

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Application of:

WASTE MANAGEMENT OF WASHINGTON,
INC. D/B/A WM HEALTHCARE SOLUTIONS
OF WASHINGTON

For an Extension of Certificate G-237 for a
Certificate of Public Convenience and Necessity
to Operate Motor Vehicles in Furnishing Solid
Waste Collection Service

Docket No. TG-120033

**DECLARATION OF DEANNA SCHOW
IN SUPPORT OF WASTE
MANAGEMENT'S OPPOSITION TO
STERICYCLE'S MOTION FOR LEAVE
TO TAKE DEPOSITION AND TO
COMPEL RESPONSES TO
DEPOSITION QUESTIONS**

I, Deanna Schow, declare as follows:

1. I am the legal assistant at Summit Law Group PLLC for Waste Management in this matter and I make this declaration based on personal knowledge.
2. Attached hereto as Exhibit 1 are true and correct copies of excerpts of the August 8, 2012 discovery hearing before Administrative Law Judge Gregory Kopta.
3. Attached hereto as Exhibit 2 are true and correct copies of excerpts of the October 3, 2012 discovery hearing before Administrative Law Judge Gregory Kopta.
4. Attached hereto as Exhibit 3 is a true and correct copy of the Direct Testimony of Jeff Norton filed in this matter on October 1, 2012.
5. Attached hereto as Exhibit 4 is a true and correct copy of the Declaration of Jeff Norton Regarding Waste Management's Fitness filed in this matter on October 1, 2012.

6. Attached hereto as Exhibit 5 is a true and correct copy of the Declaration of Jeff Daub Regarding Waste Management's Fitness filed in this matter on October 1, 2012.

7. Attached hereto as Exhibit 6 is a true and correct copy of Jessica Goldman's October 10, 2012 email to Jared Van Kirk.

8. Attached hereto as Exhibit 7 are true and correct copies of excerpts of the deposition transcript of Jeffrey Norton dated October 15, 2012.

I declare under penalty of perjury under the laws of the State of Washington and the United States that the foregoing is true and correct.

EXECUTED this 31st day of October, 2012 at Seattle, Washington.



Deanna Schow

CERTIFICATE OF SERVICE

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

<p>Washington Utilities and Transportation Commission 1300 S. Evergreen Park Dr. SW PO Box 47250 Olympia, WA 98504-7250 360-664-1160 records@utc.wa.gov</p>	<p><input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via Federal Express <input checked="" type="checkbox"/> Via Email</p>
<p>Gregory J. Kopta Administrative Law Judge Washington Utilities and Transportation Commission gkopta@utc.wa.gov</p>	<p><input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email</p>
<p>Frona Woods Attorney General's Office of Washington PO Box 40128 Olympia, WA 98504 (360) 664-1225 fwoods@utc.wa.gov bdemarco@utc.wa.gov</p>	<p><input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email</p>
<p>Stephen B. Johnson Jared Van Kirk Garvey Schubert Barer 1191 Second Avenue, Suite 1800 Seattle, WA 98101 (206) 464-3939 sjohnson@gsblaw.com jvankirk@gsblaw.com vowen@gsblaw.com dbarrientes@gsblaw.com <i>Attorneys for Stericycle of Washington, Inc.</i></p>	<p><input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email</p>
<p>James K. Sells 3110 Judson Street Gig Harbor, WA 98335 (360) 981-0168 jamesells@comcast.net cheryls@rsulaw.com <i>Attorney for Protestant WRRRA, Rubatino, Consolidated, Murrey's, and Pullman</i></p>	<p><input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email</p>

DATED at Seattle, Washington, this 31st day of October, 2012.



Deanna L. Schow

Exhibit 1

Docket No. TG-120033 - Vol. II

**In the Matter of the Application of Waste Management of
Washington, Inc.**

August 8, 2012



1411 Fourth Avenue, Suite 820 • Seattle, Washington 98101

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1 22, which --

2 MR. JOHNSON: 18, I think we already
3 addressed, Your Honor.

4 JUDGE KOPTA: All right. That's right,
5 we did.

6 MR. JOHNSON: But I think you are
7 correct, it's 20 through 22.

8 JUDGE KOPTA: Okay.

9 MR. JOHNSON: And those deal with this
10 issue of using recycling discounts to --

11 JUDGE KOPTA: Right. And again --

12 MR. JOHNSON: -- induce service switch.

13 JUDGE KOPTA: Yes, I think you addressed
14 that had in your opening comments as well. I don't
15 need to hear anything more on that. I think that
16 that's farther afield than we are going here.

17 If you have concerns about what Waste
18 Management is doing, you can always file a complaint.
19 This is not an opportunity to provide every problem or
20 objection you have to what Waste Management is doing.
21 I'm not going to allow us to fall that far afield, so
22 I'm denying this, the motion as to 20 through 22.

23 MR. JOHNSON: So, Your Honor, just so
24 that I understand your ruling. This goes directly to
25 regulatory fitness, if they are violating the tariff

1 requirements.

2 JUDGE KOPTA: If you are aware of those,
3 I am not saying that you cannot provide testimony on
4 that. Although, I am not saying at this point that I
5 would allow it, I am just saying at this point that I
6 am not going to compel discovery on it.

7 MR. JOHNSON: So we are entitled to
8 raise it at the hearing, but we are not entitled to
9 determine the facts that would allow us to raise it
10 effectively?

11 JUDGE KOPTA: What I am saying is I am
12 not at this point precluding you from including it in
13 your testimony. That doesn't mean that I would not
14 entertain a motion to strike. At this point, I don't
15 see that it is sufficiently relevant. This is not an
16 occasion to air every complaint. I don't want to hear
17 from Waste Management about your profitability and
18 your overearning. And I don't want to hear from you
19 about what you think Waste Management is doing wrong
20 in its current service territory. That's not what we
21 are here to talk about.

22 MR. JOHNSON: Your Honor, I understand
23 that. Can I just give you a little sort of
24 perspective on where I'm coming from?

25 If you look at our --

1 JUDGE KOPTA: I know where you are
2 coming from, and I understand --

3 MR. JOHNSON: Let me just add one little
4 wrinkle that perhaps you haven't heard about yet.

5 Under RCW 81.77.040 if you read far enough
6 down, you find that the Commission has the authority
7 to issue certificates with conditions. It is my
8 thought that regulatory fitness is certainly an issue.
9 But if there is evidence presented at the hearing that
10 an applicant is engaged in some kind of activity that
11 is contrary to the statute and the Commission's rules,
12 that even if the Commission ultimately determines that
13 the application should be granted, that it has the
14 ability, and in fact in that case, it should attach
15 conditions.

16 And I think this would go back to like the
17 Ryder case, which I was also involved in, where
18 Stericycle was dinged for a particular agreement with
19 a subsidiary of the Washington Hospital Association,
20 and was required to change the practice, you know, in
21 an order issued in an application case.

22 So that is where I am coming from, both
23 regulatory fitness and the notion that this is a
24 proper subject for a condition if the Commission so
25 chooses.

1 JUDGE KOPTA: And I appreciate that
2 that's where you are coming from. I assumed that
3 that's where you were coming from. I'm not in any
4 way, shape or form alleging that you are using this
5 forum improperly. That's not what my purpose is. My
6 purpose at this point is to try and keep us focused on
7 the issues. And to the extent that you have
8 information that Waste Management is operating
9 illegally or unlawfully or inconsistent with
10 Commission rules or its own tariff, then I am not
11 saying that you cannot provide that information.

12 What I am saying is that I am not going to
13 sanction an exploratory effort to try and look behind
14 Waste Management's practices to find those kinds of
15 things. I understand that you believe that you have
16 seen smoke and you are looking for the fire.

17 MR. JOHNSON: We have, actually, a
18 declaration in the file that supports the notion that
19 Waste Management has in fact offered a
20 recycling discount to Northwest Hospital as an
21 inducement for them to move their waste collection
22 service to Waste Management. That's not hypothetical,
23 it's not speculation, it's particular people having
24 told particular people of the facts. We have put that
25 on the table in connection with our request for a

1 leave to take a deposition.

2 JUDGE KOPTA: And we will deal with that
3 next. At this point, I am not going to compel a
4 response to those requests.

5 MS. GOLDMAN: Your Honor, I just want to
6 make sure that the record is clear. I don't know if
7 you actually ruled on No. 18. I believe your order
8 was that --

9 JUDGE KOPTA: Yes, I did rule on No. 18
10 earlier, when we were talking about that, and the
11 motion was denied.

12 MS. GOLDMAN: Thank you, Your Honor.
13 I'm sorry, I missed that.

14 JUDGE KOPTA: That's all right. I am
15 sure you will pore over the transcript of this. I
16 expect to see my own words quoted back to me numerous
17 times.

18 MR. JOHNSON: Well, Your Honor, that's
19 what my notes show.

20 JUDGE KOPTA: Well, then, it must be
21 right.

22 MS. GOLDMAN: Thank you.

23 JUDGE KOPTA: I'm going to go ahead and
24 take up the motion for leave to take depositions as
25 well. I'm not sure whether the parties contemplated

Exhibit 2

Docket No. TG-120033 - Vol. III

**In the Matter of the Application of Waste Management of
Washington, Inc.**

October 3, 2012



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1 This is Fronda Woods, Assistant Attorney General, for
2 Commission Staff.

3 JUDGE KOPTA: And for everyone else?

4 MR. SELLS: That would be James Sells,
5 attorney on behalf of Washington Refuse Recycling
6 Association and associated companies.

7 JUDGE KOPTA: All right, thank you. And
8 of course I didn't introduce myself. Gregory Kopta,
9 presiding administrative law judge.

10 I have read both the motion and the response.
11 What I would propose to do is go through each of the
12 data requests that Stericycle has requested in order
13 to compel and have a brief discussion of each one of
14 those.

15 I hope it comes as no surprise that I intend
16 to be as consistent as possible with our last
17 disposition of these types of requests. I will say
18 that in general. I am only going to be looking for
19 how these relate to the issues that we will be
20 addressing at the hearing. Also, I would just observe
21 that the responses and -- the responses to the
22 requests themselves and Waste Management's description
23 of what they have already provided are a bit
24 different. So to the extent that information has
25 already been provided that is responsive to these data

1 JUDGE KOPTA: Again, I'm going with my
2 preliminary evaluation of this one. I think what kind
3 of vehicles are used for this particular service,
4 unless Waste Management has placed that into issue, is
5 something that we are really going to have to deal
6 with. This is more of an issue that goes to their
7 fitness as opposed to the program itself. I'm going
8 to deny the motion as to that request.

9 And by the way, I will not be issuing a
10 written order, the oral disposition is what you are
11 going to get, just like we did last time.

12 So No. 3.

13 MR. VAN KIRK: Okay, I'll do No. 3. Let
14 me make one more one- or two-sentence preliminary
15 remark for No. 3, that I think also relates back.

16 I see a connection here between sort of the
17 first half and the second half of the motion we made.
18 The second half having to do with expressions of
19 public need that may be asserted at the hearing, in
20 that to the extent that we don't know at this point,
21 and we don't, what expressions of public need are
22 going to be put forward at the hearing. We also don't
23 know what service features are going to be relevant.
24 Waste Management has kept us in the dark on both
25 counts. Although I'm not asking you to revisit what

1 you are asking when and how frequently have you
2 collected material for this service, are you talking
3 about from the generators?

4 MR. VAN KIRK: Yes.

5 JUDGE KOPTA: All right. Well, I think
6 that is a legitimate question that describes this
7 particular service, how often it is collected, whether
8 it's weekly, monthly, you know, however. I think
9 that's a legitimate question. In terms of how it is
10 stored and how frequently it is transported to
11 California, I think that goes farther than we need to
12 know at this particular point.

13 I will require that Waste Management let you
14 know how frequently they collect it, but the remainder
15 of this I'm not going to require that they provide a
16 response to.

17 MR. VAN KIRK: May I make one more
18 comment, please, I think will help us as we go forward
19 here?

20 JUDGE KOPTA: All right.

21 MR. VAN KIRK: I don't think I entirely
22 agree that the scope of discovery on services that we
23 are entitled to receive depends strictly upon the
24 specifics of the generator needs that they put
25 forward. The question here, as in all discovery is,

Exhibit 3

Before the
Washington Utilities and Transportation Commission

In the Matter of the Application of Waste Management of Washington, Inc.
D/B/A WM Healthcare Solutions of Washington
Docket No. TG-120033

DIRECT TESTIMONY OF JEFF NORTON

On behalf of Waste Management of Washington, Inc.

October 1, 2012

Direct Testimony of Jeff Norton

1 **Q. Please state your name and business address.**

2 A. My name is Jeff Norton. My business address is 720 4th Avenue, Ste. 400, Kirkland,
3 WA 98033.

4 **Q. By whom are you employed and in what capacity?**

5 A. I am employed by WM Healthcare Solutions, Inc. as Account Development Manager.

6 **Q. Would you please describe your educational background and professional
7 employment experience?**

8 A. I graduated from Central Washington University with a Bachelors Degree in
9 Administrative Office Management in 1995. I worked as an Account Executive and
10 Sales Solution Executive for BFI Medical Waste Systems starting in 1996 and then for
11 Stericycle, Inc., after Stericycle acquired BFI, from 1998 until I resigned at the end of
12 2008. In January of 2009, I began working as an Account Executive for Sterilmed, a
13 medical device reprocessing and repair company. I left Sterilmed in July 2010 and
14 began working for WM Healthcare Solutions as a Business Development Manager.
15 Throughout the past 16 years (since starting with BFI Medical Waste), I have generally
16 covered the Pacific Northwest (Washington, Oregon, and Idaho) and Western Canada.
17 I have been responsible for customer development, product development, training,
18 consulting, sales and sales management for multiple types of healthcare wastes
19 generated by healthcare facilities and/or medical devices used by the healthcare
20 community.

21 **Q. What are your primary responsibilities for Waste Management?**

22 A. My current role is to help develop Waste Management, Inc.'s healthcare waste business
23 in the Pacific Northwest and Northern California including the business of Waste
24

1 Management of Washington, Inc. (“Waste Management”). I currently provide sales,
2 consulting for all waste streams and recyclables, and overall customer development of
3 waste generators for my region.

4 **Q. What are the subjects of the testimony you are offering today?**

5 A. I will testify about Stericycle of Washington, Inc.’s (“Stericycle”) response to customer
6 complaints and to competition from Waste Management as well as describing some of
7 the differences between the regulated biomedical waste (“RMW”) services offered by
8 Waste Management and the Protestants.

9 **Q. How has Stericycle responded to direct competition from Waste Management?**

10 A. Since I had worked at Stericycle for a number of years, I knew that Stericycle’s black
11 “Steritubs” were disliked by most of the customers that used them because they stick
12 together when they nest, customers in some cases could not get them apart, and the lids
13 rarely fit properly. When I worked at Stericycle, on numerous occasions I mentioned
14 the problems with the black Steritubs to Stericycle’s District Manager Mike Philpott,
15 but his answer was always that the company had too much capital invested in them and
16 that Stericycle would not change the containers. Based on this background, I knew that
17 Waste Management’s new Rehrig biohazard containers would be a great benefit to the
18 medical waste generators in the Pacific Northwest because they nest easily, the lids are
19 attached and close easily, and they stack evenly and minimize the storage space needed.
20 I had discussions with two Stericycle customers, Virginia Mason and Northwest
21 Hospital, about moving their business to Waste Management. Stericycle inevitably
22 obtained one of my emails in which I talked about the new biohazard containers and the
23 fact that Waste Management’s tariff rates were slightly lower than Stericycle’s. Within
24 a month of Waste Management starting its RMW services in June 2011, Stericycle
purchased and started marketing the exact Rehrig containers Waste Management was
using. Stericycle also reduced its tariff rates to match Waste Management’s for those

Direct Testimony of Jeff Norton

1 containers only (Stericycle's other containers remained at the same tariff rates). Waste
2 Management has a tariff rate that is a sliding scale and is charged per-gallon depending
3 on how many gallons are picked up at a specific stop. Stericycle's tariff is similar,
4 although Stericycle charges a direct per-container charge on a sliding scale. When
5 Stericycle added its "new" Rehrig containers to its tariff, instead of aligning its pricing
6 with its other containers and the pricing Stericycle has had since 1990, Stericycle
7 converted Waste Management's per-gallon price exactly to a per-container price and
8 used those charges for Stericycle's new container. For example, Stericycle's black 31-
9 gallon container is \$50.22 if only one is collected. Stericycle's new 31-gallon Rehrig
10 container, which Stericycle offers only in Waste Management's Certificate No. G-237
11 territory, is \$44.95. It is obvious to me that Stericycle changed its container and its
12 pricing only as a result of direct competition from Waste Management and still does not
13 offer either in the territory where Stericycle alone is authorized to provide RMW
14 service. As a result of Stericycle's reduction in its tariff rate to meet Waste
15 Management's pricing and Stericycle's switch to the Rehrig containers to compete with
16 Waste Management's service, Virginia Mason decided to keep its business with
17 Stericycle.

16 **Q. What services does Waste Management offer which the Protestants do not?**

17 A. Waste Management is conducting a pilot recycling program with one Washington
18 customer which offers a more sustainable way to handle RMW. I was responsible for
19 working with the customer to set up and monitor this pilot project. Through the Becton
20 Dickinson ecoFinity program, Waste Management collects uniquely marked, reusable,
21 lined tubs filled with sharps containers. Once these tubs are received at Waste
22 Management's Seattle processing plant, the tubs are loaded onto trailers and transported
23 to WM Healthcare Solution's Vernon, California facility. There, the tubs are processed
24 in a Red Bag Solutions ("RBS") system designed to safely, efficiently, and effectively
sterilize and grind medical waste. By exposing infectious medical waste to superheated

1 water and steam (272°F) and simultaneously employing a proprietary cutting system,
2 the RBS renders infectious medical waste non-infectious, non-hazardous, and non-
3 recognizable. Once processed through the RBS, the non-infectious medical waste is
4 sent to Talco Plastics in Corona, California where the non-infectious ground sharps are
5 processed and the metals and plastics separated utilizing float/sink technology. The
6 recovered plastics are pelletized at Talco and sent to Becton Dickinson to be
7 manufactured into BD Recykleen products. In May and June 2012, recycled sharps and
8 sharps containers collected by Waste Management yielded between 17% and 28% of
9 the original product collected from Waste Management's customer. A true and correct
10 copy of a flyer describing the ecoFinity program is attached hereto as Exhibit 1.

11 **Q. What other differences are there between the Protestants and Waste
12 Management?**

13 A. Stericycle charges a minimum monthly fee for small quantity generators which do not
14 use their services in a particular month. Waste Management does not charge a
15 minimum monthly fee. Waste Management only charges customers when service is
16 provided. Many smaller doctor's and dentist's offices do not generate enough waste to
17 warrant a monthly pickup and dislike Stericycle's minimum fee. Waste Management's
18 treatment facility in Seattle is closer to most of the facilities generating RMW in
19 Washington than is Stericycle's treatment facility in Lewis County which is used by
20 Stericycle and all of the other Protestants. This includes generators in King, Pierce,
21 Snohomish and Spokane Counties which represent the large majority of RMW. Less
22 travel time for untreated waste from the generator to the treatment facility reduces the
23 risk of liability and the environmental impact of the transportation. Waste Management
24 also has the ability to utilize rail for final disposal, further reducing the number of trucks
on the road. Moreover, proximity to the treatment facility makes it more convenient for
generators to perform audits on their service provider.

1 **Q. Does this conclude your direct testimony?**

2 **A. Yes.**

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Before the
Washington Utilities and Transportation Commission

In the Matter of the Application of Waste Management of Washington, Inc.
D/B/A WM Healthcare Solutions of Washington
Docket No. TG-120033

EXHIBIT 1 TO
DIRECT TESTIMONY OF JEFF NORTON
On behalf of Waste Management of Washington, Inc.

October 1, 2012

Direct Testimony of Jeff Norton

BD ecoFinity™

Life Cycle Solution

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Now single-use can be both safe and sustainable

Every year, US hospitals use billions of BD syringes, catheters and other single-use medical devices to treat patients safely. Until now, there has not been an environmentally sustainable way to manage the disposal of these devices.

The BD ecoFinity Life Cycle Solution can help hospitals achieve their sustainability goals by safely and economically recycling 70% or more of their sharps waste stream.*



Helping all people
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*Data on file at BD.

WM000174

BD ecoFinity™

Life Cycle Solution

Powered by an alliance with Waste Management®

Waste diverted. No compromise.

How **BD ecoFinity™** Life Cycle Solution works:



To learn more about how this healthcare sustainability solution can benefit your organization, call 1.866.803.7554 or visit www.bd.com/ecoFinity.



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This paper contains 100% post-consumer recycled content.

WM000175

Exhibit 4

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BEFORE THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION

In the Matter of the Application of:

WASTE MANAGEMENT OF
WASHINGTON, INC. D/B/A WM
HEALTHCARE SOLUTIONS OF
WASHINGTON

Docket No. TG-110553

DECLARATION OF JEFF NORTON
REGARDING WASTE
MANAGEMENT'S FITNESS

For an Extension of Certificate G-237 for a
Certificate of Public Convenience and Necessity
to Operate Motor Vehicles in Furnishing Solid
Waste Collection Service

I, Jeff Norton, declare as follows:

1. I am an Account Development Manager for WM Healthcare Solutions, Inc. and I
make this declaration on personal knowledge.

2. I graduated from Central Washington University with a Bachelors Degree in
Administrative Office Management in 1995. I worked as an Account Executive and Sales
Solution Executive for BFI Medical Waste Systems starting in 1996 and then for Stericycle, Inc.,
after Stericycle acquired BFI, from 1998 until I resigned at the end of 2008. In January of 2009,
I began working as an Account Executive for Sterilmed, a medical device reprocessing and
repair company. I left Sterilmed in July 2010 and began working for WM Healthcare Solutions
as a Business Development Manager. Throughout the past 16 years (since starting with BFI

1 Medical Waste), I have generally covered the Pacific Northwest (Washington, Oregon, and
2 Idaho) and Western Canada. I have been responsible for customer development, product
3 development, training, consulting, sales and sales management for multiple types of healthcare
4 wastes generated by healthcare facilities and/or medical devices used by the healthcare
5 community.

6 3. My current role is to help develop Waste Management, Inc.'s healthcare waste
7 business in the Pacific Northwest and Northern California including the business of Waste
8 Management of Washington, Inc. ("Waste Management"). I currently provide sales, consulting
9 for all waste streams and recyclables, and overall customer development of waste generators for
10 my region.

11 4. Waste Management began providing regulated biomedical waste ("RMW")
12 services to Washington customers in 2011 after its biomedical waste tariff took effect. RMW
13 refers to waste saturated with enough blood or other potentially infectious materials that it could
14 contaminate the environment or people if the container breaks and the contents are released. It
15 includes syringes, needles, blades, scalpels, lancets, broken glass, lab waste, human surgery
16 specimens, contaminated animals, blood or other bodily fluids, trace chemotherapy waste, and
17 any other contaminated objects. Waste Management currently provides collection of RMW
18 within its Certificate No. G-237 territory in Washington State. Waste Management provides
19 multiple-sized containers for, and local processing of, RMW. Attached hereto as Exhibit 1 is a
20 true and correct copy of Waste Management's Medical Waste Acceptance Protocol.

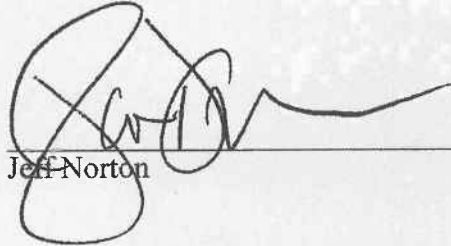
21 5. Waste Management presently provides RMW services to 220 customers
22 throughout its Certificate No. G-237 territory. Waste Management's customers include
23 individual hospitals, hospital chains, clinics, laboratories, dentists, veterinarians, and other
24 generators of RMW. Four of Waste Management's RMW customers have operations both inside
25 and outside the Certificate No. G-237 territory. Five of Waste Management's RMW customers
26 have operations at multiple facilities.

1 6. Waste Management also provides non-regulated services to its Washington RMW
2 customers, including recycling services for multiple commodities (including plastic, paper, glass,
3 aluminum, steel, and cardboard), pharmaceutical waste services (formulary analysis for all of a
4 facility's pharmaceuticals to determine the specific chemical components of each pharmaceutical
5 and categorize the waste), containerization, customer training, labeling, auditing, and disposal),
6 hazardous waste disposal (waste profiling and disposal through a third-party), and organics
7 services (managing and collecting food waste generated at a facility).

8 7. Waste Management is conducting a pilot recycling program with one Washington
9 customer. I was responsible for working with the customer to set up and monitor this pilot
10 project. Through the Becton Dickinson ecoFinity program, Waste Management collects
11 uniquely marked, reusable, lined tubs filled with sharps containers. Once these tubs are received
12 at Waste Management's Seattle processing plant, the tubs are loaded onto trailers and transported
13 to WM Healthcare Solution's Vernon, California facility. There, the tubs are processed in a Red
14 Bag Solutions ("RBS") system designed to safely, efficiently, and effectively sterilize and grind
15 medical waste. By exposing infectious medical waste to superheated water and steam (272°F)
16 and simultaneously employing a proprietary cutting system, the RBS renders infectious medical
17 waste non-infectious, non-hazardous, and non-recognizable. Once processed through the RBS,
18 the non-infectious medical waste is sent to Talco Plastics in Corona, California where the non-
19 infectious ground sharps are processed and the metals and plastics separated utilizing float/sink
20 technology. The recovered plastics are pelletized at Talco and sent to Becton Dickinson to be
21 manufactured into BD Recykleen products. In May and June 2012, recycled sharps and sharps
22 containers collected by Waste Management yielded between 17% and 28% of the original
23 product collected from Waste Management's customer. A true and correct copy of a flyer
24 describing the ecoFinity program is attached hereto as Exhibit 2.

1 I declare under penalty of perjury that the foregoing is true and correct to the best of my
2 knowledge and belief.

3 DATED this 28th day of September, 2012, at Las Vegas, Nevada.

4
5 
6 _____
7 Jeff Norton

CERTIFICATE OF SERVICE

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

Washington Utilities and Transportation Commission 1300 S. Evergreen Park Dr. SW PO Box 47250 Olympia, WA 98504-7250 360-664-1160 records@utc.wa.gov	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via Federal Express <input checked="" type="checkbox"/> Via Email
Gregory J. Kopta Administrative Law Judge Washington Utilities and Transportation Commission gkopta@utc.wa.gov	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email
Fronda Woods Attorney General's Office of Washington PO Box 40128 Olympia, WA 98504 (360) 664-1225 fwoods@utc.wa.gov bdemarco@utc.wa.gov	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email
Stephen B. Johnson Jared Van Kirk Garvey Schubert Barer 1191 Second Avenue, Suite 1800 Seattle, WA 98101 (206) 464-3939 sjohnson@gsblaw.com jvankirk@gsblaw.com vownen@gsblaw.com dbarrientes@gsblaw.com <i>Attorneys for Stericycle of Washington, Inc.</i>	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email
James K. Sells 3110 Judson Street Gig Harbor, WA 98335 (360) 981-0168 jamesells@comcast.net cheryls@rsulaw.com <i>Attorney for Protestant WRRRA, Rubatino, Consolidated, Murrey's, and Pullman</i>	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email

DATED at Seattle, Washington, this 1st day of October, 2012.


 Lisa Tardiff

Exhibit 5

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BEFORE THE WASHINGTON UTILITIES
AND TRANSPORTATION COMMISSION

In Re Application of
WASTE MANAGEMENT OF
WASHINGTON, INC., d/b/a WM Healthcare
Solutions of Washington

Docket No. TG-120033

DECLARATION OF JEFF DAUB
REGARDING WASTE
MANAGEMENT'S FITNESS

I, Jeff Daub, declare as follows:

1. I am Senior District Manager for Waste Management of Washington, Inc. ("Waste Management") and I make this declaration on personal knowledge.

2. I received a Bachelor of Arts in Social Sciences from Washington State University in 1985. I served as Medical Waste Salesperson and Operations Manager for American Environmental Management from 1988 until 1992. I was the District Manager at BFI Medical Waste from 1992 through 1998 and my responsibilities included all collection operations for Washington, Oregon, Idaho and British Columbia. I was Solid Waste Area Director for Waste Management from 1998 through 2001 and my responsibilities included collection, landfill, and recycling. I was a Salesperson for Stericycle of Washington, Inc. in 2010 and my responsibilities included large quantity generator and hospital sales, customer service, and account maintenance for Washington State with the exception of Spokane County.

1 3. I have been Senior District Manager for Waste Management since 2011. I am
2 responsible for managing and overseeing all Washington operations for Waste Management's
3 United States Department of Agriculture Animal and Plant Health Inspection Service operations
4 and medical waste operations including collections, processing, financial management, and
5 budgeting.

6 **I. RELATIONSHIP WITH CORPORATE AFFILIATES**

7 4. Waste Management is a wholly-owned subsidiary of Waste Management
8 Holdings, Inc. which, itself, is a wholly-owned subsidiary of Waste Management, Inc. Waste
9 Management, Inc. is based in Houston, Texas and is the leading provider of comprehensive
10 waste management services in North America. It is also a leading developer, operator and owner
11 of waste-to-energy and landfill gas-to-energy facilities in the United States. As of December
12 2011, Waste Management, Inc. served nearly 20 million residential, commercial, industrial and
13 municipal customers through a network of 390 collection operations, 287 transfer stations, 271
14 landfill disposal sites, 17 waste-to-energy plants, 107 recycling facilities and 131 beneficial-use
15 landfill gas projects. Waste Management, Inc. has been in business since 1894. A true and
16 correct copy of Waste Management, Inc.'s 2011 Annual Report is attached hereto as Exhibit 1.

17 5. Waste Management's offices are located in Kirkland, Washington. WM
18 Healthcare Solutions of Washington is an operating division of Waste Management which is
19 responsible for Waste Management's regulated biomedical waste ("RMW") services. WM
20 Healthcare Solutions of Washington is not a separate entity. WM Healthcare Solutions of
21 Washington uses a billing and record keeping system which allows for bar code tracking,
22 manifesting, record retention and billing of RMW by weight and/or volume. Waste Management
23 accounting staff in conjunction with accounting staff from national corporate headquarters in
24 Houston, Texas manage the billing of Washington RMW customers. WM Healthcare Solutions
25 of Washington has dedicated, toll-free phone numbers to respond to customer service issues.
26 These phone numbers are answered 24 hours a day, seven days a week.

1 6. Waste Management does not use independent contractors or third parties to
2 collect, transport, or autoclave RMW.

3 **II. PRESENT BIOMEDICAL WASTE SERVICES**

4 7. Presently, there are 13 Waste Management employees in addition to me who are
5 involved with providing Waste Management's RMW services in Washington. They are:
6 Michael Weinstein (UTC issues), Jeff Altman (Environmental Protection Manager), Jack Floyd
7 (training), Rob Sherman (Director of Operations), Penny Lane (billing), Rod Rosatto (plant
8 operations), Kathy Howard (call center and small quantity generator sales), Glenn Good (driver),
9 Mitchell Billings (driver), Jon Moser (driver), Pedro Ramos (back-up driver and processing plant
10 worker), Sam Billings (processing plant worker), and Carol Dellumo (operations specialist).

11 8. Waste Management supplies its RMW customers with Rehrig Pacific Company
12 reusable, plastic tubs with attached lids in three sizes (17-gallon, 31-gallon, and 43-gallon), and
13 30-gallon cardboard boxes. Waste Management also provides customers with linear, low-
14 density polyethylene red bags with "Regulated Medical Waste" printed in black ink with a six-
15 inch biohazard symbol. The bag sizes are 20" x 13" x 39" x 0015 mil., 45" x 49" x 0015 mil.,
16 and 26" x 22" x 65" x 0015 mil. These bags are certified by their manufacturers as meeting the
17 standards outlined in CFR 49 Part 171.7, ASTM [American Society for Testing and Materials] D
18 1706, and ASTM D 1922. Each container (box or reusable tub) is lined with a red bag prior to
19 the generator depositing medical waste into the container. The generator is required to close the
20 bag with a Department of Transportation-approved knot and close the lid prior to collection by
21 Waste Management. Boxes must be used for "incinerate only" materials and reusable tubs or
22 boxes may be used for materials to be autoclaved.

23 9. Waste Management provides to its employees who handle RMW training in the
24 following subjects: the regulatory definition of RMW, United States Department of
25 Transportation medical waste collection and transportation regulations and guidelines, Waste
26 Management's requirements for acceptance, tracking and documentation of RMW, Occupational

1 Safety and Health Administration blood borne pathogen regulations, personal protective
2 equipment, spill control and emergency response. Attached hereto as Exhibit 2 are true and
3 correct copies of the materials Waste Management uses to train its employees who handle RMW.
4 All new Waste Management employees who handle RMW receive this training. Employees
5 receive further training at any time that their job functions change. In addition, employees
6 receive training annually regarding blood borne pathogen regulations and they receive training
7 every two years regarding United States Department of Transportation regulations.

8 10. Waste Management's Medical Waste Acceptance Protocol sets forth the types of
9 RMW Waste Management will accept and how the customer must segregate, package, and label
10 the waste for collection by Waste Management. The Protocol is provided to, and must be signed
11 by, each customer. A true and correct copy of the Medical Waste Acceptance Protocol is
12 attached hereto as Exhibit 3.

13 11. Waste Management requires that the customer's name be placed on each
14 container of RMW collected by Waste Management. Waste Management employees affix a bar-
15 code to the outside of each box or container of RMW. Before transporting RMW from customer
16 premises, Waste Management employees visually ensure that the waste is properly labeled,
17 complete Waste Management's tracking documentation, and verify that the waste tracking
18 documentation is accurate. Attached hereto as Exhibit 4 are true and correct copies of Waste
19 Management's Straight Bill of Lading, Straight Bill of Lading & Medical Waste Tracking
20 Document, Medical Waste Tracking Document, and biohazard, sharps, and incineration labels.
21 *See also* Exhibit 2 at WM000318.

22 12. Waste Management scans the barcode on each container at the point of collection.
23 At that time, the generator signs a tracking document and retains a copy of the tracking
24 document. Two other copies of the signed tracking document accompany the waste on the
25 collection truck. Once the waste is received at Waste Management's processing plant, it is
26

1 scanned for radiation, weighed and barcode scanned again. Generator information, the number
2 of containers, and the weight of the waste are uploaded into Waste Management's billing system.

3 13. Waste Management schedules the collection of RMW based on customer need,
4 geography, and day. On-call service is available when customers' containers are not accessible
5 at the time of a scheduled pick-up or when the customer requests on-call service.

6 14. Waste Management marks its vehicles in compliance with United States
7 Department of Transportation regulations including Waste Management's name, its toll-free
8 phone number, the international biohazard symbol, the Department of Transportation-issued
9 identification number, the Seattle-King County Public Health annual inspection sticker, and the
10 UTC G Certificate number. Waste Management vehicles used to transport RMW contain spill
11 kits including the following items for use in the event of a spill: barricade tape, disinfectant,
12 respirator masks, duct tape, nitrile gloves, biohazard stickers, sharps containers, red bags,
13 absorbent pads, coveralls, bleach/water mixture, face shields, heavy rubber gloves, first-aid kits,
14 germicidal antibacterial hand sanitizer, flashlights and batteries. Waste Management requires its
15 employees who handle RMW to wear protective equipment including safety glasses, safety toe
16 and hard soled safety shoes, water resistant safety boots, puncture/cut resistant gloves, face
17 shields, chemically resistant aprons, and respirators as needed. Attached hereto as Exhibit 5 is a
18 true and correct copy of Waste Management's procedures for cleaning up spills of blood borne
19 pathogens. *See also* Exhibit 2 at WM000269-307.

20 15. Waste Management employees daily clean all areas, equipment, and tools which
21 become contaminated or potentially contaminated by untreated RMW. They decontaminate
22 floors and work surfaces at the end of each shift. Reusable containers are decontaminated before
23 being returned to customers. Employees decontaminate the cargo area of trailers and trucks
24 before the vehicle may leave a plant or station.

25 16. Waste Management has a commercial general liability policy with ACE American
26 Insurance Company with a general liability aggregate limit of \$6,000,000 and a limit of

1 \$5,000,000 per occurrence, and a limit of \$1,000,000 for automobile liability, above a self
2 insured retention limit of \$5,000,000. Waste Management also has umbrella coverage from ACE
3 Property & Casualty Insurance Co. with occurrence and aggregate limits of \$15,000,000 and
4 excess auto liability coverage of \$9,000,000. A true and correct copy of Waste Management's
5 Certificate of Liability Insurance is attached hereto as Exhibit 6. This coverage is substantially
6 higher than the coverage obtained by Stericycle of Washington, Inc. ("Stericycle") which
7 provides a general liability aggregate limit of \$2,000,000 and a limit of \$1,000,000 per
8 occurrence, a limit of \$5,000,000 for automobile liability, with umbrella coverage with an
9 occurrence limit of \$5,000,000 and an aggregate limit of \$10,000,000. A true and correct copy
10 of Stericycle's 2012 Certificate of Liability Insurance, obtained through a public records request
11 to the King County Health Department, is attached hereto as Exhibit 7.

12 **III. FACILITIES AND EQUIPMENT USED BY WASTE MANAGEMENT**

13 17. Waste Management transports all RMW to be autoclaved at its Seattle Biomedical
14 Waste Treatment Facility at 149 SW Kenyon Street in Seattle. Autoclaving involves subjecting
15 the waste to steam under pressure in a vessel at intervals. The autoclaved waste is rendered
16 sterile. In 2011, Waste Management processed 317,197.10 pounds of RMW at the Kenyon
17 Street facility. A true and correct copy of Waste Management's 2011 Annual Report to the King
18 County Health Department is attached hereto as Exhibit 8. Attached hereto as Exhibit 9 is a true
19 and correct copy of Waste Management's Biomedical Waste Operating Plan for the Kenyon
20 Street facility which was the subject of review and comment by both the King County Health
21 Department and the Department of Ecology. Following autoclaving, Waste Management
22 transports the treated, sterilized RMW to its Greater Wenatchee Landfill in Wenatchee,
23 Washington or to Waste Management Disposal Service of Oregon, Inc.'s Columbia Ridge
24 Landfill in Arlington, Oregon for final disposal.

25 18. Waste Management transports all pathological and residual chemotherapy waste
26 to be incinerated at the Marion County Solid Waste-to-Energy Facility in Brooks, Oregon.

1 Attached as Exhibit 10 is a true and correct copy of Waste Management's Medical Waste
2 Disposal Agreement with Marion County, Oregon authorizing disposal of RMW at the Marion
3 County Solid Waste-to-Energy Facility in Brooks, Oregon.

4 19. Waste Management incinerates cardboard boxes and box liners after use. After
5 each use, Waste Management sanitizes and reuses its tubs.

6 20. The vehicles Waste Management uses to transport RMW are described in the true
7 and correct copies of the leases for these vehicles which are attached hereto as Exhibit 11.

8 **IV. RELEVANT PERMITS AND REGULATORY ACTIVITY**

9 21. Waste Management provides RMW services pursuant to UTC Certificate No. G-
10 237 a true and correct copy of which is attached hereto as Exhibit 12.

11 22. Waste Management's Biomedical Waste Treatment Facility at 149 SW Kenyon
12 Street in Seattle operates under Solid Waste Facility Permit No. PR0080378 issued by the King
13 County Department of Public Health. The permit is effective from Jan. 1, 2012 until Dec. 31,
14 2012. A true and correct copy of this permit is attached hereto as Exhibit 13. To obtain the 2013
15 permit, Waste Management will send in a check and a written explanation of any changes to its
16 operating plan.

17 23. Waste Management is authorized to collect RMW in the City of Spokane in 2012
18 by the City's Solid Waste Management Department. A true and correct copy of this
19 authorization is attached hereto as Exhibit 14. To obtain the 2013 authorization, Waste
20 Management will fill out the application, send a check for \$1,000, and report in January 2013 the
21 2012 volume of RMW collected in Spokane County.

22 24. Waste Management transports RMW in King County pursuant to Solid Waste
23 Handling Permit for Vehicles No. PR0081085 issued by the King County Department of Public
24 Health. The permit is effective from July 1, 2012 until June 30, 2013. A true and correct copy
25 of this permit is attached hereto as Exhibit 15.

1 25. Waste Management's autoclave processing facility at 8101 First Avenue South in
2 Seattle operates under Wastewater Discharge Authorization No. 785-03 from the King County
3 Wastewater Treatment Division. The authorization is effective from March 26, 2008 through
4 March 25, 2013. A true and correct copy of this authorization is attached hereto as Exhibit 16.

5 26. On September 20, 2011, inspectors of the Washington State Department of
6 Ecology Hazardous Waste and Toxics Reduction Program conducted an inspection of Waste
7 Management's Seattle Biomedical Waste Treatment Facility at 149 SW Kenyon Street in Seattle.
8 The Department of Ecology concluded that Waste Management had failed to properly designate
9 waste liquids and sludges. A true and correct copy of the Department of Ecology's Notice to
10 Comply is attached hereto as Exhibit 17. Waste Management timely submitted to the
11 Department of Ecology on May 11, 2012 a Sampling Plan and Quality Assurance Project Plan as
12 the Department of Ecology requested. After receiving the data from Waste Management, the
13 Department of Ecology authorized Waste Management to resume operations at Kenyon Street
14 without concluding that there had been any improper disposal or treatment of dangerous wastes
15 at the Kenyon Street facility. A true and correct copy of an email exchange between me and
16 David Keeney of the Department of Ecology is attached hereto as Exhibit 18.

17 27. Mike Jeffers, an Environmental Compliance Inspector for Seattle Public Utilities
18 also attended the September 20, 2011 inspection. On September 22, 2011, he advised Waste
19 Management that he had not observed any storm water code violations at the Kenyon Street
20 facility. A true and correct copy of Mr. Jeffers' letter is attached hereto as Exhibit 19.

21 28. On June 26, 2012, Stericycle requested of the UTC copies of all complaints filed
22 with the UTC "regarding Waste Management of Washington, Inc." The UTC subsequently
23 produced to Waste Management all of the public records the UTC had produced in response to
24 Stericycle's request for public records reflecting complaints from 2001 through 2012. There
25 were no consumer complaints to the UTC regarding Waste Management's RMW service.
26

1 29. Other than as described above, Waste Management has not been advised by the
2 UTC or any other regulatory agency of any concerns about, or regulatory violations by, Waste
3 Management related to its RMW services.

4 30. Although it has nothing to do with RMW, in the interest of full disclosure, I am
5 aware that on several occasions, Waste Management's solid waste program has received notices
6 of a regulatory violation. Waste Management has worked promptly and cooperatively to resolve
7 and correct these issues.

8 31. On December 8, 2011, Seattle Public Utilities issued a Notice of Violation and
9 Order for Corrective Action and Penalty to Waste Management related to storm water discharges
10 at Waste Management's Alaska Street facility in Seattle. At the inspection which lead to the
11 Notice of Violation, it was determined that the facility wheel wash was broken which resulted in
12 discharge and trackout of turbid water and industrial process water to the public drainage control
13 system in violation of Waste Management's storm water permit. Waste Management promptly
14 shut down its operations and within thirty minutes had a spill response contractor onsite to clean
15 the impacted catch basins and drainage lines. The wheel was repaired and Waste Management
16 timely paid the \$1,000 penalty to SPU. True and correct copies of the Notice of Violation and
17 the receipt of payment are attached hereto as Exhibit 20.

18 32. On June 28, 2012, the Department of Ecology directed Waste Management's
19 solid waste program to make some changes to its facility in Auburn. Specifically, the
20 Department of Ecology directed Waste Management to make structural changes that would
21 minimize the amount of sediment leaving the site. The various changes are to be implemented
22 on deadlines from September 15, 2012, October 1, 2012, and November 1, 2012. Waste
23 Management has timely completed the changes due by September 15, 2012 and is on track to
24 timely complete the remaining changes. A true and correct copy of the Amended Administrative
25 Order is attached hereto as Exhibit 21.

26 **V. FACILITIES AND EQUIPMENT FOR STATEWIDE SERVICE**

CERTIFICATE OF SERVICE

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

Washington Utilities and Transportation Commission 1300 S. Evergreen Park Dr. SW PO Box 47250 Olympia, WA 98504-7250 360-664-1160 <u>records@utc.wa.gov</u>	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input checked="" type="checkbox"/> Via Federal Express <input checked="" type="checkbox"/> Via Email
Gregory J. Kopta Administrative Law Judge Washington Utilities and Transportation Commission <u>gkopta@utc.wa.gov</u>	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email
Fronda Woods Attorney General's Office of Washington PO Box 40128 Olympia, WA 98504 (360) 664-1225 <u>fwoods@utc.wa.gov</u> <u>bdemarco@utc.wa.gov</u>	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email
Stephen B. Johnson Jared Van Kirk Garvey Schubert Barer 1191 Second Avenue, Suite 1800 Seattle, WA 98101 (206) 464-3939 <u>sjohnson@gsblaw.com</u> <u>jvankirk@gsblaw.com</u> <u>vowen@gsblaw.com</u> <u>dbarrientes@gsblaw.com</u> <i>Attorneys for Stericycle of Washington, Inc.</i>	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email
James K. Sells 3110 Judson Street Gig Harbor, WA 98335 (360) 981-0168 <u>jamesells@comcast.net</u> <u>cheryls@rsulaw.com</u> <i>Attorney for Protestant WRRRA, Rubatino, Consolidated, Murrey's, and Pullman</i>	<input type="checkbox"/> Via Legal Messenger <input type="checkbox"/> Via Facsimile <input type="checkbox"/> Via U.S. Mail <input checked="" type="checkbox"/> Via Email

DATED at Seattle, Washington, this 1st day of October, 2012



Lisa Tardiff

Exhibit 6

Deanna Schow

From: Jessica Goldman
Sent: Wednesday, October 10, 2012 12:46 PM
To: 'Jared Van Kirk'
Cc: 'Woods, Fronda (UTC)'; 'jamesells@comcast.net'; Polly McNeill
Subject: Daub Deposition

Hi Jared,

We are hereby withdrawing our agreement to make Jeff Daub available for a deposition. We originally agreed that you could take his deposition because we did not know whether he would be providing testimony on issues other than Waste Management's fitness and experience. As you can see from our prefiled direct testimony, the only issues on which his testimony is offered are those regarding subjects which Judge Kopta ordered were not properly a subject of discovery by the Protestants. The key language from that order follows:

Discovery is limited to the scope of the parties' interest in the proceeding pursuant to WAC 480-07-400(3). Specifically, the protesting parties do not have a significant interest in, and may not conduct discovery on, issues related to Waste Management's financial or operational fitness to provide service under the extended authority for which it has applied. Such issues include, but are not necessarily limited to, the statutory factors of an estimate of the costs of facilities to be used to provide the proposed service, the Company's assets, or Waste Management's prior experience in the field.

Jeff Norton's deposition will proceed as scheduled.

Jessica L. Goldman
Summit Law Group PLLC
315 Fifth Ave. S., Suite 1000
Seattle, WA 98104-2682
tel: (206) 676-7062
fax: (206) 676-7063
www.summitlaw.com

Exhibit 7

Transcript of the Testimony of

Jeffrey Norton

October 15, 2012

**In the Matter of the Application of Waste Management of
Washington**

No. TG-120033



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Old Town District: 2208 North 30th Street, Suite 202 Tacoma, WA 98403-3360

Tacoma: **253 627-6401** Fax: **253 383-4884**

1 BE IT REMEMBERED that on Monday,
2 October 15, 2012, at 1191 Second Avenue, Suite 1800,
3 Seattle, Washington, at 9:30 a.m., before Karmen M.
4 Knudson, Certified Court Reporter, RPR, CRR, appeared
5 JEFFREY NORTON, the witness herein;

6 WHEREUPON, the following proceedings
7 were had, to wit:

8

9

<<<<<< >>>>>>

10

11 JEFFREY NORTON, having been first duly sworn
12 by the Certified Court Reporter,
13 testified as follows:

14

15

16

EXAMINATION

17

BY MR. VAN KIRK:

18

Q Good morning, Mr. Norton. Can you state and spell your
19 name for the record.

20

A **Jeff Norton. I'll give you my full name. Jeffrey
21 Norton. J-E-F-F-R-E-Y N-O-R-T-O-N.**

22

Q What's your home address?

23

A **1394 250th Avenue Southeast --**

24

(Telephonic interruption.)

25

////

1 **A I don't.**

2 **Q Do you know how many people work there?**

3 **A I don't.**

4 **Q Okay. So just so I'm clear, there's no dedicated**
5 employee for Washington that is -- who's out there doing
6 account management or sales to small quantity generators
7 as the focus of their activity?

8 **A That's correct.**

9 **Q Let's do a little hypothetical. Let's say I'm a small**
10 quantity generator out there, say a dentist office or
11 something, and I think I might want medical waste from
12 Waste Management and I'm in Washington. What do I do?

13 **A You can call into our 800 number. We have a couple**
14 different 800 numbers that would direct you. We have a
15 customer service line for Washington that's general for
16 all waste services.

17 We also have a medical waste line, so if they saw
18 our number on our truck, that goes directly into our
19 medical waste office.

20 They would call in and ask to be set up. They would
21 either get forwarded to -- sometimes myself, even though
22 generally that may not be what I do, but -- or our call
23 center to get set up.

24 **Q How does it get determined which calls go to the call**
25 center and which calls get handled personally by you?

1 only?

2 **A Yes.**

3 Q Okay. By "Pacific Northwest," is that the same as the
4 territory you said you worked in, or is that a different
5 territory?

6 **A It's a different territory.**

7 Q Okay. What's the Pacific Northwest in the Waste
8 Management customer service?

9 **A Washington, Oregon, northern Idaho, British Columbia.**

10 Q Besides you, is there anyone in Washington who provides
11 direct customer service to medical waste generators for
12 medical waste services?

13 **A No.**

14 Q Is this call center, is this -- does this call center
15 handle all lines of Waste Management's business, or is it
16 just a medical-waste-related call center?

17 **A It's healthcare related. So pharmaceutical; we have
18 mail-back programs; we have a compliance program.**

19 **There's -- yeah, there's multiple lines, but
20 non-solid waste/recycling. So it's...**

21 Q So all lines that would pertain to healthcare?

22 **A Generally, yes, other than solid waste and recycling.**

23 Q Okay. Fair enough.

24 Is it a 24/7 call center?

25 **A I don't know.**

1 Q A minute ago, I asked you something to the effect of, are
2 you the only employee who provides direct customer
3 service for -- or medical waste services. And you don't
4 have to answer it again. You already answered.

5 But my question is: Is this same situation true in
6 the other states you cover, or in those other states, are
7 there other employees who can provide direct customer
8 service for medical waste services?

9 **A That's correct. So in other states -- in Northern**
10 **California, there are other folks.**

11 Q So other folks that have the same responsibilities as
12 you?

13 **A No. More on account management.**

14 And I'll -- if I can say, we're going through a
15 reorganization, so there are open spots, kind of, right
16 now that are getting filled in. And one of them is a
17 Northwest account management type person.

18 Q So in Northern California, these people just have a
19 portfolio of accounts that they provide services to and
20 support to?

21 **A Correct.**

22 Q How many employees like that are there in Northern
23 California?

24 **A One.**

25 Q One? Okay.

1 What about other states? Oregon?

2 **A Zero.**

3 Q Just you for Oregon?

4 **A That's correct.**

5 Q What about Idaho?

6 **A Well, so when you talk customer service, we do have folks**
7 **in our office in Seattle that offer customer service**
8 **through our 800 number. So when I'm talking account**
9 **management, I guess I should clarify that; that it's for**
10 **our larger customers that have larger hospitals,**
11 **healthcare facilities, that have multiple waste streams.**

12 Q So all the customer service for smaller generators goes
13 through the 800 number?

14 **A Correct.**

15 Q So with the understanding that you just put out there,
16 what about for Idaho? Is there anybody other than you?

17 **A No. As I mentioned, I -- some of the solid waste and**
18 **recycling representatives could offer an emergency help**
19 **if I needed it, where I couldn't be there, where I**
20 **couldn't -- and they needed on-site help for some reason.**

21 Q Sure. You can get the job done, but if there is a
22 direct, you know, kind of knowledgeable service that you,
23 I think, were hired to provide, you're the guy?

24 **A Correct. Yes.**

25 Q Let me complete my hypothetical briefly here.

1 Solutions, Inc., out of Houston. And so my
2 responsibility is for my area, to try to get as many
3 services into the market area as I can.

4 So I do -- whatever services Waste Management
5 provides in my territory, I try to sell.

6 Q Who's responsible for the transportation organization in
7 Washington?

8 MS. GOLDMAN: I'm going to object at
9 this point. We've been -- spent the last hour on
10 questions that I think really address fitness, which
11 address the -- you know, and I've wanted to give you some
12 leeway here to address issues that were raised in
13 Mr. Norton's testimony. But now we're very far afield
14 from the testimony that he's offered.

15 And the judge has directed that the protestants here
16 do not have a right to conduct discovery regarding
17 fitness. And we very specifically addressed the fitness
18 issues in declarations, as directed by the judge.

19 So I'm objecting at this point to questions
20 regarding fitness, as the one currently pending.

21 And I'm directing you not to answer.

22 MR. VAN KIRK: That includes the name
23 of the person involved in transportation?

24 MS. GOLDMAN: That includes any
25 further questions regarding fitness of the company that

1 don't address the issues that are live for discovery,
2 which go to the public need and the competition issue.

3 MR. VAN KIRK: Okay. So you're
4 saying -- telling him he can't tell me the name of the
5 person who runs the transportation functions?

6 MS. GOLDMAN: That's correct.

7 MR. VAN KIRK: Okay. Well, I think
8 you'll find it's relevant to another line of questioning,
9 but let me come at this a different way.

10 Q (By Mr. Van Kirk) When you are working on selling to a
11 customer -- determining your price to offer to a
12 customer, do you have to take into account any
13 transportation issues in setting that price?

14 MS. GOLDMAN: And I'm going object and
15 direct you not to testify.

16 This has nothing to do with the issues that have
17 been authorized for discovery here by the protestants.

18 MR. VAN KIRK: Well, there's no issues
19 that have been authorized. I think in your opinion,
20 there's a few issues that have been taken off the table.
21 It's not exactly the same thing.

22 MS. GOLDMAN: Well, the judge has
23 indicated that there are issues that you may conduct
24 discovery on and there are issues that you may not. And
25 so the issues that you may not are the ones that are

1 being addressed by this question of fitness and the
2 questions regarding transportation --

3 MR. VAN KIRK: I'm not asking you
4 about fitness. I'm asking you about sales.

5 MS. GOLDMAN: What is -- okay, and how
6 does that question have anything to do with the issue of
7 public need?

8 MR. VAN KIRK: Well, I think -- we
9 don't have to do this extensively now, but customers have
10 definitely, in your submitted testimony, put at issue
11 the, you know, pricing issues and competition and
12 competitiveness. And sales and pricing are certainly one
13 of the parameters on which the differences or the
14 customer need is being advanced.

15 So I'm trying to understand how Waste Management
16 does its pricing.

17 MS. GOLDMAN: Waste Management's
18 pricing is set up in its tariff, and you have that
19 information.

20 MR. VAN KIRK: Well, now you're
21 testifying. So --

22 MS. GOLDMAN: Okay, I --

23 MR. VAN KIRK: You don't get to answer
24 the questions.

25 MS. GOLDMAN: That's fine. I'm

1 directing the witness not to answer.

2 And I'm certainly happy to hear from you how this
3 goes to an issue that is permissible for discovery, but
4 the pricing information is a tariffed issue.

5 Please don't answer that question.

6 Q (By Mr. Van Kirk) You mentioned consulting services you
7 provided to customers, and you said that's a -- those
8 services are basically you providing your expertise to
9 those customers. Correct?

10 A **Correct.**

11 Q Does that include waste audits? Are you the person who
12 provides waste audits?

13 A **That's correct.**

14 Q And that's just an informal program between you and a
15 customer?

16 A **That's correct.**

17 Q Do you write up reports for customers?

18 A **Yes.**

19 Q Is there a standard form or standard -- for such reports,
20 or do you just write whatever you think is necessary for
21 them to know?

22 A **There's no standard form. It's -- I generally use a**
23 **similar form that I've used, you know, since I've been**
24 **here. But -- yeah, it's just a -- it's my own form.**

25 Q Is there any process you follow for a waste audit?

1 **A** **Yeah. Yes.**

2 So the process would be to -- walking with the
3 customer, finding out where the waste is generated, the
4 flow of it to either the solid waste container,
5 recycling, medical waste, and then generally looking at
6 that waste stream and helping find ways to minimize each
7 of the waste streams into more recycling.

8 **Q** Is there any -- do you do any quantification, or is it
9 mostly your sort of -- your observations of what's
10 happening?

11 **A** **Some quantifications based on my observations.**

12 **Q** You mentioned -- just to clarify, you mentioned that
13 there was currently a local account representative
14 position open for the Northwest. Is that correct?

15 **A** **Correct.**

16 **Q** Has there been an employee to fill that in the past, or
17 is that a new position that's been created?

18 **A** **We've had -- yes, we've had other employees that have had**
19 **similar positions, maybe a different name. But, yes, the**
20 **names have changed. Like my title changed, but similar**
21 **positions as account management.**

22 **Q** And in the past, has there been an account management
23 employee who was qualified to and directed to provide
24 services related to medical waste?

25 MS. GOLDMAN: Objection. This goes to

1 fitness.

2 I instruct you not to answer.

3 MR. VAN KIRK: This goes to customer
4 service, and customer service is an issue raised by -- as
5 public need by generators.

6 MS. GOLDMAN: What's the issue that
7 you're questioning about?

8 MR. VAN KIRK: Customer service.

9 MS. GOLDMAN: My objection stands, as
10 does my instruction.

11 MR. VAN KIRK: Okay. So now you're
12 also taking the position that we cannot ask questions
13 related to Waste Management's customer service in
14 Washington?

15 MS. GOLDMAN: You may ask questions
16 about Waste Management's, but now you're asking about the
17 structure of the company. So if you want to ask
18 questions about what services are provided to the
19 customers, as you have been for the last hour and a half,
20 that's fine.

21 MR. VAN KIRK: I just asked whether
22 there was an employee who provided -- an account manager
23 who provided services for -- related to medical waste.
24 That's not about the structure. That's about the
25 services being offered to customers.

1 MS. GOLDMAN: If you want to ask him
2 about the services being offered, you may. You may do
3 whatever you'd like, but I will certainly not object to
4 you asking a question about what services are offered.
5 And I believe you have.

6 MR. VAN KIRK: Well, part of the
7 service is, are there employees providing such services.
8 That was my question.

9 MS. GOLDMAN: And you've asked that
10 multiple times now, and he's answered who is providing
11 those services in the state of Washington today.

12 MR. VAN KIRK: This was a thing that
13 didn't get answered, so I'm clarifying.

14 He said there was an open position. I didn't ask
15 him, until now, whether that position had been filled in
16 the past or not. And I just did. And I think he gave me
17 his answer. And I think if my question wasn't clear
18 about whether the person in the past that he was talking
19 about was able to perform that job for medical waste
20 services, and that's the clarification I'm trying to get.

21 MS. GOLDMAN: And I instruct him not
22 to answer. This does not go to the issues that are
23 permissible for discovery, and you have already asked him
24 quite at length what are the customer services that are
25 being provided to Washington customers and by whom.

1 MR. VAN KIRK: I just want you to
2 understand, I take this position, in saying that the
3 availability of employees in Washington to provide direct
4 services to customers is off limits, in your opinion?

5 MS. GOLDMAN: I believe that
6 question -- those questions have been answered. He has
7 told you precisely who it is that offers customer service
8 to Washington, including the small generators and the
9 large generators, and all of the various individuals who
10 currently offer that service.

11 MR. VAN KIRK: And he's not made that
12 answer about this hypothetical employee -- whose name I
13 haven't asked for yet -- in the past. I just don't have
14 that information yet.

15 MS. GOLDMAN: That's correct -- well,
16 I don't know if you don't have that, but you're not going
17 to get it.

18 MR. VAN KIRK: Okay.

19 Q (By Mr. Van Kirk) Do you know when Waste Management
20 first was contemplating getting back into the medical
21 waste business?

22 MS. GOLDMAN: Objection. Calls for
23 speculation.

24 **A No.**

25 Q (By Mr. Van Kirk) Were you involved in any discussions

1 Q Even if they're not transported outside of another
2 container?

3 A **Correct. So that's for the hospitals's sake, inside the**
4 **hospital, when they're transporting them inside the**
5 **hospital.**

6 Q So hospitals are required to mark all sharps as biohazard
7 waste?

8 A **Correct. They come marked as biohazard waste.**

9 Q But they come that way because the hospitals demand it
10 because they have a requirement to mark those containers
11 that way?

12 A **Correct.**

13 **There are some containers that are PG II compliant,**
14 **they're larger containers, that could be transported by**
15 **themselves without -- outside PG II compliance.**

16 Q For the record, what's PG II compliance?

17 A **Packaging Group II, federal DOT standards for**
18 **transporting.**

19 Q So talking about -- now talking about sharps generally,
20 what we've just been talking about, that applies not only
21 just to ecoFinity, but for all the sharps that Waste
22 Management collects; right?

23 A **Correct.**

24 Q Because Waste Management collects a lot of sharps outside
25 the ecoFinity program; correct?

1 **A That's correct.**

2 Q And those are all collected under the normal biomedical
3 waste services; correct?

4 **A Correct.**

5 Q Am I also correct in understanding that, outside the
6 ecoFinity program, those sharps containers are all
7 single-use disposable containers?

8 **A Correct. They're all processed and disposed of, correct.**

9 Q In the landfill?

10 **A Correct.**

11 Q And that's the vast majority of all the sharps waste that
12 you collect; correct?

13 **A Correct.**

14 Q So leaving aside ecoFinity for just a second, when these
15 other kind of sharps make it to the Seattle facility, how
16 are they handled for processing?

17 **A They are basically dumped into a steel bin and put into
18 an autoclave for treatment. They're usually mixed with
19 other waste. It's not just sharps in that container --
20 or in those tubs.**

21 Q Are they dumped by hand or is there a machine that does
22 that?

23 **A There's a machine.**

24 Q Does the machine take the lids off the containers, or is
25 that done by hand?

1 MS. GOLDMAN: I'm going to object
2 here. This is going to fitness, unless there's something
3 I'm missing here that is addressed to the issue of
4 competitive service. Waste Management has not raised
5 this as a basis for distinction.

6 MR. VAN KIRK: Well, it goes to the
7 services that are being offered and whether the
8 generators -- so the generators can understand the
9 services and whether they're different between the two
10 companies.

11 MS. GOLDMAN: I'm going to direct you
12 not to answer, as being beyond the scope of the discovery
13 that's been permitted here to the protestants.

14 MR. VAN KIRK: So we know they're
15 dumped by machine, but we don't know whether the machine
16 take the lids off. That's the line you want to draw?

17 MS. GOLDMAN: Well, frankly, the line
18 should have been drawn 40 minutes ago, but I'm trying to
19 give you some leeway. That is going to far afield from
20 the discovery that's been permitted, so that at this
21 point, I'm saying no further.

22 Q (By Mr. Van Kirk) Now, Waste Management doesn't offer
23 any reusable sharps container choice; correct?

24 A **Not in Washington.**

25 Q Not in Washington? Yes, that's what I meant. Thank you.

1 Q So at this time, though, you can't say with certainty
2 that the Seattle treatment facility is closer to most
3 facilities generating RMW in Washington?

4 A I can't. But again, I made the statement and I believe
5 it could be true.

6 Q When you've been talking to generators, these testifying
7 generators, or I guess other generators, what have you
8 said about transportation, the risk that comes with
9 transporting medical waste?

10 A Well, in general in this industry, you talk about risk
11 and limiting risk, and that's why you choose a company
12 that handles the waste correctly. And if you can
13 mitigate any of that, which includes your waste is your
14 own, you own your waste from cradle to grave, so if you
15 can handle it less when it's untreated to the final
16 disposition, then you're thereby limiting your risk,
17 because the highest risk you have with untreated medical
18 waste is from point of pickup to the transfer -- to the
19 facility that's processing it.

20 Q Okay. And why is that the highest risk?

21 A Well, because there's more risk associated with the waste
22 itself. After it's treated, there's no risk for
23 potential infection.

24 Q So the waste is inherently risky before treated; true?

25 A Correct.

1 Q Is there something about the waste being transported over
2 the highways or the roads that increases the risk as
3 opposed to untreated waste sitting in your facility or
4 sitting on the loading dock or being transferred from one
5 truck to another?

6 **A Can you restate the question, please?**

7 Q You have said less travel time for untreated waste from
8 the generator to the treatment facility reduces the risk
9 of liability; which I take to mean the less time you're
10 driving the waste over the roads, the less risk you have.

11 My question to you is: First of all, to explain
12 that to me; and second of all, have you communicated that
13 to customers?

14 MS. GOLDMAN: Objection. Compound.

15 MR. VAN KIRK: True.

16 Q (By Mr. Van Kirk) Take the first question first.

17 MS. GOLDMAN: What was the first
18 question again?

19 Q (By Mr. Van Kirk) Are you saying that there is a risk
20 inherent in transporting waste over the roads, other than
21 just the fact that the waste isn't treated yet?

22 **A Yes.**

23 Q What is that?

24 **A Well, there's driving. You know, there's risk in driving**
25 **your car, so there's risk in driving a truck with medical**

1 waste in it.

2 Q Okay.

3 A So if you don't have to have it on the road as long or
4 you don't have to drive as far, your risk is probably
5 mitigated because you don't have as many opportunities to
6 have an accident or a problem.

7 Q And how do you know that? Is that just your commonsense
8 guess, or is that --

9 A It's my commonsense guess and -- yeah, yes, and just
10 being in the industry, the transportation industry, for a
11 long time.

12 Q Now, have you told any customers that such a risk exists
13 and it's something they should be concerned about?

14 MS. GOLDMAN: "Such a risk" being the
15 risk of being on the highway?

16 MR. VAN KIRK: Yeah.

17 Q (By Mr. Van Kirk) The increased risk of liability from
18 travel time.

19 A I have told customers that there's an increased -- there
20 could be an increased risk of untreated medical waste
21 over the roadways, yes.

22 Q Did you tell that to any of the testifying generators?

23 A I can't remember exactly, but possibly.

24 Q How about the woman from U-Dub?

25 A No. I didn't talk to her until after she had already

1 **filed testimony.**

2 Q How about the -- oh, you didn't talk to the man from Lake
3 Chelan. You told me that.

4 Have you done any study of the effect of increased
5 highway transportation on this risk?

6 **A No.**

7 Q Okay. Have you read any such study, other than doing it
8 yourself?

9 **A No. My research has been from just being in this**
10 **industry with other management folks trying to reduce**
11 **liability for customers.**

12 Q Okay. Let me try and unpack this a little more.

13 Tell me if you disagree, but I think you'll agree,
14 that a risk from untreated waste is that it might cause
15 somebody who comes in contact with that waste to become
16 infected with something.

17 Does that basically state what the risk of --

18 **A Yes.**

19 Q -- medical waste is? Okay.

20 So risk raises whenever you have a greater chance of
21 people coming in contact with that waste; is that right?

22 **A Correct.**

23 Q Wouldn't it be the case that increasing the amount of
24 waste that you transport through a populated area would
25 increase risk a lot more than driving waste over highways

1 in unpopulated areas?

2 **A That sounds like a stretch to me, personally.**

3 Q But you agree if you take --

4 MS. GOLDMAN: I think he was not done
5 with his answer.

6 Q (By Mr. Van Kirk) Go ahead and finish.

7 **A A risk comes with an accident on the road, the items or a**
8 **truck or a trunk not being closed or a truck door and**
9 **something falling out.**

10 Q Wouldn't it be worse if an accident happened in a
11 populated area than an unpopulated area?

12 **A Well, you can't get around transporting medical waste**
13 **from a populated area. You transport the same amount.**

14 Q True. But you can, if you want to, try to limit how much
15 you travel your waste through populated areas?

16 **A I don't know how you do that, when it's all generated in**
17 **the populated areas.**

18 Q How about where it's treated?

19 MS. GOLDMAN: What's the question?

20 **A What's the question?**

21 MR. VAN KIRK: Let me try it again.
22 That wasn't a question.

23 Q (By Mr. Van Kirk) Could you reduce risk by having a
24 treatment facility in a less populated area?

25 **A No -- I see what you're trying to say. Possibly.**

1 Q Don't you think it's at least possible that driving
2 trucks of regulated medical waste through Seattle to get
3 to a facility would be at least as risky as driving them
4 down the highway to Morton, at least parts of which are
5 through much less populated areas than the city of
6 Seattle?

7 A Well, if you're trying to compare this, their transfer
8 facility is in Kent, which is directly south of Seattle.
9 You have to go through the same populated areas, in my
10 estimation, to transfer that waste before it goes to
11 final disposition.

12 Q Waste Management has transfer facilities, too; right?

13 A Correct.

14 Q Which ones are used?

15 A Waste Management uses one in Coeur d'Alene, Idaho, for
16 waste from Eastern Washington. And they use one in
17 Portland, Oregon.

18 Q Now, is it your understanding that all of the Stericycle
19 waste goes to the Kent yard before going to Morton?

20 A No. Just from the most populated areas in Western
21 Washington.

22 Q Okay. So in those areas, you're saying there's rough
23 equivalence --

24 MS. GOLDMAN: Objection.

25 Mischaracterizes the testimony. I don't think he said

1 anything to that effect.

2 Q (By Mr. Van Kirk) Are you trying to --

3 MS. GOLDMAN: But you did.

4 Q (By Mr. Van Kirk) Are you trying to tell me now that
5 where Stericycle takes waste to its Kent transfer
6 facility, it's roughly equivalent -- we're not talking
7 numbers here -- to Waste Management transporting waste to
8 south Seattle processing facility?

9 **A With 5300 customers versus 250, they're transporting a**
10 **lot more waste.**

11 Q But you're trying to get bigger; right?

12 **A Correct.**

13 Q Now, you also said in here, your facility was closer to
14 customers in Spokane County; right?

15 **A Correct.**

16 Q Now, do you know whether Stericycle takes waste from the
17 Spokane area and brings it through Seattle before going
18 to Morton?

19 **A Not to my knowledge, they don't do that.**

20 Q So that would be an increased transportation of medical
21 waste to Seattle if you were to collect the customers in
22 the Spokane area?

23 MS. GOLDMAN: Objection. Vague and
24 ambiguous.

25 **A Yeah, we take one semi trailer truck through to our**

1 **Seattle yard, where they would send it directly to**
2 **Morton.**

3 Q (By Mr. Van Kirk) And if you get your authority,
4 hopefully you'll be sending a lot more trucks; right?

5 **A Correct.**

6 Q Did you ever have a conversation like this with anybody
7 who expressed some concern about liability for waste
8 transportation?

9 **A No.**

10 Q So you don't have to agree with my assessment, but
11 wouldn't you agree that it's at least true that we don't
12 really know and you don't really know at this point
13 what's more risky: sending waste to Stericycle's
14 facility or sending waste to Waste Management's facility?

15 **A Yes.**

16 Q Apart from the fact that you don't have very many
17 customers yet?

18 **A I still strongly believe that it reduces the risk from**
19 **the most populated, generated areas.**

20 Q Based on your sort of commonsense understanding of --

21 **A Yes.**

22 Q -- risk?

23 **A And being in the industry.**

24 MS. GOLDMAN: Did you get it?

25 THE REPORTER: "Yes, and being in the

1 **A Correct.**

2 **Q**So did you do anything to let all the other customers out
3 there know that, hey, if you want, you can have the 17-
4 gallon container available?

5 **A No.**

6 **Q**Okay.

7 **A I personally reached out to folks I thought would --**
8 **might want to use it.**

9 **Q**Do you believe that Stericycle should do more than --
10 should do more outreach to its customers than just
11 putting the -- strike that. That's a terrible question.
12 I'm just not even going to ask it.

13 MR. VAN KIRK: I think this is going
14 to start the wind-down process.

15 (Exhibit No. 8 marked
16 for identification.)

17
18 MR. VAN KIRK: Fronda, we've handed
19 out Exhibit No. 8, and that's WM 219 through 252.

20 MS. WOODS: Thank you.

21 MR. VAN KIRK: It's contract with
22 Skagit Valley Hospital.

23 MS. WOODS: Okay.

24 **Q**(By Mr. Van Kirk) This is a contract with Skagit Valley
25 Hospital. It's not signed by WM Healthcare Solutions,

1 Inc., but is this contract still in effect, to your
2 knowledge?

3 **A It has been amended, but this is the original, yes.**

4 Q And the parties to this contract are Skagit Valley
5 Hospital and WM Healthcare Solutions, Inc.; correct?

6 MS. GOLDMAN: Objection. The contract
7 speaks for itself.

8 **A Correct.**

9 Q (By Mr. Van Kirk) Did you negotiate this contract?

10 **A Yes.**

11 Q And who is providing service to Skagit Valley Hospital?

12 **A What service?**

13 Q Medical waste service.

14 **A Waste Management.**

15 Q Which Waste Management company?

16 **A Waste Management of Washington, or Healthcare Solutions
17 of Washington.**

18 Q And who is providing solid waste service?

19 **A City of Mount Vernon.**

20 Q Okay. Was solid waste part of this when it was
21 originally negotiated?

22 **A Yes.**

23 Q Did the City of Mount Vernon change its carrier?

24 **A No. It's a city franchise. The City takes care of it.**

25 Q Okay. What solid waste services are provided under this

1 agreement?

2 **A Solid waste services?**

3 Q Yes.

4 **A Let's see here.**

5 If you look at Addendum A, which is WM 224, it
6 explains the different services. There's a 30-yard
7 compactor for solid waste at the hospital, there's a
8 20-yard compactor at the kidney center, and an open top
9 in the loading dock --

10 Q Right.

11 **A -- for C and D.**

12 Q These are collection services; right?

13 **A That's correct.**

14 Q Okay. So Waste Management provides solid waste
15 collection to Skagit Valley?

16 **A No. City of Mount Vernon provides it. They bill us.**

17 Q Okay. So you're just really managing their waste up to
18 the point of collection, then?

19 **A Correct, yeah. We're not -- we don't have any service
20 trucks that are providing for their solid waste.**

21 Q So there's no transportation services for solid waste
22 involved in this contract?

23 **A That's correct.**

24 Q There are transportation services for regulated medical
25 waste?

1 **A That's correct.**

2 Q And those are provided by WM Healthcare Solutions?

3 MS. GOLDMAN: Objection.

4 Mischaracterizes the testimony.

5 **A Waste Management, yeah -- Healthcare Solutions of**
6 **Washington, yes.**

7 Q (By Mr. Van Kirk) But the contract is with Waste
8 Management Healthcare Solutions, Inc.; right?

9 **A That's correct.**

10 Q So is it then the case that WM Healthcare Solutions,
11 Inc., is contracting out the services to Waste Management
12 of Washington?

13 **A Correct.**

14 Q Is this a contract in which Waste Management -- WM
15 Healthcare Solutions, Inc., is acting as an agent for
16 Skagit Valley to sort of coordinate the services both of
17 the City and of Waste Management of Washington, Inc.?

18 MS. GOLDMAN: I'm going to object to
19 this line of questioning. This has absolutely nothing to
20 do with the areas that the judge has permitted for
21 discovery.

22 Where is this going as far as competitive services?

23 MR. VAN KIRK: This, again, is going
24 to which company is providing the services in Washington.

25 MS. GOLDMAN: And that has to do with

1 fitness. That has nothing to do with competitive
2 service.

3 MR. VAN KIRK: And regulatory fitness,
4 the judge held, is still at issue in this case.

5 MS. GOLDMAN: Okay. So the basis for
6 this is a desire to obtain discovery regarding regulatory
7 fitness?

8 MR. VAN KIRK: Well, one, for
9 understanding, and two, to understand who is providing
10 services and how that's worked out.

11 MS. GOLDMAN: For the purposes of
12 understanding -- of conducting discovery regarding
13 regulatory fitness; is that correct?

14 MR. VAN KIRK: It is relevant to that,
15 yeah.

16 MS. GOLDMAN: Is it relevant to
17 anything else?

18 MR. VAN KIRK: Well, A, I don't think
19 it needs to be, because the judge, again, held that
20 regulatory fitness is an appropriate topic and it's still
21 a live topic in this case.

22 MS. GOLDMAN: I'm going to direct you
23 not to answer any further questions regarding this,
24 because it has to do with regulatory fitness, which is
25 part of the fitness issue which the judge ruled was not

1 subject to discovery and was to be submitted based on
2 declarations pursuant to his order and the statute.

3 Q (By Mr. Van Kirk) So if you'll turn to 226. That's the
4 addendum having to do with medical waste; correct?

5 A Correct.

6 Q So this is a flat fee contract for a collection of
7 services, one of which is medical waste; right?

8 MS. GOLDMAN: I'm directing you not to
9 answer any more questions about this contract with Skagit
10 Valley Hospital.

11 MR. VAN KIRK: Well, surely the manner
12 in which they provide regulated medical waste services is
13 relevant to whether the services meet the public need --
14 the services are in the public interest or meet the
15 public need.

16 MS. GOLDMAN: In what way?

17 MR. VAN KIRK: Well, the generated --
18 the generators need to have comfort that they're
19 providing services in a lawful manner. And the prices at
20 which the services are being offered -- and this is one
21 example of pricing -- are also relevant to this case,
22 where people have asserted competition as a --

23 MS. GOLDMAN: And you've made these
24 arguments already to Judge Kopta, and he's already said
25 this is far afield and that if you had any concerns about

1 MS. GOLDMAN: Okay. At this point,
2 we're done. It's beyond four o'clock, and as I advised
3 you at noon, I need to end this deposition at 4:00. It's
4 now 4:10. So we will be off the record.

5 And if you want to discuss with me any further
6 testimony, you can. I will reserve our right to object
7 to any further requests, given the amount of time that he
8 was made available today. And we'll be completed at this
9 time.

10 MR. VAN KIRK: Well, let me finish.

11 I haven't taken a full day, so there's still some
12 time left. Almost, but not entirely. And I haven't
13 quite finished deciding whether I've asked everything or
14 not, and there may be a few questions.

15 So if you're leaving, I am keeping this deposition
16 open until concluded, and we can set a time to finish it
17 if that needs to be done.

18 MS. GOLDMAN: We reserve all rights.

19 Thank you.

20 (Ms. Goldman and Mr. Daub and
21 witness leave.)

22 (Discussion off the record.)

23

24 MR. VAN KIRK: I have not concluded my
25 examination and may need to recall the witness to

