have you ever tried to contact Stericycle about
25 that?

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1 A. Not really. Because there's talking -- I'm still
2 relatively new to this. The message from my professional
3 community is overwhelmingly -- I mean, everybody is having
4 kind of the same situation. So once I called the -- once
5 I called my representative and asked her target questions,
6 you know: Can I get a signature? Can I get boxes? Can I
7 go someplace closer? And I got a very, you know, well,
8 everybody else is doing it, and we're really not going to
9 talk about it anymore, as opposed to well, let's work with
10 it or something like this. I could tell that the answer
11 was pretty finite. So it matched what everybody was
12 saying, so I really didn't pursue it too much.

13 Q. Has Stericycle ever provided you or your company
14 with training on handling medical waste?

15 A. No.

16 Q. Has Stericycle provided you or your company any
17 manuals for handling medical waste?

18 A. Not that I'm aware of, no.

19 Q. How do you currently segregate your medical
20 waste?

21 A. Right now, it's just carcasses and sharps; sharps
22 in plastic bins.

23 Q. And do those bins then go in the plastic tubs?

24 A. Yeah. I believe we just load it up and send it
25 out. Because it's all going to be incinerated, because

1212

1 incineration is better for liability purposes.

2 Q. There's been evidence in this hearing that
3 Stericycle received a notice of violation for not
4 immediately reporting a spill after boxes of medical waste
5 transported by Stericycle were found along the roadway.
6 Is that a matter of fact that would concern you?

7 A. Oh, yes. That's a matter of concern. Mostly,
8 it's just the management of the issues, you know. Yeah,
9 that would concern me.

10 Q. Would it also concern you, to find out that
11 Stericycle's Morton treatment facility was once shut down
12 because of concerns about tuberculosis?

13 A. Yes, that concerns everybody.

14 Q. What is your feeling about increasing the
15 competition in this field of service?

16 A. I think it would be a huge benefit.

17 Q. Why?

18 A. Well, there is no doubt in my mind that
19 Stericycle is a -- Stericycle is a competent company.
20 They do offer a service, but the fact that they are a
21 monopoly means that their priorities are arranged
22 differently. So because there's no avenue for
23 negotiation, all they have to do is match what is
24 generally perceived by the regulatory agencies as
25 passable, which in many cases, the regulatory apparatus is

1213

1 not all that proficient with "closing the net," so to
2 speak.

3 So it's very important for us, since we're
4 responsible from cradle to grave that we sort of take --
5 and that's what the regulatory agencies want -- because
6 scientists sort of -- it's very detailed so, you know,
7 since we create it, they want us to manage it as best we
8 can. So it's kind of like that. So we want to have as
9 much control over it as possible.

10 Q. Do you think in your service that you're
11 currently receiving would be improved either by Stericycle
12 or someone else --

13 A. Absolutely. Absolutely.

14 Q. Let me finish the question.

15 A. Sorry, sorry.

16 Q. -- either by Stericycle or by Kleen if additional
17 competition was allowed in this marketplace?

18 A. Absolutely.

19 Q. How is it that you are familiar with the existing
20 services of Kleen Environmental Technologies?

21 A. I contract with them for chemical waste disposal.

22 Q. What types of chemical waste do they handle for
23 you?

24 A. Toxics, flammables, irritants, highly toxics,
25 corrosives. Anything that -- anything that cannot go down

1214

1 the sink.

2 Q. Do you know how long Kleen has been providing
3 these services to your company?

4 A. Before my time and at least three years, absolute
5 minimum of three years. I found paperwork that goes back
6 considerably farther. I would like to say '92, but I'm
7 not absolutely certain about that.

8 Q. Okay.

9 A. So I don't know.

10 Q. Are you aware of whether you or your company has
11 receive any training from Kleen on the handling of
12 hazardous materials?

13 A. Yes. I have, actually. Our company contracts
14 Kleen to basically be an arm of our chemical handling
15 transportation elimination services. So they sort of
16 out-source. So that's kind of the role that they're
17 filling for our company, is that they out-source a lot of
18 that -- especially -- especially transportation because a
19 lot of those regulations are continually changing.

20 Q. Have you found that training to be helpful?

21 A. Extremely, yes.

22 Q. Do you find them to be knowledgeable in the area
23 of regulation of hazardous materials?

24 A. Yes.

25 Q. Do you believe that they will be competent to

1215

1 follow those regulations regarding medical waste?

2 A. Yes, I do.

3 Q. Are you satisfied with the current service you
4 are receiving from Kleen Environmental Technologies?

5 A. Yes, I am.

6 Q. Do you see a benefit in the consolidation of your
7 hazardous and medical waste management into one company?

8 A. Yes, there is potential benefit for that.

9 Q. And why do you see that as a benefit?

10 A. Again, less variables -- easier to manage, more
11 of an administrative benefit than anything. Easier to
12 keep it all together. Like being a waste stream instead
13 of being bioradioactive and chemical -- as far as the
14 management of that, it would be just waste stream
15 essentially; it would be just one channel, which would be
16 helpful in some respects.

17 Q. Are you aware of the services that Kleen
18 Environmental proposes in this application?

19 A. Um-um, yes.

20 Q. And are you aware that they are offering only a
21 limited type of container by using only cardboard boxes,
22 which would be primarily for incineration?

23 A. That is acceptable for our situation. For our
24 particular institute, that is what we would prefer.

25 Q. Would you like to be able to use Kleen as a

1216

1 source for your medical waste transportation needs?

2 A. Yes, I would.

3 Q. Why?

4 A. Well, I have more contacts -- I've had more
5 contacts in the past with Kleen representatives. The
6 information is more forthcoming, like I said, I just began
7 working in the Health and Safety industry in December. So
8 I've been learning a lot very quickly. And I don't have
9 time, typically, to wait two weeks for an answer, or for
10 incomplete answers. I have very specific questions
11 pertaining to specific chemicals, very detail oriented
12 questions, so I need specific answers. I need answers
13 that are credible with the regulations. I need someone
14 who's going to be there and is a knowledgeable source.
15 And with Kleen, I get to talk directly with the person who
16 is responsible for that, as opposed to a customer service
17 person who has no scientific background whatsoever. So
18 that's a big feature that I particularly like.

19 I'm more comfortable with Kleen Environmental's
20 management. It's easier to see, I can audit facilities by
21 driving down the road. I don't have to go to Utah to go
22 to the facility. I understand there have been problems
23 with the audits at the Utah facility, and their Oregon
24 facility -- Stericycle facilities. You know, roadblocks
25 like that are not very helpful in managing these hazards.

1217

1 MR. JOHNSON: Excuse me. I don't understand what
2 roadblocks you are referring to, sir.

3 JUDGE RENDAHL: Well, Mr. Johnson, you'll have an
4 opportunity in cross-examination to inquire in that.

5 MR. JOHNSON: It seems like he just went off into
6 a different subject without any grammatical relationship
7 to the prior one.

8 JUDGE RENDAHL: You may inquire into that in
9 cross-examination.

10 MR. JOHNSON: Okay.

11 BY MR. HAFFNER:

12 Q. Are you completed with your answer?

13 A. I can explain further.

14 Q. Well, you can leave that to cross-examination.

15 A. Sure.

16 Q. You mentioned auditing the facility, and I think
17 you were referring to Kleen's facility by driving down the
18 road. Are you referring to the Oregon incinerator?

19 A. Brooks is much easier to get to than Utah, and
20 it's more likely we can get there and view the facility in
21 operation. It's just more convenient. There's a lot
22 of -- we have a lot of communication in Health and Safety
23 professional network. You know, if one person goes and
24 audits the facility, you know, they can brief everyone
25 else about, you know, what they see and they can actually

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1 get prepared before they go, from everyone else in the
2 industry; like what kind of questions they want to ask,
3 what do we need to see, you know, we take video, you know,
4 it's like taking a full tour, you know. Generally that's
5 how our community operates, is that, you know, why we're
6 at -- the wheel, you know, every single -- there's a lot
7 of biotech research firms out there, and a lot of us do
8 the same thing.

9 Especially with how it pertains to our waste
10 streams. If somebody wants to go audit a facility and it
11 passes with all flying colors, to our standard of quality,
12 then there's really not much incentive for somebody else
13 to go do the same thing, unless they just want to be sure
14 and be very validated on that.

15 Q. Are you aware that the Oregon incinerator is not
16 operated by Kleen that, it's operated by the county?

17 A. Okay.

18 Q. I just want to make sure that you realize that
19 that's not something that Kleen operates; they use it as a
20 contractor.

21 A. As long as it is operating at a level that we
22 feel is satisfactory, it doesn't matter who is responsible
23 for it.

24 Q. Would you like to see this application by Kleen
25 Environmental Technologies granted?

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1 A. I would; I would.

2 Q. Thank you.

3 MR. HAFFNER: No other questions for the witness,
4 Your Honor.

5 JUDGE RENDAHL: Okay, Mr. Johnson.

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

7 BY MR. JOHNSON:

8 Q. Thank you, sir. My name is Steve Johnson. I'm
9 representing Stericycle of Washington. I'm going to ask
10 you a few questions. If you don't understand or I'm
11 confusing to you about what I asking, please stop me, and
12 I'll try again.

13 I wanted to just go back to the very beginning
14 and see if I understand what Pacific Northwest Research
15 Institute does. You indicated that it had started in one
16 set of fields recently, and I think said you focused on
17 something else. Can you just go through that for me?

18 A. Yes. We initially -- we're a nonprofit basic
19 disease research facility and initially we were
20 concentrating on cancer and diabetes research. We were --
21 our facility is actually the predecessor to Fred
22 Hutchinson cancer research. So there was a lot of cancer
23 researchers who were on board. Recently, many have left
24 or retired.

25 We are predominately staffed with diabetes

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1 researchers and there is a recent incentive by the AMA and
2 by insurance companies to cover obesity and to cover
3 obesity with insurance. So there's a big drive to
4 actually fund research for obesity. So obesity is not
5 directly linked, but somewhat linked to diabetes, so we
6 have some obesity research going on right now. So we have
7 actually changed our mission statement to be diabetes and
8 obesity research.

9 Q. And just so I understand, the waste stream that
10 your institute generates, you mentioned chemical,
11 radioactive biohazards. I'm sorry, these were your
12 responsibilities. You mentioned chemical, biohazardous,
13 radioactive and universal, I think?

14 A. Yes. Universal is a blanket term for solid
15 waste.

16 Q. General solid waste?

17 A. Yes.

18 Q. Is most of your waste in one category or another;
19 let's exclude general or universal solid waste.

20 A. Hm-hmm.

21 Q. How about in chemical, and biohazardous and
22 radioactive waste; what is the bulk of your waste?

23 A. We'll, second general -- it's mostly -- well, I
24 would say all three. I mean --

25 Q. Equal amounts.

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1 A. Approximately, it's enough to keep me busy.

2 Q. Okay. And I think you said that you generate
3 four to seven tubs of biomedical waste each month; is that
4 right?

5 A. Around there. Sometimes it's approximately two
6 every two weeks, sometimes more, sometimes it's less.

7 So --

8 Q. So you might say average four?

9 A. I would say four a month, or maybe more.
10 Especially recently -- at the end of projects, it really
11 ramps up. So it's kinda hard to -- it sort of tapers and
12 then when protocols are closed out, we get higher volumes.

13 Q. Okay. But if I understood the earlier part of
14 your answer, four might be kind of a long term average,
15 and then it spikes up to seven or something from time to
16 time?

17 A. Somewhere in there. It fluctuates between four
18 and seven, I would say.

19 Q. And this is on a monthly basis?

20 A. yes. I believe.

21 Q. Now, when you say that incineration is preferred
22 by your facility, are you referring to a policy that's in
23 place at some level, or is this your own view?

24 A. Okay. So I would like to make this clear. I am
25 here representing our Health and Safety Department because

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1 I am the Health and Safety Department. It is only me.
2 And I have liability issues because of the way the
3 regulations are structured, and they're kind of
4 worrisome. So it is my job to basically structure our
5 policy and to make it as accommodating as possible for our
6 institute.

7 Q. Okay. But you're not actually authorized by the
8 institute to speak for higher-ups?

9 A. No. I'm not speaking on behalf of PNRI. I'm
10 speaking on behalf of The Health and Safety Department of
11 PNRI, which is myself and people that work under me, to
12 carry out the duties of Health and Safety to make sure
13 that we're in compliance with the law.

14 Q. Okay. And when you say incineration is the
15 preferred disposal method, that is your personal
16 preference?

17 A. Yes, it is.

18 Q. And have you cleared with folks upstream in terms
19 of whether they agree with that, or disagree, or do they
20 just leave that up to you?

21 A. It's inherited, I mean it's left to me. But it's
22 essentially inherited. We've -- and also it's pretty much
23 as far as dealing with these streams, it's generally kind
24 of an industry standard to want that.

25 Q. For biotechnology companies?

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1 A. Yeah, I mean, that's what -- I mean -- that's
2 what everybody says they want. They want incineration
3 because it just gets rid of everything.

4 Q. Okay. But when you say it gets rid of
5 everything, it doesn't get rid of incinerator ash, does
6 it?

7 A. Well, if they process -- if they scrub it
8 correctly, then it should be all taken care of.

9 Q. Is it your understanding there is no ash residue
10 from incineration?

11 A. It's my understanding there is no more hazardous
12 byproducts from the incineration process. The
13 incineration is actually the cleanest option that is
14 available.

15 Q. Have you actually investigated that because --

16 A. Yes.

17 Q. Because there are a variety of other sources that
18 are concerned about incinerator ash; as I assume you
19 know.

20 A. Well, I'm not an expert in that particular focus
21 of the issue. I know that chemical waste incineration is
22 preferred because it actually destroys the toxic
23 properties or it --

24 Q. I believe --

25 A. -- for viruses, microbes, any kind of pathogenic,

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1 you know, you get up to a certain temperature, it's going
2 to destroy it. In autoclaving, which would not generate
3 incinerator ash, there's the risk that it's not getting
4 cooked completely because you're trying to keep it at a
5 lower temperature, whereas if you just jack that
6 temperature up right past the level and just annihilate
7 everything -- well, there's not going to be any pathogenic
8 responses for that.

9 Q. Excuse me. Well, you're talking about cultures,
10 for example, now, right?

11 A. Yes. Tissue cultures, yes.

12 Q. Have you investigated the qualities of the
13 incinerator ash that are produced from biomedical waste
14 incineration?

15 A. No, no. It hasn't been a focus of anything that
16 I've worked with.

17 Q. So you're not aware of the environmental issues
18 related to incinerator ash, if there are any?

19 A. At this moment, it has not become a priority as
20 far as everyone incinerates. So right now, it is an
21 industry standard because it is perceived to be the
22 healthiest way of dealing with the problem at hand, which
23 is our biohazardous waste.

24 Q. By industry, you mean within the biotechnology
25 sector?

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1 A. As far as I'm aware of it, yes.

2 Q. How long have you been working the biotechnology
3 sector?

4 A. In the biotechnology sector, in Seattle, for the
5 past four years.

6 Q. Okay. And, I guess, I need to be refreshed as to
7 your work history. You started with the institute in
8 December of 2003, correct?

9 A. I started as the Health and Safety manager.

10 Q. Okay. What position did you hold before that?

11 A. I was a Research Technician, Level 3, doing
12 cancer research.

13 Q. Within the institute?

14 A. Within the institute, and I was the Health and
15 Safety Officer for our laboratory. So I've been involved
16 in Health and Safety issues since -- from an operational
17 level -- since the beginning, but now I'm managing the
18 situation, which means you get to redirect.

19 Q. Okay. Now, you mentioned the regulations and you
20 indicate that the regulations impose some legal liability
21 on you with respect to disposal of your biomedical waste?

22 A. There is the potential for liability.

23 Q. But that liability doesn't derive from the
24 regulations, does it?

25 A. We are responsible for our waste from cradle to

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1 grave because of the complicated and technical nature of
2 science and the byproducts from that. Many of the
3 regulations and the legislation that is passed on that is
4 at a qualitative level. They want a certain standard of
5 health -- they're not concerned with how you get there.
6 They're not going to tell you how to do your job, or what
7 to do for your job. They just want to make sure that, you
8 know, if something comes in, it's documented, it's
9 documented for use, and documented when it leaves the
10 building and it's documented at destruction. My job is to
11 keep a paper trail that is both quantitative and
12 qualitative for beginning to the end of the process of the
13 whole thing.

14 Q. Okay. What regulations are you referring to?

15 A. I would -- I need the statutes to go through and
16 pick up. But generally the WAC codes 296, and then
17 it's -- yeah, that's right.

18 Q. Now, are you aware of the differences in the
19 requirements that apply to disposal of hazardous waste
20 versus biomedical waste?

21 A. I know there are differences.

22 Q. Do you know what the differences are?

23 A. Not specifically.

24 Q. My impression is that you are approaching
25 biomedical waste using the hazardous waste model, would

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1 that be correct?

2 A. Not so much. I understand -- I understand about
3 hazard litigation in the general principles and I know
4 that there are regulatory variations for shipping
5 hazardous substances, and so I know the transportation
6 is -- I know -- I have the general theme for the
7 regulatory environment for specific hazards. What those
8 specific regulations are, I can't throw them out. But --
9 and that's -- and a large part -- that's what we use
10 Stericycle and Kleen out for. They're going to come and
11 pick up the waste, and they're going to transport it. So
12 they're going to make sure all the I's are crossed and the
13 T's are dotted, or you know what I mean.

14 JUDGE RENDAHL: Or the reverse.

15 Q. But you're aware that Kleen Environmental
16 Technologies has never been involved with biomedical waste
17 and collection handling?

18 A. Yes, I'm aware of that.

19 Q. And they don't claim, at least in their testimony
20 is that they don't have any expertise in that?

21 MR. HAFFNER: Objection. I don't think -- well,
22 expertise, maybe. You might be right. I'll withdraw the
23 objection.

24 JUDGE RENDAHL: Will you rephrase your question,
25 Mr. Johnson?

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1 MR. JOHNSON: Yes.

2 JUDGE RENDAHL: In a hypothetical form --

3 MR. JOHNSON: I guess --

4 JUDGE RENDAHL: Because the witness has not been
5 here the entire time.

6 MR. JOHNSON: All right.

7 BY MR. JOHNSON:

8 Q. I guess what I am saying is: Would it be of
9 concern to you to contract for biomedical collection and
10 disposal services with a company that has no expertise in
11 that area?

12 A. Well, I understand -- okay. At this point it's
13 not a concern because, it's a big -- because -- is because
14 I know how -- I'm familiar with Kleen Environmental and
15 how they manage themselves on the chemical hazard aspect.
16 And when I ask them questions, I get very informative,
17 very direct, very detailed answers, very quickly. I like
18 that. I like the ability that they present to me as far
19 as my need for information. And, you know, which is
20 always growing too. So I'm sure that they would have the
21 same kind of business ethic when they enter into any
22 business that they enter into. I mean, starting a
23 biomedical waste transportation -- you have to learn the
24 regs, you have to understand the handling, you have to
25 understand the risks. I understand that they understand

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1 the hazardous waste management. So they understand the
2 ideas, you know, of taking care of the employees, they
3 understand not letting these things leak out, the
4 understanding of control.

5 As long as they can control the shipment from
6 beginning to end, document the shipment has been
7 controlled appropriately, and basically keeping anything
8 bad from happening, that is my main objective. Whether or
9 not they -- I don't know -- rotate their tires up to code
10 or something like that, I have no way of controlling
11 that. I don't actually know -- that is -- but those
12 problems are their problems. Once they sign that piece of
13 paper, I'm giving them responsibility to chaperon the
14 waste. And I want as much credibility in that response --
15 when I give them the waste, I want their assurance that
16 they're going to be responsible for that. And so that's
17 the idea of the signature.

18 Q. Mr. Calney, don't you also want to know that
19 they're actually handing the waste?

20 A. Oh, absolutely, absolutely.

21 Q. I mean, you can get all the paperwork and the
22 accounting and they're dumping the stuff out back, that
23 doesn't work for you, does it?

24 A. Not at all.

25 Q. Okay. Don't you need to know that the company

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1 that's collecting and handling your biomedical waste
2 understands and has expertise in the rules and regulations
3 that govern the handling of the biomedical waste in order
4 to protect the public's health and safety?

5 A. Absolutely. I do know that. But what's more
6 important is that I need to -- in order for me to check
7 the quality of that knowledge -- I mean, like is the
8 information in their head? I need to see the operation.
9 Right now, seeing the operation in Utah is not feasible,
10 but I can go to Oregon.

11 Q. Okay. But we are talking for starters about just
12 the collection?

13 A. Yeah, yeah. Right, or just the -- their
14 knowledge of the regulation, correct?

15 Q. And so at the moment what I am trying to ask you
16 about is the company that is going to be involved in the
17 collection and handling of your waste --

18 A. Hm-hmm.

19 Q. -- now disposal we are going to reach in another
20 moment --

21 A. Okay. Sure.

22 Q. -- if you can hold off. But don't you need to
23 know that the parties that are going to collect and handle
24 your waste have the experience and expertise necessary to
25 follow the regulations?

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1 A. Oh, I'm comfortable with their ability to
2 assimilate the regulations.

3 Q. So you think they can learn them, if they don't
4 know them now?

5 A. I am comfortable with the fact that they are
6 maybe not experts for testimony, at this point. But that
7 they are familiar with the regulations that they're about
8 to endeavor in, and that by the time they have their
9 permit that they will be experts in -- and if there's an
10 incident, or something that shows that they are clearly
11 not, then I have the opportunity then at that point to no
12 longer do business with them.

13 Q. Have you explored their familiarity with them --
14 the regulations that apply to biomedical waste collection?

15 A. Not at this point, because I have other
16 priorities with day-to-day -- I have other priorities with
17 day-to-day job function, and they don't even have their
18 permit yet.

19 Q. Presumably, you would do some audit or
20 investigation of their operations after they get
21 authority, if they do, to determine whether to do business
22 with them?

23 A. There would be an audit.

24 Q. Okay. Are you aware that they don't currently
25 have a facility for the conduct of business proposed by

1232

1 the medical waste collection business?

2 A. It doesn't concern me, they're not in the
3 business yet, so--

4 Q. Well, again, I wish you would answer my question.

5 A. I thought I did, sorry.

6 Q. No. I didn't ask you if it concerned you, I said
7 are you aware that they don't have a facility?

8 A. Now, I am aware, yes.

9 Q. And it doesn't trouble you?

10 A. If they don't have a facility by the time I'm
11 ready to do business with them, that would concern me.

12 Q. Okay.

13 A. And I wouldn't do business with them.

14 Q. Okay. And I believe you already said you would
15 audit. So you would be checking all of this out in terms
16 of what they actually are going to do and --

17 A. Somebody would.

18 Q. Excuse me. And the actual facilities they are
19 going to use? Perhaps the trucks they're going to use
20 before you ended up dealing with them?

21 A. Somebody in the community would do an audit.

22 Q. Okay. And that brings me to another issue, when
23 you refer to the community you're referring to the biotech
24 community in Seattle; is that right?

25 A. Some of them, yeah. There's professional

1233

1 networking groups.

2 Q. Could you just describe what you mean by the
3 biotech community?

4 A. Health and Safety. Sorry. The Health and Safety
5 professionals in the biotech laboratory communities.

6 Q. And are those Health and Safety professionals
7 involved in an organization of some kind?

8 A. Yes.

9 Q. And what is the name of the organization?

10 A. I can't speak for them, but it's the HELP
11 organization.

12 Q. HELP?

13 A. HELP, Health Environmental Laboratory
14 Professionals.

15 Q. Oh, HELP, Health Environmental Laboratory
16 Professionals?

17 A. Hm-hmm.

18 Q. And so when you have spoken of things that the
19 industry has done, or heard, or tried to do, you were
20 referring to Health Environmental and Safety Professionals
21 of the Biotech Laboratory Community?

22 (Discussion off the record.)

23 A. This is a professional network where we sort
24 of -- they hold lectures, give classes, instructions of
25 hot topics in Health and Safety, go over, you know, having

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1 inspectors come out and talk, and these sorts of things.
2 So it's an environment where I can communicate with, you
3 know, and collaborate with other people in the field, and
4 talk to them about how they handle a specific situation.

5 Q. If my notes are correct, you testified earlier
6 that the Bio tech Laboratory Community believes it is
7 necessary to have a signature on a document reflecting
8 treatment or disposal of your waste?

9 A. That is the message that I am receiving when I
10 talk to my contemporaries.

11 Q. Okay. And who are you talking to?

12 A. It's general. It's people -- I mean I'm not
13 really -- I don't wanna' make it a major point. It's just
14 when I've discussed -- when we're discussing issues with
15 other people in the community, these are the issues that
16 are always hot topics.

17 Q. Okay. But anyway that's the source of your
18 information about the necessity of having a signature on a
19 document reflecting the disposal or treatment?

20 A. That is what brought my awareness to the issue.
21 And then after analyzing the situation with respect to our
22 system, I agree that it is extremely desirable to have
23 those issues, or to have those features involved in the
24 handling process.

25 Q. And when you say extremely desirable, you're not

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1 suggesting it should be required, you're just saying best
2 practices, as you see them?

3 A. Yes. Best practices as I see them.

4 Q. Now, you also, I believe, testified that the
5 Biotech Laboratory Community -- or I believe you referred
6 to it as the industry -- has repeatedly over a long period
7 of time, sought some kind of change in the documentation
8 provided by Stericycle?

9 A. Okay. Let me clarify that. It's the Health and
10 Safety Community within the biotechnology industry, is
11 what I was referring to in those. And yes, to the best of
12 my knowledge the information that I received over the
13 course of my very recent tenure here, I'm hearing that
14 extremely loud from the community.

15 Q. I said -- excuse me, were you finished?

16 A. Yeah, sure.

17 Q. That's since you took over your current position
18 over in December '03; is that right?

19 A. Right, right. So I've been learning rather
20 voraciously over the course of the last year, trying to
21 get a grip on all of the variables that are associated
22 with this system and with this environment in general.
23 It's a little bit different from what I used to do. And
24 that message above all, has been louder than most.

25 Q. Okay. Now, in terms of your own contact with

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1 Stericycle, I think you mentioned that you had made, I
2 believe -- now, correct me if I'm wrong -- you had made
3 one call to a the Stericycle customer service
4 representative?

5 A. Hm-hmm.

6 Q. And what was the name of that person?

7 A. I don't know. I just called the number that was
8 on our billing invoice, and I called customer service and
9 then said; hi. I'm Chris Calney from PNRI -- and when I
10 called, this was really only to check the information I
11 had received from everyone else. I was following through
12 and making sure the information I was getting was
13 accurate, and was -- you know -- I mean because sometimes
14 people don't investigate things, and they don't try to
15 negotiate their own deals, and they don't -- you know,
16 they just don't want to be bothered. So I was checking to
17 see if I could maybe have some luck in that area. I
18 didn't have much luck.

19 Q. Okay. When was it you called?

20 A. This would be February.

21 Q. February? And was this just the one phone call?

22 A. I believe so, yes.

23 Q. And have you tried to contact Stericycle or ask
24 them for information, except for this one phone call?

25 A. I have talked to them on a number of other

1237

1 occasions, but mostly for sales or things like that. And
2 then --

3 Q. Could you clarify what you mean by that?

4 A. Oh, they're always -- they sell OSHA regulatory
5 packets and things like this. And so I talk to
6 representatives on that capacity, but not specific to our
7 waste disposal.

8 Q. Okay. And I'm not clear what you said, you asked
9 when you contacted the Stericycle representative, I think
10 you said, that you asked about getting a signed manifest;
11 is that correct?

12 A. I was asking for a Certificate of Destruction
13 that would be signed by a person that witnessed it. And I
14 was asking for -- if we could have our hazardous waste
15 incinerated someplace closer, at another facility closer
16 than Utah.

17 Q. Okay.

18 A. Those are my main two points because those are
19 the two that affect me most.

20 Q. Okay. If I understand your testimony correctly,
21 the information that came back was a signed Certificate of
22 Destruction was not possible or what?

23 A. Yeah. It was very vague, actually. Well, first
24 it was about Utah that we talked about, and her general
25 answer was just that, well, it's acceptable to everyone

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1 else in the industry, so that's the service that we're
2 offering. And I was like okay. And then I was like how
3 about signing it, and she directed me to the printed
4 version that's on the back of the bill, I think, or the
5 invoice.

6 Q. Isn't it actually on the front of the invoice?
7 I'll refer you to --

8 A. I believe it's the --

9 Q. -- Exhibit that's in our books if you want to
10 look at it?

11 (Finding exhibits off the record.)

12 JUDGE RENDAHL: We're looking at Exhibit 67.

13 Q. So Mr. Calney, Exhibit 67 is the form of
14 Stericycle invoice, wouldn't you agree?

15 A. Yes.

16 Q. And it does have a certain verbiage on it in the
17 text below the first box, does it not.

18 A. Uh, yes.

19 Q. But it doesn't have a signature on it?

20 A. Doesn't have a signature on it.

21 Q. And that's your concern?

22 A. Yes. I would like to have a signature on it.

23 Q. Okay. Have you ever tried to track through or
24 had someone with Stericycle assist you to track through to
25 show you all the efforts that they make to track each

1239

1 container of waste they pickup from point of pick up
2 through the disposal?

3 A. I have not.

4 Q. Are you the person that signs the waste manifest
5 for the institute when Stericycle picks up waste?

6 A. No. It's usually our facility's guy, our
7 handyman. His office is down there so he lets them in
8 and --

9 Q. Okay. If you would look at Exhibit 65, for a
10 second. That's a form of regulated waste manifest, is it
11 not?

12 A. Yes. I believe it's usually yellow.

13 Q. Okay. Well, this is a xeroxed copy so that's --
14 the absence of color is explained. Isn't it the case,
15 this manifest is about identifying each and every
16 container that you deliver to Stericycle?

17 A. Hm-hmm.

18 Q. And isn't it the case, that there is a manifest
19 number, just like this form at the top, that gives you a
20 number --

21 A. Yes, yes, hm-hmm.

22 Q. -- associated with that waste that you delivered?

23 JUDGE RENDAHL: If you could wait until the
24 question is finished?

25 THE WITNESS: Right, right. I'm sorry.

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1 Q. -- right?

2 A. Yes.

3 Q. Okay. and then if you'll turn to Page 66, are
4 you familiar with this document, it's blown up, it's
5 larger than it would normally look?

6 I think the testimony that's been given before
7 would indicate that this is a computer printout that's
8 generated by the hand-held scanner that the driver carries
9 with him when he comes to pick up waste at the facility?

10 A. I have not seen this, no.

11 Q. Do you see the manifest after they have been
12 signed off, after a shipment has been taken away by
13 Stericycle?

14 A. Yes, they got put in my box.

15 Q. Does this form get stapled to the manifest?

16 A. No, I have not seen this.

17 Q. I'm going to ask you to look at Exhibit 63. Does
18 that Exhibit look familiar to you?

19 A. I'm guessing these are the bar codes they stick
20 on the tubs?

21 Q. That's what they are, I think. But I'm asking
22 you.

23 A. Okay, I haven't seen them because I don't
24 actually have very much physical contact with the tubs.
25 My role is strictly for regulations, developing policy,

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1 streamlining, and trying to make every step as
2 quantifiable as possible.

3 Q. Okay. Well, if you will accept my --

4 A. I believe you.

5 Q. -- statement for the moment that these are the
6 labels that you said that are stuck on each tub with the
7 bar code to identify the waste.

8 A. Hm-hmm.

9 Q. You understand the function of the bar code?

10 A. Yes. Yes.

11 Q. You understand that those are unique to each
12 container of waste, right?

13 A. Yes.

14 Q. Okay. You understand then that they are scanned
15 by the driver when he picks it up into the hand-held
16 computerized scanner?

17 A. Yes, I understand the process.

18 Q. Okay. You understand that, again, the bar codes
19 of the containers are scanned at various points along the
20 process of handling by Stericycle?

21 A. Yes.

22 Q. And do you understand that the bar codes of each
23 container are scanned as they enter the processing line
24 that results in treatment or disposal?

25 A. Yes.

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1 Q. And do you understand that those scanners are
2 located at both the Morton facility, where nonincinerated
3 technologies are used, and in Utah at the incineration
4 facility?

5 A. Yes.

6 Q. Okay, you do understand then that as far as an
7 accounting system is concerned and documentation,
8 Stericycle tracks each container of waste with its unique
9 bar code identifier from the point of pickup to treatment
10 or incineration?

11 A. Yes.

12 Q. Okay. And you understand that Kleen
13 Environmental has no such system?

14 A. My understanding is that they will bar code their
15 packages.

16 Q. They may; they may, right?

17 A. Right. That they will and then we can get a
18 signature. So it's just one extra feature.

19 Q. Okay. So the thought is they're going to use the
20 same tracking capability as Stericycle has?

21 A. Yes.

22 Q. Okay. Are you aware that the facility in
23 Brooks, Oregon has no scanning capabilities?

24 A. I'm not aware of that.

25 Q. Okay. Would that make a difference to you?

1243

1 A. I would want it scanned, yes. I would like to
2 also add that I am very impartial to the whole, "who
3 provides me with the best service." You know, I mean if I
4 could get clearer, you know, more trackable, more
5 transparency, then that's where I'm after. Since it is
6 tracked so well, and it is very quantifiable, I don't
7 understand why it would be difficult for someone to sign
8 off on it. So it worries me that somebody wouldn't be
9 very forthcoming to say: Oh, I'll sign off on it. It's
10 completely quantifiable.

11 So that worries me.

12 Q. Do you have a customer service representative at
13 Stericycle?

14 A. Do I have a customer service representative --

15 Q. Yes, do you know the name of your customer
16 service representative?

17 A. No, I just call the customer service line and get
18 whoever answers the phone.

19 Q. Okay. When you asked for a signed Certificate of
20 Destruction to the customer service representative that
21 answers your telephone, I gather you didn't ask for a
22 signed copy of the shipping manifest?

23 A. Just a Certificate of Destruction. Just
24 something that validates -- and she wasn't familiar or
25 completely familiar, so she went to ask her superior, and

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1 then the message she got back was that they already had
2 one that's on the form. And I said: Well, that's fine.
3 I like that, but could I get a signature on that or
4 something to that effect, so that I could get some
5 accountability.

6 Mostly it's -- you know, as far as managing these
7 problems, you know, we want, you know, we want to minimize
8 liability, increase accountability, minimize cost. That's
9 our prerogative, that's our -- that's the scale that we're
10 judging all these systems by. So if we see something
11 that's leaving us open, we just want to plug up the hole.
12 And that's just what we want to do.

13 Q. Understood. Would you be surprised that the
14 testimony here in this hearing was that Stericycle will,
15 upon request, provide a signed manifest showing signature
16 of the processing of the facility?

17 A. Well, we prefer a Certificate of Destruction, a
18 definite statement that, yes, this has been destroyed, and
19 I am responsible for that. Because what that does is it
20 eliminates anything else downstream as many -- as many
21 points in the chain downstream that are further away from
22 us. Because that's essentially what we're paying you for,
23 is to take control and relieve us of the liability.

24 Q. Okay. So a signed copy of the shipping manifest
25 that we looked at showing the receipt by the disposal

1245

1 facility would not satisfy you?

2 A. It would be helpful. But if you're going to sign
3 the manifest, why not give us a Certificate of
4 Destruction?

5 Q. I guess it depends on which piece of paper you
6 have people sign?

7 A. Well, and how they word it, I mean the wording is
8 important too.

9 Q. So you don't like the wording that's shown on
10 Exhibit 67?

11 A. I like the wording. But if they could say: I,
12 Chris Calney, certify that this material listed in this
13 manifest has been destroyed. Then I'd just be happier;
14 I'd be much happier.

15 Q. Do you know how many customers Stericycle has?

16 A. I know it's a lot.

17 Q. If I were to tell you that the testimony here
18 indicates it's almost 6,000, would that surprise you?

19 A. No.

20 Q. Do you think we could sit down with every single
21 generator and have them help us draft the certificate?

22 MR. HAFFNER: Objection to the relevance, Your
23 Honor. Just because it's a big company doesn't mean it
24 has to ignore customer needs.

25 MR. JOHNSON: And I don't appreciate that

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1 comment. It just did not reflect the testimony.

2 MR. HAFFNER: It's irrelevant.

3 JUDGE RENDAHL: Let's please direct things to me
4 as opposed to each other. Your objection -- I think,
5 Mr. Johnson, if you're going to direct testimony that's
6 been made without the witness being here -- it's somewhat
7 difficult because I'm sure everyone here has their own
8 perspective on what the testimony was and we don't have a
9 transcript here in front of us.

10 MR. JOHNSON: I'm only referring to written
11 prefiled testimony.

12 JUDGE RENDAHL: All right. Well --

13 MR. JOHNSON: And I think Mr. Haffner's objection
14 was not with the reference to the 6,000 customers.

15 JUDGE RENDAHL: Let's try to avoid making
16 arguments in our questions, and just ask the question to
17 the witness.

18 MR. JOHNSON: I'll do my best, Your Honor.

19 BY MR. JOHNSON:

20 Q. My thought here, Mr. Calney, was just to maybe
21 get your agreement with me that with a large number of
22 customers, each with their own view of how a Certificate
23 of Destruction might be worded, that it might be difficult
24 to find a universally approved form of verbiage, would you
25 agree with that?

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1 A. I understand that it might be difficult, but if I
2 had -- if there was an option that could provide me with
3 that, it is something I would like to consider.

4 Q. Okay. And so you think you would be able to sit
5 down with Kleen and negotiate this language on the
6 Certificate of Destruction?

7 A. Not so much the language. If there was an
8 individual, a person -- because who is working at the
9 facility this day that your waste was destroyed -- Well,
10 was it Mr. A, or Mr. B, or -- you know, it's just things
11 can get confusing when it's so big, and accidents can
12 happen, and deadlines are not met, things get rushed;
13 health and safety is usually the corners that get cut, as
14 far as those things go. So it would be a very nice
15 feature to have somebody, a person, who knows that they
16 are there accountable for any hazard that happens with
17 that package. So that if they decide that -- if they're
18 managing -- if their deadline is short and they're
19 managing this hazardous waste and it is their decision to
20 say: Well, I'm going to sign off on this before it is
21 destroyed because I don't have time for this, and I know
22 it's taken care of.

23 They're the ones who are taking responsibility to
24 make sure that it's destroyed. So now, the weight's on
25 them. You know, it's not something -- because this

1248

1 printout I'm sure comes out automated. In fact this
2 printout probably has no connection other than the
3 computer generated scanner.

4 Q. Would your view be different if it was the case
5 that this computer generated printout, which is Exhibit
6 No. 67, cannot be generated until all of the containers
7 reflected in the manifest number shown on the printout
8 have been accounted for?

9 A. Yeah. I mean that would be -- that would be
10 comforting. But features like that would never be really
11 defined until there was a problem, until I needed to see
12 that all those things were in line, whereas if I had
13 someone's signature I could rest assured because he or she
14 put their name on it. So if there is a problem, I could
15 say: Well, they had my waste last; they took
16 responsibility for my waste last. So you can talk to them
17 as to what the problem is.

18 Q. Doesn't the driver do that when he signs the
19 manifest on pickup?

20 A. He signs that he has collected it from you. But
21 the way the regulations are structured, we have to verify
22 destruction.

23 Q. Wait a minute. Which regulations are you
24 referring to?

25 A. The cradle to grave --

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1 Q. This is transportation, storage, disposal
2 regulations?

3 A. This is -- to the best of my knowledge, it's the
4 overall hazard management. Hazardous materials
5 management -- cradle to grave. It's the same for
6 radiation; it's the same for chemical disposal; it's the
7 same for biohazardous. So I mean, I see it so many places
8 and I'm hearing about it everywhere, I don't actually have
9 the specifics, but I bet I could find it if you want me to
10 Email you.

11 JUDGE RENDAHL: If you want to make a records
12 requisition, Mr. Johnson, it might smooth things out.

13 MR. JOHNSON: Yes, I think I would like to see
14 that regulation, and I would like to have the witness
15 provide us the regulation that he's referring to that
16 requires, I believe it's been required, that a generator
17 of biohazardous medical waste must provide, or must obtain
18 a signed document reflecting each step of the waste from
19 pickup to disposal.

20 THE WITNESS: I don't believe that there is a
21 regulation that says I need to get a signed copy of that.
22 That is merely our preference because there is this gray
23 area. The reason that --

24 JUDGE RENDAHL: Before we go farther, I'm trying
25 to clarify what it is Mr. Johnson is asking for. And I

1250

1 think I understood you to say that the regulation requires
2 you to document destruction. Is that what you are stating
3 the regulations say?

4 THE WITNESS: My understanding of the regulations
5 say that we are responsible for our waste streams from
6 cradle to grave. That is the -- and that is a general
7 notion, but that is what our -- but that is the message
8 that we get. That we are responsible for this. And the
9 regulations, I do not believe require -- I think they
10 require a signature and verification.

11 JUDGE RENDAHL: Of?

12 THE WITNESS: They're just verification of the
13 destruction.

14 JUDGE RENDAHL: Of destruction.

15 THE WITNESS: Yeah. So this would constitute a
16 verification of the destruction. But --

17 JUDGE RENDAHL: And that the generator must have
18 that?

19 THE WITNESS: And the generator must have that.

20 JUDGE RENDAHL: And so that's what you are asking
21 for?

22 MR. JOHNSON: That's right, Your Honor.

23 JUDGE RENDAHL: And so the records requisition is
24 the regulation -- and this is the information you need to
25 provide to Stericycle through Mr. Johnson. And you can

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1 work with Mr. Haffner in getting this to Mr. Johnson.
2 Identify the regulation that requires generators of
3 biohazardous medical waste to have a signature and/or
4 verification of the destruction of the waste that was
5 generated.

6 THE WITNESS: Verification?

7 JUDGE RENDAHL: Verification.

8 THE WITNESS: Because I'm not absolutely certain,
9 but I know that -- I'm not -- okay. Okay.

10 JUDGE RENDAHL: And I understand that that's what
11 Mr. Johnson's asking for based on the testimony you've
12 given today. So if there is no such regulation, you
13 identify that to Mr. Johnson upon your later review. Now,
14 we don't need to go through it more today.

15 THE WITNESS: Okay.

16 JUDGE RENDAHL: But I think the request is for
17 you to go back and look at that.

18 THE WITNESS: And what my concern is -- so I'll
19 find out what the regulatory features are that I'm
20 concerned about and then I will provide those for you.

21 JUDGE RENDAHL: Okay. But specifically --

22 THE WITNESS: Specifically pertaining -- sorry.

23 JUDGE RENDAHL: Nothing. Mr. Haffner, have you
24 written down what I asked; regulation requiring a
25 generator of biohazardous medical waste to have a

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1 verification of the destruction of the waste?

2 (Records Requisition No. 1)

3 MR. HAFFNER: Do we have a deadline for that,
4 Your Honor?

5 JUDGE RENDAHL: The Commission's procedural rules
6 require 10 business days to respond.

7 MR. HAFFNER: Okay.

8 JUDGE RENDAHL: And then, Mr. Johnson, there is
9 an option for you to request that it be entered into the
10 record, and you can discuss that with Mr. Haffner, and if
11 you can reach an agreement on that before you send that to
12 me, it's preferable, but if not then we'll deal with it at
13 a later time.

14 MR. JOHNSON: Thank you, Your Honor.

15 JUDGE RENDAHL: Okay. With that, do you have
16 another question, Mr. Johnson?

17 MR. JOHNSON: Yes, I do.

18 BY MR. JOHNSON:

19 Q. Mr. Calney, would you turn to Exhibit 68? This
20 is a document that has been previously identified in the
21 testimony as a Container Detail Report. Is this document
22 something you're familiar with?

23 A. Not so much.

24 Q. Have you ever seen this document?

25 A. I might have.

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1 Q. Okay. If you would, let's put it in a
2 hypothetical form, if a document like this were available
3 to you -- and if you would please take your time and
4 review it -- detailing by invoice, and containers, and
5 weight and the date of processing, all the containers that
6 a biomedical waste generator had delivered to Stericycle,
7 if that type of report was available to you on a regular
8 basis, would that be something that would interest you?

9 A. Yes, yes. I mean, more is better.

10 Q. Okay. And this has quite a bit of detail, does
11 it not, about containers, and manifest of it, and the
12 process of it?

13 A. Yes, it does. But, again, my concern -- my
14 concern is --

15 Q. Your concern is there is no signature?

16 MR. HAFFNER: Your Honor, can we let the witness
17 answer his own question.

18 JUDGE RENDAHL: Okay. There's been a lot of
19 talking over that's continued throughout the hearing by
20 everybody. And let's just focus on waiting for the
21 witness to answer and waiting for the attorneys to finish
22 the question. Mr. Johnson, do you have a question?

23 MR. JOHNSON: I think Mr. Calney was trying to
24 answer.

25 BY MR. JOHNSON:

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1 Q. Do you remember the question?

2 A. Yes.

3 Q. Go ahead.

4 A. Okay. My main concern is just the -- just I
5 mean -- working with people that work with deadlines, and
6 understanding the nature to cut corners. That's -- all
7 I'm asking for -- if something. This is a very nice
8 system, this is very accommodating; it's transparent; it's
9 quantifiable. It's a very nice system. But this system
10 really the way it's structured is only going to work as
11 long as the system is working effectively and efficiently.

12 If something gets backed up, you know, if the
13 load gets to much for the facility to handle, and things
14 get backed up or something like that, then the system is
15 at a loss. You know, you can run into a situation where
16 guys are running by with their scanners, just do-do-do-do-
17 do, just running through and then maybe it's backlogged
18 out the door.

19 And maybe there's stuff on the trucks that isn't
20 loaded in yet. But then the runner on the trucks just to
21 be as fast as they possibly can and they're scanning those
22 things, but then maybe that truck doesn't get taken care
23 of, or maybe it gets left just sitting someplace.

24 Now, granted, yes, maybe it's unlikely. But
25 things happen, you know, and if there's an infection from

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1 that -- somebody gets infected from something like that,
2 then there is a potential for liability to come back to
3 the generator.

4 Now, it's unlikely that we might see that, but
5 depending on the, you know, the sway of the situation, I
6 mean, there's no doubt that Stericycle is, you know, very
7 well known in the community, you know, I mean it's like
8 depending on how things shift. There's a potential that
9 we could have a problem with that. So what we want to do
10 is that's just -- it's little tiny gap that we would like
11 to eliminate. And the best way to eliminate that is to
12 have a person being accountable for that. And because
13 it's so quantifiable, we don't understand why Stericycle
14 wouldn't back up their own system.

15 You're asking me to look at the system and say
16 don't you think this is a good idea? I think it's a great
17 idea. And my question is to you, why won't your company
18 back it up, and say we think it's a great idea, in fact,
19 this thing is so airtight, I'm putting my name on it right
20 here.

21 Q. Mr. Calney, may I ask a question?

22 A. Yes, absolutely.

23 Q. I think we went through this notion that
24 Stericycle, at least the testimony indicates would provide
25 a signed manifest, showing not only that the driver had

1256

1 picked it up but that the disposal facility picked it up;
2 isn't that right?

3 A. If that manifest will stand as a Certificate of
4 Destruction, then that will be -- that would be nice.

5 Q. I'll ask you a hypothetical. If the scanning
6 system at the plant, processing plant in Oregon, or at the
7 incinerator facility in Salt Lake City, has a scanning
8 system that is automated as the tub goes into the
9 processing line, would that affect your sense of comfort,
10 in getting a report back out of this tracking system that
11 the tub had been processed?

12 A. No, it wouldn't. And there's a reason for that.
13 Because to the best of my knowledge, the people that I
14 have spoken with, whenever they've tried to audit the
15 facility, they have not been able to witness the
16 facilities when they are operational.

17 Q. Now, I guess you and I would probably agree that
18 human error could --

19 A. Always.

20 Q. -- any system, am I correct?

21 A. Absolutely.

22 Q. I'm kind of having trouble trying to figure out
23 what a signature adds to the reliability of a system like
24 we've been talking about?

25 A. Accountability.

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1 Q. Mr. Calney, you've mentioned now a couple of
2 times that you've heard, I believe from others, that
3 there's a problem with auditing the Stericycle Processing
4 Facility?

5 A. Yes, sir.

6 Q. Who have you heard that from?

7 A. I've heard that from a number of people with
8 situations to -- like with the way people generally audit
9 and it's typically through our professional
10 organizations is that --

11 Q. Now, are we referring to the Health Environmental
12 Laboratory and Professional group?

13 A. No. It's not necessarily that organization.

14 THE WITNESS: Sorry, did I --

15 JUDGE RENDAHL: No, I think you just cut him off.
16 Are you done, Mr. Johnson?

17 MR. JOHNSON: Yes. I think it was done.

18 A. Okay. The community as a whole, you know, we go
19 to different conferences; we go to different educational
20 seminars; we go to different -- but we're always typically
21 congregating in the same places, but we are always talking
22 about what the issues are that are facing us. So, I know
23 a lot of these people from the health group. I also know
24 a lot of these people from the UW training courses, I mean
25 you generally see the same crowd everywhere. So I mean,

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1 there's a lot -- there's a lot of need for education in
2 this industry.

3 Q. Who has told you that there was a problem with
4 auditing Stericycle Processing Facility?

5 A. Well, I've heard it a number of places because
6 again like I said, if one person goes to audit a facility
7 then they're going to tell the rest of the group how that
8 audit goes.

9 Q. Okay. But --

10 A. Because why should we go to Utah or Oregon or go
11 to Brooks, or go up to Canada for any of these
12 facilities, why should we do that like 36 times?

13 Q. Understood. I agree. Since you didn't answer
14 the question, I asked which was the one who told you there
15 was a problem with auditing. Let me ask you a different
16 one, that is: Have you ever attempted to audit any of the
17 Stericycle operations, processing facilities, or the
18 incineration facility in Salt Lake?

19 A. No, I haven't. I have not had an opportunity to
20 go to Utah.

21 Q. Have you asked Stericycle?

22 A. If I could go to a facility?

23 Q. Yes, have you asked?

24 A. I have not had an opportunity to take off of work
25 and go to Utah. So I have not asked if I would be allowed

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1 to go view the facility, no.

2 Q. How about the Morton Facility?

3 A. I have not asked to go see the Morton facility,
4 either.

5 Q. Have you ever visited the Stericycle operation in
6 Kent?

7 A. No, I haven't.

8 Q. You personally have not tried to do any auditing
9 of the Stericycle waste collection processing disposal
10 operation.

11 A. No, no, I haven't.

12 Q. And so your references to problems with auditing
13 something have to do with stories or reports that you have
14 received from others; is that correct?

15 A. Reports that I -- yeah, I mean that's a huge part
16 of where I get my information from.

17 Q. But would you answer my question?

18 A. Yes, I am. I'm trying to. If I have a question
19 about chemicals, I go ask the experts, who know that. If
20 I have a question about biohazards, I go ask the experts
21 who know about that. If I'm talking to someone about
22 their experiences in managing certain problems, you know
23 these are the things that I have heard. So, it's hearsay,
24 you know, it's hearsay. I have -- but this is also --
25 markets are driven by perception and, my perception is

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1 that I will be wasting my time, and that I would prefer --
2 I mean why go to Utah, if I could go to Brooks and if I
3 can go to Brooks and witness the facility in operation,
4 why do business with someone who won't let me see the
5 facility in operation?

6 Q. Wait a minute now, Mr. Calney.

7 A. If that is the case.

8 JUDGE RENDAHL: Okay. Mr. Calney.

9 THE WITNESS: Sorry.

10 JUDGE RENDAHL: Okay. I think -- we do have
11 another witness who I think is here. And I don't want to
12 cut off your answers, but on the other hand, I think you
13 can listen to the question that's being asked and try
14 first to directly answer the question and then if you have
15 an explanation provide it, then it might streamline things
16 better.

17 MR. HAFFNER: Your Honor, just so that you
18 understand, the other witness is not going to be able to
19 testify today because he has to leave at 3:30. And so in
20 terms of your concern about getting him on, I don't want
21 to mislead you there.

22 JUDGE RENDAHL: All right. Okay. Go ahead,
23 Mr. Johnson.

24 BY MR. JOHNSON:

25 Q. Mr. Calney, are you aware of whether other

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1 members of the biotech lab community have audited
2 Stericycle's processing and incineration operations?

3 A. I'm aware that there were attempts made, and that
4 when they came, it was shut down. They were not allowed
5 to see the facility operational.

6 Q. Okay. So, this is what you were told by others
7 that someone attempted to audit, and when they visited the
8 facility, it was shut down. Was it shut down for
9 repairs?

10 A. I really don't know. They were scheduled to go
11 see it, and when they showed up, they said it was not
12 operational, and they said that they needed to see it
13 operational, and they said that's not possible because
14 they didn't have respirators.

15 MR. HAFFNER: Your Honor, I'm worried about the
16 noise from the wrapper.

17 THE WITNESS: Sorry.

18 BY MR. JOHNSON:

19 Q. Who attempted to audit, and was not able to do so
20 because the facility was shut down?

21 A. I can't actually say that.

22 Q. You don't know?

23 A. I would have to say, I don't know which one of
24 the group it was.

25 Q. Do you know whether Brad Wong has audited the

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1 Stericycle facility in Salt Lake or in Morton?

2 A. I don't know. It doesn't ring a bell that he
3 has.

4 Q. Do you know whether any biotech lab professional
5 involved in health and safety has audited Stericycle's
6 facility either in Salt Lake, incineration facility in
7 North Salt Lake, or the Morton Washington processing
8 facility?

9 A. I do not know who audited the facility or
10 which -- I believe it was two people that went -- if I'm
11 understanding it correctly, you know, but that is the only
12 information that I've gotten.

13 Q. So the only information you have is that two
14 people tried to audit one of the facilities and it was
15 shut down and they were unable to do so.

16 A. One or two, yeah. I mean, the group as a whole
17 tries to audit the facility. Every one that's being used
18 because we want to find the best one.

19 Q. Understood. And you want to make sure that your
20 waste has been properly handled; isn't that right?

21 A. Right, absolutely.

22 Q. And then to the best of your knowledge then, no
23 member of the Health and Safety Community involved in
24 biotech lab sector has audited a Stericycle processing or
25 incineration facility?

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1 A. I know that someone in -- I know that before I
2 started Health and Safety, somebody in the community, or
3 on behalf of the community has gone to the facility. At
4 least that's what I'm hearing. That someone has gone down
5 there. And that they were not allowed to actually see the
6 site in operation.

7 Q. Okay.

8 A. All the details of that, I do not know.

9 Q. Okay. I was trying to ask you about the
10 successful ones. We heard about the ones that were unable
11 to audit because the facility was shut down. So was that
12 in Salt Lake, or where was it?

13 A. I believe it was in Salt Lake --

14 Q. Okay.

15 A. -- and in Morton, because there was an issue in
16 Morton.

17 Q. Now, I'm asking whether you know of any
18 successful audits by any members of the biotech lab
19 community?

20 MR. HAFFNER: Objection. Asked and answered.

21 MR. JOHNSON: I don't think he ever answered that
22 one.

23 MR. HAFFNER: I think he said that he didn't have
24 a chance to audit it. I think that that's --

25 JUDGE RENDAHL: Well, let's have the question and

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1 let's have the answer so that we finish this topic,
2 Mr. Johnson.

3 BY MR. JOHNSON:

4 Q. Do you know whether the Health and Safety
5 professionals involved in the biotech lab community have
6 been able to successfully audit any of Stericycle's
7 processing --

8 A. Of course.

9 Q. -- disposal facilities?

10 A. They have audited it. So they went to audit it
11 and it was not to their -- it was at the level that they
12 wanted to. So they were able to come in and see the parts
13 that they were allowed to see but the real nuts and bolts
14 of the process, they were not allowed to see.

15 Q. Okay. Is this a different instance than the one
16 you referred to before where the plant was shut down?

17 A. I think it would be the same.

18 Q. Okay. So this is all the same incident you're
19 referring to?

20 A. Same one. Well, there have been several
21 incidents that show a pattern with Stericycle, that's the
22 problem.

23 Q. That's what I'm trying to get at. I mean, I
24 think you said, you only referred to one incident, where
25 one or two people went to one of the processing facilities

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1 and were unable to audit because the plant was shut down.

2 A. Yes. So --

3 Q. And then you're talking about a pattern. Where's
4 the pattern? Were there other instances?

5 A. Not with -- so not with respect to audits, but
6 with respect to -- like for instance Stericycle was
7 supposed to come to one of the HELP organization's
8 meetings to discuss these topics, and they stood them up.

9 Q. Hold on. What I'm talking about is something
10 rather specific, which is an effort to audit a facility.
11 And so I think the testimony was that there was this one
12 incident where people showed up and were unable to audit
13 because the plant was shut down, and you think, you said,
14 it was because the respirators were unavailable?

15 A. Something like that.

16 Q. Okay. That's the only situation you're aware of
17 with respect to an effort to audit either successfully or
18 unsuccessfully by a biotech lab Health and Safety
19 professional?

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

21 Q. Okay. And so then you were referring to some
22 other situation where there was a meeting, and Stericycle
23 personnel were supposed to show up and then didn't?

24 A. I heard there was going to be and, again, this is
25 before my time. But I heard there was a talk scheduled to

1266

1 discuss these issues in particular, and that the person
2 who was supposed to come and present never showed up.

3 Q. When you say these issues, what are you referring
4 to?

5 A. Specifically, Certificate of Destruction, using a
6 closer facility, you know, just the logistical problems
7 that are associated with these particular liability
8 issues. And then when I called my customer service rep
9 and asked them, I got pretty much the same -- that's what
10 I was testing, I was testing to see, you know, like I'm
11 hearing all these things, so I wanted to kind of check up
12 on it. So I talked to our customer service rep. and
13 asked them specific -- just the pinpoint questions and
14 details that, you know, we're discussing right now. I
15 mean, it's no mystery that the -- I mean the primary
16 design of Kleen is to offer these -- I mean these are the
17 primary features that they're offering it's -- because
18 it's what the community wants. We want these features.
19 We haven't been able to get them from Stericycle, so --

20 Q. By the community, again, you're talking about the
21 lab tech health professionals?

22 A. I can't speak for them. I'm saying that that's
23 what I've been hearing, and the more I look into it, the
24 more I think it's a good idea for my system.

25 Q. Okay. I'm not asking you to speak for them, I'm

1267

1 just --

2 A. I'm not.

3 Q. -- trying to clarify who you're referring to when
4 you refer to the community. There is a broader community
5 here, it involves all the generators of medical waste
6 throughout the State of Washington. When you refer to the
7 community, I believe -- and I guess this is my question,
8 again, you're referring to the Health and Safety
9 professionals engaged in services for the biotech
10 laboratory sector, right?

11 A. I've talked to people with hospitals too, and
12 they have issues as well. It's not -- it's not that
13 pinpoint. It's you know there's -- there's a lot of
14 dissatisfaction with Stericycle, and I've only been here
15 since December, but that's what I'm getting.

16 Q. Which hospitals have you spoken to?

17 A. I know that they weren't biotech communities;
18 know I know that they weren't biotech people.

19 Q. Were they concerned about the Certificate of
20 Destruction issue?

21 A. Actually, hospital's concerns --

22 Q. Wait, wait, just a second.

23 MR. HAFFNER: Your Honor, can we try and curtail
24 the discussion. If we don't have a hospital identified or
25 a person identified, it seems to me were talking about --

1268

1 MR. JOHNSON: Things we don't know what we're
2 talking about.

3 MR. HAFFNER: Generalization, right.

4 MR. JOHNSON: I agree. I mean we're creating a
5 record that isn't going to be worth --

6 JUDGE RENDAHL: You know, I can assign weight to
7 what I'm hearing.

8 MR. HAFFNER: Right.

9 JUDGE RENDAHL: There's a non-generalized
10 description of, you know, dissatisfaction then that, you
11 know, it goes to the weight of the testimony as opposed to
12 a specific person identifying specific dissatisfaction.
13 So anyway, let's keep going. Obviously, we're not going
14 to have another witness here today, but try to streamline
15 this.

16 BY MR. JOHNSON:

17 Q. Mr. Calney, you talked a bit about your concern
18 about liability. Are you concerned about liability
19 associated with transportation of biomedical waste in
20 cardboard boxes?

21 A. I believe that our liability concerns would be
22 mitigated better with cardboard boxes as long as it's a
23 punch-proof bag or just the standard, industry standard
24 bag. I believe that would handle those issues. I'm
25 concerned with any liability, I mean --

1269

1 Q. Are you aware of problems with cardboard boxes
2 leaking?

3 A. Not -- no.

4 Q. Are you aware of cardboard boxes being punctured
5 by hypodermic needles?

6 A. It's potential.

7 Q. Are you aware of cardboard boxes being crushed
8 because they're being stacked at the facility, waste
9 generator facility, or in transportation and therefore
10 losing their structural integrity?

11 A. That is a potential problem, yes.

12 Q. Are you concerned about liability associated with
13 the escape of biohazardous waste resulting from that?

14 A. I'm concerned about all liability.

15 Q. Would it be fair to characterize your position as
16 basically being that competition would be helpful in this
17 area?

18 A. I think so. I think it would. I also think that
19 Stericycle would be a different company if competition was
20 introduced.

21 Q. I was having a little trouble following your
22 testimony with respect to the benefits of consolidating
23 biomedical waste collection and other hazardous waste
24 handling services that you're currently getting from
25 Kleen. I'm assuming you realize that you would be getting

1270

1 separate invoices for these services?

2 A. Oh, yeah.

3 Q. So what exactly would the benefit be?

4 A. For -- just administrative. I could call one
5 person and talk directly to them.

6 (Discussion off the record.)

7 JUDGE RENDAHL: Back on the record. Mr. Calney,
8 do you need a repeat of the question?

9 THE WITNESS: Yes, please.

10 Q. Mr. Calney, I was trying to get you to clarify
11 for me what benefits you saw from consolidation of
12 biomedical waste collection services and hazardous waste,
13 I guess, handling and disposal services and you were
14 starting to answer that question.

15 A. Okay. It's a smaller feature with respect to my
16 concerns, but, yeah it's -- it would be a nice feature to
17 be able to call up just one person and handling it. Loads
18 could be picked up at the same time, coordinate, you know,
19 pickup dates could -- it's dealing with -- it makes it
20 just one thing to do, instead of multiple things to do.

21 Q. Who do you think you would be calling for this
22 service at Kleen?

23 A. If Kleen -- if they're granted their permit, and
24 if what we see is what we want, and it all works out so
25 that it would be a better -- better operating system for

1271

1 our program, then that's just one of the things that we
2 would be just adding to it. The fact that we could just
3 deal with this one carrier.

4 Q. I just have something.

5 A. Hm-hmm.

6 Q. Who would you call? Do you have a specific
7 person in mind, or do you just mean calling one company?

8 A. Oh. Well, I normally talk to Darren Perrollaz.
9 I call him for the chemical issues. But if he was not the
10 person assigned to the biohazard, I could just say give me
11 to the person who is responsible for that stuff.

12 Q. But you might have to end up having to talk to
13 other people, right?

14 A. I might, but typically I wouldn't have to wait
15 back for a response. Even with Stericycle, I tell them
16 what my situation is, and then they want to call me back.
17 So I mean that's been my experience, is that it's more
18 like a call back situation. And I mean you guys are --
19 Stericycle is a larger company, and that it has its pros
20 and it has its cons. Direct contact is typically one of
21 the cons, you know.

22 Q. Is it your understanding that Kleen would be
23 transporting your hazardous waste in conjunction with the
24 biomedical waste service?

25 A. I don't believe so, but if that works, I mean if

1272

1 they can legally do that then why not?

2 Q. Right. But I think you talked about loads being
3 picked up at the same time.

4 A. Oh, potential. I just mean that potentially that
5 could be a feature.

6 Q. If it's legally permissible?

7 A. If it's legally permissible, that would be a good
8 feature because it would save me time.

9 Q. Right. Is Kleen currently picking up hazardous
10 waste from you for disposal?

11 A. Yes.

12 Q. And they're transporting it where?

13 A. To their facility.

14 Q. What kind of facilities do they have?

15 A. It's a chemical -- it's how they handle their
16 chemical waste.

17 Q. You're talking about a disposal facility?

18 A. Yes.

19 Q. Do you know where that is?

20 A. I heard from the previous testimony it's in
21 Arkansas.

22 Q. That seems like a long ways away, I bet?

23 A. Yeah. It's further than I'd probably like,
24 but --

25 Q. Further than Salt Lake City, Utah?

1273

1 A. Yeah. But again, it's a matter of the chemical
2 vendors that we have, I mean there's some good ones out
3 there. And again, I also inherited Kleen from my
4 predecessor, but there's a lot to consider when giving
5 this sort of responsibility to somebody, and sometimes,
6 you know, sometimes distance really isn't right up there
7 with like say handling technique, or something like that,
8 or competence, you know, or feel of competence.

9 Q. Mr. Calney, what kind of Record of Destruction do
10 you get from Kleen or its disposal facility for disposal
11 of your hazardous waste?

12 A. Well, okay. Well, on pickup day they give us --
13 they have their streams pretty much coordinated, so they
14 know which streams are coming out of the facility, based
15 on the research that we do. And we get a -- it's like a
16 carbon copy system so there is a printed copy of what our
17 stream is -- because we call ahead and tell them what it
18 is that they need to pick up -- and then the driver signs
19 that he has received that. And I sign that this is what
20 the shipment is, and they take it away. And then later
21 on, I get another thing that says that the shipment has
22 arrived and that the shipment has -- it's like -- it's the
23 other -- it's the layers of the copy that says that this
24 has been arrived at this destination, it has been
25 destroyed.

1274

1 Q. Isn't that a hazardous waste manifest?

2 A. Yeah, essentially.

3 Q. Isn't that almost identical and maybe actually
4 identical to the manifest that we were looking at before
5 as Exhibit 65?

6 A. I would say it's similar.

7 Q. Did you look at Exhibit 65, to refresh your
8 memory?

9 A. Yes.

10 Q. Isn't this identical to the hazardous waste
11 manifest you receive?

12 A. A lot of information. I would say it's similar.

13 Q. Hm-hmm. But it's satisfactory to you to get a
14 signed hazardous waste manifest back to reflect disposal
15 of your hazardous waste, but it's not acceptable for you
16 to get a signed shipping manifest, as shown on Exhibit 65,
17 back to reflect disposal of your biomedical waste; is that
18 what your testimony is?

19 A. Well, in that sense also there's -- we have a
20 signed copy.

21 JUDGE RENDAHL: Can you answer the question first
22 and then describe?

23 THE WITNESS: Okay.

24 A. So I would like to see -- actually be looking at
25 my other manifest to compare, but I don't have that. I

1275

1 would say that -- repeat the question again?

2 MR. JOHNSON: Your Honor, I would like to make a
3 further request for a copy of your standard format for
4 your waste manifest.

5 THE WITNESS: Sure. Okay.

6 MR. HAFFNER: I think the record has a form of
7 the Certificate of Destruction used by Kleen, if that's
8 what you're looking for.

9 MR. JOHNSON: No. That's not what I'm looking
10 for. I know where that one is.

11 MR. HAFFNER: Okay.

12 MR. JOHNSON: What I'm looking for is
13 Mr. Calney's sort of typical hazardous waste manifest that
14 he gets back through Kleen, I guess, or through somewhere
15 for hazardous waste disposal, if Kleen is involved.

16 BY MR. JOHNSON:

17 Q. But I guess, Mr. Calney, let me go on.

18 JUDGE RENDAHL: Okay. Whoa.

19 MR. JOHNSON: Your honor, should we stop here for
20 a second?

21 JUDGE RENDAHL: Yes. So that would be Record
22 Requisition Number 2, and you're asking for the standard
23 hazardous waste manifest that PNRI receives from Kleen
24 following destruction.

25 MR. JOHNSON: Right. Indicating transportation

1276

1 and ultimately disposal or treatment.

2 JUDGE RENDAHL: Is that something that you
3 understand Mr. Calney?

4 THE WITNESS: Yes.

5 JUDGE RENDAHL: And following the same protocols,
6 if you would provide that to Mr. Haffner who will then
7 provide it to Mr. Johnson and the other parties.

8 THE WITNESS: All right.

9 JUDGE RENDAHL: Okay.

10 (Records Requisition #2)

11 THE WITNESS: I would like to also describe --
12 one of the features is that -- that's very important is
13 that there's a person that's also signing it when they
14 receive it.

15 BY MR. JOHNSON:

16 Q. Sure. That would be further down here. That
17 would be on Exhibit 65, you have a signature for the
18 transporter by the driver, would you not?

19 A. Yeah. Certificate of receipt. But we want a
20 Certificate of Destruction.

21 Q. I understand what you're saying. But I'm just
22 saying, you do have a signed document when the driver
23 picks up your waste?

24 A. Yes.

25 Q. It's the signature on this regulated waste

1277

1 manifest, right?

2 A. Hm-hmm.

3 Q. And then if a signed copy of this is available
4 with a signature by the treatment facility at the bottom,
5 I asked you before if that wouldn't solve your problem
6 with respect to evidence of treatment or disposal and I
7 believe you said no?

8 A. This would -- okay. Just so we're clear. These
9 signatures also, like these on the chemical hazard waste,
10 I believe, are required by regulation, as far as
11 biohazardous waste incineration goes I believe that there
12 is no actual requirement for the Certificate of
13 Destruction signature, but what we are asking for is, we
14 would like that feature. We would like to have that
15 feature on there.

16 Now, I inherited this system from my
17 predecessor. So that's been going on and that's -- since
18 that's operational, that's the least of my problems right
19 now. But the reality is that we're asking for -- because
20 we see this gap -- we're asking for this signature,
21 right?

22 Q. We understand. I guess what I was trying to ask
23 you about -- I think what I did ask you about, and I don't
24 think I got an answer is: why is a signature on a
25 hazardous waste shipping manifest in the space down here

1278

1 at the bottom of say Exhibit 65, for a treatment
2 facility -- why that's satisfactory to you for hazardous
3 waste, but a signature by the treatment facility by a
4 biomedical waste, regulated waste manifest such as shown
5 in Exhibit 65, is not satisfactory, why is that?

6 A. I have not actually gone into enough detail to --
7 I know that I get a signature at receipt. I'm not sure if
8 that signature quantifies destruction.

9 THE WITNESS: Does it?

10 MR. MCCLAUSKY: No.

11 A. No, it doesn't. So that would be interesting. I
12 know there's incineration associated with it.

13 Q. Mr. Calney, did you just look at Mr. McClausky
14 and ask him a question?

15 A. Well, he is from Kleen Environmental, he is with
16 the company that I deal with.

17 Q. I understand. But didn't you just look at him
18 and ask him a question; didn't he shake his head and say
19 no?

20 A. Yes, he did. He said no, that it does not.

21 Q. So you didn't know. You asked Mr. McClausky by
22 looking at him and he shook his head?

23 A. Right. He said -- he said.

24 Q. To indicate --

25 A. Right, he said no.

1279

1 Q. -- that signature does not indicate a Certificate
2 of Destruction, in his opinion, apparently.

3 A. Yes.

4 Q. Is that right?

5 A. Correct.

6 Q. Thank you both. Mr. Calney, we're trying to get
7 your testimony for now. We've had Mr. McClausky's before.

8 A. I know. It's just that if I have situation with
9 chemicals, I call them. So --

10 Q. You call Mr. McClausky.

11 A. I call Darren Parrazzo --

12 Q. Right.

13 A. -- and he knows.

14 Q. I don't see Darren here, do you?

15 JUDGE RENDAHL: All right. Enough. Mr. Johnson,
16 if you can ask your question, please do so. And
17 Mr. Calney, you're testifying for yourself.

18 THE WITNESS: Right.

19 JUDGE RENDAHL: And please don't ask questions of
20 anyone else in the audience to answer the questions
21 Mr. Johnson asks you. Okay? And it's been noted on the
22 record and we'll proceed. Mr. Johnson.

23 BY MR. JOHNSON:

24 Q. Thank you Mr. Calney, I would like you to refer
25 to Exhibit No. 27. And if you'll accept my

1280

1 representation, you can take a look back, I guess, to
2 Exhibit 25 T, in front of you. This is an Exhibit
3 attached to the testimony of Allen McClausky. Referring
4 to Exhibit 27, do you recognize that document?

5 A. Yes, this is paperwork I get.

6 Q. So this is a Certificate of Destruction you get
7 for your hazardous waste?

8 A. I'm not saying that. Let's see, Certificate of
9 Treatment of Disposal. Then, yeah, I would think this
10 is.

11 Q. Now, I'm not suggesting that this is necessarily
12 your waste?

13 A. Right, right, yeah.

14 Q. But is this the type of document you get through
15 Kleen to demonstrate disposal of your hazardous waste?

16 A. Yeah. Typically, we do -- it's the copy of the
17 manifest back -- like the end -- it's the same as the
18 carbon copy.

19 Q. This isn't the actual manifest though?

20 A. No, no. It's not the manifest.

21 Q. So it's not the manifest, so it's something else?
22 This is the heading --

23 A. Yeah, it's the Certificate of Treatment and
24 Disposal, as I see that.

25 Q. Okay. So is this the kind of document you get

1281

1 back from this plant in Arkansas when your hazardous waste
2 has been incinerated there?

3 A. It could be.

4 Q. You're not sure?

5 A. No. I actually -- there could be somebody else
6 that is holding onto these.

7 Q. So you're aware of this document?

8 A. Actually, I'm not aware of this document.

9 Q. Well, you're somewhat aware of it?

10 A. It looks -- it looks like it could be familiar,
11 but I don't -- because I'm under oath, I don't feel like I
12 would definitely verify that I have this document. I
13 would have to check back at our facility. Like I've said,
14 a lot of our shipments and also some of the receiving
15 paperwork things.

16 Q. Okay. Well, let's just assume for a couple of
17 questions, that this is a document that provides disposal
18 by incineration of hazardous waste handled by Kleen.
19 Perhaps for a facility like yours. If this is the
20 document you are receiving back for disposal of hazardous
21 waste, does it meet your requirement for Certificate of
22 Disposal?

23 A. I would like better, yeah.

24 Q. What would you like better?

25 A. I would like: I certify that this has been

1 destroyed.

2 Q. Right. It doesn't say that, does it?

3 A. No, it says: "I certify that information
4 contained in or accompanying this document is true,
5 accurate, and complete as to the identified sections of
6 this document for which I cannot personally verify truth
7 and accuracy as certified. As the company official,
8 having supervised responsibility for persons who acting
9 under my direct instruction made a verification that this
10 information is true accurate and complete."

11 Q. We don't need to read it because it's already in
12 the record --

13 A. Sorry.

14 Q. -- but this has been provided as an attachment to
15 Mr. McClausky's testimony. I think if we look at Page 8
16 of his testimony you'll see -- that's on Exhibit 25, Page
17 8.

18 A. Yeah.

19 Q. And Mr. McClausky starts at line -- well, the
20 sentence starts at line 13.

21 A. Destruction the Waste, that one?

22 Q. Page 8.

23 A. Right. Page 8 of 9?

24 Q. Yes. And there's a heading Certification of
25 Destruction there in the middle. And the sentence begins

1283

1 "one common concern" and then on the third line there's a
2 reference to Exhibit B, which is the second exhibit which
3 we've now marked as Exhibit 27. And Mr. McClausky seems
4 to be saying here that this kind of document, would be the
5 kind of documentation that would be provided by Kleen.
6 But it wouldn't meet your requirements, would it?

7 MR. HAFFNER: Objection. Asked and answered. He
8 also said that he needs more information.

9 THE WITNESS: I would --

10 JUDGE RENDAHL: Please don't answer yet. I
11 believe it has been asked and answered. If you're asking
12 what more specific information he needs, then that is a
13 more appropriate question. But I think you already asked
14 that question that you're asking.

15 MR. JOHNSON: Let me ask it a little differently,
16 if I may?

17 BY MR. JOHNSON:

18 Q. If Mr. McClausky thinks this is an appropriate
19 Certificate of Destruction, you'd disagree with him on
20 that; is that right?

21 A. I would like the wording to be more specific,
22 very specific.

23 Q. Okay. Is there anything that you would look at
24 other than to draft the certificate itself?

25 A. Very simple what I would like, and I'm sure most

1284

1 people would like, I can't speak for them but --

2 Q. I don't want you to necessarily repeat the words.

3 JUDGE RENDAHL: Mr. Johnson, I think he's trying
4 to answer the question that you asked, so please don't
5 interrupt.

6 MR. JOHNSON: Okay, Your Honor.

7 BY MR. JOHNSON:

8 Q. Please proceed, Mr. Calney.

9 A. I, so-and-so, certify that this has been
10 destroyed. That's what we want. That's the only thing
11 that I want.

12 Q. Is that the only thing that you want that's not
13 on this document.

14 A. I want the liability removed from my company and
15 every little piece that gives that -- so like we're
16 arguing about, right here. Legally there's all of these
17 things that can happen. What I would like is more
18 transparency, more accountability. So anything that I can
19 get. Sometimes I have to deal with things that aren't
20 exactly as I like them. But if I can get more to increase
21 accountability or -- and that's what we're discussing,
22 then I'm going to be a big proponent of that.

23 Q. But what I specifically asked you was, is there
24 anything else that you would want to see changed on this
25 document, that's marked as Exhibit 27, to be an

1285

1 appropriate Certificate of Destruction?

2 A. Is there anything else? No. As long as it
3 certificates that the shipment in question has been
4 destroyed, and that person is saying I certify that this
5 shipment has been destroyed. Now, if they are -- it could
6 be as long as that person -- if that person is comfortable
7 with the system in place, it can be them, as long as they
8 take accountability for that responsibility, that's fine.

9 Q. Okay.

10 A. That's what I want.

11 Q. I've asked you several times if there is anything
12 in addition to the language to the certification that you
13 would change with respect to this document that we've
14 identified as Exhibit 27, you have not provided anything
15 further.

16 A. What I just said is -- additions, subtractions,
17 that's all I'm looking for.

18 Q. Okay. There is no signature on this document?

19 A. Oh, the signature, yes. I, signature, I, this
20 person, that is.

21 Q. This is somebody's typed name, is it not?

22 A. I would like a signature.

23 Q. Right. And there is no signature on this
24 document?

25 A. I don't see a signature on this document.

1286

1 Q. Have you asked Kleen to provide you, or the
2 disposal company involved here, to provide you with a
3 different Certificate of Destruction for your hazardous
4 waste?

5 A. It has not become an immediate priority.

6 Q. Why?

7 A. Because there are other priorities at this
8 moment.

9 Q. Your hazardous waste is not a priority?

10 A. Well, my hazardous waste is handled in compliance
11 with the regulations, but what we're talking about here is
12 hazard mitigation and potential hazards in the future, and
13 preventing potential hazards. That is the concern. We
14 are up to regulation. We are complying. The issue at
15 hand is how to make that system better. And we've been
16 asking for certain features that have not been addressed.

17 Q. Right. And you haven't been asking for it for
18 your hazardous waste. That's all I'm trying to clarify;
19 is that right?

20 A. To the best of my knowledge, I -- it has not been
21 asked or it has not been addressed.

22 Q. You have not asked for it? Your company, your
23 institution has not asked for this?

24 A. Well, I'm not speaking for my company, I am
25 speaking for the Health and Safety Department within my

1287

1 company.

2 Q. To the best of your knowledge?

3 A. To the best of my knowledge, I have not asked for
4 that because I've been dealing with other areas -- like I
5 said, I've only been in here since December, and I've been
6 restructuring the program to be more accountable, more
7 quantitative, more transparent. So -- and also the
8 community at large has been more vocal about this
9 particular feature.

10 Q. Right.

11 A. With that -- with the biohazards, I agree. I
12 would like to see a signature on this as well, and if
13 there's a hearing for that, I'll go and testify for that
14 as well.

15 Q. So really the reason you're particularly
16 interested in the documentation, or the problems of
17 documentation that you've described, is because the other
18 members of the biotech community have identified that as a
19 priority and you're going with them on that issue?

20 A. I have heard what is -- you know, I've heard that
21 said. And in so doing, I've looked at the situation at
22 hand, and I think it would be better to receive that. So
23 that is why I am here, is because it would be better. I
24 would think that there would be more opportunity to get
25 these features if there was competition in the

1288

1 marketplace. I think that it would change the dynamic
2 tremendously, and it would help the Health and Safety
3 community -- Health and Safety tremendously.

4 MR. JOHNSON: Your Honor, if we might just go off
5 the record for a moment, so that I might consult with my
6 client. See if there's anything further for this witness.

7 JUDGE RENDAHL: Off the record.

8 (15 minute recess was taken.)

9 JUDGE RENDAHL: Mr. Johnson.

10 Q. Hi. Mr. Calney. I just have a few more
11 questions for you.

12 If you will take a look at Exhibit 138, in the
13 book in front of you. It's probably in the second volume
14 there. I think that's a -- between the sheet there. Now,
15 you've got the old hard-to-read version Exhibit 138,
16 there.

17 A. Okay.

18 Q. I'm going to give you one that is slightly easier
19 to read that we found. And that's headed at the top
20 Covanta Marion, Inc., right?

21 COURT REPORTER: Can you spell that?

22 A. Hm-hmm. C-O-V-A-N-T-A, M-A-R-I-O-N, I-N-C.

23 Q. And that document at least by the title purports
24 to be a delivery receipt, does it not?

25 A. Yes.

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1 Q. Now, if this was the kind of document that was
2 produced by a disposal facility on receipt, biomedical
3 waste by a medical waste collection company, would this
4 kind of a document meet your kind of requirements for a
5 certificate of Destruction.

6 A. I would like to see that it says the shipment
7 0-code blah-blah, the identifying the feature of that
8 shipment, that quantitative has been destroyed. This is
9 all that I've got. I am going to balance this with the
10 other variables.

11 Q. Okay. But you'd want it to refer to your
12 individual waste manifest or containers; is that right?

13 A. More quantifiability, the better.

14 Q. Okay. Do you see what this actually does show?

15 A. Weight in, weight out, net weight. So I'd like
16 to see the bar code. Truck number this. So they can
17 track the bar code with that. So they should be
18 reasonably sure that if their system's operating that my
19 package on this truck, they can show that this is how much
20 it was, and that they could say it's been destroyed and
21 then someone could sign it, as opposed as just receiving
22 it. That's what I would like to see.

23 Q. This merely shows the weight of the truck, does
24 it not? In and out of the facility?

25 A. Weighing it in, yes.

1290

1 Q. So that does not meet your requirement?

2 A. I would like to see something more.

3 Q. Do you understand that the Kleen proposal is to
4 use the Cobanta Marion Facility for disposal of all their
5 medical waste that they collect?

6 A. Yes, I believe so.

7 Q. Have you visited the Cobanta facility?

8 A. No, I have not had an opportunity to audit any of
9 the facilities yet, because I'm still going through our
10 processes.

11 Q. Okay. Would it be correct to say that if the
12 Kleen application is granted, that you will then at that
13 time examine the advantages of the available services that
14 you choose, the best medical waste collection company that
15 best suits your company's needs?

16 A. Yes.

17 Q. So you haven't made a decision yet? That would
18 depend on further examination and audit?

19 A. Yes, that would depend on further examination,
20 once we actually have a proposal for service.

21 Q. Thank you.

22 MR. JOHNSON: That's it, Your Honor, for me.

23 JUDGE RENDAHL: Thank you, Mr. Johnson.

24 Mr. Sells.

25 MR. SELLS: Not a chance, Your Honor. No

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1 questions.

2 JUDGE RENDAHL: Thank you, Mr. Sells.

3 Mr. Trautman.

4 MR. TRAUTMAN: No, Your Honor.

5 JUDGE RENDAHL: I have a few questions, mostly
6 just to clarify the record.

7 E X A M I N A T I O N

8 BY JUDGE RENDAHL:

9 Q. Mr. Calney, Kleen Environmental collects and
10 disposes of your chemical waste stream; is that correct?

11 A. Yes.

12 Q. And Stericycle collects and disposes of your
13 biohazardous waste stream, correct?

14 A. Yes.

15 Q. Who collects and disposes of your radioactive
16 waste stream?

17 A. It's Northwest Radiation, it's Thomas Gray and
18 Associates.

19 Q. Thomas?

20 A. Thomas Gray, G-R-A-Y, I believe and Associates.

21 Q. Okay. At one point during the cross-examination
22 by Mr. Johnson, you were discussing incineration as your
23 personal preference, and then you said something about
24 this being inherited. Did you mean that the decision for
25 incineration by PNRI as being an inherited choice?

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1 A. The person who had my job previous to me had all
2 the systems that we operate under right now, were set up
3 by them, or somebody before them. So I'm just maintaining
4 the system that they've given me. I'm just restructuring
5 other components. But I would like to see more details in
6 these -- in some cases it's an industry -- it's an
7 industry problem, it's like it's acceptable what's
8 happening, but it leaves open some potential areas of
9 problems later on. And it's not a problem right now so
10 much. We would just like to see that those potential
11 problems are eliminated because that's really what we do
12 all day.

13 Q. Okay. I was just trying to find out what you
14 meant by inherited. And I think --

15 A. Okay.

16 Q. -- I understood that. You also said something
17 about you're dealing with the "V stream," is that a
18 correct --

19 A. Waste stream?

20 Q. I thought I heard a V stream. But again --

21 A. Doesn't ring --

22 Q. -- doesn't ring a bell? So it might have been
23 waste stream.

24 A. What context?

25 Q. Has to do with the incineration and inheriting

1293

1 and dealing with the V stream, is what I heard, but could
2 have been the waste stream?

3 A. Yeah, it sounds like waste stream.

4 Q. So that was just a clarification.

5 Talking about this request for a Certificate of
6 Destruction, and there's been a lot of discussion about
7 Stericycle's documentation. And so I would just like you
8 to turn to what's been marked as Exhibit 65, and what has
9 been admitted as Exhibit 65. That's the manifest that has
10 the generatetors sign off, transporter sign off, and
11 treatment facility sign off.

12 A. Yeah. This one. The Stericycle?

13 Q. Right.

14 A. Yes.

15 Q. Have you seen this manifest before today?

16 A. Yes.

17 Q. So you're familiar with this manifest, right?

18 You understand this is to be a Certificate of Receipt or a
19 Certificate of Destruction?

20 A. This is a Certificate of Receipt.

21 Q. And that's what it says here on the document,
22 correct? Look under treatment facility.

23 A. Treatment facility. Signed treatment facility.

24 Q. And then under "designated" it says Stericycle,
25 below the address.

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1 A. Certificate of Receipt as described below. Yes.

2 Q. So it says next to "designated treatment,"
3 "Certificate of Receipt as described above," correct?

4 A. Yes.

5 Q. Okay. And what you're asking for differently
6 from this manifest, is an actual Certificate of
7 Destruction?

8 A. That's what I would like to see, yes.

9 Q. Rather than receipt?

10 A. Both would be fine. Actually, preferable. I
11 would like to see, you know, Certificate of Receipt,
12 Certificate of Destruction because that covers both --
13 says that we handed it off. If something were to happen
14 between -- as soon as it leaves my hands, what happens to
15 it. If it happens someplace else, I can say: Well, I
16 gave it to them, you know. If it ends up someplace else,
17 it would be nice to say: Well, that thing's been
18 destroyed; that's not ours.

19 Q. Okay. Then could you look at Exhibit 68?

20 A. Yes.

21 Q. Are you familiar with this document or not?

22 A. This does look familiar.

23 Q. Have you seen this or used this?

24 A. Not as familiar with this one as the other one.

25 So this -- I don't have a steady access to this particular

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1 form.

2 Q. Okay. Have you ever discussed this form with any
3 representative of Stericycle?

4 A. No, I haven't.

5 Q. Okay. And I believe that's it.

6 JUDGE RENDAHL: Mr. Haffner, do you have any
7 redirect for the witness?

8 MR. HAFFNER: No, Your Honor.

9 JUDGE RENDAHL: Okay. And I think we are done,
10 unless, Mr. Johnson, you had anything based on my
11 questions?

12 MR. JOHNSON: No, Your Honor.

13 JUDGE RENDAHL: Okay. Thank you, very much,
14 Mr. Calney, for staying throughout the day. You are
15 excused.

16 THE WITNESS: Sweet.

17 JUDGE RENDAHL: All right.

18 THE WITNESS: Thank you.

19 JUDGE RENDAHL: Thank you.

20 And we'll be off the record.

21 (Discussion off the record.)

22 JUDGE RENDAHL: Mr. Trautman has a bit of clean-
23 up. I want to discuss the Walker Exhibit, if there's any
24 issues, we need to talk about that. And Mr. Sells, were
25 you able to get the document about Mr. Coles, is that his

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1 name?

2 MR. TRAUTMAN: It has made its way to Kent, I
3 went down there at noon, and there was a temp for
4 somebody, and she didn't know where it was. So I'll pick
5 it up tomorrow morning, I guess.

6 MR. SELLS: I'll try and bring copies --

7 MR. TRAUTMAN: Just bring it in.

8 MR. SELLS: -- if I have it in my office, I'll
9 certainly bring copies in.

10 MR. TRAUTMAN: According to my office, it's there
11 somewhere. And, yes, my standard rate will apply.

12 JUDGE RENDAHL: Okay. Then Mr. Trautman, why
13 don't you make your request on the record?

14 MR. TRAUTMAN: Thank you, Your Honor. In Exhibit
15 200, which was the letter by the Washington State Hospital
16 Association, signed by Rob Renault regarding the Kleen
17 Application. On Page 1 of the letter in the fourth
18 paragraph, there is a reference to the contract between
19 WSHA and Stericycle. And Staff would like to make a
20 record requisition for that contract.

21 MR. JOHNSON: Just to clarify, Mr. Trautman, I
22 think the contract is between WHS --

23 MR. TRAUTMAN: Oh.

24 MR. JOHNSON: And Stericycle.

25 MR. TRAUTMAN: That --

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1 JUDGE RENDAHL: The subsidiary of the Washington
2 State Hospital Association?

3 MR. JOHNSON: Right.

4 MR. TRAUTMAN: Yes. That may be. What I was
5 reading was the sentence that said: "A WSHA member task
6 force was so impressed with what Stericycle has to offer
7 that we entered into a contract with Stericycle, where we
8 agreed to promote Stericycle service to Washington
9 hospitals through WSHA Subsidiary Washington Hospital
10 services WSHS." So you may be correct. It may be with
11 WHS.

12 MR. JOHNSON: I am familiar with the agreement,
13 it is with Washington Hospital Service.

14 MR. TRAUTMAN: All right. All right. Thank you.

15 MR. JOHNSON: We'll be happy to provide that.

16 JUDGE RENDAHL: So there is no contract with the
17 Washington state hospital association, to your knowledge.

18 MR. JOHNSON: No, there is not.

19 (Records Requisition No. 3)

20 JUDGE RENDAHL: All right. So that will be
21 Requisition No. 3 from Staff to Stericycle and requesting
22 the contract between Stericycle and the Washington
23 Hospital Services, which is a subsidiary of Washington
24 State Hospital Association referenced in Exhibit 200.

25 All right. Has there been any discussion or

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1 agreement concerning the possible exhibit from Ms. Walker,
2 or are we still waiting for a definitive version of that?

3 MR. JOHNSON: That's exactly the situation, Your
4 Honor. I had what I'm viewing as a draft, of her revised
5 exhibits. I considered just withholding it until I was
6 able to communicate directly with Ms. Walker, and confirm
7 that this text reflects an accurate presentation of the
8 information she was attempting to present.

9 JUDGE RENDAHL: Okay. Is it one exhibit or is it
10 multiple?

11 MR. JOHNSON: It's multiple exhibits. It's the
12 attachments to her prefiled testimony.

13 JUDGE RENDAHL: So it's a new version of each of
14 the attachments to the prefiled testimony, aside from her
15 resume?

16 MR. JOHNSON: I believe that's correct. If I
17 could just take a quick look, I'll try to confirm that.

18 JUDGE RENDAHL: Okay. I see that as Exhibit 117
19 on the attachments that aren't her resume.

20 MR. JOHNSON: Right. And so the revisions would
21 be in the exhibit, we'll have it be Exhibit 117. There
22 will be no revisions to Exhibit 118. There will be
23 revisions to Exhibits 119, 120, 121, 122.

24 And again, I provided those in draft form to
25 counsel for all of the parties, with the intent to allow

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1 them as much time as possible to see what Ms. Walker's
2 positions are going to look like.

3 I'm not prepared to offer them at this time
4 because I haven't been able to talk with Ms. Walker, and
5 there were a couple of points of problematic issues that I
6 wanted to address.

7 JUDGE RENDAHL: Okay. And Mr. Sells, you
8 indicated that Mr. Coles, Mr. Cole?

9 MR. JOHNSON: Mr. Cole.

10 JUDGE RENDAHL: Mr. Cole has an affidavit or a --

11 MR. SELLS: We had a declaration for him, I
12 think. I haven't seen it.

13 JUDGE RENDAHL: Some declaration for Mr. Cole
14 will be available in the morning?

15 MR. SELLS: That's correct, Your Honor.

16 JUDGE RENDAHL: Mr. Haffner.

17 MR. HAFFNER: Yes, Your Honor, regarding the
18 document that Mr. Johnson has provided to us as a new
19 exhibit from Ms. Walker, I believe he informed some of us
20 here, off the record, that there were errors and mistakes
21 that he was aware of, on the document. And I asked him to
22 point them out to us, and he refused to do so. It just
23 doesn't seem to me to be a worthwhile document, for us to
24 even bother to look at. If he knows that there are some
25 mistakes that he could point those out to us.

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1 And I guess for the record, I'd like to make it
2 clear that we can't base our analysis of this document
3 until we believe that we have a final version in our
4 hands.

5 JUDGE RENDAHL: I understand that. Based on the
6 schedule, I'm not even sure we're going to get to anybody
7 else until next week anyway. And that was my next issue.
8 So I think what I would like to do is -- I understand that
9 there's a problem with connecting with Ms. Walker,
10 particularly while you're in hearing, Mr. Johnson, but I
11 would like to have those exhibits wrapped up by tomorrow.

12 MR. JOHNSON: Your Honor, Ms. Walker is out of
13 the country and unavailable to me. She is in Canada
14 celebrating some anniversary, and I've made every effort
15 to communicate with her, leaving cell phone numbers and
16 otherwise.

17 JUDGE RENDAHL: And when do you anticipate her
18 return?

19 MR. JOHNSON: She indicated she will be back over
20 the weekend, and I anticipate we'll be able to nail this
21 down by Monday, but that's the situation.

22 JUDGE RENDAHL: Okay. And why can't you indicate
23 which numbers might be in error so that Mr. --

24 MR. JOHNSON: I corrected myself what I thought
25 were typographical errors. So I believe the text is

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1 correct. On the other hand, I have done that without
2 conferring with Ms. Walker. So I intend to review that
3 with Ms. Walker to make sure that is consist with her
4 intentions, and if it is not, we'll make the necessary
5 corrections and submit it in correct form.

6 JUDGE RENDAHL: I guess my concern is that,
7 without identifying what the error is, if you can identify
8 which particular item that you're not a hundred percent
9 sure of, so that counsel for other parties can review it.

10 MR. JOHNSON: Well --

11 JUDGE RENDAHL: If that's possible. So that at
12 least if there are certain numbers that can be looked at
13 now, without identifying what the possible error is, but
14 identifying items that you need to clarify.

15 MR. JOHNSON: Well, this really, I believe, is a
16 minor matter. I believe on the page marked "Cash
17 requirement" that the numbers that you see there for the
18 net effect of the revision to the exhibit for Kleen's
19 Certificate 1.

20 JUDGE RENDAHL: I don't have it, so I can't refer
21 to it. I don't know that I need it.

22 MR. JOHNSON: Oh, sorry. I don't know if you do
23 either, Your Honor.

24 JUDGE RENDAHL: So I'm just saying, if you're
25 looking to me, I don't have copy, so I can't direct to

1302

1 anybody where it is.

2 MR. JOHNSON: Well, I'm referring to the cash
3 requirement document and the net effect of the revision,
4 which shows as a dollar figure of \$1977 for each, just at
5 the bottom of that sheet. It makes a minor difference in
6 the totals as shown at the bottom. I don't think it would
7 affect the overall presentation.

8 MR. HAFFNER: But does she have a different
9 number there that you modified?

10 MR. JOHNSON: I don't intend to discuss with you
11 exactly the changes that are made.

12 JUDGE RENDAHL: Okay. But that's the number
13 that's in question and in a sense should not be relied on
14 at this point.

15 MR. JOHNSON: Right.

16 JUDGE RENDAHL: Okay. And I guess that's all at
17 this point that I think we need to go into. You can go
18 through it with Ms. Walker if she needs to be here.

19 MR. HAFFNER: Okay.

20 JUDGE RENDAHL: We can pursue this when this
21 comes into evidence. But at this point, is that the only
22 number?

23 MR. JOHNSON: I believe so.

24 JUDGE RENDAHL: Okay. At this point all the
25 other pages in the document you can work from at this

1303

1 point?

2 MR. SELLS: We will take a look at it.

3 JUDGE RENDAHL: I'm just trying to make it as
4 workable as possible, so that you're not concerned that
5 there are numbers throughout the document that are
6 problematic. That's all I'm trying to clarify here.

7 MR. JOHNSON: And again, Your Honor, what I'm
8 trying to do is provide as much information as possible,
9 perhaps a little too soon.

10 JUDGE RENDAHL: All right. For tomorrow we will
11 take up Mr. Smith at 9:30 and I'm estimating a half an
12 hour of direct from Mr. Haffner, and an hour and a half
13 from Mr. Johnson. And then, probably, no more than 10
14 minutes for the other counsel, and myself and direct and
15 recross, which likely will take us through to the lunch
16 period. Then we would take up Mr. Rodgers, Mr. Haffner,
17 unless you hear differently from Mr. McClausky what your
18 different witnesses are. At this point we have
19 Mr. Rodgers, Mr. Radder, and Ms. Hoskins for tomorrow as
20 your shipper generator witness. And based on the
21 schedule today, I'm assuming that we'll only get through
22 two of those witnesses, but if you see what their needs
23 are, we may have to shift one or two to the 12th.

24 MR. HAFFNER: Correct, Your Honor. I think that
25 Mr. Knight will actually be starting us off tomorrow.

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1 JUDGE RENDAHL: Mr. Knight will?

2 MR. HAFFNER: Yes.

3 JUDGE RENDAHL: Why did I think that --

4 MR. JOHNSON: Knight or Smith?

5 JUDGE RENDAHL: Mr. Knight I understood would be
6 back on the 12th. He said he wasn't available tomorrow.

7 MR. HAFFNER: Right. Mr. Smith will be here
8 tomorrow morning.

9 JUDGE RENDAHL: Right. So Mr. Smith will start
10 us off tomorrow morning. And then you can let us know in
11 the morning, the needs of your other witnesses.

12 MR. HAFFNER: Okay.

13 JUDGE RENDAHL: So at this point, it's likely
14 that we'll have to talk tomorrow about when Mr. Lee,
15 Mr. Perrollaz, Mr. Philpott, Ms. Walker, and the
16 commercial lease person would be available.

17 MR. HAFFNER: I have asked my client to make
18 Mr. Lee available tomorrow in case we have time.

19 JUDGE RENDAHL: All right. I appreciate that.
20 And so, I guess, we'll just have to see how it flows.
21 Now, in terms of scheduling, we do have this room on the
22 12th.

23 MR. SELLS: We're clearly going to need that.

24 JUDGE RENDAHL: We're clearly going to need
25 that. I'm not available on the morning of the 13th or the

1305

1 morning of the 14th, but the afternoons are available, and
2 to my knowledge they're available to the Commission. I
3 know that's a long way to go, but I don't know about the
4 availability here.

5 MR. SELLS: I've got a CR 102 on the finance
6 stuff.

7 JUDGE RENDAHL: Yes. That's in the morning. Oh,
8 that's in the afternoon.

9 MR. JOHNSON: What page is that?

10 JUDGE RENDAHL: Okay. So the 13th is out.
11 Because I have open meeting stuff in the morning. That's
12 what I was thinking of. It looks like the next available
13 time would be on the morning of the 14th. The afternoon I
14 have a prehearing conference in the morning, but I am
15 available on the morning of Friday the 15th.

16 MR. HAFFNER: Your Honor, are we still on the
17 record?

18 JUDGE RENDAHL: Yes, we are. Why don't we go off
19 the record for scheduling.

20 (Discussion off the record.)

21 JUDGE RENDAHL: All right. We're back on the
22 record. We haven't resolved our scheduling issues, and
23 we'll try to resolve it tomorrow. So for now we are off
24 the record until tomorrow at 9:30 where we will have our
25 next witness. We are off the record.