

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
2 COMMISSION

3 WASHINGTON UTILITIES AND )  
 TRANSPORTATION COMMISSION, )  
 4 )  
 Complainant, ) DOCKET NO. UR-930711  
 5 )  
 vs. )  
 6 )  
 US ECOLOGY, INC., )  
 7 )  
 Respondent. )  
 8 ----- )  
 WASHINGTON PUBLIC POWER )  
 9 SUPPLY SYSTEM, )  
 )  
 10 Complainant, ) DOCKET NO. UR-930890  
 )  
 11 vs. ) Volume IV  
 ) Pages 293-385  
 12 US ECOLOGY, INC., )  
 )  
 13 Respondent. )  
 14 -----)

15 A hearing in the above matter was held on  
 16 September 17, 1993 at 9:29 a.m. at 1300 South  
 17 Evergreen Park Drive Southwest, Olympia, Washington,  
 18 Washington, before Administrative Law Judge CHRISTINE  
 19 CLISHE, Commissioner RICHARD D. CASAD, and  
 20 Commissioner RICHARD HEMSTAD.

21 The parties were present as follows:  
 22 US ECOLOGY, INC. by JAMES M. VAN NOSTRAND,  
 Attorney, 411 108th Avenue Northeast, #1800, Bellevue,  
 23 Washington 98004.  
 24 Lisa K. Nishikawa, CSR, RPR  
 25 Court Reporter

1                   WASHINGTON PUBLIC POWER SUPPLY SYSTEM by  
2 MELVIN N. HATCHER, Attorney, MD-396, 3000 George  
3 Washington Way, P.O. Box 968, Richland, Washington  
4 99352-0968.

5                   PORTLAND GENERAL ELECTRIC COMPANY by J.  
6 JEFFREY DUDLEY, Attorney, 121 Southwest Salmon Street,  
7 1WTC13, Portland, Oregon 97204.

8                   TELEDYNE WAH CHANG ALBANY by RICHARD H.  
9 WILLIAMS, Attorney, 800 Pacific Building, 520  
10 Southwest Yam Hill, Portland, Oregon 97204.

11                   PUBLIC SERVICE COMPANY OF COLORADO by SALIE  
12 B. O'MALLEY, Attorney, 950 South Cherry Street, Suite  
13 520, Denver, Colorado 80222, and MICHAEL W. MAYBERRY,  
14 Attorney, 926 24th Way Southwest, Olympia, Washington  
15 98502.

16                   THE COMMISSION by ANNE EGELER, Assistant  
17 Attorney General, 1400 South Evergreen Park Drive  
18 Southwest, Olympia, Washington 98504.

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I N D E X

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WITNESS:           DIRECT   CROSS   REDIRECT   RECROSS   EXAM

3

G. ROBERTSON    298       305

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R. YOUNG                 324       357                   349

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B. BEDE                363       369

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EXHIBIT            MARKED        ADMITTED

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17                               319

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34                   296        304

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(COLLOQUY)

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

2 JUDGE CLISHE: All right. The hearing will  
3 please come to order. The Washington Utilities and  
4 Transportation Commission has set for hearing at this  
5 time and place in the consolidated matter of Docket  
6 Number UR-930711 and Docket Number UR-930890. This  
7 hearing is a continuation of the hearing which began  
8 yesterday, September 16, 1993. Today is September 17,  
9 1993 and we're assembled for testimony from more of  
10 the witnesses.

11 Before we went on the record I announced  
12 that the Commission had set September 29 for briefs  
13 from all parties with no reply briefs filed. I also  
14 indicated that I had marked for identification as  
15 Exhibit 34 the one-page document headed Department of  
16 Health, Environmental Health Programs, Division of  
17 Radiation Protection.

18 And it's my understanding that the parties  
19 agreed that at this point in order to take testimony  
20 from the witness from the Department of Health we will  
21 again interrupt Mr. Young's testimony and he'll be on  
22 after testimony from this first witness.

23 Are there any other preliminary matters  
24 that we need to discuss?

25 (Marked Exhibit No. 34.)

(COLLOQUY)

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1 MS. EGELER: Will the Commissioners be  
2 present?

3 JUDGE CLISHE: Yes, the Commissioners will  
4 be present. Would you like to wait for a few minutes?

5 MS. EGELER: Yes, I would like to wait.

6 JUDGE CLISHE: All right, let's be off the  
7 record for a few minutes, and we'll begin when the  
8 Commissioners are here.

9 (Recess.)

10 JUDGE CLISHE: All right, let's be back on  
11 the record after a short recess. During the time we  
12 were off the record we discussed getting copies of the  
13 -- the Commission taking official notice of the court  
14 filings and orders in the 1992 rate case appeal. And  
15 it's my understanding that Ms. Egeler can provide  
16 those, but without the transcripts, or if we wish the  
17 transcripts we can get copies of those. Does anybody  
18 have any difficulty with Ms. Egeler providing the  
19 court -- copies of the court filings and orders?

20 MR. HATCHER: I don't have any problem. I  
21 have no difficulty with her providing the court  
22 record, but I would like the transcripts to be  
23 included.

24 MS. EGELER: Can I assume you mean the

25 transcripts of the court proceedings rather than the  
(COLLOQUY)

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1 transcripts before the Commission in the 1992 rate  
2 case?

3 MR. HATCHER: Correct.

4 JUDGE CLISHE: All right. With that  
5 understanding, the Commission will take official  
6 notice of the court filings and orders, including the  
7 court transcripts.

8 We also had some discussion regarding a  
9 clarification of the issues, and it's my understanding  
10 that with Mr. Bede testifying this morning on some  
11 rebuttal testimony, that may happen.

12 All right. Anything else before we begin  
13 with Mr. Robertson's testimony? All right. Mr.  
14 Robertson, will you stand and raise your right hand,  
15 please.

16 Whereupon,

17 GARY ROBERTSON,  
18 having been first duly sworn, was called as a witness  
19 herein and was examined and testified as follows:

20 JUDGE CLISHE: Ms. Egeler, would you like  
21 to begin with your witness.

22 MS. EGELER: Yes.

23

24 DIRECT EXAMINATION

25 BY MS. EGELER:

(ROBERTSON - DIRECT BY EGELER)

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1 Q. Good morning, Mr. Robertson. Could you  
2 please state your first and last name, spelling your  
3 last for the record, please.

4 A. My name is Gary Robertson,  
5 R O B E R T S O N.

6 Q. And give your business address, please.

7 A. It's the Air Industrial Park, Department of  
8 Health, Radiation Protection.

9 Q. By whom are you employed?

10 A. State of Washington.

11 Q. And are you working with the Department of  
12 Health?

13 A. Yes, I am.

14 Q. What is your position there?

15 A. I'm the head of the waste management  
16 section.

17 Q. Are you authorized by the Department of  
18 Health to represent it with respect to the site  
19 surveillance fee at the US Ecology site in Richland,  
20 Washington?

21 A. Yes, I am.

22 Q. And how long have you been in your present  
23 position?

24 A. Since 1989.

25 Q. Are you the individual responsible for

(ROBERTSON - DIRECT BY EGELER)

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1 determining the site surveillance fee?

2 A. Yes.

3 Q. Could you please tell me how the site  
4 surveillance fee -- or excuse me. Could you please  
5 tell me what the site surveillance fee is and how it  
6 is assessed.

7 A. The site surveillance fee is a fee that is  
8 charged to cover all the operational costs incurred by  
9 the Department of Health in the regulatory oversight  
10 of the low level waste site. In the past, up until  
11 the end of '92, we had to charge a percent of the  
12 basic fee that was charged to the generators of waste,  
13 and in 1992 we charged five percent of the basic fee.

14 At the end of '92 we looked at actually  
15 charging our costs of operation, and in June of '93 I  
16 did a calculation to determine what I felt was the  
17 costs of operation to the Department of Health and I  
18 came up with the figure of approximately \$3.71 a cubic  
19 foot. That was based on approximately 91,000 cubic  
20 feet of low level waste being received at the disposal  
21 site for the year '93.

22 Q. Can you tell me how that fee is charged to  
23 US Ecology, how it is collected?

24 A. We have a contract with US Ecology and they



25 are authorized by the Department to collect the fee

(ROBERTSON - DIRECT BY EGELER)

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1 for us. They end up receiving two percent of the  
2 actual amount of money collected for their services,  
3 so they collect it. We bill the US Ecology on a  
4 quarterly basis. They have to remit the total amount  
5 of money collected to us minus that two percent.

6 Q. And how do you bill them?

7 A. We send them a quarterly bill, and it's  
8 based on the amount of waste received at the disposal  
9 site. We're getting ready to do our first billing  
10 under this \$3.71 a cubic foot rate, and we'll take the  
11 total amount of waste disposed times \$3.71, minus the  
12 two percent, and that's what they would have to remit  
13 to the Department.

14 Q. Does US Ecology have any authority to  
15 determine how the site surveillance fee will be set or  
16 collected or how much it will remit to the Department  
17 of Health?

18 A. No.

19 Q. Could you please look at what has been  
20 marked for identification as Exhibit 34. Are you  
21 familiar with this memorandum?

22 A. Yes, I am.

23 Q. Did you prepare this?

24 A. Yes, I did.

25 Q. Does this set forth to the best of your

(ROBERTSON - DIRECT BY EGELER)

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1 understanding the manner in which the site  
2 surveillance fee is assessed and collected?

3 A. Yes.

4 Q. And was this provided by the Department of  
5 Health to Julia Parker of the Commission staff?

6 A. Yes.

7 MS. EGELER: I would like to have what's  
8 been marked for identification as Exhibit 34 admitted,  
9 your Honor.

10 JUDGE CLISHE: All right. Earlier, I  
11 believe, when we were off the record, just as a  
12 clarification on this exhibit, Mr. Robertson's  
13 memorandum refers to an attachment. But Ms. Egeler  
14 indicated this is all she had received from Mr.  
15 Robertson. Perhaps parties can clarify this in cross  
16 of Mr. Robertson or since it refers to something -- a  
17 letter from Mr. Bede, perhaps that will be an  
18 appropriate time. Is there any objection to Exhibit  
19 34 being included in the hearing record? All right,  
20 hearing no objection --

21 MR. DUDLEY: Wait, your Honor. I would  
22 offer one. My objection comes to the fact that  
23 apparently in this letter there is a calculation made  
24 of expected volumes at the site for 1993, and this is

25 coming in at a very late moment in this hearing and

(ROBERTSON - DIRECT BY EGELER)

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1 we've had no ability to anticipate that these numbers  
2 would come in, nor any ability to find out how these  
3 numbers were computed with the regular discovery  
4 processes, and it's just -- I would ask that it either  
5 not be admitted or the portions of the exhibit that  
6 discuss the calculations for '93 volumes be stricken,  
7 so I don't think it takes away any of the weight of  
8 the exhibit by doing that for purposes that counsel is  
9 offering it.

10 MS. EGELER: Your Honor, in response to  
11 that, I think this would be a good point to set out  
12 the fact that the Department of Health is the only  
13 state agency with authority to set that site  
14 surveillance fee. The issue before the Commission now  
15 is strictly what amount does the Department of Health  
16 want us to pass through to those generators. It is  
17 not at issue in this proceeding whether or not the  
18 Department of Health determined what that fee would be  
19 in an appropriate manner.

20 Washington Utilities and Transportation  
21 Commission doesn't have the role to critique the  
22 Department of Health or recalculate the site  
23 surveillance fee, so that is not an issue in this  
24 proceeding, your Honor, and, therefore, I think that

25 the Commission is very capable of looking at the

(ROBERTSON - DIRECT BY EGELER)

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1 relevant information in this exhibit and that the full  
2 memorandum should be admitted into the record so that  
3 the Commission can understand what information was  
4 provided to Ms. Parker and on what basis the staff  
5 made its recommendation to pass through the site  
6 surveillance fee.

7 JUDGE CLISHE: All right. I'm going to  
8 overrule the objection and admit Exhibit 34 into the  
9 hearing record. Did you have any other questions of  
10 Mr. Robertson?

11 (Admitted Exhibit No. 34.)

12 MS. EGELER: Yes.

13 Q. Mr. Robertson, there is reference to an  
14 attachment. Would you like to explain that, please.

15 A. Yes. I have a copy of that attachment I  
16 brought with me. What it is is a computer generated  
17 estimate of our costs based on four and three-quarters  
18 FTE, four and three-quarters employees, working at the  
19 low level waste site, and it breaks down all of our  
20 costs and it comes up with a grand total, and I --  
21 with that information and the estimated volumes I just  
22 divided the volume into that cost and came up with the  
23 \$3.71 charge.

24 MS. EGELER: I have no further questions,

25 your Honor.

(ROBERTSON - DIRECT BY EGELER)

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1 JUDGE CLISHE: All right, thank you. Mr.

2 Van Nostrand, do you have questions of Mr. Robertson?

3 MR. VAN NOSTRAND: No, I don't, your Honor.

4 JUDGE CLISHE: All right. Mr. Hatcher.

5

6

CROSS-EXAMINATION

7 BY MR. HATCHER:

8 Q. When was Exhibit 34 prepared?

9 A. It was in June. I don't have the exact  
10 date. It was prior to July because we had to come up  
11 with a number for insuring that we collected the  
12 correct amount of money. I also have a letter that I  
13 wrote to our AG dated August 3 and this attachment is  
14 included with it.

15 Q. What will your department do if the volumes  
16 actually received by US Ecology are in excess of the  
17 estimated volumes upon which the \$3.71 figure was  
18 derived?

19 A. In the memo I said that we would revisit  
20 how much money we've collected every six months, and  
21 if there's excess, then we would adjust the fee down.  
22 The problem I have as the manager of this group, at  
23 the end of the biennium we cannot be in the red, and  
24 it's tough to make sure that we have enough money, but

25 that was my proposal, to take a look at it every six

(ROBERTSON - CROSS BY HATCHER)

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1 months.

2           The letter I wrote to Martha French, that's  
3 our attorney, our assistant attorney general, I'm  
4 asking her for a legal opinion on whether we can carry  
5 monies over at the end of a biennium. In the past we  
6 haven't been able to, and those monies have gone into  
7 the US Ecology closure account which is a fund to  
8 assure closure of the site, proper closure.

9           But I would like to propose even looking at  
10 the fees every three months. What we're seeing is the  
11 volumes are pretty erratic and it's difficult to come  
12 up with a real good estimate of what the volumes are  
13 going to be.

14         Q.    Is it the case that if you overcollect, the  
15 funds would go into the state general fund?

16         A.    I don't believe so. In the past, funds  
17 have gone into the closure account and the PCM  
18 account. It would be -- I'm speaking for the section  
19 that I represent -- our intent to see that those funds  
20 go into the closure account as they have in the past.  
21 If we overcollected, I would hope to have a pretty  
22 good handle on that to assure there wasn't a large  
23 amount of money -- excess monies collected.

24         Q.    Have you had any discussions concerning

25 trying to more finally tune your method of estimating  
(ROBERTSON - CROSS BY HATCHER)

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1 volumes to ensure that generators are not paying into  
2 this account in an amount greater than what is  
3 necessary to fund your actual operations?

4 A. Yes. With staff we've talked about it, and  
5 that's why I say we looked at possibly readjusting  
6 those fees on a quarterly basis depending on what the  
7 volumes are.

8 Q. Now, is your method of estimated -- you are  
9 concerned, are you not, about being in the red at the  
10 end of a biennium?

11 A. Yes.

12 Q. Your estimates of volumes then are  
13 conservative?

14 A. Yes. I made a conservative estimate  
15 originally because '93 was a whole new ball game for  
16 us. The low level waste site became a regional  
17 disposal site in 1993. In the past we received large  
18 volumes of waste from out of region and that was no  
19 longer allowed as part of the Low Level Waste  
20 Amendments Act, so we had a lot of uncertainties as to  
21 how much waste we would actually receive, and I wanted  
22 to be conservative for the first six months of this  
23 implementation. I plan to go back and revisit that in  
24 December and adjust the fees up or down, whichever way

25 would be necessary.

(ROBERTSON - CROSS BY HATCHER)

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1 Q. And the first biennium that you are  
2 concerned about ends when?

3 A. We're into the first quarter of that  
4 biennium, so we have three more quarters to go.

5 Q. Would you ever recommend a fee that was  
6 less than -- that would allow the generators to catch  
7 up, as it were, so that their rate of payment would  
8 equal the amount required for your operations, but at  
9 the time of collection would be actually less than --  
10 in other words, if the \$3.71 resulted in an  
11 overcollection, would you allow a much -- a lower or a  
12 lesser fee in order to allow the generators basically  
13 to catch up?

14 A. That's what our proposal is, to revisit it  
15 every six months and adjust the fee. Or we've also  
16 considered actual refunds to each of the generators at  
17 the end of each six-month period.

18 Q. Let me show you what has been marked and  
19 withdrawn as Exhibit 17, and this was presented  
20 earlier by Mr. Williams. It's a response to Teledyne  
21 Data Request No. 6. And you may not be familiar with  
22 the first page, but if you could turn the pages and  
23 see if anything else looks familiar to you.

24 A. (Reading.) Yes. I've got a copy of that



25 here. (Pointing).

(ROBERTSON - CROSS BY HATCHER)

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1 Q. Would you look at the last page. Is that  
2 the computer run that you were referencing earlier?

3 A. Yes, it is.

4 Q. And the letter attached to the computer run  
5 is a letter that you wrote to Mr. Bede?

6 A. Yes.

7 Q. And the letter dated June 23 is a letter  
8 from Mr. Bede to you?

9 A. Yes.

10 MR. HATCHER: I move for the admission of  
11 Exhibit 17.

12 JUDGE CLISHE: Is there any objection to  
13 Exhibit 17 being included in the hearing record?

14 MS. O'MALLEY: I would like to ask one more  
15 question on the exhibit.

16 JUDGE CLISHE: All right.

17

18 CROSS-EXAMINATION

19 BY MS. O'MALLEY:

20 Q. Mr. Robertson, is the letter attached in  
21 this exhibit from you to Mr. Bede or the letter from  
22 Mr. Bede to you dated June 23, are either of those or  
23 both Attachment 1 referred to in your memo?

24 A. Would you repeat that, please.

25 Q. In your memo which is Exhibit 34, you refer  
(ROBERTSON - CROSS BY O'MALLEY) 310

1 to an Attachment 1 or an attachment to your memo.

2 A. Correct.

3 Q. Are either of these letters -- do they  
4 constitute Attachment 1?

5 A. They were both attachments to -- wait a  
6 minute. So you're asking if the computer run was the  
7 attachment?

8 Q. Let me be more specific. You have before  
9 you withdrawn-Exhibit 17, a letter dated May 14 which  
10 is addressed to Barry Bede and it's signed by you, is  
11 that correct?

12 A. Correct.

13 Q. And attached to that letter is what you  
14 have identified for Mr. Hatcher as a computer run?

15 A. Correct. That's the attachment.

16 Q. Do those two documents constitute one  
17 letter?

18 A. Yes.

19 Q. And is this letter dated May 14 referred  
20 to in your memo, which was identified as Exhibit 34,  
21 as Attachment 1?

22 A. Okay. Can you tell me where I reference  
23 the attachments.

24 Q. In the memo it's about eight lines down.

25 A. Yes.

(ROBERTSON - CROSS BY O'MALLEY)

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1 Q. Yes, the May 14 letter is Attachment 1?

2 A. Yes.

3 MS. O'MALLEY: Okay. Thank you. That's  
4 all.

5 JUDGE CLISHE: All right. Any objection  
6 to Exhibit 17 being included in the hearing record?  
7 All right, I'll admit Exhibit 17 into the hearing  
8 record.

9 (Admitted Exhibit No. 17.)

10

11 CROSS-EXAMINATION

12 BY MR. HATCHER:

13 Q. Just a couple more questions. On Exhibit  
14 34 in the second paragraph you indicate how much waste  
15 had been received in the first six months of '93,  
16 indicating that approximately 55,000 cubic feet, using  
17 the 54 percent rule, would be required for the next  
18 six months. In the third paragraph then you indicate  
19 you've estimated a slightly lower volume and then  
20 derive the \$3.71 cubic foot figure.

21 A. Correct.

22 Q. Then in Mr. Bede's letter to you of June  
23 23, '93 which is now part of Exhibit 17 --

24 A. I think you took that back.

25 Q. Oh, I'm sorry. (Handing.) Mr. Bede

(ROBERTSON - CROSS BY HATCHER)

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1 indicates, does he not, that approximately 46,000  
2 cubic feet would be received in the last six months  
3 of '93, 46,795, and that's at the close of the first  
4 block paragraph of that letter?

5 A. Yes, I see that.

6 Q. Is there a correlation between this 46,795  
7 and the lower volume estimate of 93,590 indicated in  
8 your memorandum?

9 A. They are both the same.

10 Q. Both the same.

11 MR. HATCHER: I have nothing further.

12 JUDGE CLISHE: All right, thank you. Ms.

13 O'Malley, did you have questions of Mr. Robertson?

14 MS. O'MALLEY: Just a couple.

15

16 CROSS-EXAMINATION

17 BY MS. O'MALLEY:

18 Q. Mr. Robertson, in determining your estimate  
19 for the remainder of '93 referred to in your memo  
20 which is marked Exhibit 34, did you do any surveys of  
21 the generators?

22 A. No, I didn't.

23 Q. Do you intend to do any surveys of the  
24 generators in the future to determine an estimate of

25 volumes?

(ROBERTSON - CROSS BY O'MALLEY)

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1           A.     That might be a possible way to come up  
2 with a fee similar to what the Department of Ecology  
3 has done. That's one idea that we've kicked out, just  
4 get an estimate, and based on that, charge a fee based  
5 on what they're estimating. Again, it's -- it may not  
6 be reliable.

7           Q.     You have before you Exhibit 17 that we were  
8 talking about earlier, and there's a letter in there  
9 from Mr. Bede to you dated June 23. I believe it's  
10 the second page of that exhibit.

11                     In the second paragraph Mr. Bede states  
12 or this letter states that the adjustment of the site  
13 surveillance fee will be made every six months during  
14 the '94-95 biennium. Is it your understanding from  
15 what you previously said that the site surveillance  
16 fee would be adjusted or you anticipate that it would  
17 be adjusted every six months before the end of the  
18 '94-'95 biennium?

19           A.     That's correct.

20           Q.     So you're not waiting until the end of the  
21 biennium to adjust the fee?

22           A.     No.

23                     THE WITNESS: I would like to go back and  
24 answer one of your questions or -- where you pointed

25 out that the numbers -- consistency of the two

(ROBERTSON - CROSS BY O'MALLEY)

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1 numbers. When we came up with our calculation I did  
2 talk to Mr. Bede about that. He had my information as  
3 far as the costs to the program. I think that's where  
4 he came up with that similar number. I don't know  
5 what your point was, but I just wanted to let you know  
6 that's why they're consistent. I do communicate with  
7 our licensee.

8 Q. So you proposed to review the site  
9 surveillance fee necessary to be recovered  
10 approximately every six months?

11 A. Yes. Or we're willing to do it quarterly  
12 if that would help out, and it probably would.

13 Q. Has the department overcharged or  
14 overcollected the site surveillance fee in the past?

15 A. I can think of two occasions where the fee  
16 was overcollected, and that was submitted to the  
17 closure account.

18 Q. So there was --

19 A. And I'm not sure if there's been any  
20 overcollection during the last biennium. We haven't  
21 got our final report in.

22 Q. When was the last time it was  
23 overcollected?

24 A. I don't have the date. I believe it was

25 before I took over as the head of the waste management

(ROBERTSON - CROSS BY O'MALLEY)

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1 section.

2 Q. And when did you take over as head?

3 A. In 1989.

4 MS. O'MALLEY: That's all I have.

5 JUDGE CLISHE: All right, thank you. Mr.

6 Williams, do you have any questions?

7 MR. WILLIAMS: Yes, thank you.

8

9

CROSS-EXAMINATION

10 BY MR. WILLIAMS:

11 Q. Mr. Robertson, I would like to ask a couple  
12 of questions about your understanding of the statute  
13 your memorandum refers to, RCW 70.98.085. Is it your  
14 understanding that the statute requires the department  
15 to recapture its costs by collecting a fee charged as  
16 a per cubic foot fee?

17 A. Yes, it is.

18 Q. And does the statute impose the economic  
19 burden of that fee on the site operator or on the  
20 generator? In other words, is it like a tax on a  
21 retailer or is it like a sales tax which the retailer  
22 simply collects from the consumer and remits to the  
23 state?

24 A. Well, you have the statute that gives us

25 the authority to recover our costs, and then you have

(ROBERTSON - CROSS BY WILLIAMS)

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1 a WAC that -- let me get the WAC out. WAC

2 246-254-120, section 3, it says, The department shall

3 authorize by contract the operator of a low level

4 radioactive waste disposal site to collect the fee

5 from the waste generators and brokers. So the WAC

6 says that these shall be collected from the waste

7 generators and brokers.

8 Q. That is the Department of Health rule?

9 A. Regulation, yes.

10 Q. Regulation.

11 A. If you want to enter it, I have a copy for

12 you.

13 Q. I appreciate it, but, no, thank you.

14 You mentioned the possibility that there

15 may be an excess in the surveillance fund at the end

16 of the biennium. Is that a possibility?

17 A. Yes.

18 Q. Have you given any thought to refunding

19 that excess to the generators who paid the excess?

20 A. Yes, I have. I brought a memo that I wrote

21 to Martha French, our attorney, requesting her legal

22 opinion of whether we can do that, if there's

23 authority to do it after the biennium ends. It may

24 take legislative act, a new statute to allow that.



25 Q. Would it be possible for me to obtain a  
(ROBERTSON - CROSS BY WILLIAMS)

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1 copy of your memorandum to her?

2 A. Yes.

3 MR. WILLIAMS: Thank you. Those are all  
4 the questions I have.

5 JUDGE CLISHE: All right, thank you. Mr.  
6 Dudley, did you have questions of Mr. Robertson?

7 MR. DUDLEY: Yes.

8 MS. EGELER: Before he begins, could I  
9 state that perhaps Ms. French would like to keep that  
10 information privileged. I don't know and she's not  
11 here and present, so perhaps Mr. Robertson could  
12 inquire of her before releasing that. I don't know if  
13 she wants to keep that discussion with her client  
14 confidential.

15 MR. WILLIAMS: That's fine.

16

17 CROSS-EXAMINATION

18 BY MR. DUDLEY:

19 Q. Yes. A few questions. Good morning, Mr.  
20 Robertson. Just very quickly, the Department of  
21 Health, I see you have over four full-time equivalent  
22 employees involved with reviewing the site, is that  
23 correct?

24 A. Well, it's more than just reviewing the

25 site. It's the whole regulatory oversight out there.

(ROBERTSON - CROSS BY DUDLEY)

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1 We have -- for example, we have a half of an FTE that  
2 is a lab person up in Seattle that runs all the  
3 environmental samples for us. We pay indirects. We  
4 pay a quarter of an FTE to the environmental program  
5 for their services to us. We've got a full-time  
6 resident inspector at the site. I'm half time. We've  
7 got two pretty much full-time people on board  
8 reviewing proposals from generators for disposing of  
9 waste.

10 Q. And the goal is the protection of the  
11 public in the operation of that site, is that right?

12 A. Yes, it is.

13 Q. As we've talked about, your statutory  
14 charge is to collect the fees from the generators to  
15 support that activity that you and your staff do, is  
16 that correct?

17 A. Correct.

18 Q. And so it's important to set a fee that is  
19 -- I think we've talked about here -- that gives you  
20 confidence you'll collect that full amount of that  
21 program at the end of the biennium, is that correct?

22 A. Yes.

23 Q. And that would tend to try to make you as  
24 conservative as you can about setting that fee because

25 you don't want to be in a position of being short, is

(ROBERTSON - CROSS BY DUDLEY)

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1 that correct?

2 A. Well, I don't want to be in a position that  
3 is short, but I want to make sure I don't overcharge  
4 individuals, and if I'm allowed to release the memo  
5 that I wrote to our attorney, you'll see the concern I  
6 had.

7 Q. But if you're short, where do you get the  
8 extra money? Does that have to come from the general  
9 fund of the state of Washington?

10 A. I would guess it would have to come from  
11 the general fund. May have to come from another  
12 program in the Department of Health.

13 Q. And as a manager, that's not a result that  
14 you would desire, is it?

15 A. No.

16 Q. Okay. So you want to be as conservative as  
17 you can to be sure you collect the full fee from the  
18 generators?

19 A. Well, be as conservative as you can, I'm  
20 wondering what you mean by that. I want to make sure  
21 I have enough money to cover my costs and no more.

22 Q. Okay. And in your Exhibit 34, Mr.  
23 Robertson, you talk about your estimate being derived  
24 by calculating, and I quote, in-region waste volumes,

25 unquote. What do you mean by that, sir?

(ROBERTSON - CROSS BY DUDLEY)

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1 A. In-region waste is waste within the  
2 Northwest Compact. Back in 1980 and again in 1985 the  
3 Congress passed an act which is called the Low Level  
4 Waste Amendments Act. It was intended to make each  
5 state responsible for its own waste, and it allowed  
6 states to set up compacts or regions and that's --  
7 in-region is our states that are allowed to dispose of  
8 waste at Hanford.

9 Q. And you're aware now, of course, that in  
10 1993 not only do you have the Northwest Compact  
11 depositing there, but you also have the Rocky Mountain  
12 Compact?

13 A. That's correct.

14 Q. And so as I see your testimony here, when  
15 you went back and looked at historical data, you  
16 looked only at the Northwest Compact for your 54  
17 percent rule, is that correct?

18 A. I looked at the Northwest Compact, that's  
19 correct. We received very little waste from the  
20 Northwest -- or from the Rocky Mountain Compact up  
21 until the end of '93, but we did receive Rocky  
22 Mountain waste beginning in January, so I did look at  
23 the Rocky Mountain waste from January through June and  
24 it was approximately 3,500 cubic feet for that time

25 period.

(ROBERTSON - CROSS BY DUDLEY)

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1 Q. Yes, but my question is that your 54  
2 percent rule didn't consider Rocky Mountain waste --

3 A. Yes, it did. It considered it. I looked  
4 from January through June, 3,500 cubic feet of Rocky  
5 Mountain waste. I added that into my number, my other  
6 number --

7 Q. I understand you used it when you applied  
8 the rule, but in the development of the rule, Mr.  
9 Robertson, when you looked at the first six months and  
10 the last six months of the historic years, you didn't  
11 use Rocky Mountain waste for the development of the 54  
12 percent rule, did you?

13 A. That's correct.

14 Q. Okay. Now, there have been a lot of volume  
15 projections made about waste to be taken to the site  
16 there at Richland. There were volume projections made  
17 in the 1992 rate case. Mr. Robertson, did you review  
18 any of those projections?

19 A. I had discussions with Elaine Carline about  
20 those projections.

21 Q. Did you review any of the record in the  
22 1992 rate case with respect to those volume  
23 projections for 1993?

24 A. No.

25 Q. And there have been volume projections at  
(ROBERTSON - CROSS BY DUDLEY)

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1 the site that have been filed in Thurston County  
2 Superior Court as part of the appeal of the '92 rate  
3 decision. Have you reviewed any of those volume  
4 projections, sir?

5 A. I may have, but I -- you know, I don't  
6 remember reviewing them in detail.

7 MR. DUDLEY: Okay. That's all the  
8 questions I have. Thank you.

9 JUDGE CLISHE: Thank you. Commissioners,  
10 did you have questions?

11 COMMISSIONER CASAD: I have no questions.

12 COMMISSIONER HEMSTAD: I have no questions,  
13 just a general comment. I understand the purpose of  
14 this testimony was only to determine what the amount  
15 of the fee is, and therefore the calculations of  
16 volume of the Department of Health are not  
17 particularly relevant to what we are about here, and I  
18 think that was the only basis for the entry of Exhibit  
19 34.

20 JUDGE CLISHE: Thank you. Ms. Egeler, did  
21 you have any other questions of Mr. Robertson?

22 MS. EGELER: No redirect, your Honor.

23 JUDGE CLISHE: All right, thank you, Mr.  
24 Robertson, for your testimony. At this time we'll

25 recall Mr. Young to the stand.

(COLLOQUY)

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1 MR. DUDLEY: While Mr. Young is making  
2 his way to the stand, I had distributed earlier and it  
3 should be at everybody's places, a revised page 12 of  
4 Mr. Young's testimony. It's Exhibit T-30. That  
5 incorporates the changes that we made at the beginning  
6 of his direct examination yesterday. I would ask that  
7 this be substituted for page 12 that was originally  
8 included in his testimony from yesterday.

9 JUDGE CLISHE: Thank you. Is there any  
10 objection to the substitute page 12? All right, we  
11 will substitute the page 12 which was presented this  
12 morning of Exhibit T-30 which contains the revised  
13 testimony of Mr. Young.

14 And, Mr. Young, you're still under oath  
15 from yesterday. And I think, Mr. Dudley, we had  
16 finished your basic questions, is that correct?

17 MR. DUDLEY: We had, and Mr. Young is  
18 available for cross-examination.

19 JUDGE CLISHE: All right, thank you. Mr.  
20 Van Nostrand, do you have questions of Mr. Young?

21 MR. VAN NOSTRAND: Yes, your Honor. Thank  
22 you.

23 Whereupon,

24 ROBERT E. YOUNG,

25 having been previously sworn, was recalled as a  
(COLLOQUY)

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1 witness herein and was examined and testified as  
2 follows:

3

4

CROSS-EXAMINATION

5

BY MR. VAN NOSTRAND:

6

Q. Good morning, Mr. Young.

7

A. Good morning.

8

Q. I would like to start off with a discussion  
9 in the later part of your testimony about the  
10 advantages US Ecology has by having its rates  
11 regulated.

12

A. Page reference, please.

13

Q. Page 14, lines 7 to 9. You state that US  
14 Ecology has significant advantages over unregulated  
15 companies in the waste disposal business. Is that a  
16 correct reading of your testimony?

17

A. Yes, it is.

18

Q. And one of the advantages you refer to is  
19 the ability to file automatic volume and inflation  
20 adjustments every six months, is that right?

21

A. That's correct.

22

Q. And now if US Ecology were unregulated,  
23 couldn't it file for rate changes more often than  
24 every six months?



25           A.     I guess the concept of a rate for an  
(YOUNG - CROSS BY VAN NOSTRAND)

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1     unregulated company is alien to me, but if you're  
2     asking could they raise prices whenever they wanted,  
3     yes, if market forces permitted it.

4           Q.     And it wouldn't be limited by changes in  
5     inflation and volumes in the price changes that it  
6     implemented, would it?

7           A.     What was that question again, please.

8           Q.     It wouldn't be limited by changes in  
9     inflation and volume in the price changes that it  
10    implemented if it were?

11          A.     No, it wouldn't.

12          Q.     Another advantage referred to is the right  
13    to file for revisions to rates due to changes in  
14    governmental-imposed fees and factors outside its  
15    control on 30 days' notice, is that right?

16          A.     That's correct.

17          Q.     And if US Ecology were unregulated, would  
18    it have to give 30 days' notice to anybody?

19          A.     No, it wouldn't.

20          Q.     And would it have to limit its rate changes  
21    to those due to changes in governmentally-imposed fees  
22    or factors outside of its control?

23          A.     No, it wouldn't.

24          Q.     Another factor you cite is the ability to

25 petition for a change in base disposal rates and

(YOUNG - CROSS BY VAN NOSTRAND)

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1 receive a Commission order within seven months. Is

2 that another factor you cite?

3 A. Right.

4 Q. And if US Ecology were unregulated, would

5 it have to petition anybody for a change in its base

6 disposal rates?

7 A. No, it wouldn't.

8 Q. Would it have to wait seven months for an

9 order allowing it to change its rates?

10 A. It wouldn't.

11 Q. Turn to your testimony on the volume

12 adjustment. It's fair to say generally that you

13 oppose the company's proposal to use fewer than 12

14 months of data for purposes of the volume adjustment,

15 is that correct?

16 A. That's correct.

17 Q. And beginning on page 5 of your testimony

18 you discuss reasons given by the company for not using

19 12 months of historical data, is that correct?

20 A. That's correct.

21 Q. And one of the reasons that you note that

22 the company gave was that the December 1992 volumes

23 represented an unusual set of circumstances?

24 A. That's correct.

25 Q. And on page 6 you state that this argument  
(YOUNG - CROSS BY VAN NOSTRAND)

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1 should be rejected because the abnormally large  
2 volumes in December 1992 can be handled through the  
3 extraordinary volume adjustment, is that right?

4 A. That's correct.

5 Q. What were the volumes delivered in December  
6 1992 from Northwest and Rocky Mountain Compact  
7 generators?

8 A. In December I believe it was about 131,000  
9 cubic feet.

10 Q. Okay. In the extraordinary volumes in  
11 December 1992 you refer to, those are the Teledyne Wah  
12 Chang cleanup wastes?

13 A. That's correct.

14 Q. That was about 55,600 cubic feet?

15 A. That's correct.

16 Q. And by classifying these wastes as  
17 extraordinary volumes, one-half or about 27,800 is  
18 excluded from the volume totals?

19 A. That's my understanding of how the  
20 extraordinary volume adjustment would work, yes.

21 Q. So if we take the 131,000 cubic feet  
22 delivered in December of '92 and subtract the 27,800,  
23 doesn't that still leave about 104,000, 103,000 cubic  
24 feet?

25           A.     Subject to check, yes.

(YOUNG - CROSS BY VAN NOSTRAND)

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1           Q.     Is it your testimony that 103,000 cubic  
2 feet a month is a normal level of monthly volume for  
3 Northwest and Rocky Mountain Compact generators?

4           A.     It's certainly higher than what we've seen  
5 in the past five or six years of data that I've been  
6 able to look at, but based on my review of the data  
7 and my conversations with my clients, and general  
8 knowledge of economics, I think that it's reasonable  
9 that we could have a situation developed where we  
10 could have a volume total in that month approaching --  
11 or excuse me -- a volume total of 75 to 100,000 cubic  
12 feet in one month sometime in the future. So that  
13 while it's certainly an unusual event, that doesn't  
14 mean it could not happen again in the future.

15          Q.     Wouldn't you say that the December 1992  
16 volumes were an all-time high?

17          A.     Based on the six or seven years of data  
18 that I've been able to review, yes, that's correct.

19                   MR. VAN NOSTRAND: Your Honor, I would like  
20 to distribute an exhibit.

21                   JUDGE CLISHE: I'll mark for identification  
22 as Exhibit 35 a seven-page document. The first page  
23 indicates the declaration of Robert E. Young.

24                                 (Marked Exhibit No. 35.)

25 Q. Mr. Young, do you recognize what's been  
(YOUNG - CROSS BY VAN NOSTRAND)

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1 marked for identification as Exhibit 35 as a  
2 declaration that you gave on the Thurston County  
3 Superior Court proceeding involving the appeal of US  
4 Ecology's 1992 rate case?

5 A. Yes, I do.

6 Q. If I could turn your attention to paragraph  
7 8 at the bottom of page 3 of that declaration, was it  
8 your testimony that because the waste received in  
9 December 1992 from the Northwest and Rocky Mountain  
10 generators was an all-time high, there was arguably  
11 some waste delivery that could not be anticipated in  
12 the future? That is a correct reading of your  
13 testimony?

14 A. Yes.

15 Q. And in that proceeding to account for this  
16 factor you proposed to reduce the December 1992 volume  
17 to 66,595 cubic feet?

18 A. Yes, I did.

19 Q. And you calculated that figure by looking  
20 at the average of the previous 12 months which was  
21 11,595 cubic feet and you added to that the Teledyne  
22 Wah Chang cleanup waste?

23 A. That's correct.

24 MR. VAN NOSTRAND: Your Honor, I move the

25 admission of Exhibit 35.

(YOUNG - CROSS BY VAN NOSTRAND)

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1 JUDGE CLISHE: Is there any objection to  
2 Exhibit 35? I'll admit Exhibit 35 into the hearing  
3 record.

4 (Admitted Exhibit No. 35.)

5 Q. Turning back to your testimony on page 6  
6 where you talk about the fact that these abnormally  
7 large volumes can be handled by the extraordinary  
8 volume adjustment, were there deliveries other than  
9 extraordinary volumes that accounted for the unusually  
10 high volume in December of 1992?

11 A. Yes, there were.

12 MR. VAN NOSTRAND: I would like to  
13 distribute another exhibit, your Honor. I would like  
14 to distribute two.

15 JUDGE CLISHE: I'll mark for identification  
16 as Exhibit 36 a one-page document indicating  
17 Intervenors' Response to US Ecology's Data Request No.  
18 5, and I'll mark for identification as Exhibit 37 a  
19 one-page document indicating Intervenors' Response to  
20 US Ecology's Data Request No. 3.

21 (Marked Exhibits Nos. 36 and 37.)

22 Q. Mr. Young, do you have before you what has  
23 been marked for identification as Exhibit 36?

24 A. Yes, I do.

25 Q. Do you recognize this as your response to  
(YOUNG - CROSS BY VAN NOSTRAND) 331

1 company's Data Request No. 5?

2 A. Yes, I do.

3 Q. And in that response you state that in  
4 December 1992 generators essentially cleared out their  
5 inventory, is that right?

6 A. That's correct.

7 MR. VAN NOSTRAND: Your Honor, I move the  
8 admission of 36.

9 JUDGE CLISHE: Are there any objections to  
10 Exhibit 36? All right, I'll admit Exhibit 36 into the  
11 hearing record.

12 (Admitted Exhibit No. 36.)

13 Q. Would you agree that if that to the extent  
14 generators were clearing out their inventory, that  
15 these don't constitute extraordinary volumes?

16 A. Not under the context -- or the --  
17 extraordinary volumes has a fairly clear meaning both  
18 in the statute and in the order of the Commission, and  
19 so that the less a particular delivery fits that  
20 definition, it wouldn't be classified as an  
21 extraordinary volume.

22 Q. And if these unusually high volumes of  
23 waste are due to generators clearing out the  
24 inventory, the extraordinary volume adjustment really

25 doesn't handle these wastes very well, does it?

(YOUNG - CROSS BY VAN NOSTRAND)

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1 A. Extraordinary volume adjustment wouldn't,  
2 but the volume adjustment would.

3 Q. And the volume adjustment would handle it  
4 by modifying rates in a subsequent period to reflect  
5 these extraordinarily high volumes?

6 A. Yes, it would.

7 Q. If you could turn to Table 1 of your  
8 Exhibit 32. This table shows, doesn't it, the  
9 disposal of volumes by month from Northwest and Rocky  
10 Mountain Compact generators?

11 A. Yes, it does.

12 Q. From about January of '87 through November  
13 of '92?

14 A. That's correct.

15 Q. And as indicated in the lower left-hand  
16 corner of that document, this table does not include  
17 data from December 1992, is that right?

18 A. That's correct.

19 Q. Do you have before you what's been marked  
20 for identification as Exhibit 37?

21 A. Yes.

22 Q. And do you recognize that as your response  
23 to US Ecology Data Request No. 3?

24 A. Yes, I do.



25 Q. In this data request you were asked to  
(YOUNG - CROSS BY VAN NOSTRAND)

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1 recast this exhibit showing data from December 1992,  
2 is that correct?

3 A. That's correct.

4 Q. And your response was that this request was  
5 burdensome, is that right?

6 MR. DUDLEY: If I may, your Honor, that's  
7 the response that was made by counsel when we received  
8 this request, and there was no motion to compel nor  
9 any other protests from US Ecology based on that  
10 response, so I presumed the matter was settled.

11 JUDGE CLISHE: Are you objecting to Mr. Van  
12 Nostrand's question?

13 MR. DUDLEY: I'm explaining that the answer  
14 came from me and not from the witness.

15 JUDGE CLISHE: All right.

16 MR. DUDLEY: On advice of counsel.

17 MR. VAN NOSTRAND: I would like to explore  
18 how burdensome it would have been.

19 Q. What would you have had to do to show data  
20 from December 1992 on your Table 1?

21 MR. DUDLEY: Your Honor, I'm going to  
22 object to this. If counsel wanted to compel response  
23 to this data request, the proper way to do it is a  
24 motion to compel, as counsel knows, if he felt that

25 providing this information and the representation of  
(YOUNG - CROSS BY VAN NOSTRAND)

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1 burdensome was inappropriate. Now he intends to  
2 essentially have the motion to compel argued on the  
3 record in front of the commissioners, and I don't  
4 think it's a proper use of our time in this  
5 proceeding.

6 MR. VAN NOSTRAND: Your Honor, I'm not  
7 seeking to have the evidence produced. It's obviously  
8 too late for that. I'm attempting to show why it was  
9 the December '92 was excluded from this table and why  
10 burdensome probably doesn't have much to do with it.  
11 It's the visual impact of including December 1992 on  
12 this exhibit that I was trying to show, and if I can't  
13 do it through an actual document, I would like to  
14 establish it through this witness's testimony.

15 JUDGE CLISHE: I'm going to overrule the  
16 objection and Mr. Young may answer the question,  
17 unless you need it repeated.

18 THE WITNESS: No.

19 A. If I may answer the question of why it was  
20 excluded also. Essentially the procedure would have  
21 been, this is a graph prepared in LOTUS for Windows,  
22 so it would have been a simple matter of adding an  
23 additional data point and producing it, the graph  
24 with the full 12 months from January 1992. The reason

25 why I excluded December of 1992 from this graph is  
(YOUNG - CROSS BY VAN NOSTRAND)

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1 that I wanted to show the volatility of the normal  
2 waste volumes on a monthly basis for US Ecology, and  
3 obviously with a value of 131,000 cubic feet on a  
4 graph like this there would be essentially a flat line  
5 and you wouldn't see the visual impact of the  
6 volatility.

7 I think it's helpful sometimes when you are  
8 looking at information to graph it to get an idea of  
9 how the quantities of whatever you're looking at  
10 change visually, in addition to looking at them just  
11 as a column of numbers, and so that's why I prepared  
12 this graph. I wasn't trying to hide anything. And  
13 that's why I rather prominently included the exclusion  
14 of December of 1992 with the little box on the bottom.

15 Q. And in fact the vertical axis only goes to  
16 25,000 cubic feet, doesn't it?

17 A. That's over the last five or six years of  
18 data that we have here, that's the normal range of the  
19 volumes, are between roughly five and 20,000 cubic  
20 feet on a monthly basis for US Ecology.

21 Q. And in order to accommodate December 1992  
22 volumes you would have had to run that vertical axis  
23 probably as high as 135,000 cubic feet?

24 A. That's correct.

25 Q. As you say, it would have produced this  
(YOUNG - CROSS BY VAN NOSTRAND) 336

1 vision of a relatively straight line for the other six  
2 years of data?

3 A. That's correct.

4 Q. And if we take your proposal to exclude the  
5 Teledyne Wah Chang extraordinary volumes, that still  
6 leaves us with 103,000 cubic feet for December 1992,  
7 is that right?

8 A. That's correct.

9 Q. And this, too, would have been off the chart,  
10 so to speak, of your Table 1?

11 A. Right, 106,000 certainly is in excess of  
12 25,000, which is the upper end of the scale.

13 MR. VAN NOSTRAND: I would like to move the  
14 admission of Exhibit 37, your Honor.

15 JUDGE CLISHE: Is there any objection to  
16 Exhibit 37?

17 MR. DUDLEY: Yes, your Honor. I would  
18 object. This is unnecessary in this record. Again,  
19 it doesn't add any substantive information to the  
20 discussion here. All of the questions and answers  
21 that Mr. Van Nostrand asked were all done without  
22 reference to Exhibit 37, so I would not have it  
23 admitted.

24 JUDGE CLISHE: I'm going to overrule the

25 objection and admit Exhibit 37 into the hearing

(YOUNG - CROSS BY VAN NOSTRAND)

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1 record.

2 (Admitted Exhibit No. 37.)

3 Q. For purposes of your calculation of volume  
4 adjustment, you're proposing to use 222,517 cubic  
5 feet, is that right?

6 A. That's correct.

7 Q. That's page 11, line 6 of your testimony.  
8 And you calculate this amount by looking at actual  
9 volumes for the 12 months ended April 30 of 250,317  
10 cubic feet, less the 27,801 cubic feet, or one-half  
11 of the extraordinary volume, is that right?

12 A. Yes, and that was my reading of the  
13 Commission order and the statute.

14 Q. Is it your testimony that the company is  
15 likely to actually receive 222,000 cubic feet of waste  
16 during 1993?

17 A. I think that based on my discussions with  
18 my clients and a review of the data, I think that  
19 there's a very strong likelihood that they can receive  
20 on the order of 200, 210,000 cubic feet if the  
21 Commission adopts our rate proposal. I think that's a  
22 likely opportunity, but I don't think that it's the  
23 goal of this volume adjustment proceeding to ensure  
24 that US Ecology exactly receives its revenue

25 requirement.

(YOUNG - CROSS BY VAN NOSTRAND)

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1 I think that you asked me a series of  
2 questions about the benefits to US Ecology and  
3 comparing it to unregulated companies. I think if you  
4 make a comparison with regulated companies, I know  
5 very few utilities that have anything approaching a 29  
6 percent operating margin with almost all of their  
7 costs fully indexed by inflation. I think that any  
8 utility I've worked with either as an employee or a  
9 consultant would probably sign up immediately for a  
10 treatment like that. And as a matter of fact, I  
11 remember a whole slew of articles in the professional  
12 journals back in the late 70s and early 80s about  
13 cost-of-service indexes, which I think is what US  
14 Ecology has here.

15 Q. You testified in the 1992 rate case, didn't  
16 you?

17 A. Yes.

18 Q. Were you aware of the level of  
19 profitability that the company was able to obtain at  
20 the site prior to the imposition of rate regulation?

21 A. Yes, I was.

22 Q. Turning back to the discussion about  
23 whether or not the company will actually receive  
24 222,000 cubic feet of waste during this year, wasn't

25 it your testimony yesterday that you believe the

(YOUNG - CROSS BY VAN NOSTRAND)

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1 reasonable projection based on the information you  
2 received in Exhibit 33 was about 133,000 cubic feet?

3 A. That's kind of like the bottom line minimum  
4 that I think that they'll achieve. I think that a  
5 reasonable expectation. I think there's some  
6 considerable uncertainty right now as to the level of  
7 the rate that will come out of this hearing. I think  
8 that if the rate is -- the final rate that's decided  
9 by this Commission is close to the level that we  
10 recommend, I think that the volumes stand a very good  
11 chance of materializing in the 200, 210,000 cubic feet  
12 range.

13 I think that several of the discussions I  
14 listened to yesterday in cross-examination indicated  
15 that there is a fair amount of price elasticity in  
16 waste volumes, that a large number of generators in  
17 response to a potential of an increase of about six  
18 or seven, eight dollars a cubic foot increase in  
19 disposal costs got as much waste into the US Ecology's  
20 Richland facility as they could. I think the similar  
21 reduction in the rate could also cause generators to,  
22 you know, try to find as much additional waste that  
23 they have, waste that they could get out of  
24 inventories before the December 31, 1992 deadline.

25 I think that by the same token it would be

(YOUNG - CROSS BY VAN NOSTRAND)

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1 incentivized again to increase the shipments to US  
2 Ecology.

3 Q. So you're saying if the Commission accepts  
4 the generators' proposal and reduces the company's  
5 rate to \$20, that generators again will clean out  
6 their closets to produce extraordinarily high levels  
7 of volumes?

8 A. Cleaning out their closets?

9 Q. Cleaning out their inventory as you  
10 indicated in Exhibit 36.

11 A. Yes, that's correct.

12 Q. Turning to your figure of 133,000 cubic  
13 feet that you discussed yesterday, you would agree,  
14 wouldn't you, that this volume is less than the volume  
15 projection for 1993 adopted in the 1992 rate case  
16 which was 149,900 cubic feet?

17 A. I guess that this again -- I was trying to  
18 be very, very conservative and establish kind of a  
19 minimum level, and again, this information was based  
20 on a document I received that was prepared by US  
21 Ecology, so it's a minimum level. I think that  
22 there's a strong likelihood that the actual volumes  
23 received in 1993 will be considerably higher.

24 Q. Let's look at your Table 7 of Exhibit 32



25 and figure out where this waste is going to come from.

(YOUNG - CROSS BY VAN NOSTRAND)

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1 You have an entry in that document that refers to  
2 Teledyne Wah Chang cleanup 21,000 cubic feet.

3 A. That's correct.

4 Q. Do I understand your testimony, then, that  
5 the corrections you've made today, that you're now  
6 saying that's anywhere from 3,000 to 21,000 cubic  
7 feet?

8 A. That's correct.

9 Q. What is it, 3,000 or 21,000?

10 A. I think that the waste that Teledyne Wah  
11 Chang delivered in December of 1992, because of the  
12 time crunch, was not subjected to the radon gas  
13 analysis. They didn't go through and sort the waste.  
14 That Teledyne Wah Chang decided that any revenue they  
15 could save by sorting the waste was more than offset  
16 by the increase in cost that they were going to pay  
17 because of the surcharges, so they just shipped the  
18 entire amount.

19 I think that if you -- the rate is dropped  
20 into the \$20 range, that that might provide an  
21 incentive to Teledyne Wah Chang, depending on the cost  
22 of physically going through the waste and sorting it,  
23 measuring and sorting it, they may just decide to ship  
24 the entire amount up to Benton County.

25 I haven't been told on what the -- what

(YOUNG - CROSS BY VAN NOSTRAND)

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1 exact percentage of the 21,000 cubic feet will be  
2 shipped to Richland, but I think it's somewhere  
3 between three and 21,000. And in addition, there's an  
4 additional 50,000 cubic feet of cleanup wastes which  
5 they are in the process of excavating right now which  
6 could be shipped to Richland, and this is also a  
7 potential which I didn't include in this chart which  
8 is labeled Minimum 1993 Revenues. My actual estimate  
9 is considerably higher.

10 Q. Your testimony with respect to the Teledyne  
11 Wah Chang waste, that if the rate is dropped to \$20  
12 Teledyne will basically be given no incentive to  
13 employ waste reduction technologies that are otherwise  
14 available to it?

15 A. I'm not saying that they provide no  
16 incentives. I'm saying that there is an incentive  
17 to get the waste disposed of as quickly, as  
18 efficiently as possible.

19 Q. Did you examine this issue of whether or  
20 not it would be 21,000 or some small percentage of  
21 that in light of Mr. Bede's testimony?

22 A. No. It was brought to my attention by  
23 counsel about two or three days ago. I think it was  
24 on Tuesday.

25 Q. And you understand it is the company's

(YOUNG - CROSS BY VAN NOSTRAND)

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1 position that this is not 21,000 cubic feet, it's more  
2 like 20 to 25 percent of that?

3 A. That's my understanding of Mr. Bede's  
4 testimony, yes.

5 Q. And as far as you are concerned, you were  
6 aware of a basis to making a change to your estimate  
7 only yesterday?

8 A. I said Tuesday of this week, I believe it  
9 was.

10 Q. How does your estimate that you gave  
11 yesterday of about 133,000 cubic feet, which you now  
12 say is a minimum figure, how does that compare with  
13 the estimate arrived at through Ms. Parker's approach  
14 in her testimony?

15 A. Could you --

16 Q. Would you accept subject to check that the  
17 number arrived at by Ms. Parker is 136,000?

18 A. Subject to check.

19 Q. Page 9, line 4 of her testimony.

20 MR. DUDLEY: I'm sorry, Counsel. Could you  
21 give me that reference again.

22 MR. VAN NOSTRAND: Page 9, line 4.

23 MR. DUDLEY: And the question again?

24 MR. VAN NOSTRAND: I asked Mr. Young how

25 his \$133,000 figure compares with the volume estimate  
(YOUNG - CROSS BY VAN NOSTRAND)

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1 arrived in Ms. Parker's calculation.

2 A. Fairly close.

3 Q. Another point you made in your testimony is  
4 that the company has contributed to the downturn in  
5 volumes for 1993 through rate uncertainty, is that  
6 correct? Page 7, lines 18 and 19.

7 A. That's correct.

8 Q. And on this point you note that the company  
9 has obtained a stay of the Commission's order and has  
10 twice revised the stay rate, is that correct?

11 A. That's correct.

12 Q. Was it the company's proposal in the court  
13 proceeding to modify the stay rate every 90 days?

14 A. I guess that was the result of the ruling  
15 by Judge Hicks, but I guess what I was referring to  
16 was the numerous proposals by US Ecology during the  
17 period of really December of -- or January of 1993  
18 through July of 1993 where they had multiple  
19 proposals, motions, affidavits, for changes in the  
20 disposal rate ranging as high as \$89.40 a cubic foot.

21 This creates an incredible amount of  
22 uncertainty. I mean, you saw by looking at the  
23 December data the type of response that the generators  
24 made to an increase of \$8 a cubic foot. And here we

25 have multiple proposals. There's one on the 22nd for  
(YOUNG - CROSS BY VAN NOSTRAND)

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1 \$89.40, one on January 22nd of '93. We've got one on  
2 the 5th of '93 for \$70 per cubic foot rate. Another  
3 motion on March 24 for 65.25. I mean, these are  
4 orders of magnitude larger than the rates in effect,  
5 and this created a large amount of uncertainty, and I  
6 think that's probably one of the reasons why you saw  
7 low volumes in the first quarter of this year.

8 Q. Would you agree that the company's required  
9 under the stay order issued by the court to revise the  
10 rate every 90 days in light of actual volumes?

11 A. That's correct.

12 Q. So to the extent there is rate uncertainty  
13 caused by complying with the court's requirement is  
14 something about which the company has no choice, you  
15 would agree, wouldn't you?

16 A. They have no choice as to the filing  
17 requirements. They certainly have a lot of choice as  
18 to the level of the rate. I mean, the level of the  
19 rate is -- the actual filing for the proposed rate  
20 level is under the control of the company. Within the  
21 structures of orders of Judge Hicks.

22 Q. And Judge Hicks has prescribed a fairly  
23 explicit procedure for calculating the volume  
24 adjustment at this point, hasn't he?

25 A. Yes, but as in many orders, there is ample  
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1 room for disagreement or interpretations, and the  
2 company chose one potential or one interpretation that  
3 generally resulted in very, very high disposal rates,  
4 and the intervenors chose alternative ones.

5 MR. VAN NOSTRAND: I will distribute  
6 another exhibit, your Honor.

7 JUDGE CLISHE: I'll mark for identification  
8 as Exhibit 38 what has been handed me, a two-page  
9 document. The first page indicates it's the Response  
10 of Precision Castparts Corporation to Data Request No.  
11 12 of US Ecology.

12 (Marked Exhibit No. 38.)

13 Q. Mr. Young, do you have what's been marked  
14 for identification as Exhibit 38?

15 A. Yes, I do.

16 Q. Do you recognize or will you accept subject  
17 to check that Exhibit 38 is a copy of the response of  
18 Precision Castparts to the company Data Request No.  
19 12?

20 A. Yes, I will.

21 MR. VAN NOSTRAND: I move the admission of  
22 Exhibit 38.

23 JUDGE CLISHE: Is there any objection to  
24 Exhibit 38 being included in the record?

25 MR. DUDLEY: No objection.

(YOUNG - CROSS BY VAN NOSTRAND)

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1 JUDGE CLISHE: Hearing no objection, I will  
2 admit Exhibit Number 38 into the hearing record.

3 (Admitted Exhibit No. 38.)

4 MR. VAN NOSTRAND: I have no further  
5 questions, your Honor.

6 JUDGE CLISHE: All right, thank you.  
7 Ms. Egeler, did you have questions of Mr. Young?

8 MS. EGELER: Yes. I just have a very short  
9 amount of questions, your Honor.

10

11 CROSS-EXAMINATION

12 BY MS. EGELER:

13 Q. Mr. Young, there's been some testimony  
14 about the ability of larger generators to store waste  
15 and to dump it to clean out their storage facilities  
16 when the price is in their favor. Would you agree  
17 that the larger generators do have some ability to do  
18 this?

19 A. They have some ability for limited amounts  
20 of storage, based on my conversations with some of my  
21 clients. I think a lot of the waste that you saw in  
22 December was a cleanup waste, it wasn't production  
23 waste that was, in essence, stored for later disposal.

24 Q. Do you have any knowledge of the ability of

25 very small generators who are not represented in this

(YOUNG - CROSS BY EGELER)

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1 room, such as the University of Washington, small  
2 hospitals, small research facilities, et cetera, do  
3 you have any knowledge of their ability to store waste  
4 at all and play a game, so to speak, with the rate and  
5 decide when is the most appropriate time or the most  
6 cost-effective time to dispose of waste?

7 MR. HATCHER: I object to the form of the  
8 question as casting in the phrase of playing games  
9 with the rates. There is no basis for that type of --

10 Q. I'm not trying to imply that there's  
11 something inappropriate. I think that any logical,  
12 rational business would make an economic determination  
13 about when the best time is to dispose of waste, Mr.  
14 Young, and I'm asking you whether or not you know if  
15 very small generators have that ability to make that  
16 type of economic determination or whether they have to  
17 dispose of the waste as they generate it.

18 A. I really have no knowledge of, for example,  
19 the University of Washington or any other small  
20 generator, any small hospital or medical facility's  
21 ability to store waste.

22 MS. EGELER: I have no further questions.

23 JUDGE CLISHE: All right, thank you.

24



25

(YOUNG - EXAMINATION BY CASAD)

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1 EXAMINATION

2 BY COMMISSIONER CASAD:

3 Q. As a matter of general interest, you  
4 indicated, Mr. Young, that you were -- you would  
5 gladly line up with the number of others to get a 29  
6 percent return on investment. Are you familiar with  
7 the operating margin method of regulation and why  
8 operating margins are used?

9 A. Yes, I am.

10 Q. Would you tell me briefly why.

11 A. Operating margins are used in situations  
12 where regulated industries that do not have large rate  
13 -- large investments in plant and equipment, so that  
14 you can't use the rate base rate of return method of  
15 regulation.

16 Q. Are returns on investment in those types of  
17 waste operations in which the operating margin is  
18 used, is it unusual to find returns of investment of  
19 25, 28, 29, 30 percent?

20 A. Based on my work on a few solid waste  
21 facilities, 25 to 30 percent is reasonable.

22 COMMISSIONER CASAD: Thank you. That's all  
23 I have.

24

1 EXAMINATION

2 BY COMMISSIONER HEMSTAD:

3 Q. Do you consider the 12-month period and  
4 total volume of waste generated, which is the period  
5 of measurement here, in the industry to be at this  
6 point a reasonable projection of the amount of waste  
7 that will be generated for the ensuing period?

8 A. I guess I have, you know, general concerns  
9 about exclusive reliance on historical data to make  
10 forecasts. I think that anybody who has participated  
11 in regulation and load forecasts in the utility  
12 industry over the last 20 years can see the problems  
13 with doing that. I think that as a general rule when  
14 developing a forecast one should always look at  
15 economic conditions and try to use estimates or  
16 projections of future economic indicators, things like  
17 price elasticity, for example, when developing a  
18 forecast.

19 Here you have a situation where five  
20 generators are responsible for a preponderance of the  
21 waste volumes that are going to US Ecology's facility.  
22 In my experience in preparing forecasts for two  
23 electric utilities and then reviewing the forecasts of  
24 many others, it's not unusual for the forecasting

25 group within a utility to do, in essence, surveys of  
(YOUNG - EXAMINATION BY HEMSTAD)

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1 their largest customers, especially when you have a  
2 large customer that's, you know, 10, 15, 20, 30  
3 percent of your load, to go out and survey and find  
4 out what their operating plans are for the next year.  
5 And to my mind that's the best way to do that in this  
6 situation.

7 I've been involved in this proceeding since  
8 the first, May of '92 or April of '92, and several  
9 times I was asked by clients to see is there another  
10 way to develop a forecast of waste volumes, and I  
11 racked my brain and talked to others in the  
12 forecasting business. And when you're looking at only  
13 four or five very, very diverse companies, there's no  
14 way to develop an econometric or advanced statistical  
15 forecasting methodology with such a small number of  
16 companies in, you know, diverse industries.

17 So that it's my opinion that the best way  
18 to develop an estimate or a projection of volumes is  
19 to call up and survey the companies themselves and ask  
20 them what their anticipated volumes are for the year.  
21 Granted they are only estimates, but that's, I think,  
22 one of the reasons why the company is earning a  
23 return.

24 There is some risk that the volumes will be

25 below forecast, some risk that the volumes will be

(YOUNG - EXAMINATION BY HEMSTAD)

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1 above forecast, but you have a volume adjustment  
2 mechanism here that is in effect every six months, and  
3 that over a long period of time that should smooth out  
4 US Ecology's revenues so that on balance over a three-  
5 or five-year period that their revenues would be  
6 fairly close to what the Commission authorized, and if  
7 they're not, they have the ability to petition the  
8 Commission for a general filing if for some reason  
9 their revenues fall seriously below what they need for  
10 operations.

11 Q. In this particular circumstance, you've  
12 taken the total volume for the 12 months at issue,  
13 totaled it, and divided it through.

14 A. Right.

15 Q. And my question is a narrow one. Do you  
16 think that total volume of that -- for that 12-month  
17 period is a reasonable one?

18 A. It's certainly at the upper end of what I  
19 would forecast. I think that my estimate is 200 to  
20 probably 210, although that's based on a limited --  
21 you know, it's based on a survey of five customers  
22 that I'm representing here. If in view of what  
23 happened in December of 1992, if our proposal of  
24 \$19.61 per cubic foot is adopted, I think that there

25 could be a similar surge in volume that would make the

(YOUNG - EXAMINATION BY HEMSTAD)

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1 222,000 likely. I think it's certainly at the upper  
2 end.

3 Q. Do you think it's appropriate to make an  
4 adjustment for the 1992 volume -- December of 1992  
5 volume?

6 A. I guess it depends on the -- in my opinion,  
7 the -- what the overall goals of this Commission are.  
8 If the goals of this Commission are to have contested  
9 hearings like this every six months, then it's  
10 probably reasonable to make an adjustment for December  
11 volumes. In my -- go ahead.

12 Q. Well, let me break in at that point. Do  
13 you think it is likely in the kind of scenarios that  
14 you can project, that kind of volumes in a given  
15 single month will occur again, say, in the next five  
16 years?

17 A. Well, barring -- I mean, the only material  
18 change in the composition of the waste stream is that  
19 Precision Castparts, one of the clients that I  
20 represent, has changed their production process, and  
21 so that there's a strong likelihood that they will no  
22 longer be depositing waste at the Richland facility.

23 At the same almost instantaneously with  
24 that decision, within six or seven months, Public

25 Service of Colorado, through the merging of the

(YOUNG - EXAMINATION BY HEMSTAD)

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1 Northwest and the Rocky Mountain Compacts, became a  
2 customer of US Ecology's Richland facility, and over  
3 the next three or four they're going to be depositing  
4 a large volume of decommissioning waste which more  
5 than offsets the loss of volumes from Precision  
6 Castparts.

7           Without going through a very detailed  
8 economic analysis of all of the companies and  
9 determine if they in turn made any changes in their  
10 production process, I think it is likely that you  
11 could have maybe not 132,000 cubic feet in any one  
12 month, but I am aware of no information that would  
13 indicate that you couldn't have another year or  
14 another 12-month period where 220,000 cubic feet would  
15 be deposited at the Richland facility. I mean, the  
16 same companies that are depositing waste in 1992 or  
17 the same companies that comprise the 12 months of  
18 Northwest and Rocky Mountain Compacts, to my  
19 understanding, are still in business and they're still  
20 depositing waste there.

21           Q. In Exhibit 35, in paragraph 8 that Mr. Van  
22 Nostrand asked you about, as I read that, you were  
23 making an adjustment there downwards because of what I  
24 would describe -- to avoid the use of the word

25 "extraordinary," call it unique volume, that occurred

(YOUNG - EXAMINATION BY HEMSTAD)

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1 in that one month.

2 A. Right. I guess that to my understanding  
3 that was the different goals of the two processes. I  
4 mean, here we have a volume adjustment mechanism which  
5 was discussed and debated back in the '92 rate case  
6 and the Commission made a decision. I'm fairly  
7 familiar with power cost adjustment in other type of  
8 proceedings. I followed the discussions with Puget  
9 Power & Light before this decision on their power cost  
10 adjustment back in the late 80s for another client and  
11 so I'm familiar with the deliberations there.

12 The information we have to deal with here  
13 is very, very simple. It's basically volumes. I do  
14 not see the need why we have to get together like this  
15 and have a contested hearing when the historical data  
16 was there, the decision was made, and so that I guess  
17 the reason why I made the estimate that I did is  
18 because I was following the fairly strict  
19 interpretation of the Commission's order from the last  
20 proceeding.

21 Q. Let me ask you a hypothetical. If the  
22 participants in the discussion that went on at the  
23 time of the rate case and as reflected in Exhibit 8,  
24 Mr. Steven's report, had known that there would be a

25 month like December of 1992, do you think that the

(YOUNG - EXAMINATION BY HEMSTAD)

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1 participants then would have used a 12-month measuring  
2 period?

3 A. That is difficult to say. I think that  
4 they would have -- I mean, if I were participating in  
5 that proceeding then I wouldn't look just at the  
6 volume but I would look at the overall effect on the  
7 company's operations.

8 Q. So you would have come up with a different  
9 mechanism for measurement, either a longer period or a  
10 different way to measure?

11 A. If I felt that such an adjustment would  
12 adversely affect the company's operations, yes, I  
13 would.

14 Q. One other area. Apparently it's your  
15 testimony that a low rate in the area of approximately  
16 \$20 will generate higher volumes. Do you see that as  
17 a permanent environment, that there would be  
18 permanently higher volumes, or would that be a  
19 temporary short-term consequence only?

20 A. My understanding that -- I don't know if,  
21 for example, Teledyne Wah Chang has additional cleanup  
22 waste beyond the 21,000 and 50,000 cubic feet that  
23 I've been informed of, so that, you know, unless there  
24 are other such large volumes out there, this may just



25 be, you know, a temporary six-month or 12-month period  
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1 where rates are low, and to the extent that other  
2 companies have volumes that they, you know, can  
3 dispose of at the Richland facility or that are in  
4 some sort of storage or cleanup process, they would  
5 probably do so, and the two obvious candidates in this  
6 situation are Teledyne Wah Chang Albany and Precision  
7 Castparts.

8 COMMISSIONER HEMSTAD: That's all the  
9 questions I have.

10 JUDGE CLISHE: Thank you. Mr. Dudley, do  
11 you have any redirect?

12 MR. DUDLEY: Yes, I do.

13

14 REDIRECT EXAMINATION

15 BY MR. DUDLEY:

16 Q. You were asked, Mr. Young, some questions  
17 about your calculation to be used for the rates  
18 developed in the six-month proceeding and volume --  
19 different volume projections, ones that you have made  
20 at the beginning of your testimony and elsewhere.  
21 Tell me, Mr. Young, what is your understanding of the  
22 purpose of the six-month volume adjustment, the  
23 proceeding that we're here today to address?

24 A. As you can see by my Table 1, the graph,

25 I mean, there is a fair amount of volatility in the  
(YOUNG - REDIRECT BY DUDLEY)

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1 monthly or even quarterly waste volumes, that I think  
2 we've seen indications of that in this proceeding.  
3 And the purpose of the volume adjustment was to smooth  
4 out the revenues to US Ecology so that over the long  
5 term that they will approach, sometimes that they  
6 would exceed the revenue requirement, sometimes they  
7 would underrun, but that's no different than any other  
8 utility that operates. The Commission's order  
9 provides them reasonable opportunity to earn a rate of  
10 return. It doesn't guarantee them a rate of return.

11 Q. And what was your understanding of the  
12 procedure in which this was intended to occur? There  
13 was discussion about automatic adjustments and  
14 reasoned judgments earlier in the testimony, so the  
15 question is, what was your understanding of the volume  
16 adjustment? How was that intended to occur?

17 A. It was my understanding that it would be a  
18 fairly mechanical process. That when I reviewed the  
19 volume adjustment filing in the last rate case and all  
20 of the information and reviewed the cross-examination  
21 of US Ecology's witnesses, I thought that, you know,  
22 from a regulatory standpoint and the means of  
23 contested hearings that the issue was pretty much  
24 decided, that there would be a filing by US Ecology

25 every six months, just taking the volumes over the

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1 last 12 months of data and going through the revenue  
2 requirement calculation and coming up with a revised  
3 disposal rate for the next six months.

4 Q. And, Mr. Young, from your understanding of  
5 the statutes that implements the volume adjustment,  
6 what do you think is the minimum level of revenue that  
7 the six-month volume adjustment is intended to achieve  
8 for the company?

9 MR. VAN NOSTRAND: Objection. Calls for a  
10 legal conclusion.

11 JUDGE CLISHE: Do you have a comment, Mr.  
12 Dudley?

13 MR. DUDLEY: Mr. Young has certainly  
14 operated under an understanding of the way that the  
15 statutes operate, and I think that he can state that  
16 because his use of the six-month adjustment has  
17 certainly been questioned here.

18 MR. VAN NOSTRAND: He's been asked for his  
19 knowledge as to what the statute requires. That  
20 sounds to me like legal testimony from a person who's  
21 not holding himself out as a lawyer.

22 JUDGE CLISHE: I think Mr. Young can  
23 respond, although understandably with not a legal  
24 background or at least not licensure as an attorney,

25 and I'll overrule the objection.

(YOUNG - REDIRECT BY DUDLEY)

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1           A.     My reading of the statute is that the  
2 volume adjustment is intended to provide a level of  
3 revenues, and this is a direct quote, A level of total  
4 revenues sufficient to recover the costs to operate  
5 and maintain the site. So that basically the volume  
6 adjustment mechanism should operate so that it doesn't  
7 adversely affect the company. That as long as in the  
8 six-month period if they recover their basically all  
9 of the costs of operating, excluding their operating  
10 margin, that the volume adjustment would be working  
11 fine. That if for some reason it didn't provide those  
12 level of revenues, then I think US Ecology could  
13 petition the Commission for some sort of emergency  
14 appeal if they felt that that was required.

15           Q.     Now, in your opinion, Mr. Young, does your  
16 proposal for setting rates for the six-month volume  
17 adjustment, does it adversely affect the operations of  
18 this company?

19           A.     No, it does not.

20           Q.     And why do you say that?

21           A.     Well, if you go through and -- if you look  
22 at my Table 7, I calculate kind of a -- I calculate a  
23 minimum level of revenues to US Ecology of \$3.522  
24 million, which is roughly their operations and

25 maintenance costs, or fairly close to it. I think

(YOUNG - REDIRECT BY DUDLEY)

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1 that there is a reasonable expectation, even at our  
2 rates, and I went through just a quick calculation of  
3 if US Ecology receives on the order of 200 to 210,000  
4 cubic feet of waste, and that includes the 18,000 of  
5 cubic feet of Teledyne Wah Chang cleanup waste and the  
6 additional 50,000 that they mentioned, and if you  
7 price that at the extraordinary volume rate which is  
8 half of my proposed nineteen sixty-one rate, that US  
9 Ecology will receive right about \$4.7 million, \$4.8  
10 million, which is almost their total revenue  
11 requirement, and that's at my volume forecast of 200  
12 to 210,000 cubic feet.

13 Q. And at the minimum that you've testified to  
14 at the beginning of this proceeding, what kind of  
15 revenues would they expect to receive?

16 A. If you look at the minimum -- and that's  
17 based on the document that we got in response to one  
18 of our data requests. I believe it's Exhibit 33 -- I  
19 ran through a calculation, and pricing that waste out,  
20 it's my estimation that US Ecology would receive about  
21 \$3.77 million in revenues, and that's at 133,000 cubic  
22 feet.

23 Q. You were asked questions, Mr. Young, about  
24 the future incidence of large volume deliveries to the

25 site. And keeping in mind that one of the factors

(YOUNG - REDIRECT BY DUDLEY)

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1 that was looming at the end of '92 was a tax increase  
2 imposed by legislative authority, do you have an  
3 opinion about whether such tax increases may be  
4 imposed by a legislative authority in magnitudes of  
5 that amount in the future?

6 A. Well, I guess that -- I mean, there's the  
7 chance that similar increases could be levied in the  
8 future.

9 Q. And what would impact -- what possible  
10 impact might that have on volume deliveries by  
11 generators to the site?

12 A. Obviously that if you had another proposed  
13 increase in taxes similar to the one proposed last  
14 December, I would imagine that to the extent that the  
15 larger generators or any generator had any low level  
16 radioactive waste in storage, that it would be in  
17 their economic best interest to get it to the facility  
18 before the imposition of the tax.

19 Q. And might that have an impact on the  
20 volumes to be received just before the imposition of  
21 that tax?

22 A. Yes, it would.

23 Q. And might it have a magnitude similar to  
24 what we saw in the end of December of 1992, Mr. Young?

25           A.     Yes, I would expect that would be a

(YOUNG - REDIRECT BY DUDLEY)

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1     reasonable conclusion.

2           MR. DUDLEY:   That's all the redirect I  
3     have.

4           JUDGE CLISHE:   All right.   Any other  
5     questions of Mr. Young?   All right.   Thank you, Mr.  
6     Young, for your testimony.

7           THE WITNESS:   Thank you.

8           JUDGE CLISHE:   Let's go off the record to  
9     change witnesses.

10           (Discussion off the record.)

11           JUDGE CLISHE:   Let's be back on the record.

12     During the time we were off the record, Mr. Bede has  
13     resumed the witness chair.   Mr. Bede, you are still  
14     under oath from yesterday.   Mr. Van Nostrand, would  
15     you like to go ahead, please.

16           MR. VAN NOSTRAND:   Thank you, your Honor.

17     Whereupon,

18                           BARRY C.   BEDE,

19     having been previously sworn, was recalled as a  
20     witness herein and was examined and testified as  
21     follows:

22

23                           DIRECT EXAMINATION

24     BY MR. VAN NOSTRAND:

25 Q. Good morning, Mr. Bede.

(BEDE - DIRECT BY VAN NOSTRAND)

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1 A. Good morning.

2 Q. You were here yesterday when a memo was  
3 introduced through Mr. Young which has been marked as  
4 Exhibit 33?

5 A. That's correct.

6 Q. And you have that before you now?

7 A. I do.

8 Q. Could you please describe what this  
9 document is.

10 A. This is a memo from Arvil Crase to Ron  
11 Gaynor dealing with volume and revenue at the Richland  
12 facility.

13 Q. And based on this memorandum, the  
14 generators are now estimating 133,000 cubic feet as  
15 their minimum volume projections based on third  
16 quarter 1993 of 49,000 cubic feet as set forth in this  
17 memo, is that right?

18 A. That's correct.

19 Q. Do you have any comments with respect to  
20 the information set forth for third quarter of 1993?

21 A. Yes, I do. That information seems to be  
22 incorrect and has not been verified by future  
23 conversations with these generators. The third  
24 quarter, 21,000 is not going to be 21,000. Apparently



25 Mr. Crase had the same misinformation that Mr. Young  
(BEDE - DIRECT BY VAN NOSTRAND)

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1 did. Dealing with a more realistic for that is  
2 probably 3,000.

3 Q. This is the Teledyne Wah Chang deliveries  
4 you referred to?

5 A. That's correct, the Teledyne Wah Chang  
6 waste.

7 Q. Where does that appear on this Exhibit 33?

8 A. That's on the third quarter, subheading 2.

9 Q. And where does that appear within there?  
10 The whole 21,000 is in there?

11 A. The whole 21,000 is in there, yes, it is.  
12 The 21,000 is referenced here but that number should  
13 be a 3,000 number. The 21,000 is volume for July and  
14 August to date. That's our actual volumes. And then  
15 it references Teledyne Wah Chang's projection to ship  
16 7,000 cubic feet, and then in the fourth quarter some  
17 additional waste, and that is not accurate  
18 information.

19 Q. Could you please describe the fourth  
20 quarter waste referred to in this memo.

21 A. The fourth quarter waste looks like a total  
22 of 56,000 cubic feet. It relates to 30,000 from all  
23 sources, which I am a little confused to find where  
24 Mr. Crase came up with that figure. Also it relates

25 to the additional 14,000 cubic feet from Teledyne Wah  
(BEDE - DIRECT BY VAN NOSTRAND)

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1 Chang which when added with the 7,000 would come up  
2 with the 21,000 which is a number that, as Mr. Young  
3 also realizes, that is misinformation.

4           Also included in the third quarter is the  
5 total of 49,000 cubic feet. There's again using a  
6 quarterly basis of 30,000 cubic feet, and that's a  
7 base -- up in the first bullet is 123,000 as a base  
8 that Mr. Crase was using, that I'm a little confused  
9 to see where he came up with that figure. That's if  
10 we were using -- if I was using a figure for that I  
11 would probably use the most recent figure of 107,000  
12 cubic feet, which would also include the Public  
13 Service of Colorado waste and would not exclude that  
14 specific waste.

15           Q.     What about the 12,000 cubic feet referred  
16 to in the fourth quarter of 1993, what is that?

17           A.     That relates directly to Precision  
18 Castparts' waste and I have no personal knowledge that  
19 that's going to be disposed in the third or fourth  
20 quarter. The only reference I have is a reference  
21 from Mr. Murray stating that that is going to be  
22 disposed of sometime between -- before July 1 of 1994.  
23 Could come in at any time, but I have no knowledge  
24 that that is going to come in immediately in the third

25 quarter or even in the fourth quarter.

(BEDE - DIRECT BY VAN NOSTRAND)

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1 Q. What is your knowledge with respect to the  
2 50,000 cubic feet cleanup that Teledyne Wah Chang is  
3 considering performing?

4 A. That waste is not going to come in at that  
5 volume. If that amount of waste is as I understand  
6 the gross amount of waste out there, it would  
7 process and using the -- the figure that I have  
8 personal knowledge on, 20 to 25 percent of that could  
9 possibly come to our site. The remaining amount of  
10 waste will go to other facilities.

11 Q. As far as the timing of that delivery, is  
12 it expected in 1993?

13 A. I have no knowledge that that is going to  
14 be expected in 1993. It could come in at a lower  
15 volume. I think a decision that Teledyne has to make  
16 is that is this entire cleanup going to amount to  
17 20,000 cubic feet, and could it be affected by an  
18 extraordinary volume figure. If it's under 20,000  
19 cubic feet, that might affect their economic decision  
20 on when they are going to dispose of that waste.

21 Q. In Exhibit 33 Mr. Crase mentions that he  
22 discussed these projections with you. Does this  
23 memorandum reflect your input on these volume  
24 estimates?

25           A.     No, it does not.  The only conversation I  
              (BEDE - DIRECT BY VAN NOSTRAND)

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1     had was a telephone conversation with Mr. Crase  
2     stating that he had developed some projections.

3           Q.     To your knowledge did he develop these  
4     projections based on any independent research or was  
5     this merely repeating information given to him by the  
6     generators?

7           A.     Specifically information given by the  
8     generators.

9           Q.     That would explain, for example, the 21,000  
10    cubic feet from Teledyne Wah Chang which is the same  
11    information we received in this proceeding?

12          A.     That's correct.

13                   MR. VAN NOSTRAND:  I'm going to distribute  
14    an exhibit, your Honor.

15                   JUDGE CLISHE:  I'll mark for identification  
16    as Exhibit 39 a one-page document which is headed US  
17    Ecology Disposal Volumes.

18                               (Marked Exhibit No. 39.)

19          Q.     Mr. Bede, do you have before you what has  
20    been marked for identification as Exhibit 39 in this  
21    proceeding?

22          A.     Yes, I do.

23          Q.     Can you tell me what it is.

24          A.     This is a recast of -- to include the data

25 from December '92 that's referenced in Table 7 of  
(BEDE - DIRECT BY VAN NOSTRAND)

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1 Exhibit 32 before the Commission.

2 Q. So this is the same information that Mr.  
3 Young depicted in Table 7 of his Exhibit 32 which is  
4 the monthly volumes disposed by Rocky Mountain and  
5 Northwest Compact generators with the same period of  
6 time?

7 A. That's correct, including the additional  
8 month of December.

9 Q. Okay.

10 A. December of 1992.

11 MR. VAN NOSTRAND: I move the admission of  
12 Exhibit 39.

13 JUDGE CLISHE: Is there any objection to  
14 Exhibit 39? All right, I'll admit Exhibit 39 into the  
15 hearing record.

16 (Admitted Exhibit No. 39.)

17 MR. VAN NOSTRAND: I have no further  
18 questions.

19 JUDGE CLISHE: All right, thank you. Ms.  
20 Egeler, do you have any questions of Mr. Bede?

21

22 CROSS-EXAMINATION

23 BY MS. EGELER:

24 Q. I had asked Mr. Young about the ability of

25 small generators to store waste. Do you have any

(BEDE - CROSS BY EGELER)

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1 knowledge about that?

2 A. Yes. I can give -- you mentioned the  
3 University of Washington. It's my personal knowledge  
4 that the University of Washington has constructed a  
5 warehouse in which to store their waste.

6 Q. Do you know of any small generators which  
7 are unable to store their waste?

8 A. Some generators under the radioactive  
9 materials license are limited to the amount. I  
10 believe hospital facilities are limited to the amount  
11 of time that they can store their waste and that is  
12 included in their radioactive materials license.

13 Q. Do you know if any are limited by the lack  
14 of a storage facility?

15 A. No. I imagine if storage facilities were  
16 available to them they probably would store their  
17 waste. There is a brokerage service that could in  
18 Seattle that serves small generators that does store  
19 their waste for a period of time.

20 Q. Do you know who that broker is? Is that  
21 Mr. Baltzo?

22 A. That's correct. I'm not sure if it's still  
23 Mr. Baltzo. Mr. Baltzo is deceased.

24 Q. His son Mr. Baltzo?

25           A.     That's right.

(BEDE - CROSS BY EGELER)

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1           Q.     Do you know, does he store waste for long  
2 periods of time for small generators, if you know?

3           A.     I have no specific knowledge of the time  
4 that he would store the waste. He picks up waste from  
5 generators and then traditionally he brings waste to  
6 our facility, I would say, at least once every  
7 quarter. So there's potential, I would say, for at  
8 least storing waste for a quarter.

9           Q.     Do you think he has the ability to store  
10 the waste beyond one quarter?

11          A.     I don't know what his license is. That  
12 would be an issue -- you would have to look at his  
13 radioactive materials license issued by the Department  
14 of Health.

15          Q.     Okay. Could you look at Exhibit 33,  
16 please. Do you have that before you?

17          A.     Yes, I do.

18          Q.     You talked about 12,000 for Precision  
19 Castparts being inaccurate. Can you show me where  
20 that is on this memo.

21          A.     12,000 it looks -- let's see. It refers to  
22 the D & D effort at Precision Castparts in the first  
23 section.

24          Q.     Okay. But during your testimony you

25 referred to 12,000 cubic feet.

(BEDE - CROSS BY EGELER)

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1 A. 12,000 cubic feet, that is the reference  
2 that was given to Mr. Crase of the amount of waste,  
3 the D & D project from Precision Castparts.

4 Q. Okay.

5 MR. VAN NOSTRAND: The record should  
6 reflect the reference to Precision Castparts has been  
7 eliminated but it's the 12,000 cubic feet referred to  
8 in the fourth quarter 1993.

9 THE WITNESS: Right. That is correct.

10 A. I don't have -- I have the blotted out  
11 section, or I guess the exhibit as everyone else has  
12 it. That is in the fourth quarter, the "12,000 cube  
13 from," and then it's blacked out.

14 Q. Can you tell me why those prices are  
15 blanked out.

16 A. I believe I would have to refer to my  
17 counsel. I believe that's proprietary and  
18 confidential internal information.

19 Q. Couldn't those numbers be calculated by  
20 looking at the rate that the Commission has set for  
21 regular volume levels and extraordinary volume levels?

22 MR. VAN NOSTRAND: This was basically  
23 worked out with Mr. Dudley and me, but the rates also  
24 reflect higher activity levels as well, and so some of



25    them are due to extraordinary volumes, but we felt  
      (BEDE - CROSS BY EGELER)

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1    that overall the price information was not helpful  
2    and, actually, misleading, so those dollar figures  
3    were excluded.

4                   MS. EGELER:  I'm just wondering about why  
5    that would be confidential, since all of the pricing  
6    -- my understanding is all of US Ecology's pricing is  
7    a matter of public record.

8                   MR. VAN NOSTRAND:  Sure, but there was a  
9    composite rate developed for Public Service of  
10   Colorado, for example, which reflects the higher  
11   activity levels.  There was a composite rate developed  
12   for the Teledyne Wah Chang deliveries which reflected  
13   the anticipated extraordinary volume treatment, so  
14   there was different prices on here which didn't really  
15   add to the record, we felt.

16                   MS. EGELER:  Did those composite rates vary  
17   in any way from the way that the Commission tariff  
18   would set up the rates?

19                   MR. VAN NOSTRAND:  I don't believe so, but  
20   I don't know what Mr. Crase was considering when  
21   he put this --

22                   THE WITNESS:  I have no idea what Mr. Crase  
23   used to develop those figures.

24                   MS. EGELER:  I have no further questions.

25 JUDGE CLISHE: All right, thank you. Mr.

(BEDE - CROSS BY EGELER)

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1 Hatcher, do you have questions of Mr. Bede?

2 MR. HATCHER: I would like to reserve my  
3 questions until after Mr. Dudley.

4 JUDGE CLISHE: Okay. Mr. Dudley, do you  
5 have questions of Mr. Bede?

6 MR. DUDLEY: Yes, I do.

7

8 CROSS-EXAMINATION

9 BY MR. DUDLEY:

10 Q. Good morning, Mr. Bede.

11 A. Good morning.

12 Q. Let me take you back to Exhibit 33 again  
13 that we've been discussing. Do you have that?

14 A. I do.

15 Q. And this was given in response to the data  
16 request that we made to US Ecology, and I didn't make  
17 copies to have an exhibit, so please pardon me while I  
18 read the question. It is, quote, Please provide any  
19 and all internal US Ecology correspondence, letters,  
20 documents, computer files, memos, records of phone  
21 conversations, et cetera, relating to any internal  
22 forecasts, projections, or any other estimate of the  
23 projected LLRW volumes for 1993 at the Richland site.

24 A. That's correct.

25 Q. End quote. And this memo was provided to

(BEDE - CROSS BY DUDLEY)

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1 us in response to that data request, is that correct?

2 A. That's correct.

3 Q. Okay. Now, looking at Exhibit 33 again, at  
4 the very first line the subject there says, Volume and  
5 revenues per request from Cliff Wright. Do you see  
6 that?

7 A. I do.

8 Q. Now, Mr. Wright is the vice president and  
9 chief financial officer of American Ecology, the  
10 entire -- the parent organization for US Ecology, is  
11 that right?

12 A. Yes.

13 Q. And so this must be in response to  
14 something that the financial officer requested to know  
15 about the future revenues from the US Ecology site,  
16 isn't that correct?

17 A. I imagine so, yes.

18 Q. Okay. And I notice that you were copied on  
19 this interoffice memo as well, so you did receive it  
20 in due course sometime after August 24, 1993, the date  
21 of the memo?

22 A. Right. I received it after I came back. I  
23 was out of the office during that week.

24 Q. Okay. But in any event, you did receive it

25 prior to the request that we made for data information

(BEDE - CROSS BY DUDLEY)

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1 with respect to future volumes, is that right?

2 A. I believe it was put on my desk. And it  
3 was dated August 24, so I imagine at least it was  
4 transmitted at that time. I can't tell you exactly  
5 the day I reviewed this.

6 Q. Okay. Now, it does make the notation  
7 these projections were discussed with Barry. I  
8 presume that refers to you, Mr. Bede.

9 A. That's correct.

10 Q. And I'm unclear what you said in response  
11 to questions from counsel, but I take it that -- well,  
12 let me ask this. You're saying that Mr. Crase did not  
13 discuss the volumes with you, not as he's stated in  
14 that memorandum, Mr. Bede?

15 A. The memorandum was not read to me. The  
16 specific volume figures were not given to me. His  
17 comment was, I have developed some projections. I  
18 had no knowledge at the time that our discussions  
19 -- the only discussions were that he had generated  
20 some projections. Generated projections from  
21 generators.

22 Q. And, of course, as soon as you got back to  
23 your office and you saw this memo, you fired off a  
24 response to him by memo or by letter telling him where

25 he was wrong in all of these projections, Mr. Bede?

(BEDE - CROSS BY DUDLEY)

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1 A. I did not do that. I had a discussion with  
2 him, and that the basis of that discussion was, you  
3 know, where did these volumes come from.

4 Q. But there's been no subsequent correction  
5 memo developed at all by US Ecology --

6 A. There has not, no.

7 Q. -- that countermands any of these figures?

8 A. There is not. Once I was interested in  
9 these extraordinary volumes from Teledyne Wah Chang  
10 and Precision Cast and I did follow up with them, and  
11 at that time when I did talk to operations people,  
12 then it was -- the inaccuracy of this information was  
13 pointed out.

14 Q. But nobody has taken a moment to inform Mr.  
15 Cliff Wright, the vice president and chief financial  
16 officer, of the incorrect volume and revenue  
17 projections that he is now laboring under the  
18 misimpression that are going to be happening --

19 MR. VAN NOSTRAND: Objection.  
20 Argumentative.

21 JUDGE CLISHE: Do you have any response,  
22 Mr. Dudley?

23 MR. DUDLEY: No response. Make a ruling.

24 JUDGE CLISHE: Pardon?

25 MR. DUDLEY: No response, your Honor.

(BEDE - CROSS BY DUDLEY)

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1 Please rule.

2 JUDGE CLISHE: I will sustain the  
3 objection. I think it's argumentative. You may  
4 phrase it differently, if you wish.

5 Q. Again, nobody has sought to inform Mr.  
6 Cliff Wright of the changes and the substance of your  
7 conversation with Mr. Crase --

8 MR. VAN NOSTRAND: Objection. Assumes  
9 the information was related directly to Mr. Cliff  
10 Wright without any filtering or analysis by Mr. Gaynor  
11 to whom the memo was directed.

12 JUDGE CLISHE: Any comments?

13 MR. DUDLEY: I think the question stands as  
14 it is and that is, nobody's informed Mr. Wright with  
15 respect to this memo.

16 JUDGE CLISHE: I'll sustain the objection.

17 Q. Just to be clear we have got it in the  
18 record then with all these different questions and  
19 answers, there has been no written follow-up memo to  
20 this memo addressing the same subject within the  
21 organization of US Ecology, has there?

22 A. I am not aware of any.

23 Q. Now, before Mr. Crase produced this memo,  
24 he had contacts with major customers of US Ecology,

25 isn't that correct?

(BEDE - CROSS BY DUDLEY)

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1           A.     I believe he -- Mr. Crase is in constant  
2 contact with most of our generators. As my assistant  
3 he deals with some of these marketing questions, and  
4 he is our front line person to the generators, not  
5 only in the Northwest Compact but also the Rocky  
6 Mountain Compact. His previous position was a  
7 national position, national marketing to the entire  
8 company.

9           Q.     He is the one person in closest contact  
10 with your major generators, is that correct, Mr. Bede?

11          A.     I think he makes more frequent contacts. I  
12 make certainly numerous contacts also, as do people at  
13 our Richland site, as do our people in Houston at our  
14 corporate headquarters.

15          Q.     Now, also provided to me as part of this  
16 data response, and this was in response to Request No.  
17 16, there was a series of memos provided which were  
18 requested confidentiality, and I don't mean to violate  
19 that, but I just wanted to confirm with you that I  
20 have -- what has been provided to me are memos to you  
21 from Mr. Crase dated July 21, 1993 about Teledyne Wah  
22 Chang, is that correct?

23          A.     I don't have that in front of me. Maybe I  
24 do. This was the -- I believe I have the document

25 here. Can you reidentify that document.

(BEDE - CROSS BY DUDLEY)

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1 Q. Yes. I have here a series of memos and I  
2 just wanted to go through the --

3 A. It relates to --

4 Q. -- the author and the date and the subject.

5 A. For Data Request No. 16?

6 Q. That's correct.

7 A. Okay, I have that in front of me.

8 Q. I have one here to you from Mr. Arvil Crase  
9 dated July 21, 1993, subject, Teledyne Wah Chang,  
10 which is a reflection of his communication to  
11 Teledyne, is that right?

12 A. Yes.

13 Q. And I have one of August 24 also to you  
14 from Mr. Crase, also on the same subject to Teledyne  
15 Wah Chang.

16 A. July 24?

17 Q. August 24.

18 A. Right.

19 Q. Isn't it fair to state that in lieu of  
20 going through all of these, that there's a series of  
21 memos to you from Mr. Crase in the period of July to  
22 August, all of which bear on conversations by Mr.  
23 Crase with your major generators and the kind of  
24 volumes they intend to be shipping for the balance of



25 1993?

(BEDE - CROSS BY DUDLEY)

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1 A. These deal with not only that, but just any  
2 contact Mr. Crase makes with a generator. This is  
3 just basic documentation of that.

4 Q. And all of this documentation was prepared  
5 prior to the August 24, 1993 memo that Mr. Crase is  
6 the author of and is Exhibit 33, is that correct?

7 A. I believe they are -- one was -- a number  
8 of them are dated August 24.

9 Q. The same day?

10 A. The same day. And I can't say that --  
11 well, on which order they were developed. It's  
12 possible that on the 24th these were developed after.

13 Q. Changing subjects here, Mr. Bede, if you're  
14 the right witness of which to inquire this, I would  
15 like to get for the record here and for the benefit of  
16 counsel, is what is now US Ecology's position with  
17 respect to a proper rate for the six-month volume  
18 adjustment -- and by way of explanation, is that the  
19 company has made a filing which we've been discussing  
20 here at some length, but there were also discussions  
21 yesterday with Mr. Gaynor about what the company was  
22 now suggesting was relating to the staff's proposal  
23 and the intervenors' proposal, and I'm wondering is  
24 there any change in the company's proposal or is what

25 is on the table, the filing and the testimony,

(BEDE - CROSS BY DUDLEY)

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1 everything in support of the original filing of the I  
2 believe the 44-some dollar rate that you originally  
3 proposed?

4 A. We still have a filing that is before the  
5 Commission. What Mr. Gaynor's comments were yesterday  
6 is the four months has been expanded to an eight month  
7 because we have eight months of data right now and  
8 that eight months of data supports the same dollar  
9 figure that we have in our original filing. Our  
10 filing remains intact.

11 We have additional information that we can  
12 take an eight-month period that we use to annualize  
13 and project for 1993 and that indicates that we are  
14 underrecovering possibly 30 percent of what the WUTC,  
15 a hundred four, nine hundred thousand, approximately,  
16 rate volume projection was.

17 Q. So just to get that straight, you have the  
18 same proposal that you originally filed for, but now  
19 the basis of it is the eight months of actual data?

20 A. Yes. We have eight months of data to be  
21 utilized and to use to annualize for our projected  
22 1993 volumes.

23 MR. DUDLEY: That's all I have. Thank you.

24 JUDGE CLISHE: Mr. Hatcher.

25

(BEDE - CROSS BY HATCHER)

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1 CROSS-EXAMINATION

2 BY MR. HATCHER:

3 Q. I just have one or two questions, Mr. Bede.  
4 You indicated that Mr. Young's estimate of 133,000  
5 cubic feet erroneously includes 21,000 cubic feet from  
6 Teledyne Wah Chang?

7 A. Yes. I think he is -- it is no longer  
8 21,000. My personal knowledge is that it should  
9 be somewhere from 20 to 25 percent of that, and it  
10 could be less.

11 Q. Were you present yesterday during Mr.  
12 Young's testimony?

13 A. I believe so, yes.

14 Q. Just to try to jog your recollection, Mr.  
15 Young testified that his estimate was based on  
16 approximately 46,697 cubic feet delivered from January  
17 1 to through the end of June of '93. He testified  
18 that based on Exhibit 33 the third quarter would  
19 total 49,000 cubic feet.

20 A. Are you referring to Mr. Young's testimony?

21 Q. Based on -- yes. Mr. Young testified that  
22 his review of Exhibit 33 indicated that 49,000 cubic  
23 feet would be delivered through the third quarter.

24 A. You're referring -- Exhibit 33 is the

25 interoffice memo?

(BEDE - CROSS BY HATCHER)

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1 Q. Correct. And during the fourth quarter  
2 there would be 56,000 cubic feet, again relying on  
3 Exhibit 33.

4 A. Interpreting Exhibit 33, yes.

5 Q. For a total of 151,697 cubic feet. Would  
6 you accept those figures subject to check?

7 A. Yes.

8 Q. And then he subtracted from that 18,000  
9 cubic feet for Teledyne Wah Chang to arrive at the  
10 133,000 cubic feet total.

11 A. That's correct.

12 Q. So with that further clarification, is it  
13 your understanding that Mr. Young's 133,000 cubic feet  
14 estimate already accounts for the 18,000 cubic feet  
15 reduction -- estimated reduction in the Teledyne Wah  
16 Chang Albany estimate?

17 A. Just on a statistical basis, yes. His  
18 figure is 133,000.

19 Q. Which includes the Teledyne reduction?

20 A. In his testimony I believe that's what his  
21 testimony says.

22 MR. HATCHER: Thank you. I have nothing  
23 further.

24 JUDGE CLISHE: All right. Mr. Williams, do

25 you have questions?

(BEDE - CROSS BY HATCHER)

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1 MR. WILLIAMS: No, thank you.

2 JUDGE CLISHE: Mr. Mayberry?

3 MR. MAYBERRY: No, your Honor.

4 JUDGE CLISHE: All right. Any other  
5 questions of Mr. Bede? Commissioners?

6 COMMISSIONER CASAD: No.

7 COMMISSIONER HEMSTAD: No.

8 JUDGE CLISHE: All right. Thank you, Mr.  
9 Bede, for your testimony. Mr. Van Nostrand, are you  
10 presenting any other witnesses?

11 MR. VAN NOSTRAND: No, your Honor.

12 JUDGE CLISHE: Is there anything else we  
13 should discuss before we conclude the hearing? I  
14 think the mechanics as far as the issues and so forth  
15 that you mentioned, Mr. Dudley, we can do off the  
16 record. All right. We'll close the hearing. Thank  
17 you.

18 (Concluded at 11:46 a.m.)

19

20

21

22

23

24

