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BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

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In re Application No. GA-079254 of )Docket TG-040248  
 KLEEN ENVIRONMENTAL TECHNOLOGIES, )Volume XIII  
 INC. )Pages 1656-1859  
 )  
 )  
 For a Certificate of Public )  
 Necessity to Operate Motor Vehicles )  
 in Furnishing Solid Waste Collection) Service.  
 )  
 )

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A hearing in the above-entitled matter  
was held at 9:44 a.m. on Friday, October 22,  
2004, at 1300 South Evergreen Park Drive, S.W.,  
Olympia, Washington, before Administrative Law  
Judge ANN E. RENDAHL.

The parties present were as follows:

COMMISSION STAFF, by Gregory J.  
 Trautman, Assistant Attorney General, 1400 S.  
 Evergreen Park Drive, S.W., P.O. Box 40128, Olympia,  
 Washington, 98504-1028.

KLEEN ENVIRONMENTAL TECHNOLOGIES, INC.,  
 by Greg Haffner, Attorney at Law, 555 W. Smith, Kent,  
 Washington, 98035.

STERICYCLE OF WASHINGTON, INC., by  
 Stephen B. Johnson, Attorney at Law, Garvey Schubert  
 Barer, 1191 Second Avenue, 18th Floor, Seattle,  
 Washington 98101.

Barbara L. Nelson, CCR  
 Court Reporter

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1 RUBATINO REFUSE REMOVAL, INC., HAROLD  
2 LEMAY ENTERPRISES, INC., WASHINGTON REFUSE AND  
3 RECYCLING ASSOCIATION, by James Sells, Attorney at  
Law, 9657 Levin Road, N.W., Silverdale, Washington  
98383.

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1           JUDGE RENDAHL: Let's go on the record. We  
2 are here before the Washington Utilities and  
3 Transportation Commission on Friday, October the  
4 22nd, 2004, for a hearing in Docket Number TG-040248,  
5 which is captioned In the Matter of Application  
6 Number GA-079254, of Kleen Environmental  
7 Technologies, Incorporated, for a Certificate of  
8 Public Convenience and Necessity.

9           I'm Ann Rendahl. I am the Administrative  
10 Law Judge presiding over this proceeding. We're here  
11 for an additional day of hearing to address the  
12 rebuttal testimony by Protestant Stericycle of  
13 Washington.

14           Before we get to that, let's -- we have some  
15 administrative issues, but let's take appearances  
16 from the Counsel, beginning with Applicant.

17           MR. HAFFNER: Thank you, Your Honor. Greg  
18 Haffner, for the Applicant, Kleen Environmental  
19 Technologies, Inc.

20           JUDGE RENDAHL: For the Protestant.

21           MR. JOHNSON: Your Honor, Steve Johnson,  
22 representing Stericycle of Washington, Inc.

23           JUDGE RENDAHL: And for the other  
24 Protestants?

25           MR. SELLS: James Sells, appearing on behalf

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1 of Protestants Washington Refuse and Recycling  
2 Association, Harold LeMay Enterprises, Incorporated,  
3 Rubatino Refuse, Incorporated, and Consolidated  
4 Disposal, Incorporated.

5 JUDGE RENDAHL: And for Staff.

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

8 JUDGE RENDAHL: Okay. And so while we were  
9 off the record, we discussed a number of  
10 administrative issues and need to further discuss  
11 some of them on the record. The first being that on  
12 our last day of hearing, we -- which was Tuesday,  
13 October 12th, I believe; is that correct?

14 MR. JOHNSON: That's correct.

15 JUDGE RENDAHL: It came to my attention that  
16 there were two letters that have been submitted to  
17 the Commission, a letter from Multi Care and a letter  
18 from Valley Medical Center, that were submitted to  
19 the Commission in February and July of this year, in  
20 both the LeMay docket, 040221, and the Kleen  
21 Environmental docket. And I have marked those  
22 exhibits in one exhibit, Number 192, and those will  
23 be considered part of what's known as the  
24 illustrative exhibit, which shows, without testimony,  
25 what's illustrative of sentiment in the community.

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1 So that's what those will be.

2 And I will admit Exhibit 192, unless there  
3 are objections from the parties.

4 MR. JOHNSON: Your Honor, just one question  
5 about Exhibit 192. We -- at least I do not yet have  
6 a copy of the Valley Medical Center letter, so I  
7 would like to see if that's possible to get a copy.

8 The other is that, with respect to the Multi  
9 Care Health System letter, it was submitted, received  
10 by the Commission on February 17, 2004, and there  
11 have been so many radical changes in the Applicant's  
12 proposed service during the course of this hearing  
13 that I question whether this Multi Care letter refers  
14 to the existing application, as modified by the  
15 Applicant in these proceedings. And for that reason,  
16 I would object to its admission, because I think it's  
17 not probative with respect to the service that is now  
18 proposed.

19 JUDGE RENDAHL: Mr. Haffner.

20 MR. HAFFNER: Well, I think the letter  
21 reflects the sentiment of this shipper as to their  
22 past relationship with Kleen and their desire to have  
23 another provider of these services available to them.

24 JUDGE RENDAHL: Mr. Trautman and Mr. Sells.

25 MR. SELLS: No comment, Your Honor. Speaks

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1 for itself.

2 MR. TRAUTMAN: No, nothing.

3 JUDGE RENDAHL: Okay. I'm going to admit  
4 the exhibits -- I will provide a copy to all of you  
5 -- because the exhibits were submitted to the  
6 Commission independently of these hearings, and in  
7 brief, you can argue the issue of whether they are,  
8 in fact, you know, relevant. But they were provided  
9 to the Commission, I think it's appropriate to  
10 include them in the record, and you all can argue as  
11 to their weight in briefing.

12 So Exhibit 192 is admitted.

13 The parties discussed off the record issues  
14 about record requisitions and how to proceed. I  
15 understand there are a few details that need to be  
16 worked out, and if the parties can agree to the  
17 substance of the responses and their admission, then  
18 the easiest way to address it would be to submit them  
19 to the Commission by letter requesting admission, and  
20 I will address that and send out a notice and order  
21 accordingly.

22 If there are differences, then I can take  
23 them up either in an additional hearing, as needed,  
24 to address the Indian Health Board letter, or in a  
25 conference call.



1           Parties discussed off the record the bench  
2 request response, the response of Stericycle to Bench  
3 Request Number 1, which addresses the three form  
4 service agreements and their order of use, and so I  
5 marked the response off the record as Exhibit 90. Is  
6 there any objection to admitting these into the  
7 record?

8           MR. JOHNSON: No objection.

9           MR. SELLS: None, Your Honor.

10          MR. TRAUTMAN: None, Your Honor.

11          JUDGE RENDAHL: All right. Exhibit 90 will  
12 be admitted.

13          The next issue is the Indian Health Board  
14 letter, and I guess first I will turn to you, Mr.  
15 Johnson, for just a very brief -- I'm not sure we  
16 need to argue it at this point, but just a very brief  
17 statement of the issue and how you propose -- you  
18 would like the Commission to address it?

19          MR. HAFFNER: Your Honor, if I could, may I  
20 first formally withdraw the letter on behalf of  
21 Kleen? I believe it's Mr. Johnson's -- based on the  
22 exchange of e-mails before today's hearing, I think  
23 it's Mr. Johnson's desire to have the letter entered  
24 as an exhibit, but I do want it to be on the record  
25 that Kleen Environmental is formally withdrawing the

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1 offer of this as an exhibit because of the nature  
2 that we now know that the exhibit was submitted  
3 under.

4 JUDGE RENDAHL: Okay. Please go ahead with  
5 your offer of withdrawal.

6 MR. HAFFNER: I would offer to withdraw the  
7 exhibit marked as Exhibit 203.

8 JUDGE RENDAHL: All right. And do you wish  
9 to state anything further on that?

10 MR. HAFFNER: The reason that we are  
11 offering to withdraw the exhibit is that we've come  
12 to find out that the author of the exhibit does not  
13 have authority to speak on behalf of the National  
14 Indian Health Board, and we do not know who that  
15 person is. We thought that the person was responding  
16 to a form letter that was sent out to try and obtain  
17 shipper support. Unfortunately, we did not do our  
18 due diligence to confirm the authority of this  
19 individual and it has since been discovered that this  
20 individual does not have the authority to write this  
21 letter.

22 JUDGE RENDAHL: Okay. Thank you. Mr.  
23 Johnson.

24 MR. JOHNSON: Well, Your Honor, we think  
25 that the submission of this letter that was

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1 previously marked as Exhibit 203 raises a very  
2 serious question with respect to the good faith of  
3 the Applicant in this proceeding and its fitness to  
4 receive biomedical waste collection authority from  
5 this Commission.

6 We have circulated by e-mail, but I guess  
7 it's not admitted yet into the record of this  
8 proceeding, a letter from the executive director of  
9 the National Indian Health Board, Mr. J.T. Petherick,  
10 P-e-t-h-e-r-i-c-k.

11 JUDGE RENDAHL: Before you go farther, have  
12 you filed this with the Commission? Has this letter  
13 been sent to the Commission, do you know?

14 MR. JOHNSON: It was sent to your external  
15 mail list, so it may not have gone to the Records  
16 Center. The letter, however, to the best of my  
17 knowledge, was mailed to the Commission.

18 JUDGE RENDAHL: All right. That's all I  
19 needed to know.

20 MR. JOHNSON: I don't know whether it's been  
21 received.

22 JUDGE RENDAHL: I will check on that.

23 MR. JOHNSON: And we will offer this letter  
24 for admission. We could do it now or we could do it  
25 at a later time, either way, but this letter from Mr.

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1 Petherick, dated October 19, 2004, was sent after a  
2 copy of Exhibit 203 was provided to Mr. Petherick by  
3 myself, and I asked him to confirm or verify the  
4 authority of the person who has signed the letter,  
5 Exhibit 203, which at least apparently is on the  
6 letterhead of the National Indian Health Board.

7           Mr. Petherick, in response, characterizes  
8 Exhibit 203 as a fraudulent letter sent to the  
9 Utilities Commission, purportedly on behalf of the  
10 National Indian Health Board, and he writes in his  
11 letter of October 19, to correct the record with  
12 respect to that letter.

13           Mr. Haffner states that basically this  
14 letter came out of the blue to his client, and his  
15 client had no idea what it was, apparently, but  
16 nonetheless, offered it for admission into the record  
17 of this proceeding in support of their application.  
18 The letter that's marked Exhibit 203 claims to refer  
19 -- or refers to an 11-year association between the  
20 facilities purportedly represented by the person  
21 signing the letter and the National Indian Health  
22 Board with Kleen Environmental Technologies, Inc.  
23 Not just with the company, but with the owners and  
24 staff of Kleen Environmental Technologies, Inc.

25           Now, if Kleen received this letter and had

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1 no idea who signed it and what it was, it is very  
2 clear to me that the content of the letter should  
3 have put them on notice that it was fraudulent. If  
4 they had no relationship either with the National  
5 Indian Health Board or with the facilities referenced  
6 in the letter, which are some 100 tribes in  
7 Washington, Oregon and Idaho, that should have been  
8 apparent on the face of the letter.

9 JUDGE RENDAHL: Okay. Mr. Johnson, I  
10 understand you have argument on this, but I'm trying  
11 to just track us into what to do about it, as opposed  
12 to arguing about it.

13 MR. JOHNSON: Right, right, I'm sorry. So  
14 I'll cease sort of describing the situation and  
15 simply say that this is, I think, a very serious  
16 matter that needs to be explored thoroughly. So I'm  
17 asking for an additional day of hearing, at least, to  
18 address the letter and to address the knowledge of  
19 Kleen Environmental Technologies, Inc., its owners  
20 and staff, with respect to this apparent effort to,  
21 you know, commit a fraud on the Commission.

22 And I understand, from comments made off the  
23 record, that there's some suggestion that Kleen,  
24 Kleen's shareholders don't want to testify, but  
25 nonetheless, they are the owners and the responsible

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1 officers of the Applicant, and they need to testify.  
2 We need to know what they knew and when they learned  
3 the facts, as Mr. Haffner now indicates.

4           And to the extent that Mr. McCloskey was  
5 involved in some way in solicitation of this letter,  
6 we nonetheless still need to know exactly what Mr.  
7 McCloskey's relationship is to the Applicant here and  
8 to this proceeding, because -- and only the  
9 shareholders of Kleen can give us that information.  
10 We don't know yet what Mr. McCloskey's role was in  
11 obtaining this letter, so we will attempt to  
12 determine that at the later hearing, but we need both  
13 Mr. McCloskey and the shareholders of Kleen  
14 Environmental, not just shareholders, but officers,  
15 including Robert Olson, Kenneth Lee and Darren  
16 Perrollaz.

17           JUDGE RENDAHL: Is there anybody else who  
18 you think you need to know from?

19           MR. JOHNSON: With respect to Kleen, I think  
20 those are the people, and Mr. McCloskey, of course.

21           JUDGE RENDAHL: Okay. Now, I'll note for  
22 the record that, based on e-mails from Mr. Johnson  
23 and Mr. Haffner, I had a very brief telephone  
24 conversation that was not recorded having to do with  
25 the procedural details of how to approach this. And

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1 yesterday morning, we determined that we would  
2 continue this hearing today to take the rebuttal  
3 testimony from Stericycle and would attempt to  
4 schedule a separate hearing to address this issue.  
5 We did talk about whether it was necessary to have  
6 all of the -- all four witnesses from Kleen to be  
7 present and whether it was appropriate to take Mr.  
8 McCloskey today, to hear his perspective and whether  
9 that would elucidate whether we needed to bring in  
10 Kleen's owners.

11 I understand your concern, Mr. Johnson,  
12 about that. What we determined was we would schedule  
13 a separate hearing and go forward with today, the  
14 rebuttal testimony.

15 So at this point I'd like to hear from Mr.  
16 Johnson on the issue. I mean, Mr. Haffner.

17 MR. HAFFNER: Thank you, Your Honor. Again,  
18 Kleen apologizes for the submittal of this exhibit.  
19 It certainly has turned out to be not a valid  
20 document.

21 With respect to the appearance of the  
22 owners, if necessary, they will come and testify. I  
23 have a letter to offer as an exhibit from them that  
24 they are asking the Commission that they not be  
25 required to testify, and that they let Mr. McCloskey

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1 testify on behalf of the company and for them.

2 I think the record is clear that they had  
3 delegated to Mr. McCloskey responsibility for doing  
4 all of the groundwork to try and prepare for this  
5 application and try to obtain the permit that's  
6 sought in this application, and that included trying  
7 to get shipper support, which this letter was  
8 believed to be an exhibit of.

9 JUDGE RENDAHL: Okay. Well, why don't we  
10 circulate the letter, if you have it, now. Let's be  
11 off the record for a moment.

12 (Discussion off the record.)

13 JUDGE RENDAHL: Let's go back on the record.  
14 We've had an opportunity to review the information  
15 provided by Mr. Haffner. Mr. Johnson, does this  
16 change your perspective on the need to cross-examine  
17 Mr. Olson, Mr. Lee and Mr. Perrollaz?

18 MR. JOHNSON: Absolutely not, Your Honor.  
19 The letter, dated October 21, 2004, signed by Mr.  
20 Olson, Mr. Perrollaz, and I guess a different version  
21 of the same text was signed by Mr. Lee --

22 JUDGE RENDAHL: Different version or --

23 MR. JOHNSON: I'm sorry, a faxed version of  
24 the same text was signed by Mr. Lee. I believe it  
25 states that Mr. Olson had prior knowledge of the



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1 letter.

2 JUDGE RENDAHL: I guess, in that respect, if  
3 you bring -- if we bring in Mr. Olson, is it  
4 necessary to bring in Mr. Lee and Mr. Perrollaz to  
5 address this?

6 MR. JOHNSON: I think it is, Your Honor, and  
7 here's my thinking. A couple of things. Mr. Olson  
8 -- obviously, you know, the letter says, fairly  
9 self-servingly, that there was no reason for them to  
10 know that this was a false letter, but the reality  
11 is, Mr. Olson, with his knowledge of the company,  
12 should have known something about the claims in the  
13 text of the letter to having an 11-year association  
14 with Kleen Environmental. And apparently he knew  
15 about the letter in advance. So that's one issue.

16 But it seems to me another issue here is  
17 really who is the Applicant. Because Kleen  
18 Environmental is apparently -- I don't know who's  
19 running this proceeding for Kleen Environmental.  
20 They have an officer, they have a set of officers,  
21 they have shareholders, and the officers and  
22 shareholders are claiming basically to have no  
23 knowledge and nothing to do with this proceeding, and  
24 it's all Mr. McCloskey's matter. And --

25 JUDGE RENDAHL: Well, I --

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1           MR. JOHNSON: I find that very strange, and  
2 it's something that we need to determine, whether  
3 these officers and directors of the corporation are  
4 in fact exercising control over the proceeding or  
5 whether they are -- have so far delegated to Mr.  
6 McCloskey that they are taking no responsibility for  
7 what's done on their behalf.

8           So I think there are two issues that need to  
9 be looked at here. One is what these individuals  
10 knew about the letter and its submission, and the  
11 second thing is we don't know quite where that's  
12 going to lead us. But the second question is who is  
13 responsible for this proceeding on Kleen's behalf.  
14 Mr. McCloskey, as far as I have been able to  
15 determine from the testimony that's been given, is  
16 not an employee of Kleen Environmental. They have  
17 made no commitment to him with respect to future  
18 employment, he is not an officer or shareholder of  
19 Kleen Environmental, but Kleen Environmental, through  
20 its officers and shareholders, claims to sort of have  
21 no responsibility for the proceeding. At least  
22 that's the way I read these letters.

23           JUDGE RENDAHL: Okay.

24           MR. JOHNSON: I think that's something that  
25 needs to be explored, as well.

1                   JUDGE RENDAHL: I'm going to hear from Mr.  
2 Haffner, I'm going to hear from Mr. Sells, and I'm  
3 going to hear from Mr. Trautman, and then we'll  
4 figure out what we're going to do and go forward.  
5 Mr. Haffner.

6                   MR. HAFFNER: Thank you, Your Honor. First  
7 of all, with respect to the delegation of authority  
8 to Mr. McCloskey and the knowledge of the officers  
9 and shareholders, although the two companies are on  
10 completely different scales of size, I doubt if the  
11 officers and shareholders of Stericycle know very  
12 much about what's going on here, either.

13                   It has been well-documented in this hearing  
14 that the authority to do what is necessary to go  
15 forward with this application has been delegated to  
16 Mr. McCloskey. For better or worse, they have put  
17 their trust in Mr. McCloskey to do what is necessary  
18 to get them the authority.

19                   It is stated in the letter that Mr. Olson  
20 had knowledge of the letter before it was submitted,  
21 but none of the other individuals had any knowledge  
22 of the letter.

23                   It's also stated in the letter that there  
24 was a prior relationship with some of the facilities  
25 that were -- I guess had associations with the

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1 National Indian Health Board. That, I believe, is  
2 what alludes to the 11-year relationship that was  
3 represented by Mr. Birdinground. And Mr. McCloskey  
4 can testify to that today, as to what the nature of  
5 the relationship with these facilities was.

6 I just don't see any need to burden  
7 everybody with another long day of hearings for the  
8 individuals that don't have much more knowledge than  
9 what's exhibited in this letter.

10 JUDGE RENDAHL: Mr. Sells.

11 MR. SELLS: Thank you, Your Honor. I'm  
12 actually anxious to hear from the Attorney General on  
13 this. Maybe I'm just the suspicious type, but it  
14 appears to me and it's quite possible that someone,  
15 and I don't know who at this point, has attempted to  
16 perpetuate a fraud upon this Commission. And I think  
17 that this issue bears a great deal of importance, not  
18 only in this hearing, but perhaps on the Commission  
19 itself and what it does if and when something like  
20 this happens again.

21 I've been practicing law for 30 years and  
22 I've never had a phony exhibit attempted to be  
23 entered into any kind of a record, whether it be in  
24 court or administrative proceeding. I don't even  
25 know if this Birdingsong or whatever his name is even

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1 exists, if this is a real person.

2 I can't imagine that anyone who is an owner  
3 in a company would not want to show up and defend his  
4 or her company against accusations of fraud, because  
5 if there is -- if the fraud is shown here, they  
6 certainly are not fit to be granted this certificate.  
7 I guess if they don't want to show up, they're not  
8 going to show up, but I can't imagine them getting  
9 the certificate if they don't.

10 JUDGE RENDAHL: Mr. Trautman.

11 MR. TRAUTMAN: Well, in reading the letter,  
12 it appears that there may be -- there may be some  
13 value of having both Mr. McCloskey and Mr. Olson  
14 appear, because he did indicate that he was aware of  
15 the submission of the document.

16 As far as Mr. Perrollaz and Mr. Lee, if, in  
17 fact, they were not aware -- now, this letter is not  
18 -- it's not submitted under oath, I don't believe, or  
19 under -- you know, under affidavit, but if it were  
20 and they indicated they didn't know, that the other  
21 two didn't know about the existence of the letter,  
22 I'm not sure -- or of the Exhibit 203, I'm not sure  
23 -- I'm not sure what value would be obtained in  
24 having them testify, though I do think there might be  
25 value in having Mr. Olson and Mr. McCloskey testify.

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1                   JUDGE RENDAHL: Okay. I too am concerned  
2 about the potential fraud upon the Commission.  
3 Whether, in fact, it was knowing or not, we won't  
4 know until we hear from the relevant persons. And  
5 given the nature of the letter, I'm not sure we do  
6 need to hear from Mr. Perrollaz and Mr. Lee, but, as  
7 Mr. Trautman suggested, I think an affidavit as to  
8 their knowledge of the letter would clarify any  
9 issues on my part as to whether it was necessary for  
10 them to attend. But I do think it is necessary to  
11 have Mr. Olson appear.

12                   During our conversation yesterday, I  
13 understand, Mr. Johnson, you indicated that you would  
14 prefer to have all parties testify together, as  
15 opposed to taking Mr. McCloskey today, and then take  
16 other witnesses separately; is that correct?

17                   MR. JOHNSON: That's correct, Your Honor.

18                   JUDGE RENDAHL: So you would prefer to have  
19 Mr. McCloskey and Mr. Olson appear together?

20                   MR. JOHNSON: That's correct.

21                   JUDGE RENDAHL: All right. With that, I  
22 think it's appropriate to proceed in that manner,  
23 because we've already used up 45 minutes of our time  
24 today, and depending on how we go today, we may not  
25 have time for additional testimony this afternoon,

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1 anyway.

2           Given that, Mr. Haffner, do you know -- or  
3 maybe Mr. McCloskey knows. Let's be off the record  
4 while we determine the schedules of Kleen  
5 Environmental's witnesses. Let's be off the record.

6           (Discussion off the record.)

7           JUDGE RENDAHL: While we were off the  
8 record, we discussed scheduling and determined that  
9 the best available time in the near future for a  
10 hearing to address the issue of the National Indian  
11 Health Board letter would be Tuesday, the 26th of  
12 October, and we will start at 9:00. And I haven't  
13 yet determined whether the Kent facility is available  
14 on that date. If it is, we will hold it in Kent. If  
15 it is not, it will be here in Olympia, and we will  
16 know by the end of the day, hopefully, where the  
17 location of the hearing will be.

18           While we were off the record, I indicated to  
19 Mr. Johnson that I didn't believe it was necessary to  
20 bring in Mr. Perrollaz and Mr. Lee based on the  
21 contents of the letter, but that it would be  
22 appropriate to have affidavits from Mr. Lee and Mr.  
23 Perrollaz as to their knowledge of the letter and its  
24 submission to the Commission.

25           Is there any other issue that you think is

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1 appropriate to include in that type of affidavit? It  
2 would seem to me those two issues would cover their  
3 knowledge of the letter and its submission.

4 MR. JOHNSON: Well, Your Honor, just for the  
5 record, I want my objection to your ruling to be  
6 noted. I believe Mr. Perrollaz and Mr. Lee should be  
7 required to testify. Mr. Perrollaz, in particular,  
8 has knowledge with respect to the relationships of  
9 Kleen Environmental to its customer base that were  
10 apparently being referred to in the, you know,  
11 fraudulent letter marked as Exhibit 203. So without  
12 wanting to argue that point, I want that to be noted.

13 JUDGE RENDAHL: Well, the objection will be  
14 so noted. I'm balancing the interest in burdening  
15 the record and determining the truth and determining  
16 the best record of the issues, and at this point, I  
17 think the best record will be made through the  
18 testimony of Mr. Olson and Mr. McCloskey appearing  
19 here before the Commission in person and having  
20 affidavits from Mr. Lee and Mr. Perrollaz as to the  
21 nature of their knowledge of the letter that was  
22 submitted.

23 MR. JOHNSON: Your Honor, if I could, you  
24 asked me if I had any suggestions for additional  
25 content of those affidavits.



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1 JUDGE RENDAHL: Yes.

2 MR. JOHNSON: One additional thing that I  
3 would like to have included is any relationship or  
4 work done by Kleen Environmental for any of the  
5 Indian tribes that are listed in the two pages that  
6 are attached to Exhibit 203.

7 JUDGE RENDAHL: So their knowledge of the  
8 work done --

9 MR. JOHNSON: Yeah.

10 JUDGE RENDAHL: -- and any experience they  
11 personally have with working with any of these  
12 clinics and tribes?

13 MR. JOHNSON: Yeah, clinics, tribes,  
14 whatever they are, and with some detail about the  
15 nature of Kleen's services, when they took place,  
16 what they involved, something that would both place  
17 them in time and place the scope of the services.

18 JUDGE RENDAHL: Okay. Is that something  
19 that --

20 MR. HAFFNER: I'll try and get that  
21 information included in the affidavit, yes.

22 JUDGE RENDAHL: I think it's important to  
23 try to get -- clear up as much as we can in those  
24 affidavits, because it's apparent to me that the best  
25 use of our time, as well as the appropriate evidence

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1 and relevant evidence, would come from Mr. Olson and  
2 Mr. McCloskey.

3 All right. So did you want to offer this  
4 letter or do you want to wait for Mr. Olson and offer  
5 it through Mr. Olson when he appears?

6 MR. HAFFNER: I think we should go ahead and  
7 offer it at this time. It's been signed by the  
8 parties. I think Mr. Olson could certainly verify it  
9 when he testifies, and I will probably include in the  
10 affidavits statements from each of those other owners  
11 that their signature is a statement that they believe  
12 the statements in the letter are true.

13 JUDGE RENDAHL: All right. So I think it's  
14 appropriate to mark this under Mr. Olson. And so the  
15 next available number would be 22. So I would mark  
16 the letter from Kleen Environmental Technologies, as  
17 well as the fax signed by Mr. Lee and the other  
18 letters -- well, those two letters through Mr. Olson,  
19 and those would be 22, and I would mark the other two  
20 letters under Mr. McCloskey, given that they're to  
21 and from him.

22 So the Exhibit 22 is a letter from Kleen  
23 Environmental Technologies, signed by Mr. McCloskey  
24 -- I'm sorry, Mr. Olson, Mr. Perrollaz and Mr. Lee,  
25 dated October 21st to the Commission.

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1           And Exhibit 34 would be an October 15th  
2 letter from Mr. McCloskey to Mrs. Johnston of the  
3 American Indian Health Commission, as well as an  
4 e-mail to Mr. Johnston.

5           MR. JOHNSON: Ms. Johnston, right.

6           MR. HAFFNER: Actually, to Mr. McCloskey.

7           JUDGE RENDAHL: To Mr. McCloskey, excuse me,  
8 to Mr. McCloskey. It starts, Allen, from Rebecca or  
9 Becky Johnston, dated October 19th, 2004. So I'll  
10 mark those. And you're offering these, Mr. Haffner?

11          MR. HAFFNER: Yes, Your Honor.

12          JUDGE RENDAHL: Mr. Johnston -- Mr. Johnson.  
13 Too many Johnsons and Johnstons.

14          MR. JOHNSON: I object to their admission at  
15 this time. It seems to me that, at a minimum, we  
16 need to have a chance to talk to the people who  
17 signed these documents before they're admitted.

18          JUDGE RENDAHL: Well, I agree, and I'm going  
19 to withhold admission until we hear from Mr. Olson  
20 and Mr. McCloskey on these two documents.

21                 So with that, is there any other issue we  
22 need to determine based on this or any scheduling we  
23 need to do until we know the location of the hearing?  
24 Are we ready to go on to the next issue?

25                 All right. I'm going to actually have us

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1 take a 10-minute break while we change topics here,  
2 and then we'll be back. Let's be off the record.

3 (Recess taken.)

4 JUDGE RENDAHL: Let's be back on the record.

5 We're back on the record after our morning break, and  
6 we're going to start with the rebuttal testimony of  
7 Mr. Philpott. Mr. Philpott, you remain under oath  
8 from your testimony earlier in this proceeding, so  
9 I'm not going administer an oath.

10 So Mr. Johnson, I believe you have some  
11 rebuttal direct questions for Mr. Philpott.

12 MR. JOHNSON: Yes, Your Honor. Thank you.

13 Whereupon,

14 MICHAEL SCOTT PHILPOTT,  
15 having been previously duly sworn, was re-called as a  
16 witness herein and was examined and testified as  
17 follows:

18

19 R E B U T T A L D I R E C T E X A M I N A T I O N

20 BY MR. JOHNSON:

21 Q. Mr. Philpott, I wanted you to describe a  
22 little bit Stericycle's arrangements, procedures with  
23 respect to opening new accounts and identifying sort  
24 of customer service contacts at Stericycle for new  
25 accounts. Can you describe the way Stericycle sets

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1 up its new accounts and how a new account knows with  
2 whom it should deal at Stericycle in order to address  
3 any service issues that may arise?

4 A. Yes, I can. In our district office located  
5 in Kent, we have multiple people that are always  
6 within the office, we have customer service  
7 representatives, bio track operators, dispatchers,  
8 and salespeople, and myself located near  
9 transportation managers, environmental safety health  
10 managers.

11 And everybody within our facility helps out  
12 answering the phone. And when an individual calls in  
13 and requests a new account to be opened, typically  
14 they're transferred to a salesperson, and we have  
15 inside salespeople that handle that. At that point  
16 in time, they question them regarding the size of  
17 their facility, exactly what they're looking for and,  
18 at that point in time, if they're deemed a small  
19 quantity generator, they would be immediately set up  
20 with their service requirements, what they need, told  
21 about the wide range of services we would offer, get  
22 explained to them at that point in time what type of  
23 products we do and we don't accept, and a packet is  
24 sent out to the prospective customer with the  
25 requirement, you know, that we get them to sign a

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1 service agreement and they fully understand our waste  
2 acceptance protocol.

3 Q. I'd like you to look at Exhibit 62, which is  
4 a multi-part exhibit and various pages. Is that the  
5 new customer packet you're referring to?

6 A. Yes, it's a photocopy of what's sent out,  
7 and in this particular instance, it would have been  
8 sent out by Laura Batte, who's an inside sales  
9 coordinator.

10 Q. Just a second. That's B-a-t-t-e.

11 A. And that person would be instructed to call  
12 Laura directly back and she provides a business card  
13 within the folder that goes out with this, and that  
14 phone number isn't a number that goes directly to  
15 Laura. It would come into our main line and anybody  
16 could actually help the individual when they called  
17 back if Laura was on the other line or unavailable at  
18 the time.

19 Q. But is the customer given a specific name of  
20 a person at Stericycle to contact in the case of a  
21 service issue?

22 A. Yes, they are.

23 Q. And so on page three of Exhibit 62, you have  
24 a business card for Laura Batte. And that's an  
25 example of how a person would be identified at

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1 Stericycle for future service-related contact?

2 A. That's correct. All of our salespeople have  
3 business cards they provide to the customers they  
4 deal with, but they're also told that if a  
5 salesperson that they're dealing with is unavailable,  
6 that virtually anybody in our office could help them  
7 deal with a generic question or need that's not  
8 associated with setting up the service.

9 Q. Okay. Now, I think you talked a little bit  
10 about small quantity generators. What about in the  
11 context of a large quantity generator? What -- is  
12 the process of opening an account different?

13 A. Yes, the way we have our system set up is we  
14 -- I think we've gone down in our testimony, we  
15 differentiate large quantity and small quantity  
16 generators. If it's deemed to be a large quantity  
17 generator, our major account executive, which is Erik  
18 Jacobson, would handle that particular account and  
19 set up that facility through the same fashion that  
20 Laura would.

21 Typically, a large quantity generator, we  
22 would typically try to visit that facility at the  
23 same time when we're setting up that account.

24 Q. So who would visit the facility?

25 A. Erik Jacobson.

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1 Q. That's currently, but what about last year,  
2 let's say?

3 A. Last year, that would have been -- up until  
4 January 1st of this year, it would have been Jeff  
5 Norton was our major account executive. And Erik  
6 Jacobson was, as well. We had the state divided at  
7 that point in time based off of, you know, cities.  
8 It wasn't a random, you know, half the state, half  
9 the state. We had separate areas they were  
10 responsible for and they both held the title of major  
11 account executive in the medical waste division.

12 Q. So would a major account executive have been  
13 identified to each large quantity generator for  
14 follow-up on questions or service issues?

15 A. Yes, they would. And they would have been  
16 advised at the same time for, you know, billing  
17 questions, you know, any service type adjustments or  
18 product that they didn't necessarily have to contact  
19 them, but they could contact the office if they were  
20 unavailable for any service-related questions.

21 Our sales individuals also list phone  
22 numbers on their business cards that are outside  
23 sales reps that have their cell phone numbers on  
24 them, so they're also accessible, you know, at all  
25 times where they could be called directly.



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1           Q.    Okay.  Now, you've talked about some kinds  
2   of services that would -- where a customer would  
3   contact the office at Kent.  What types of services  
4   are you referring to there?

5           A.    General questions that people would contact  
6   our office would be service-related.  They'd like to  
7   have more containers delivered than their standard  
8   quantity, they would have a question regarding their  
9   bill, if we'd received their last payment, they may  
10  have questions on if they could get a unscheduled  
11  stop.  We schedule customers based off of a weekly  
12  basis.  You know, we could pick them up a few times a  
13  week, we could pick them up weekly, bi-weekly, you  
14  know, any sort of schedule we need to put them on.  
15  Some people require, if it's flu season, they'd be  
16  giving more shots, so they may require an extra  
17  pickup, and those are the type of issues that we're  
18  dealing with when they call in the office.

19          Q.    What types of issues would the major account  
20  executives deal with?

21          A.    Major account executives would deal -- if  
22  there's any additions to their facility, if they had  
23  any off-site locations, you know.  For instance, you  
24  know, Valley General Hospital has Valley Medical  
25  Centers that are located in different locations.  The

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1 same with the University of Washington. They would  
2 be involved in setting up accounts that would  
3 typically be small quantity generator accounts.  
4 Anything that's associated with a larger facility,  
5 they would deal with that.

6           They would also deal with correspondence  
7 that a hospital may request in conjunction with some  
8 sort of audit they're receiving. They may ask them  
9 to come in and provide some in-service training to  
10 their staff, they may ask them to come in and do a  
11 waste audit for them to help them properly segregate  
12 their waste, and they may be called if those  
13 particular customers have some questions regarding  
14 the service they're currently receiving.

15       Q.    Is there any limitation on what kinds of  
16 issues can be raised with a major account executive?

17       A.    None whatsoever.

18       Q.    So it's whatever somebody brings up in a  
19 phone call to that person?

20       A.    Correct. Anything that is brought to the  
21 attention of a salesperson that's within their, you  
22 know, knowledge of expertise, they'll attempt to  
23 answer it, and in the event that they can't answer  
24 it, they would direct those people either talk  
25 directly to the person that can help them or they

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1 would find out and get back to them.

2           You know, another person that would come to  
3 mind would be Chris Stromerson, the Environmental  
4 Safety and Health Manager, is utilized quite a bit by  
5 the facilities regarding, you know, regulations and  
6 providing them copies of regulations regarding  
7 medical waste.

8           Q.    And when do you get involved?

9           A.    I typically get involved -- I regularly ride  
10 with the salespeople and make sales calls when I'm  
11 asked to. I go to association meetings, I go to  
12 individual sales calls. We make it a habit, you  
13 know, company-wide for Stericycle that the district  
14 managers ride along with our salespeople and make  
15 sure that we meet the people that are our customers.

16           I would also get involved if there's a  
17 situation that the salesperson doesn't feel that they  
18 can handle themselves, don't have the knowledge of,  
19 or there's a customer that has a problem, would like  
20 to speak to someone different than a salesperson.

21           Q.    Mr. Philpott, I'm going to hand you a copy  
22 of a business card and ask if you recognize that  
23 document?

24           A.    Yes, I do. It's a photocopy of my business  
25 card.

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1 Q. Okay. This is the card you're currently  
2 using?

3 A. Correct.

4 Q. And do you provide this card to customers on  
5 sales calls?

6 A. Yes, I do.

7 MR. JOHNSON: Okay. Your Honor, I'd like to  
8 have this exhibit marked and admitted in the  
9 appropriate spot on the exhibit list.

10 JUDGE RENDAHL: Do you have many other  
11 exhibits for Mr. Philpott this morning?

12 MR. JOHNSON: I have a number of them, yes.

13 JUDGE RENDAHL: All right. Then why don't  
14 we move it to the back. Let's be off the record for  
15 a moment.

16 (Discussion off the record.)

17 JUDGE RENDAHL: Let's go back on the record.  
18 While we were off the record, I marked as Exhibit 215  
19 the business card for Mike Philpott, and you're  
20 offering it for admission?

21 MR. JOHNSON: Yes, Your Honor.

22 JUDGE RENDAHL: Is there any objection?

23 MR. HAFFNER: No objection, Your Honor.

24 JUDGE RENDAHL: Mr. Sells?

25 MR. SELLS: No, Your Honor.

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1           JUDGE RENDAHL:  What's been marked as  
2 Exhibit 215 will be admitted.  Go ahead, Mr. Johnson.

3           Q.  Okay.  Mr. Philpott, this card shows a  
4 mobile telephone number, I believe; is that right?

5           A.  Right.

6           Q.  And is that your telephone that you have on  
7 your hip or in your pocket right now?

8           A.  Yes, it is.

9           Q.  Okay.  So the person that wanted to reach  
10 you 24 hours a day or 12 hours a day could call that  
11 phone number; is that correct?

12          A.  That's correct.  I've -- as I've stated  
13 previously in my testimony, I worked for BFI Medical  
14 Waste prior to the merger with Stericycle.  I've  
15 always had the same phone number that I have today  
16 that I had then, so this phone number I've had for 10  
17 years, and the cards that were in the hands of  
18 individuals prior to the merger, you know, still an  
19 effective phone number.

20          Q.  Do you keep this phone on 24 hours a day,  
21 just to clarify?

22          A.  Yes, I do.

23          Q.  Okay.  Could you describe a little bit on  
24 how the relationships are maintained by Stericycle  
25 with its customers after an account has been opened?

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1 Are there ongoing contacts, or how is that dealt  
2 with?

3 A. Well, it's kind of a twofold system. What  
4 we have is major account executives. Part of their  
5 job is to regularly visit their customers, and they  
6 have a process in the system of making sure they  
7 visit their customers throughout the state on a  
8 regular basis and that those particular customers are  
9 getting some attention in regards to if there's been  
10 any regulation changes, if we've had any changes in  
11 our process, you know, in general, how the business  
12 is going, if there's anything else we can do for  
13 them, if their needs are currently being met by our  
14 service.

15 Typically, small quantity generators, due to  
16 the number of the generators that we have, it's  
17 virtually, you know, impossible to have a one-on-one  
18 visit with them on a regular basis. Typically,  
19 that's left in a situation where when they're  
20 originally set up, they're provided with all the  
21 knowledge and the detail of what's required of them  
22 being a generator of medical waste, and they have  
23 responsibilities, being a generator of medical waste,  
24 to be knowledgeable of the proper way to dispose of  
25 the waste and how to handle it, and we typically deal

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1 with them on an on-call basis, when they call in to  
2 us and ask us questions, and at that point in time,  
3 we always ask them if there's anything else we can  
4 help them with, if their needs are being met, if  
5 they're satisfied with the service, and if there's  
6 any issue at that time they're not aware of, they're  
7 addressed.

8           And we also have a program where Laura  
9 Batte, the inside sales coordinator, proactively does  
10 call out to customers randomly to ask them how things  
11 are going and to update them on programs they may not  
12 be aware of that are happening and to follow up to  
13 see if they received mailers that we send out or any  
14 other literature that may have been included in their  
15 bills. We send leaflets at times with their invoices  
16 explaining to them different services that may be  
17 available.

18           Q. Speaking of mailings, I'm going to hand you  
19 another piece of paper here and ask you if you  
20 recognize this?

21           A. Yes, I do.

22           MR. JOHNSON: And could you describe -- Your  
23 Honor, I'd like to have this marked for  
24 identification, if we could.

25           JUDGE RENDAHL: It will be marked -- this is

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1 a Stericycle document titled Happy New Year,  
2 discussing calendar -- it looks to be the cover page  
3 for the calendar pickup dates and identifies some --  
4 a list of suggestions for how to handle waste and  
5 lists telephone numbers at the bottom for additional  
6 help. So it's a Stericycle mailing, I suppose, and  
7 it will be marked as Exhibit 216.

8 Q. Mr. Philpott, can you identify this  
9 document?

10 A. Yes, this is a cover sheet that is sent out  
11 to every scheduled customer that we service. We send  
12 it out every year at the end of the year near the  
13 holidays to let the customer know what their pickup  
14 schedule is going to be for the upcoming time period.  
15 And we typically put updates or information in here  
16 that are kind of common issues or questions that  
17 customers may have.

18 In small quantity generator offices, there's  
19 a high turnover rate of employees that may be at the  
20 front desk, and they're not aware that certain duties  
21 are their responsibility when waste is prepared for  
22 transportation, so we update them with some  
23 information or some regulations and also provide them  
24 with a toll-free phone number to contact us, as well  
25 as some other programs we may have available that may



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1 fit some needs they have.

2 Q. Now, this toll-free phone number at the  
3 bottom there of Exhibit 216, is that -- where does  
4 that number ring?

5 A. It rings into the Kent office, district  
6 office.

7 Q. Okay. And who might answer the phone there  
8 in Kent?

9 A. As I stated previously, customer service  
10 representatives can answer the phone.

11 Q. But who are they? What are their names?

12 A. Currently, we would have Melia Perreira. I  
13 can't even guess how it's -- P-e-r-e-a?

14 Q. Perreira?

15 A. I'm not sure how to spell it. It's an  
16 attempt.

17 JUDGE RENDAHL: It's --

18 THE WITNESS: We have Don Wilson, Chris  
19 Dunn, D-u-n-n, Chris Stromerson, myself, Laura Batte,  
20 Jeff Norton, Erik Jacobson, and currently we have a  
21 customer service representative that is starting on  
22 Monday that there's another individual that is down  
23 answering the phone, but that position's been open  
24 for a couple of weeks.

25 Q. Are you saying that all of these people may

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1 answer the phone?

2 A. Every person in our office answers the phone  
3 on a regular basis.

4 Q. Do you have someone whose primary job it is  
5 to answer the phone?

6 A. Yes, we do. We have three individuals whose  
7 primary job it is to answer the phone, and that would  
8 be the individual -- the customer service  
9 representative that's starting on Monday morning and  
10 Melia and Don Wilson.

11 Q. Okay. But -- and in what circumstances,  
12 then, in general terms, would the other people you  
13 named answer the phone?

14 A. If some of the customer service  
15 representatives would be at lunchtime and there's a  
16 high call volume, or any time where they're on the  
17 phone and the phone system, you know, rings more than  
18 two to three times, somebody will pick up the phone.

19 Q. Okay. Now, I'm going to refer you to,  
20 again, to Exhibit 62, which is this sort of omnibus  
21 document, and refer you to the document that begins  
22 immediately after Stericycle's Tariff Number 1. I  
23 guess it's a one-page document. It's headed  
24 Stericycle Medical Waste Systems Service Schedule for  
25 2004. Is that schedule document related to this

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1 Exhibit 216?

2 A. Yes, that would go in conjunction with the  
3 cover letter to let that particular facility know  
4 when their pickup days would be.

5 Q. So is this the schedule that's referred to  
6 in Exhibit 216, or is this type of form used for that  
7 purpose?

8 A. Yes, it is, and the reason we send this out  
9 during the holidays is, as you're aware, there's days  
10 that are off that we'd normally be picking up waste,  
11 and it's a way to notify the customers to let them  
12 know when the pickup would happen throughout the  
13 holidays so that they wouldn't have a missed stop.

14 Q. Does it deal with more than just the  
15 holidays or is it just a holiday notice?

16 A. It does deal with more than just the  
17 holidays. This particular example is going through  
18 December. Some of them that would go out would give  
19 them the schedule through the whole next year.

20 Q. Okay. So the document --

21 A. And it also, excuse me, it also tells them  
22 what pickup frequency they're currently on. In this  
23 instance, they're an every-four-week customer.

24 Q. And the schedule, again, it's part of  
25 Exhibit 62, has phone numbers on the right-hand side

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1 toward the top. Where do those phone numbers ring?

2 A. These particular phone numbers would be 800  
3 numbers that would come to our office in Kent.

4 MR. JOHNSON: Okay. Your Honor, I'd like to  
5 offer Exhibit 216 at this time for admission.

6 JUDGE RENDAHL: Any objections to what's  
7 been marked as Exhibit 216?

8 MR. HAFFNER: No, Your Honor. I'm sitting  
9 here wondering how broad of a context of service  
10 we're going to allow Mr. Johnson to describe. I'm  
11 trying to figure out how this relates directly to the  
12 shippers' statements and any problems with service  
13 that were identified. It seems that this is a very  
14 broad, generalized description of service that could  
15 have been brought in through direct.

16 JUDGE RENDAHL: Mr. Sells.

17 MR. SELLS: No objection.

18 JUDGE RENDAHL: Mr. Johnson.

19 MR. JOHNSON: Well, Your Honor, what we are  
20 doing is trying to respond to the questions about  
21 responsiveness that were raised by the generators.  
22 And I agree this is rather broad. We're about done  
23 with this foundation. From here, we're going to go  
24 to more direct, specific responses.

25 JUDGE RENDAHL: Okay. I was wondering

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1 myself how much broader you were going to go. So I'm  
2 glad to hear we're going to focus.

3 MR. JOHNSON: We're not going any broader.  
4 Let me put it that way.

5 JUDGE RENDAHL: All right. Well -- so I'll  
6 admit 216. Is that acceptable?

7 MR. HAFFNER: Yes.

8 JUDGE RENDAHL: All right. We'll admit  
9 what's been marked as 216, and I'd suggest we move to  
10 more directed questions as rebuttal.

11 Q. Mr. Philpott, a couple of the generators, in  
12 their testimony in this proceeding, talked about a  
13 change in the requirements of containers used for the  
14 collection and transportation of pathological and  
15 trace chemo, trace chemical -- trace chemotherapy  
16 waste.

17 Could you explain the sequence of events,  
18 the reasons for the changes in containers used by  
19 Stericycle and perhaps its predecessor, BFI Medical  
20 Waste Systems, in that connection?

21 A. Yes, all of the individuals that testified  
22 in these hearings prior, as generators, were all BFI  
23 customers prior to the merger with Stericycle. BFI  
24 utilized, for the disposal of their medical waste,  
25 the incinerator in Bellingham owned by Recomp,

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1 R-e-c-o-m-p, and BFI had the exclusive right to use  
2 that facility for processing medical waste. That was  
3 a waste to energy plant they had there. And in '98,  
4 the incinerator was shut down and an autoclave was  
5 installed at the facility.

6 Q. Mr. Philpott, let me ask you this. What  
7 kind of container was used when BFI was bringing  
8 medical waste to the Recomp incinerator?

9 A. BFI used reusable tubs for the use of all of  
10 their waste. Cardboard was available, but the  
11 primary container chosen for incinerate waste was  
12 reusable tubs.

13 Q. Okay. So then, you were going on to  
14 describe a change.

15 A. In '98, the incinerator was shut down due to  
16 some of the new federal requirements that had come  
17 out. They felt it was in their best interest to shut  
18 the facility down, Recomp did. BFI really had no say  
19 in it because they didn't own the facility. And a  
20 commercial autoclave was installed that was also  
21 owned by Recomp that BFI had the exclusive right to  
22 use, and at that time pathological waste was changed  
23 into cardboard boxes because the incinerator in  
24 Brooks, Oregon, the Covanta incinerator was utilized  
25 for incineration of waste at that point in time.

1702

1 Q. So the reason that cardboard boxes were used  
2 was what?

3 A. There was no tub washing capabilities at the  
4 Brooks, Oregon facility.

5 Q. Okay. Were there any subsequent changes in  
6 the types of containers utilized by Stericycle or BFI  
7 with respect to collection and transportation of  
8 pathological and trace chemotherapy waste?

9 A. Yes, there was. When we changed from  
10 cardboard -- from tubs to cardboard --

11 Q. This is in 1998?

12 A. -- in '98, many generators that were used to  
13 using the reusable tubs started having issues with  
14 leaking containers, you know, containers were getting  
15 crushed, and they were having problems -- we were  
16 having problems in our trucks and they were having  
17 problems in their loading docks and within their own  
18 facilities with cardboard, and they had requested us  
19 to make a change to our container. At that point in  
20 time, we had no capabilities, based off of the way  
21 our tariff was set up, to provide anything other than  
22 what was available to us within our tariff.

23 And also, at the same time, I was contacted  
24 by Jeff Bickford from Marion County, who informed me  
25 that, with the volume of waste we were providing to

1703

1 the waste energy plant in Marion County --

2 Q. That's the Brooks, Oregon?

3 A. The Brooks, Oregon, that we were going to go  
4 over the capacity that they were allowed to accept at  
5 that particular facility, and we would no longer be  
6 able to ship them waste. At that point in time, the  
7 decision was made to research what would be involved  
8 in transporting the waste to Salt Like City in  
9 reusable tubs and go in and apply for a change to our  
10 tariff in how incinerate and trace chemotherapy waste  
11 was treated for customers in the state of Washington,  
12 and that change was made, I believe, on the 2001  
13 tariff modification.

14 Q. Okay. So then, in 2001, what was the --  
15 what was the -- what kind of container was required  
16 to be used for pathology and trace chemo waste?

17 A. At that point in time, we provided customers  
18 with a 28-gallon Rubbermaid reusable container that  
19 was different from other containers we used because  
20 this container was gray. We also retained the two  
21 cardboard box sizes that we provided to customers  
22 and, in the event that the customer didn't want to  
23 change into a reusable tub, the cardboard box was  
24 still an option for them to use at that time. But  
25 nearly every customer that we currently have was



1704

1 happy with the change to the reusables and preferred  
2 the reusables over the cardboard, but we still do  
3 have a few customers that use cardboard for  
4 incinerate waste in the state of Washington.

5 Q. Now, Mr. Al Campbell, when he testified, I  
6 believe he testified on behalf of ICOS Corporation,  
7 suggested that someone from Stericycle -- or  
8 testified, I believe he testified, that someone from  
9 Stericycle had suggested that, to make scheduling  
10 pickups at ICOS easier, Mr. Campbell and his staff  
11 could simply leave biomedical waste containers on the  
12 loading dock so that it would be available to  
13 Stericycle for pickup. Has anybody from Stericycle  
14 ever made such a suggestion?

15 A. No, I think that's a completely inaccurate  
16 statement that he made. Manifests are required to be  
17 signed by our generators prior to us transporting  
18 their waste. We would never recommend for any of our  
19 customers to put their waste unsecured on a loading  
20 dock at any point in time.

21 Q. Why is that?

22 A. Regulation requires it has to be in a  
23 locked, stored facility until it's transported, and  
24 that wouldn't qualify sitting on the loading dock, an  
25 unsecured location. It also has to be somewhere

1705

1 that's, you know, impervious from the weather and  
2 rodents and insects, and there's other requirements  
3 that go along with the storage of medical waste.

4           It -- you know, I'm not sure if his  
5 statement was -- I don't think he would mean to say  
6 something, you know, that was an outright untruth. I  
7 think that perhaps what may have been suggested to  
8 him at a time, because I know that that particular  
9 account has always been an issue on how their service  
10 with their specific requirements that they have --  
11 many customers we have, hospitals, small facilities,  
12 medium-sized facilities, have their waste accessible  
13 to a Stericycle driver that is locked within their  
14 soiled utility room.

15       Q.    I'm sorry, within their?

16       A.    Soiled utility rooms within hospitals or  
17 medical facilities. That's what they're called,  
18 where they store their medical waste. Or they have  
19 exterior storage facilities adjacent to the loading  
20 dock, or they have stand-alone storage sheds or  
21 buildings back by the loading dock, and Stericycle  
22 provides the customer with a key lock that we give  
23 them a key to that our drivers all have the same key  
24 for all the locks of these facilities we use that  
25 they can have direct access to, and he could have

1706

1 misunderstood that with the issues we were having  
2 with that particular facility being able to get into  
3 it to get the waste to store it somewhere that we had  
4 accessibility to when we pulled up to the loading  
5 dock, where an employee could directly go into the  
6 storage facility and remove the waste and then, at a  
7 later time, go for a signature.

8 Q. So under these arrangements that you've  
9 described, would the waste be stored in locked  
10 storage?

11 A. Always, yes.

12 Q. And both the generator and Stericycle's  
13 driver would have a key to that storage?

14 A. Yes, they would, and in the event that waste  
15 was improperly stored, our drivers and our  
16 salespeople and everybody there is trained that  
17 that's not something that is a good thing to happen.  
18 If something's found on the side of the road or in a  
19 unique place and has our name on that container,  
20 we're required to retrieve it and clean it up and  
21 take care of it if that was to happen. And we don't  
22 encourage and we really won't allow a customer to  
23 keep their waste stored improperly. We'll notify  
24 that account and tell them that it needs to be put in  
25 a different area if we see something sitting out

1707

1 unsecured, you know, at any facility.

2 Q. So with respect to Mr. Campbell's comment  
3 about what might have been suggested to him, this is  
4 the best explanation you have that he might have been  
5 referring to some suggestion that locked storage be  
6 made available at or near the loading dock?

7 A. Yes, and I think that would make sense,  
8 because this particular facility is unique in their  
9 requirements from a standpoint that most facilities  
10 that we service, when we talk to them, give us their  
11 business hours of when they're in operation, and the  
12 way that our system works and the way that our tariff  
13 works is the waste needs to be available during the  
14 regular business hours for us to come to take it away  
15 for transportation.

16 Our drivers have typically a set route for  
17 people that are on scheduled service, but as we know,  
18 there's on-call service, as well. And say, for  
19 instance, the ICOS account is located in Bothell,  
20 that driver, on his normal route day on a Tuesday,  
21 could have 15 stops that he makes that day, or he or  
22 she makes that day. The call-ins on that particular  
23 day for Tuesday could add anywhere from, you know,  
24 one to 10 stops to his call-in day. And the way that  
25 the route is scheduled is they start on one end of

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1 the city and they work to the other end without  
2 backtracking, because we are in a transportation  
3 business and it doesn't make sense, you know, to go  
4 backwards. We always try to move through in a  
5 certain way. He's got specific re --

6 Q. By he, now, who are we talking about?

7 A. Al.

8 Q. Mr. Campbell.

9 A. Al Campbell and Brad Gong, which is Al's  
10 boss.

11 Q. G-o-n-g?

12 A. I believe that's how it's spelled. And they  
13 have about a half an hour window when they say we're  
14 allowed to come to their facility, and at a specific  
15 time only. That causes us problems from the  
16 standpoint that we can't plan specific stops before  
17 their stop or after their stop in the event that the  
18 stop before may take longer than we think it may,  
19 because then they won't allow us to pick their waste  
20 up on that day, and then they would want us to come  
21 back on a day that we're not available in that area  
22 to make a specific trip to pick up that waste.

23 And when you're kind of pigeonholed into a  
24 certain window to pick up waste, it affects your  
25 ability to service the rest of the customers in that

1709

1 particular area.

2 Q. Okay. Has Stericycle made a -- well, first  
3 of all, what is the window that ICOS Corporation  
4 requires you to collect their waste in?

5 A. Well, the current process that is in place  
6 is that our driver for that particular route, Kevin  
7 Thompson -- all of our drivers carry Nextel radios,  
8 but they all don't have cell phone capabilities.  
9 Kevin Thompson carries his own personal cell phone,  
10 because he needs to call their facility before he  
11 comes to provide a pickup for them, to let them know  
12 he's on the way within that kind of half an hour  
13 window, so they can prepare the waste and he'll open  
14 the door to let him in to receive the waste.

15 And prior to that, we'd had many  
16 conversations with Al Campbell or Brad Gong regarding  
17 how to service their facility, because when we would  
18 go there, their waste wouldn't be available to pick  
19 up. And I believe this is what he was alluding to  
20 prior when he said he had problems with the previous  
21 driver, because that driver would go there, you know,  
22 on varying times in the morning to pick that waste  
23 up, and they wouldn't provide him the waste to send.

24 Q. So what exactly is the window? Are we  
25 talking about a half an hour on one day?

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1           A.    I think -- my understanding is, and I think  
2   that Erik Jacobson could probably tell you a little  
3   bit better, because he has dealt with them  
4   personally, but my understanding, it's somewhere like  
5   a half an hour window we have to get to their  
6   facility.

7           Q.    On one day?

8           A.    On one day.

9           Q.    But this Kevin Thompson, I think you  
10   indicated, is the driver that has made accommodations  
11   to coordinate by cell phone with Mr. Campbell?

12          A.    Correct, it's something that is completely  
13   out of the normal for us to do, but we have -- we're  
14   providing the service that they're requesting of us  
15   to do at this time.  It's unusual because it does  
16   affect our route in that area, but we do call in  
17   before we go and we do go with the window that they  
18   say is their only opportunity to tender the waste to  
19   us.

20          Q.    Do you know how long Kevin Thompson has been  
21   serving the ICOS account?

22          A.    No, I have no exact knowledge.  I know he's  
23   been there, for a minimum, the last two years.

24          Q.    Is Mr. Campbell in frequent contact with  
25   Stericycle personnel about issues relating to

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1 service?

2 A. Yes, he is.

3 Q. Can you describe what those contacts have  
4 been and how frequent they have occurred?

5 A. Well, my office sits -- I sit directly with  
6 all the customer service representatives and my door  
7 is always open and I listen to people out in the area  
8 that take all the calls and for some time, ICOS was  
9 in contact with us nearly on a weekly basis regarding  
10 the pickups at their facility.

11 Q. What was the content of those contacts?

12 A. They're also unusual in the aspect that,  
13 typically, all of our customers have a standard load  
14 plan. You know, say a small doctor would use, every  
15 two weeks, four containers of a particular size.  
16 When the manifest is printed and the route sheet is  
17 printed out, it notifies the driver to take four  
18 containers of a particular size to that doctor's  
19 office. And these manifests are printed up a week or  
20 two weeks prior to the stop, and they're provided to  
21 each driver in the morning before -- the evening  
22 before the morning they go out on their stops. And  
23 when they come back in from their route, this is what  
24 they use to do load plans for the trucks, to get the  
25 product to the customers, the empty containers, and



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1 pick up other containers.

2 ICOS, for one reason or another, always  
3 wanted to change their load plan or their quantities,  
4 because either they didn't want to or they didn't  
5 have the capabilities to store the containers. You  
6 know, one week they would call and want only five  
7 containers brought. The next week they wanted to  
8 change it to 15. You know, they --

9 Q. You're talking about empty containers?

10 A. Yes, they had multiple changes in their  
11 quantity to change. And for a while, they were also  
12 calling quite frequently based off of our driver not  
13 being able to be there within that half-hour window,  
14 because we had not gotten to the point where it was  
15 even possible for us to do that. We had to  
16 restructure some stops in the route to get it to a  
17 point where that was the stop in the morning that  
18 they hit at that particular time.

19 Q. Okay. Now, who was making these contacts  
20 with the Stericycle office?

21 A. Al Campbell.

22 Q. Is he the only person?

23 A. No, and Brad Gong, at other times, had  
24 spoken to Jeff Norton and to Erik Jacobson and  
25 myself.

1713

1 Q. Okay. Most of these requests come in  
2 through the office number. Would they be handled by  
3 people other than yourself?

4 A. Yes, they would be handled through Don  
5 Wilson, the dispatcher. Chris Dunn would have talked  
6 to them, because he's a transportation manager, if Al  
7 had an issue saying that the driver couldn't be there  
8 at a particular time. Laura Batte, at that time, was  
9 a customer service representative downstairs. She  
10 would have spoken to Al Campbell or Brad Gong. I  
11 personally have spoken to Al on numerous occasions  
12 when he's called in.

13 Q. Let's ask you about that question. What  
14 kind of direct communication have you had with Al  
15 Campbell?

16 A. Well, I've had direct conversations with him  
17 on the phone in instances where he was fairly abusive  
18 to our employees, and in some instances actually, you  
19 know, brought Laura Batteto tears from, you know,  
20 things he was saying to her and the way he was  
21 treating her on the phone.

22 At that point in time, you know, on multiple  
23 occasions, I got involved and spoke to him directly  
24 myself on the phone and explained to him, you know,  
25 why and, you know, how this -- how the service works

1714

1 and why we can't be there in a specific window at all  
2 times, you know, based off of traffic issues or if  
3 the previous stop had been delayed, you know, in  
4 situations like that. And he, at times, was fairly  
5 unreasonable with his expectations of what we were to  
6 do.

7 Q. So Mr. Campbell, though, did know you and  
8 know your name?

9 A. Yes, he did.

10 Q. And did he know your title and position in  
11 the company?

12 A. Yes, he did, and every time I speak to  
13 somebody on the phone, I identify my position, make  
14 sure they have contact numbers, and I provide them  
15 with my personal cell phone number. If they feel  
16 they have any other issues that aren't being resolved  
17 that they need to talk about, they can always call  
18 me.

19 Q. Did Mr. Campbell at any time in his  
20 conversations with you raise any questions about the  
21 service, other than these issues of scheduling and  
22 supplying empty containers?

23 A. No, up to that point, the only issue that we  
24 ever had with ICOS was schedule.

25 Q. Okay. When you say up to that point, what

1715

1 does that mean?

2 A. Well, you know, in his testimony, he's  
3 commented that they've had some concerns regarding  
4 their manifesting or paperwork they're receiving back  
5 currently to their facility.

6 Q. Okay. But was that issue ever raised with  
7 you? Did you ever hear it from them prior to this  
8 proceeding?

9 A. The only instance where I was aware that  
10 they had any extra requirement regarding paperwork  
11 that they felt they needed something different was  
12 sometime in May of this year, I don't know the exact  
13 date, I was out traveling that day with Erik  
14 Jacobson, our major account executive, and one of the  
15 stops he made that day was to ICOS.

16 Erik and I personally met with Brad Gong and  
17 Al Campbell to ask them how things were going and if  
18 there's anything that we could do for them, and prior  
19 to that stop, you know, Erik obviously had spoken to  
20 them to set up the appointment and had brought some  
21 material with them, and we went over our invoice with  
22 the certificate of destruction that's listed on it,  
23 because they had some questions about some  
24 certification of destruction. Erik presented them  
25 with a container detail report.

1716

1 Q. Now, that's the report that's -- we have --  
2 an example is, I believe, at Exhibit 68 in the -- in  
3 this proceeding; is that right?

4 A. Correct.

5 Q. Okay.

6 A. And at that meeting, Brad and Al, neither  
7 one of them were aware that the certification of  
8 destruction was located on the invoice. I don't  
9 believe they'd ever read it before. They initially  
10 had asked us for more information for backup  
11 purposes. I think our meeting was, you know,  
12 probably an hour, hour and a half, and they were  
13 saying that they would like something signed back and  
14 that it was a requirement.

15 And being that I'd been in the business for  
16 some time, it was the first that I'd ever heard this  
17 was a requirement and asked Brad to, you know, show  
18 me where this was listed somewhere that it was  
19 needed.

20 Q. When you say something signed back, what are  
21 you referring to?

22 A. I wasn't sure what he was after, signed  
23 back. He said that he just needed something signed  
24 back from the processing facility showing proof that  
25 we'd either received it or processed it. I wasn't

1717

1 exactly sure what he was after.

2 Q. Okay. Now, was this request communicated to  
3 you for the first time at this May meeting?

4 A. Yes, that was the first time.

5 Q. So what was, then, the follow-up on this  
6 request?

7 A. Well, the outcome was that he was going to  
8 look for the documentation or literature that  
9 contained the requirement that something else was  
10 needed, but in any event, he felt that he wanted more  
11 information, whether it was needed legally or not, a  
12 state or federal requirement.

13 At that point in time, Erik provided him a  
14 copy of his container detail report for his facility,  
15 and also had brought along a copy of a manifest, and  
16 told Brad that he could provide him a copy of this  
17 container detail report if it's something he needed,  
18 and he could also provide him a copy of a signed  
19 manifest, that we could have somebody at the plant  
20 pull his manifest manually out and get him a copy  
21 sent back, and at that point in time, he said --

22 Q. Now, wait. He being who?

23 A. Brad. And Al and Brad are both at the  
24 meeting, and my understanding is is that Brad is Al's  
25 boss, is -- we told him that we could provide him

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1 back both sets of documents, the container detail  
2 report, as well as a signed manifest, and Brad said  
3 that as long as I get this container detail report, I  
4 don't need a signed manifest, this is all I need.

5           And we told him that if it was something he  
6 needed, that he could request it at any time, we  
7 could get it for him, and he said that it wasn't  
8 needed. And as far as I know, to this point, he's  
9 never requested a copy of it from Erik, and the  
10 container detail report is something that Erik  
11 regularly sends to ICOS at this point in time.

12       Q. And based on your meeting in May, was it  
13 your understanding that that was satisfactory to  
14 ICOS?

15       A. Yes, and we went over if everything else is  
16 going well and everything is working, and actually,  
17 at that meeting, Al brought up that, during the  
18 merger of the two companies, that we had missed, I  
19 think, one stop on the specific day that it was  
20 supposed to have been on, and I'm not sure what the  
21 reason for that was, but that's the only issue that  
22 he'd ever had with us, and that our service worked  
23 like clockwork and he had absolutely no problems.  
24 But that was the only problem that he'd ever had with  
25 our service.

1719

1 Q. Now, you're referring to the merger between  
2 Stericycle and BFI Medical Waste Systems?

3 A. That's correct.

4 Q. When did that occur?

5 A. November of '99. At that point in time, I  
6 provided both of them with a, you know, copy of my  
7 business card and said if they needed any other  
8 information or had any questions, to feel free to  
9 call me at my time, and I have not heard from either  
10 one of them.

11 Q. Mr. Campbell also, I think, suggested that  
12 he had made calls to Stericycle that were not  
13 returned. Did he make any calls to you that you  
14 failed to return to him?

15 A. Never.

16 Q. Mr. Philpott, I'm going to ask you to refer  
17 to another exhibit in the book here. I need to  
18 locate it. It's the e-mail from Stevens Hospital.  
19 It's Exhibit 210. I'm going to ask you to refer to  
20 that as I ask you a few questions about it. I  
21 believe this is an e-mail that was presented by Mr.  
22 Bill Knight as an e-mail he received from Mary  
23 Johansen of Stevens Hospital. Are you familiar with  
24 Mary Johansen?

25 A. I believe I've spoken to Mary in the past.



1720

1   Oops, broke my pen. I don't think I've ever gone and  
2   personally met her at the facility, but I have spoken  
3   to her on the phone.

4       Q.   Okay. She is raising some issues in this  
5   e-mail, at least she seems to be, with respect to the  
6   delivery to her facility of empty containers and  
7   lids. And at one point in time -- or at one point in  
8   the e-mail, she refers to -- I believe she says  
9   sometimes Stericycle does not deliver enough  
10  containers to last a week. Could you explain how  
11  that might happen?

12       A.   Well, as I previously stated, each route  
13  sheet, when it's delivered to the driver, has a  
14  standard container quantity listed on that route  
15  sheet, and when the customer is initially set up by a  
16  sales individual, they go through and work and find  
17  what is the best inventory that's available for them  
18  and they want to make sure they always have  
19  containers on hand.

20           We also encourage facilities, if they have  
21  the space, to take cardboard boxes, because they do  
22  store flat, for emergency backup purposes or if  
23  there's the event where we have the great winter  
24  storm watches in Washington that we have and the  
25  trucks can't go anywhere, but they still need to

1721

1 collect some waste.

2           And we don't have the ability to carry, you  
3 know, hundreds of extra containers on the route  
4 trucks, because these trucks are being loaded with  
5 waste and empties are being offloaded as you go  
6 through the day. They do carry small supplies of  
7 boxes and some extra containers in the event some  
8 customers need them, but in the event a hospital  
9 needs extra containers, it's their responsibility to  
10 contact our customer service line or their  
11 salesperson to let them know that they need an  
12 additional number of containers over their normal  
13 quantity for the next delivery.

14       Q. Let's just go back one step. When a route  
15 driver goes to Stevens Hospital --

16       A. Yes.

17       Q. -- he brings empty containers to Stevens  
18 Hospital; is that correct?

19       A. Correct. We bring reusable tubs. We would  
20 have one tub, you know, one lid for every container  
21 that would be dropped off.

22       Q. Well, but let's just -- how does he know how  
23 many containers to bring to Stevens Hospital?

24       A. Because it is provided to him by the  
25 dispatcher on the route sheet. It will have the

1722

1 standard inventory listed on the route sheet, and  
2 that's what the driver uses to pull inventory out of  
3 the warehouse for the next day's route.

4 Q. So where does that standard inventory come  
5 from? Where does -- the Stericycle system, how does  
6 the Stericycle system know what quantity of empty  
7 containers to take to Stevens Hospital when the route  
8 truck goes there?

9 A. That information is provided to us by  
10 Stevens Hospital, you know, or Mary Johansen, if she  
11 was the individual in charge of the environmental  
12 services or the medical waste.

13 Q. So if Stericycle has not delivered enough  
14 containers to last a week, as Mary Johansen states in  
15 her e-mail, why would that be?

16 A. It would maybe be better stated that Mary  
17 Johansen didn't deliver, you know, didn't request  
18 Stericycle to deliver enough containers for that  
19 week. If they request us to deliver containers,  
20 we'll put more on the truck and take it to them.

21 Q. Is that because there may have been a change  
22 in their requirement?

23 A. Facilities, at times, can fluctuate with the  
24 number of containers they use. If they have a high  
25 bed count or they've got, like I said, flu shots or

1723

1 some sort of reason where they've generated more  
2 medical waste or they've cleaned out the  
3 refrigerators in a lab or whatever it may be, they,  
4 you know, can use more containers than a normal,  
5 standard container quantity would say on the route  
6 sheet, and at that point in time, which people are  
7 aware and they're advised of this when they're set up  
8 as an account, they need to call to request more  
9 containers be brought out to their facility.

10 Q. Okay. Now, Mary Johansen also suggests that  
11 at some point there was not enough lids for the  
12 containers that were available.

13 A. Yes.

14 Q. Now, can you explain how lids are delivered  
15 to a facility such as Stevens Hospital, and can you  
16 explain why there would not be enough lids to go with  
17 the containers delivered?

18 A. Well, we deliver one lid for every container  
19 that we drop off to a facility. Lids are something  
20 within the hospital, like, I can only imagine, that  
21 are a smaller item that typically what happens, when  
22 you drop waste off, drop containers off and pick up  
23 waste, it's on the loading dock. In a hospital, they  
24 have multiple floors and they have a soiled utility  
25 room on each floor of the hospital where they collect

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1 the waste from that floor and an individual from  
2 environmental services comes through at a later date  
3 and collects those full containers and takes them  
4 down to the storage -- main storage area down at the  
5 loading dock.

6           They transfer the lids to the rooms as they  
7 see fit, and they may not have had the proper amount  
8 of lids in each one of those soiled utility rooms,  
9 but the lids were within their hospital somewhere.  
10 You know, I've personally done audits or  
11 walk-throughs of hospitals and found, you know, lid  
12 caches that they've got there of hundreds of lids  
13 from our containers that they have stored in a room  
14 somewhere that they have requested extra lids, extra  
15 lids, and they're actually kind of squirreling them  
16 away somewhere.

17           This particular instance that I believe that  
18 she's speaking of is there was an instance at Stevens  
19 Hospital where someone in their environmental  
20 services or in their main floor put all of our lids  
21 into their garbage compactor and compacted them. So  
22 when we showed up to do that pickup for this  
23 facility, the containers that were there did not have  
24 lids on them. And we do not carry extra lids, so we  
25 can't transport containers that don't have lids on

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1 them.

2           So at that point in time, what would have  
3 happened is the containers weren't prepared for  
4 transportation and the driver would have left the  
5 empties with the lids and we would have, at the next  
6 time, known -- found out what the quantity was they  
7 were missing and got extra lids out to them to put on  
8 those containers.

9           Q.   Ms. Johansen also refers to a problem with  
10 lids not fitting. Is there a problem with lids not  
11 fitting containers?

12          A.   Not that I'm aware of. We provide two  
13 different containers. We have a proprietary  
14 container that's called a Steritub, where the lid  
15 snaps on somewhat like kind of a Tupperware lid snaps  
16 on. You need to snap the four corners down. And we  
17 use containers that are manufactured by Rubbermaid.  
18 Rubbermaid is a different lid where it's got a  
19 locking tab system on two sides of the lid. But this  
20 is a container that's used nationwide. We use it  
21 very heavily here and we have no real issues with the  
22 lids on these containers whatsoever.

23          Q.   So do you have any explanation for what her  
24 comment might mean?

25          A.   No, I don't. I would say that it says we've

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1 refused to take containers because lids are not on  
2 tight. It's a requirement that when we pick up waste  
3 for transportation, they're ready for transportation,  
4 and that means that the bags are tied, the lids are  
5 on securely and they're properly labeled. If they're  
6 not, our drivers will refuse those containers because  
7 we're not going to put the generator in a situation  
8 where they have any risk by transporting an  
9 improperly packaged container, and we won't do it for  
10 ourselves, because we won't take something we know  
11 that is improper to take.

12 I would imagine that their environmental  
13 services staff didn't properly secure the lids, so  
14 our driver did the right thing that he was trained to  
15 do and refused those containers for transportation.

16 And I could say that, at other facilities,  
17 it's not uncommon for us to refuse to transport  
18 containers. If we see something that -- the bag is  
19 shaking out of the container, even if the lid's on,  
20 or lids aren't on the containers or there's a leaking  
21 container, our drivers are trained that that is not  
22 prepared for transportation and to refuse the  
23 container and notify the generator that needs to be  
24 packaged properly before we can, you know, remove  
25 that from their facility.

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1 Q. There are a number of other issues  
2 identified in this e-mail, but let me just ask you  
3 this. Has Stevens Hospital made any effort to  
4 contact you with respect to the issues that are  
5 referenced in this e-mail that's identified as  
6 Exhibit 210?

7 A. No, they have not.

8 Q. To your knowledge, have they contacted  
9 anybody at Stericycle with respect to those issues?

10 A. Not that I'm aware of.

11 Q. Mr. Philpott, we've had testimony in this  
12 proceeding from several biotechnology laboratories  
13 with respect to their position on this application.  
14 I'd like to ask you whether the biotechnology  
15 laboratories that have testified, that have had  
16 people testify in this proceeding are typical with  
17 respect to the types of medical waste they generate?

18 A. No, they are not typical. Typically,  
19 nationwide, incinerate waste is about five to 10  
20 percent of the waste stream for any facility that  
21 would generate waste that needs to be incinerated.

22 Q. By incinerate waste, what do you mean?

23 A. Pathological or trace chemotherapy waste  
24 that requires incineration. You know, we keep track  
25 of our own statistics in this state, and we run



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1 between five and 10 percent of our volume is  
2 incinerate waste. And the biotech community  
3 generally incinerates most of their waste, which is  
4 uncommon.

5 Q. Okay. Mr. Philpott, I'm going to ask you to  
6 look at another document.

7 MR. JOHNSON: Your Honor, I'd like to have  
8 this exhibit marked, as well.

9 JUDGE RENDAHL: Let's be off the record.  
10 (Discussion off the record.)

11 JUDGE RENDAHL: Let's be back on the record.  
12 I'm going to mark as Exhibit 217 a document labeled  
13 Morton, Washington, Washington Waste Transferred to  
14 Salt Lake City, Utah for Incineration.

15 MR. JOHNSON: Thank you, Your Honor.

16 Q. Mr. Philpott, could you identify this  
17 document?

18 A. Yes, this is a document that is used to  
19 track and reconcile at the end of the year the number  
20 of containers, in pounds, that we've sent to Salt  
21 Lake City for incineration for waste that's generated  
22 from the state of Washington.

23 Q. When it refers to Salt Lake City, is that  
24 sort of a shorthand for the incineration facility in  
25 North Salt Lake?

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1 A. Correct.

2 Q. Okay. And so the data on this is for what  
3 year?

4 A. This is for 2004.

5 Q. Okay. And this refers, then, to the amount  
6 of pathological and trace chemotherapy waste handled  
7 by Stericycle in the nine months ending September 30,  
8 2004?

9 A. Correct.

10 MR. JOHNSON: Your Honor, I'd like to offer  
11 this exhibit for admission at this time.

12 JUDGE RENDAHL: Is there any objection?

13 MR. HAFFNER: I'm going to object on the  
14 relevance. I'm not sure why it's being admitted.

15 JUDGE RENDAHL: Mr. Johnson.

16 MR. JOHNSON: Well, what I'm trying to show  
17 is that the generators that have testified on behalf  
18 of the Kleen application are not typical, and what  
19 this shows, in combination with Mr. Philpott's other  
20 testimony, is the percentage of the waste generated  
21 in the state of Washington that falls within the  
22 pathological and trace chemotherapy category.

23 What it shows is, combined with Mr.  
24 Philpott's testimony, that the total waste generated  
25 in the state of Washington is about a million pounds

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1 a month, is that the pathological and trace  
2 chemotherapy waste component of that waste stream is  
3 only something like 6.9 percent of the waste stream.

4 JUDGE RENDAHL: Where is the other  
5 information located? Is it in his written testimony?

6 MR. JOHNSON: Mr. Philpott's written  
7 testimony.

8 MR. HAFFNER: Okay. I was trying to avoid  
9 more stuff coming in, but I guess I'll withdraw the  
10 objection.

11 JUDGE RENDAHL: Mr. Sells.

12 MR. SELLS: No objection.

13 JUDGE RENDAHL: All right. The exhibit will  
14 be admitted. Mr. Johnson, about how much more do you  
15 have for Mr. Philpott? Are you going to go past  
16 noon?

17 MR. JOHNSON: We may. It looks like we  
18 will, Your Honor.

19 JUDGE RENDAHL: About how much longer?

20 MR. JOHNSON: I would say about another  
21 hour.

22 JUDGE RENDAHL: Let's be off the record for  
23 a moment.

24 (Discussion off the record.)

25 JUDGE RENDAHL: Let's be back on the record.

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1 We'll go until noon and then we will break.  
2 Normally, I give an hour and a half break, because  
3 the location of our building here is -- and it's  
4 somewhat difficult during lunch hour to maneuver  
5 around, and I'll explain once we go off the record,  
6 but if you all wish to, we can come back at 1:15 and  
7 start then. So why don't you continue, Mr. Johnson.

8 MR. SELLS: Excuse me, Your Honor. I have  
9 to leave for a meeting. I will be back probably  
10 mid-afternoon, if at all.

11 JUDGE RENDAHL: All right.

12 MR. SELLS: Thank you.

13 Q. Mr. Philpott, in your experience, is the  
14 preference of the biomedical -- I'm sorry, the  
15 biotechnology laboratories that have testified here  
16 in this proceeding, their preference for incineration  
17 of their waste, is that typical of the medical waste  
18 generator community in the state of Washington?

19 A. No, it is not. It's opposite, almost, of  
20 really what other facilities are trying to do and  
21 what they require. Most health care facilities make  
22 a concerted effort to reduce the amount of waste that  
23 they incinerate because they understand the byproduct  
24 of what happens from incineration and they try to  
25 limit their incinerate waste.

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1 Q. Do the other generators, in your experience,  
2 have a preference for the manner in which their waste  
3 is processed?

4 MR. HAFFNER: Objection. I think it's  
5 hearsay, and those shipper sentiments should have  
6 been brought on by the shippers themselves.

7 JUDGE RENDAHL: Sustained.

8 Q. Mr. Philpott, Mr. Campbell testified that he  
9 had some concerns with respect to the cleanliness of  
10 Stericycle's plastic reusable tubs. Did Mr. Campbell  
11 or Mr. Gong raise that issue with you in the meeting  
12 you had with them in May of 2004?

13 A. No, they did not.

14 Q. Had Mr. Campbell or Mr. Gong ever raised  
15 that issue with you or with anyone else at  
16 Stericycle, to your knowledge?

17 A. I have never heard that they've had any  
18 issues with their containers whatsoever.

19 Q. Mr. Philpott, can you respond to some of the  
20 generator testimony that indicated that there may  
21 have been difficulty -- the generators may have found  
22 it difficult to inspect or audit Stericycle's  
23 processing facilities? Do you know whether  
24 Stericycle has a policy with respect to permitting  
25 generators or others to visit its facilities and

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1 inspect them?

2 A. Yes, our policy is that we have an open door  
3 policy. We encourage our generators to come and see  
4 the process in which their medical waste is processed  
5 so they have a good understanding of how it works  
6 and, you know, how our particular facility that's  
7 dealing with their waste works, and we have many  
8 people that do come on a regular basis or annually to  
9 audit the facility.

10 Q. Which facilities are you referring to?

11 A. We have had individuals audit, you know,  
12 Morton, we've had individuals audit our Salt Lake  
13 facility, we've even had individuals audit the  
14 Brooks, Oregon facility that we currently use for  
15 other states, but not for Washington waste, as a  
16 backup for Washington waste.

17 Q. Okay. Are you aware whether representatives  
18 of the biotechnology laboratories that send  
19 representatives to this hearing have participated in  
20 such inspections of processing facilities used by  
21 Stericycle?

22 A. Yes, there have been individuals that were  
23 part of this hearing that have audited our  
24 facilities.

25 Q. Okay. Mr. Philpott, I'm going to ask you to

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1 review another document, and that is -- so I'd like  
2 to have this one marked, as well.

3 JUDGE RENDAHL: All right. I'll mark as  
4 Exhibit 218 a document titled Plant Visitor Log.  
5 It's six pages labeled Plant Visitor Log, and then --  
6 let's be off the record for a moment.

7 (Discussion off the record.)

8 JUDGE RENDAHL: Let's be back on the record.  
9 While we were off the record, we determined that the  
10 last page and the third page from the end are titled  
11 Office Visitor Log, those should not be included in  
12 the exhibit, so it is a seven-page document labeled  
13 Plant Visitor Log, and at the bottom a date of May  
14 28, 1998, on the bottom.

15 MR. JOHNSON: Thank you, Your Honor.

16 Q. Mr. Philpott, can you identify this  
17 document?

18 A. Yes, this is the Plant Visitor Log, and we  
19 require any individual that comes and takes a tour of  
20 the plant to sign in on the plant visitor log.

21 Q. Which plant does this refer to?

22 A. This is the Morton plant.

23 Q. Okay. And if you would review this log, for  
24 example, on the 25th of September, 2000, do you see a  
25 couple of names there with respect to -- that are

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1 familiar to us in this proceeding?

2 JUDGE RENDAHL: What page are you on?

3 MR. JOHNSON: I'm sorry. It would be on the  
4 fifth page.

5 THE WITNESS: Yes.

6 Q. And those names are what?

7 A. We have -- we have Tony Smith, from Immunex,  
8 Donna Hoskins, Immunex, Donald Wang, Zymogenetics.

9 Q. Donald Wang spells his last name W-a-n-g.  
10 Okay. And if you looked at November 21, 2003, which  
11 -- I guess these pages aren't perfectly consecutive.  
12 I'm trying to find 2003.

13 JUDGE RENDAHL: Let's be off the record for  
14 a moment.

15 (Discussion off the record.)

16 JUDGE RENDAHL: We'll be off the record till  
17 1:15 for our lunch break, and at that time we'll  
18 determine the appropriate scope of what's been marked  
19 as Exhibit 218. Off the record.

20 (Lunch recess taken.)

21 JUDGE RENDAHL: Let's go back on the record.  
22 We're back on the record after our lunch break, and  
23 Mr. Johnson has clarified that the two pages stating  
24 Office Visitor Log are, in fact, part of the same  
25 package in Exhibit --



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1 MR. JOHNSON: 218.

2 JUDGE RENDAHL: -- 218, thank you. And so  
3 we should insert back into the exhibit -- I'm  
4 assuming, based on the page numbers at the top, the  
5 fax page numbers, that that's the appropriate order?

6 MR. JOHNSON: I think the page numbers are  
7 accurate.

8 JUDGE RENDAHL: Okay. So you were in the  
9 process of offering this, is that the -- or are you  
10 marking it?

11 MR. JOHNSON: Yes, Your Honor, I was asking  
12 Mr. Philpott about the biotech folks who appear on  
13 this log, and I believe he indicated that -- and I  
14 was asking him about one that appears on the last few  
15 pages.

16 JUDGE RENDAHL: And who are you referring  
17 to?

18 MR. JOHNSON: I was referring him to the  
19 dates of November '03, November 21, '03, and there's  
20 a name there.

21 Q. Mr. Philpott, do you find that on the last  
22 page of the log?

23 A. Yes, Don Wang, from Zymogenetics, that  
24 wanted to tour the facility on 11/21/03.

25 Q. Okay. Do you see another person on the list

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1 at 3/12/04?

2 A. Yes, from Cell Therapeutics, Jesse Mushen,  
3 M-u-s-h-e-n.

4 MR. JOHNSON: Okay. Your Honor, we would  
5 offer this plant log for admission into the record at  
6 this time.

7 JUDGE RENDAHL: Mr. Haffner.

8 MR. HAFFNER: I'll have to object on  
9 relevance. I don't know the purpose of the exhibit.

10 JUDGE RENDAHL: Mr. Johnson.

11 MR. JOHNSON: Well, the purpose of the  
12 exhibit is to demonstrate Stericycle's policy with  
13 respect to allowing access of generators to its  
14 processing plants. There was testimony by at least  
15 one generator that there was some problem with  
16 access, in particular to demonstrate access by the  
17 biotechnology laboratory personnel who -- some of  
18 whom have testified in this proceeding.

19 JUDGE RENDAHL: Mr. Haffner.

20 MR. HAFFNER: Did somebody in particular  
21 state that they were denied access, and how does this  
22 exhibit evidence that they were denied access, other  
23 than the fact that they were -- that they signed in?

24 MR. JOHNSON: Well, there was testimony, it  
25 was, I believe, hearsay testimony by Mr. Carney with

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1 respect to an experience that another individual had  
2 had at a Stericycle plant. And what I am attempting  
3 to show is, in fact, it is common for these same  
4 biotechnology companies to visit Stericycle's  
5 facilities and to tour their facilities, and this log  
6 demonstrates that.

7 MR. HAFFNER: Well, I think there was  
8 testimony that at least a couple of the witnesses  
9 admitted that they visited Stericycle's facilities  
10 and were allowed to audit the facilities. If this is  
11 to prove that somebody that said that they were  
12 denied access in fact was present, I'd like to know  
13 who it is that he's claiming made that claim.  
14 Otherwise, I just don't see the relevance in the  
15 exhibit.

16 JUDGE RENDAHL: Mr. Johnson, I guess I will  
17 say, from my memory of what transpired, there was  
18 some testimony that somebody was denied access  
19 because of the inability for a respirator, that they  
20 were turned away, but then that person testified that  
21 they were, in fact, allowed in, but she accepted the  
22 policy of the respirator, and I didn't think that  
23 that was an issue. So is there an issue as to the  
24 Morton plant that we're --

25 MR. JOHNSON: There was an issue with

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1 respect to Mr. Carney's testimony, I believe. Again,  
2 we don't yet have a transcript of the generator  
3 witness testimony, but my notes reflect that Mr.  
4 Carney was suggesting that representatives of the  
5 biotech community had been denied access to a  
6 Stericycle facility.

7 JUDGE RENDAHL: Okay. Well, I guess for the  
8 limited purpose, you know, I'm going to allow it in.  
9 Let's move on. I'm not going to waste a lot of time  
10 on this.

11 MR. HAFFNER: I agree.

12 JUDGE RENDAHL: All right. It will be  
13 admitted. Mr. Johnson, I've been giving some thought  
14 to the issue of our timing today.

15 MR. JOHNSON: Yes.

16 JUDGE RENDAHL: Today is the day reserved  
17 for rebuttal testimony, so we need to get through it  
18 today. I'm not going to schedule another day for  
19 rebuttal. So this is it.

20 MR. JOHNSON: Understood, Your Honor.

21 Q. Mr. Philpott, speaking of the Covanta  
22 facility in Brooks, Oregon, the incineration  
23 facility, have you ever asked the operators of the  
24 Covanta facility to provide a signature on the  
25 medical waste shipping manifest Stericycle uses?

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1 A. Yes, I have.

2 Q. What was their response?

3 A. Absolutely not. All they would provide is a  
4 signature on the scale ticket.

5 Q. Okay. And the scale ticket is what we've  
6 identified somewhere in the exhibit list.

7 JUDGE RENDAHL: I believe it's for Mr. --  
8 the LeMay documents. Mr. Meany, there's a Covanta  
9 receipt, Exhibit 138. Is that what you're referring  
10 to?

11 MR. JOHNSON: Let me see if I --

12 MR. HAFFNER: Mr. Philpott?

13 JUDGE RENDAHL: No, I'm asking Mr. Johnson  
14 if he's referring to Exhibit 138?

15 MR. JOHNSON: Yes, Your Honor. That is --  
16 let me ask Mr. Philpott.

17 Q. Is that the scale ticket you're referring  
18 to?

19 A. Yes, it is.

20 Q. So that's Exhibit 138?

21 A. Correct.

22 Q. Okay. And have you ever asked the operators  
23 of the Covanta facility whether they would issue a  
24 certificate of destruction for waste processed there?

25 A. Yes, I did. I spoke to Jeff Bickford, who

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1 was with Marion County, and he said that that was not  
2 something that was possible, and I also spoke to  
3 Darby Rancliff (phonetic), who actually operates the  
4 incinerator in Covanta, and they said it's just  
5 something they wouldn't do.

6           And you know, keep in mind, at the time I  
7 asked this, we were the largest generator or people  
8 that tendered medical waste for them to process at  
9 the facility, and so it wasn't something they were  
10 able to do, and I even offered to pay them a premium  
11 for the people to sign the documents for the time  
12 that it would take, and they still responded that  
13 it's not something that they would do and they  
14 wouldn't provide that.

15           THE REPORTER: What was that name, Darby?

16           THE WITNESS: D-a-r-b-y, and his last name  
17 is either Radcliff or Rancliff. I've only spoken to  
18 him on the phone, so it's either R-a-n-c-l-i-f-f or  
19 R-a-d-c-l-i-f-f, one of the two.

20           Q. Okay. Mr. Philpott, does Stericycle have a  
21 contractual relationship with Covanta?

22           A. Yes, we do.

23           Q. How long has that relationship existed?

24           A. It's existed since before I joined  
25 Stericycle. From my discussions with Marion County,

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1 Covanta, they've had an agreement with the facility  
2 since 1992.

3 Q. Mr. Philpott, I'm going to hand you another  
4 document and ask you to identify that document for  
5 me, please?

6 A. This is a cover sheet from a fax I received  
7 from Jody from Marion County. I was contacted by  
8 Jody from Marion County that had been looking in  
9 their files, I think due to some investigation by --  
10 perhaps somebody from Kleen was asking for a copy or  
11 somebody within Marion County, I'm not sure who asked  
12 for it, and they couldn't find the copy locally at  
13 Marion County. Because Covanta is a national  
14 company, Stericycle is a national account of theirs,  
15 they alluded to the fact that perhaps a copy of our  
16 contract was in an office in the Midwest, and she  
17 asked if I'd be willing to sign an updated copy of  
18 the contract for purposes of providing it to whoever  
19 was requesting it, and that's what transpired at this  
20 time.

21 MR. JOHNSON: So Your Honor, could we mark  
22 this as an exhibit, please?

23 JUDGE RENDAHL: A fax from Marion County,  
24 Oregon, from a person named Jody to Mike Philpott,  
25 will be marked as Exhibit 219.

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1 Q. And now I'm going to hand you a second  
2 document, Mr. Philpott, and ask you if you can  
3 identify this document, please?

4 A. Yes, this is a -- subsequent to this  
5 conversation that we had when she was looking for a  
6 copy of this agreement and she couldn't track it down  
7 at her corporate office, she said that perhaps it  
8 was, you know, buried in some boxes when they  
9 transferred material out there, she asked me if I  
10 would sign an updated version of the agreement, and  
11 that's what this is. I signed an updated agreement  
12 with them on September 24th of this year.

13 MR. JOHNSON: Your Honor, could we mark this  
14 as an exhibit?

15 JUDGE RENDAHL: Medical Waste Disposal  
16 Agreement Between Marion County and Stericycle,  
17 Incorporated, dated September 24th, 2004, is marked  
18 as Exhibit 220.

19 MR. JOHNSON: Okay. And Your Honor, I would  
20 offer both of these exhibits for admission into the  
21 record at this time.

22 JUDGE RENDAHL: Okay. And I'll ask the  
23 purpose for both, since I think that's probably what  
24 Mr. Haffner would ask, as well.

25 MR. JOHNSON: Well, Your Honor, there was



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1 discussion at an earlier point in time about whether  
2 Stericycle had a contractual relationship with  
3 Covanta. And I had erroneously remembered that we  
4 had a signed agreement that was in place previously.  
5 Instead, we had a fax from Marion County  
6 acknowledging the relationship, which is Exhibit 219.

7 JUDGE RENDAHL: Okay. Now, when you say you  
8 remembered, did another witness testify to that or  
9 was that just discussion on the record?

10 MR. JOHNSON: We had, my recollection is,  
11 discussion on the record, and the reason it came up  
12 was, I think in cross-examination, potentially by Mr.  
13 Haffner, there was an issue raised about whether  
14 Stericycle had a contractual relationship with  
15 Covanta, and I think the thrust of the discussion was  
16 in response to my questions of the Kleen witnesses as  
17 to whether there was a contract with a hydroclave.  
18 And I think the point that we're trying to make here  
19 is that Stericycle does have an established  
20 relationship with this company and we can demonstrate  
21 it.

22 219 is the exhibit that demonstrates a  
23 longstanding established relationship. We provide  
24 220 merely as a -- sort of to complete the picture of  
25 the relationship as it exists at this time.

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1 MR. HAFFNER: No objection.

2 JUDGE RENDAHL: Okay. Exhibits 219 and 220  
3 are admitted.

4 Q. Mr. Philpott, in terms of the Stericycle's  
5 use of the Covanta facility, you are using that  
6 facility now, are you not?

7 A. Yes, we are.

8 Q. What are you using that facility for?

9 A. It's used for backup purposes for the state  
10 of Washington in the event that all of Stericycle's  
11 incineration facilities went down at the same time or  
12 were unavailable, and we currently use it for waste  
13 from British Columbia and from Oregon and Idaho.

14 Q. Have you identified particular safety issues  
15 that affect that facility and the use of that  
16 facility by your drivers?

17 A. Yes, there's actually multiple issues that  
18 we have at the facility, you know, starting with the  
19 limited access. The access at that facility, you're  
20 only allowed to bring medical waste in from 6:00 at  
21 night till 6:00 in the morning on any day, because  
22 during the day they operate their normal, you know,  
23 garbage trucks for the county dump at the same  
24 facility where this ramp is.

25 Also, this facility requires the driver that

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1 brings the waste to the facility to personally remove  
2 the waste from the truck and place it on the conveyor  
3 that takes it up a three-story conveyor system to get  
4 it up to the hopper to get incinerated. That  
5 involves the driver to have to put on other  
6 protective gear to handle the waste, and also there's  
7 been many instances where pathological waste in  
8 cardboard boxes, you know, falls off a two or  
9 three-story conveyor because, you know, it's just  
10 sitting on kind of a little, you know, hand truck,  
11 like, that's getting pulled up there and it falls and  
12 the box comes open and the employee is required to  
13 clean that up.

14 Q. Whose employee was required to clean that  
15 up?

16 A. The Stericycle employee is required to clean  
17 that up.

18 Q. So the driver that's loading the conveyor?

19 A. Correct.

20 Q. So when you say the driver wears special  
21 protective gear, what is that?

22 A. They have a face shield, they have a Tyvek  
23 suit, they wear special gloves.

24 Q. Okay. Mr. Philpott, have you ever  
25 investigated the hydroclave operation in Port

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1 Coquitlam, British Columbia, operated by Hospital  
2 Sterilization Services?

3 A. Yes, I have.

4 Q. And have you investigated the price  
5 availability of their services?

6 A. Yes, I have.

7 Q. And I'm going to ask you to identify another  
8 document. Mr. Philpott, can you identify this  
9 document for us, please?

10 A. Yes, this is notes that I took when I met  
11 with Richard Haines that's with HSS in Port  
12 Coquitlam. We had been contacted by their facility  
13 and had some discussions regarding processing waste  
14 at their hydroclave, and myself and my facility  
15 manager in Vancouver, Noel Nobrega, N-o-b-r-e-g-a,  
16 went and went on a tour of the facility and basically  
17 spent the most part of a day with Richard Haines  
18 talking about the prospect of them processing the  
19 waste that we currently picked up in the Vancouver  
20 area.

21 Q. Talking about Vancouver, British Columbia?

22 A. Vancouver, British Columbia. And instead of  
23 transferring it across the border to be processed in  
24 Morton, or taking it the opposite way to Alberta,  
25 Canada, to process it locally with them.

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1 Q. Okay. And are these notes that you made  
2 contemporaneously, at the time of that meeting?

3 A. Absolutely. I'm a note taker, and this is  
4 the notes that I wrote for myself regarding the  
5 meeting we had when we took the tour and the  
6 conversation that I'd had with Richard Haines.

7 Q. So the date on the top is 8/7/03. Is that  
8 the date these notes were made?

9 A. Yes, it is.

10 MR. JOHNSON: Your Honor, I'd like to have  
11 this exhibit marked and ask that it be admitted.

12 JUDGE RENDAHL: Okay. It would be marked as  
13 Exhibit 221, and this will be Mike Philpott notes  
14 dated August 7th, 2003, regarding Iatron HSS meeting  
15 and visit.

16 MR. JOHNSON: Your Honor, I've asked that it  
17 be admitted.

18 JUDGE RENDAHL: Oh, I'm sorry. Mr. Haffner,  
19 do you have a response?

20 MR. HAFFNER: No objection.

21 JUDGE RENDAHL: All right. What's been  
22 marked as Exhibit 221 will be admitted.

23 Q. Mr. Philpott, in the course of your work  
24 with Stericycle and in connection with -- or in  
25 connection with these hearings, have you had occasion

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1 to investigate whether the Spokane County waste to  
2 energy facility -- I believe it's located at Airway  
3 Heights near Spokane -- will accept untreated  
4 biomedical waste from a commercial biomedical waste  
5 collection company?

6 A. Yes, I have.

7 Q. And what did you find out?

8 A. Well, during the hearing, when it was in  
9 testimony of Mr. McCloskey that he had spoken to  
10 somebody that he couldn't remember at the Spokane  
11 Waste to Energy facility, and they had agreed to  
12 receive untreated medical waste.

13 I was, you know, kind of shocked, from the  
14 standpoint that we pick waste up there and we have  
15 spoken to them in the past, and that wasn't an option  
16 that was ever provided and it's not something  
17 advertised or they've ever told anybody they would  
18 do. So I myself called and spoke to Damon Taam, and  
19 I believe his last name is spelled T-a-a-m, at the  
20 facility, and he explained to me that they absolutely  
21 do not and will not accept waste from a commercial  
22 facility. Basically, what they do at that plant is  
23 that they would accept processed medical waste and  
24 burn it, which he said would defeat the purpose,  
25 because, you know, it's already been treated, and in

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1 no event would they ever accept sharps at all, even  
2 if they're treated or untreated. He said that that's  
3 something that wouldn't happen there. And in --  
4 subsequent to that, he forwarded me on to his boss,  
5 whose name is Dennis Hein.

6 Q. Hein is H-e-i-n?

7 A. Correct.

8 Q. Or is there an S on the end?

9 A. No. And he is in charge of the solid waste  
10 for Spokane County. And I spoke to him to verify  
11 what Damon had told me, and he said, I've never  
12 spoken to anyone from Kleen, no one here, to my  
13 knowledge, has, and that's something that wouldn't --  
14 you know, we would have never told them that we would  
15 have processed this waste for them and we won't and  
16 it's not something that would happen.

17 And I explained to him -- you know, he's  
18 aware of who our company is and what we do, and I  
19 asked him if he would accept waste from us and he  
20 said, Absolutely not, it's something we don't do.

21 Q. Okay, Mr. Philpott, are you aware of  
22 customer requests for copies of signed shipping  
23 manifests made to Stericycle?

24 A. I'm not -- can you ask me --

25 Q. Yeah, are you aware whether any of your

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1 customers have, in the past, requested a shipping  
2 manifest signed by the processing plant that  
3 processed the waste?

4 A. Absolutely.

5 Q. Yes or no?

6 A. Yes.

7 Q. Okay. What was Stericycle's response to  
8 that request?

9 A. We sent them signed manifests.

10 Q. Okay.

11 A. It's an infrequent request, but when it's  
12 made, we comply.

13 Q. And Mr. Philpott, are you aware of requests  
14 from Stericycle customers for certificates of  
15 destruction in the past? And I'm using certificate  
16 of destruction to mean something issued by Stericycle  
17 representing that or certifying that their waste has  
18 been properly treated or disposed of?

19 A. Yes.

20 Q. And what was Stericycle's response?

21 A. We provided it to the customers that had  
22 requested that.

23 Q. Okay. Mr. Philpott, I'm going to hand you  
24 another document and ask you to identify that. Mr.  
25 Philpott, do you recognize this document?



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1 A. Yes, I do.

2 Q. And what is it?

3 A. This is a certificate of destruction that we  
4 provide to Bremerton Naval Hospital. Part of their  
5 contract that we have with their facility is, before  
6 they're billed, we collect the container detail  
7 report and look through our system to make sure that  
8 the pickup scan and the process scan has happened for  
9 all their containers and then provide them the  
10 certificate of destruction along with their invoice.

11 Q. And is this provided with any other  
12 documentation? Is it provided with the container  
13 detail report?

14 A. That's what I just said.

15 Q. I'm sorry.

16 A. It was the container detail report, and this  
17 is sent back to them with the invoice.

18 MR. JOHNSON: Okay. Your Honor, I'd like to  
19 ask that this exhibit be marked and admitted.

20 JUDGE RENDAHL: Marked as Exhibit 222 is a  
21 certificate of destruction signed by Mike Philpott.  
22 And Mr. Haffner.

23 MR. HAFFNER: I'm going to object to this  
24 one on the grounds that I don't know why it wasn't  
25 produced earlier in response to data requests. Is

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1 there a reason why it wasn't produced earlier?

2 JUDGE RENDAHL: Mr. Johnson.

3 MR. JOHNSON: I don't know the reason, if  
4 there was one.

5 MR. HAFFNER: I think we specifically asked  
6 for certificates of destruction used by the company.

7 MR. JOHNSON: Well, I don't know if that was  
8 requested, but I'd be happy to go back and look for  
9 it.

10 JUDGE RENDAHL: Well, at this point, I'm  
11 going to reserve ruling on that, and at a break maybe  
12 we can figure that out or we can deal with it at the  
13 next hearing. But I'm going to reserve ruling on  
14 this particular exhibit for that reason. Let's be  
15 off the record for just one minute.

16 (Discussion off the record.)

17 JUDGE RENDAHL: Let's be back on the record.  
18 Go ahead, Mr. Johnson.

19 Q. Mr. Philpott, are you aware of any requests  
20 for documentation from any Stericycle customer that  
21 Stericycle did not meet?

22 A. No, even if some customers have asked for  
23 items that are out of the normal operating procedure,  
24 if it's something that we can provide to them  
25 legally, we'll do so, and we have.

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1 Q. Mr. Philpott, are you aware of the  
2 accreditation organization that audits hospitals for  
3 compliance with law and sound medical practice?

4 A. Yes, I'm familiar with JCAHO, that is the  
5 main organization that accredits hospitals.

6 Q. What does JCAHO stand for?

7 A. Joint -- I don't know. I'm not going to  
8 even lie to you. I don't know what the acronym  
9 stands for.

10 Q. Okay. But your understanding is that's a  
11 hospital accreditation organization?

12 A. Right.

13 Q. Do you know what the acronym is? Is it --

14 A. JHCHO.

15 JUDGE RENDAHL: Okay. I'm going to ask both  
16 of you to make sure you don't talk over each other.  
17 You've done pretty well so far, but I think we're  
18 getting there.

19 Q. Okay. Well, let me ask you, Mr. Philpott,  
20 if it's JCAHO, and if that stands for Joint  
21 Commission on the Accreditation of Hospital  
22 Organizations?

23 A. Yes, that sounds --

24 Q. Or something like that?

25 A. That sounds like what it would be, yes.

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1 Q. Okay. And are you aware of any concerns  
2 expressed in any audit of any Washington Hospital  
3 with respect to the documentation provided by  
4 Stericycle to hospitals with respect to the handling  
5 and treatment and disposal of their medical waste?

6 A. No, I have never heard of any deficiencies  
7 in paperwork that we provide to any health care  
8 organization in Washington or, for that matter, any  
9 other state we do business.

10 Q. Mr. Philpott, are you aware of audits by the  
11 Department of Health of hospital organizations?

12 A. I know that there are other organizations  
13 that provide -- do audits on health care facilities.  
14 I have no personal knowledge of the Department of  
15 Health's process.

16 Q. Okay. Mr. Philpott, there was some question  
17 raised about overweight charges that Stericycle  
18 assesses under its tariff on containers that exceed  
19 the maximum weight limits in the tariff. I'm going  
20 to hand you another exhibit and ask you to, if you  
21 would, to identify that exhibit.

22 A. Yes, this would be a copy of a page from our  
23 tracking system of an overweight report that's run  
24 bi-monthly.

25 Q. Okay. And this is just one page of a

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1 multi-page report; is that right?

2       A.    Correct, the customer and site ID on the  
3 left-hand side here will tell you a customer number,  
4 and the -001 showing that it's location number one.  
5 It ties to a manifest ID number, that is, the  
6 manifest that the customer is left with when the  
7 service was taking place, and then it corresponds to  
8 the service date. And it will point out what the  
9 process date was for that waste, the code is the  
10 container code, which lets you know the size of the  
11 container, a specific container ID, a tear weight, if  
12 there is one, for the container, and the net weight,  
13 the gross weight and the amount overweight the  
14 container was.

15           MR. JOHNSON: Okay. Your Honor, I'd like to  
16 ask that this exhibit be marked, and I would like to  
17 then ask a couple questions additionally.

18           JUDGE RENDAHL: I will mark as Exhibit 223  
19 the Stericycle, Incorporated Overweight Summary  
20 Report, or what is represented as one page of the  
21 overweight summary report. Is this for the entire  
22 year or is this for a month? Let me just clarify  
23 this with you, Mr. Philpott.

24           THE WITNESS: This is for a portion of a  
25 month. I mean, this is just one page of a report.

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1 We do these reports twice a month.

2 JUDGE RENDAHL: Okay. All right. Go ahead,  
3 Mr. Johnson.

4 Q. Okay. And Mr. Philpott, District 5028, what  
5 is that?

6 A. That is Washington, Stericycle of  
7 Washington.

8 Q. Okay. And Mr. Philpott, if a customer has a  
9 question about overweight charges, is the data on  
10 this overweight summary report used in any way?

11 A. Correct. If an individual has any question  
12 regarding their overweight charge that showed up in  
13 their invoice, this particular overweight report is  
14 provided to the customer to show them the specific  
15 container code and the actual weight of the container  
16 so they can track it within their system.

17 Q. Is the whole overweight report provided or  
18 some portion of it?

19 A. No, we would provide them the portion that  
20 is relevant to their customer. I mean, here you've  
21 got multiple customers and sites. We don't provide  
22 information about, you know, our other generators to  
23 a different generator. They would just receive their  
24 own information.

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

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1 I'd like to ask that this exhibit be admitted at this  
2 time.

3 MR. HAFFNER: And I'll object, Your Honor.  
4 We don't know whether any of these shippers or  
5 generators that are supposedly identified here are  
6 any of the generators that testified at this hearing.

7 JUDGE RENDAHL: Mr. Johnson.

8 MR. JOHNSON: Your Honor, the purpose of  
9 showing the data is simply to show the system. What  
10 we've wanted to show is that the data is available  
11 and, on request, it would be provided. I believe  
12 that's what Mr. Philpott has testified to. Now, some  
13 of it, there was testimony by some of the generators  
14 that they were unhappy with the way that they were  
15 being billed for overweight charges, and we're simply  
16 trying to respond to that testimony.

17 JUDGE RENDAHL: Well, this doesn't explain  
18 how Stericycle responds; it just indicates what the  
19 report -- how they keep track of it. So I guess I'm  
20 not sure how this directly responds to the issue  
21 raised.

22 MR. JOHNSON: The first way it responds is  
23 it shows that Stericycle has the data. And then the  
24 second way it responds is that Mr. Philpott just  
25 testified that, on request, the generator's portion

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1 of the report would be provided to them to explain  
2 the overweight charge. So I believe both pieces are  
3 there.

4 JUDGE RENDAHL: Well, I'm not sure what  
5 additional benefit it provides, but at this point I'm  
6 going to admit the exhibit.

7 MR. HAFFNER: Okay.

8 Q. Mr. Philpott, I think there was testimony by  
9 one or more of the generators who testified in this  
10 proceeding that there was a meeting scheduled of the  
11 health employees laboratory -- I'm sorry, Health  
12 Environment Laboratory Professionals group. We've  
13 called it HELP, because that's the acronym for the  
14 name. There was a meeting of that group scheduled  
15 that Stericycle didn't appear for. Are you aware of  
16 what that's about?

17 A. Yes, I am.

18 Q. Could you just explain briefly what that  
19 involved?

20 A. This was a meeting that was scheduled with  
21 Jeff Norton, who was the major account executive for  
22 medical waste at that time, and myself were going to  
23 attend the HELP meeting. Jeff had Brad Gong on the  
24 phone, and he was inquiring into our availability to  
25 come and discuss some items at a meeting that he was



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1 holding at his facility, and Jeff came to my office  
2 to see if I was available on that date, and I was,  
3 and we both put it in our day timer at that time.  
4 And he told Brad we would make that meeting.

5           Subsequent to that, somehow the meeting date  
6 was crossed up because Jeff and I were visiting  
7 customers in Eastern Washington and Spokane area when  
8 he'd received a call asking -- I think Brad Gong had  
9 called the office to ask if Jeff was in because there  
10 was a meeting that day that we were supposed to be  
11 at. And I know that Jeff felt kind of panicked about  
12 it and had us both look in our day timer. We had  
13 them both set for the same day.

14           And he immediately called up Brad Gong, who  
15 was at the meeting, and told him that this was the  
16 date you'd given us and he apologized for not making  
17 it, and he would visit all these customers  
18 individually, you know, to explain any issues they  
19 had or go over any of the issues that he would have  
20 missed at the meeting.

21           Q. Now, Mr. Philpott, how do you know all this?  
22 Where were you and in what position were you when the  
23 discovery of this mix-up occurred?

24           A. I was with Jeff in the car and we were  
25 visiting facilities in Spokane, and we had planned on

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1 leaving that evening to be back for the meeting the  
2 next day.

3 Q. So the meeting was held on one day and you  
4 had it scheduled in your calendars for the next day?

5 A. Correct.

6 Q. Okay. Mr. Philpott, do you have any contact  
7 or have you had any contact at any time with Hospital  
8 Shared Services Association, or Mr. William Knight of  
9 that organization?

10 A. I have not.

11 Q. Do they have any involvement with medical  
12 waste, as far as you're aware?

13 A. Not that I'm aware of. The first time I've  
14 ever heard of their association was during these  
15 proceedings.

16 MR. JOHNSON: I have no further questions  
17 for Mr. Philpott.

18 JUDGE RENDAHL: Okay. Mr. Haffner.

19 MR. HAFFNER: Just a couple, Your Honor.

20

21 R E B U T T A L C R O S S - E X A M I N A T I O N

22 BY MR. HAFFNER:

23 Q. Mr. Philpott, you testified that one of your  
24 customers that was complaining about not receiving I  
25 think enough lids, you thought that, in that

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1 particular instance, there was a claim that the lids  
2 had been put into a compactor?

3 A. Yes.

4 Q. How are you aware of that?

5 A. Because my driver is the same driver from  
6 that incident that still is with our company. His  
7 name is Derek Horton, and he spoke to the people on  
8 the loading dock that actually put the lids in the  
9 compactor.

10 Q. Why did they put them in the compactor?

11 A. Couldn't tell you.

12 Q. Looking at what's been marked for  
13 identification as Exhibit 222, how is it that you are  
14 able to make -- that's your signature; correct?

15 A. Correct.

16 Q. How is it that you were able to make that  
17 certification, that the material has been treated?

18 A. Because I have the ability to go within our  
19 bio track system. I can look at the day the  
20 container was picked up and I can also look at the  
21 process scan, and it closes the loop of the container  
22 being processed and I can certify that that container  
23 has been properly disposed of. Our system won't  
24 allow an invoice to be generated or for it to be  
25 billed unless the process scan is also associated

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1 with the pickup of the container, and that  
2 information is available within our system.

3 Q. When you make this certification, are you  
4 making it based on a signed certification by the  
5 facility that actually treated or destroyed the  
6 material?

7 A. I'm making it based off of a certification  
8 within our own computerized system that those  
9 containers have gone through and been processed at  
10 our facility. It would be the same system that the  
11 facility would use to sign the manifest to verify the  
12 containers have been processed.

13 Q. Do you have in your company records a copy  
14 of the certification of destruction by the facility  
15 that actually treated or destroyed the material?

16 A. Yes.

17 Q. Are you able to present that?

18 A. I could present that for all of the waste  
19 we've -- for the last three years, we've treated at  
20 our facilities.

21 Q. Is there a reason why you don't make that  
22 document available to the generators?

23 A. No, it is available to the generators. This  
24 certification is what the contract with this facility  
25 with the Bremerton Naval Hospital has specifically

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1 requested within the contract that they provided to  
2 the federal government.

3 MR. HAFFNER: Your Honor, could I make a  
4 records requisition for the certificate of  
5 destruction that demonstrates the destruction or  
6 treatment of the material related to Exhibit 222?

7 JUDGE RENDAHL: Okay. You're asking for the  
8 certificate of destruction that demonstrates the  
9 destruction of the material in which exhibit?

10 MR. HAFFNER: For Exhibit 222.

11 JUDGE RENDAHL: So you want something more  
12 than what is in this document?

13 MR. HAFFNER: Yes, I believe the witness  
14 testified that he has certificates of destruction for  
15 all of the material that they handle, that they  
16 deliver to a treatment facility, and that that's what  
17 their records show that allow him to generate this  
18 certificate of destruction.

19 JUDGE RENDAHL: Mr. Philpott, is this  
20 something that you can provide?

21 THE WITNESS: Well, if he wants three  
22 years' worth of manifests that my facility has  
23 processed, no, I'm not going to give you a  
24 semi-truckload of manifests, but this particular  
25 cover sheet would have gone with -- I mean, if you're

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1 asking for a signed manifest from Bremerton Naval  
2 Hospital of their waste being processed, sure, we can  
3 give you a copy of the signed manifest from Bremerton  
4 Naval Hospital. That's what this went to.

5 Q. It was destroyed at Bremerton Naval  
6 Hospital?

7 A. No, this is for waste that we processed for  
8 Bremerton Naval Hospital. Within their contract,  
9 they require that we give them a signed proof of  
10 destruction. This is returned with a container  
11 detail report and their invoice at the time that  
12 they're sent their invoice or they will not pay the  
13 invoice. So this would have been tied to a specific  
14 one-month period of their waste being processed.

15 Q. And do you receive from the facility that  
16 did the actual treatment or disposal a certification  
17 of destruction signed by somebody at that facility  
18 that certifies that that waste was treated or  
19 disposed?

20 A. Well, I'm not sure what you're saying when  
21 do I receive, because I work for Stericycle. We keep  
22 them. We're required to keep them for three years.  
23 We keep a copy of every manifest and have a signed  
24 manifest for every container that we process at our  
25 facility. We're required by Washington state law to

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1 hold them for three years. We're not required to  
2 send them back. They don't require their manifest to  
3 be sent back. This is what they're requesting.  
4 That's why we provide this.

5 Q. Okay. So you're saying the document that  
6 you rely on is the manifest. So let's inquire as to  
7 what's on that manifest. Is there a certificate of  
8 destruction signed by the facility that treats or  
9 disposes of the waste on that manifest?

10 A. Okay. You're saying I said I rely on the  
11 manifest. I never said I rely on a manifest. What I  
12 said, you asked me how I certify this. I said that I  
13 look at it in the container detail report and that is  
14 where I get the information to provide them with this  
15 certification. I said that the plant, the basis they  
16 provide a certification signature on the manifest  
17 relies on the same information within the system.  
18 That's when they sign the manifest at the plant and  
19 keep it at their facility.

20 That manifest is not a manifest that this  
21 particular generator, which is Bremerton Naval  
22 Hospital, requires to be sent back. They don't feel  
23 that that is necessary. They don't want the signed  
24 manifest. They want this back with the container  
25 detail report. That's why this is made for that

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1 particular account.

2 Q. Okay. So let's go, then, to the origin of  
3 the container detail report. Somebody puts that  
4 together for your company; correct?

5 A. No, they don't. It's -- the container  
6 detail report is -- it's part of our system. You  
7 pull it out of the system. When we pick up a  
8 container, as in our prior testimony, we have a PDT,  
9 which is a handheld scanner, that scans in the  
10 specific container ID, which is on this -- you know,  
11 which is on the overweight report and all the reports  
12 that we have. That's showing you -- when the scan is  
13 picked up, it will show you the pickup date within  
14 our system, and when the container is processed, it's  
15 scanned once again before it's processed at the plant  
16 and that closes the loop. It's showing that it was  
17 picked up and it was processed on this day.

18 An invoice can't be generated unless you  
19 have a pickup and a process that shows that that  
20 container -- they go together. And within the  
21 system, that is how it works. So if I look at it, I  
22 can see that a container's been picked up and a  
23 container's been processed, and the difference would  
24 be of me signing this certification, sitting in my  
25 office in Kent, is the identical screen they're going



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1 to be looking at when they're in Morton or Salt Lake  
2 City or whoever took that particular waste to sign a  
3 manifest to say that the waste has been received and  
4 processed, that the waste has been received and  
5 processed at the plant.

6 Q. Does your company have the ability to  
7 provide a generator a certificate of destruction  
8 signed by the facility where the material was treated  
9 or disposed?

10 A. Yes, our company has the ability to provide  
11 a signed certificate of destruction. We do not  
12 provide those, because the certificate of destruction  
13 currently is on the invoice that's provided back to  
14 that customer. It is not a state requirement and  
15 it's not something that every customer asks for, but  
16 when they do ask for them, we provide it to them.

17 Q. I don't understand why it's so hard to  
18 answer this. I -- if I am a -- if I am a generator  
19 and I want to obtain a copy of the certificate of  
20 destruction signed by the facility that treated or  
21 disposed of the waste, can I get that through your  
22 company?

23 A. That is what this is right here.

24 Q. This is not signed by the company -- the  
25 facility that generated -- or that treated or

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1 disposed of the waste, is it?

2 A. No, but the manifest is not proof of  
3 destruction. You're asking for a certificate. The  
4 manifest is signed -- doesn't say this is proof of  
5 destruction. The proof of destruction is contained  
6 within the invoice.

7 Q. And that's not signed by the facility that  
8 treated or disposed of the material, though, is it?

9 A. Yes, it is.

10 Q. Then can you --

11 A. The manifest is signed by the facility, yes.

12 Q. That they've treated it or that they've  
13 received it?

14 A. Well, there's a copy of a manifest in here;  
15 correct?

16 MR. JOHNSON: Yes, there is.

17 JUDGE RENDAHL: Let's be off the record for a  
18 moment.

19 (Discussion off the record.)

20 JUDGE RENDAHL: Let's go back on the record.

21 Q. Mr. Philpott, if we want to look at some of  
22 the documents that have already been made exhibits in  
23 this hearing, we have a manifest at Exhibit 65.

24 A. Mm-hmm.

25 Q. And I guess the -- we have -- is it the

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1 invoice at Exhibit 67, and a container detail report  
2 at Exhibit 68; correct?

3 A. Correct.

4 Q. Other than those three documents, is there  
5 anything else that a generator can obtain through  
6 your company that exhibits treatment or disposal of  
7 medical waste handled by your company?

8 A. Yes.

9 Q. What would that be?

10 A. (Indicating.)

11 Q. Okay. I have no other questions.

12 A. It would be Exhibit 222 --

13 Q. Thank you.

14 A. -- is what it is.

15 Q. Thank you for clarifying that. The only  
16 other document, then, is an example that's portrayed  
17 in Exhibit 222?

18 A. The only signed example of a certificate of  
19 destruction is 222, but there is a certificate of  
20 destruction provided on the invoice to every  
21 customer, every month.

22 Q. And that invoice, an example of that invoice  
23 is found at Exhibit 67; correct?

24 A. Correct.

25 Q. Okay.

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1 JUDGE RENDAHL: So Mr. Haffner, do you still  
2 want to make the record requisition?

3 MR. HAFFNER: Thank you, Your Honor. No, it  
4 would not be necessary.

5 JUDGE RENDAHL: All right.

6 Q. You testified just a few minutes ago about  
7 the -- your inquiry to the Covanta facility's ability  
8 to generate a certificate of destruction or disposal.  
9 Do you recall that?

10 A. Yes.

11 Q. And I believe you mentioned that you spoke  
12 with Jeff Bickford and Darby Ran or Ramcliff?

13 A. Correct.

14 Q. When did you have that conversation with  
15 either or both of those individuals?

16 A. Well, I had multiple conversations with  
17 them, between '99 and '01, regarding that issue. And  
18 after that, I've had opportunities to speak with  
19 Darby down there off and on. I don't have exact  
20 dates of when I've spoken to him and, you know,  
21 talked about if there's any changes or any other  
22 things that are available for us, and so we speak to  
23 them on a regular basis.

24 Q. You indicated, and I may not be exactly  
25 right on how I phrase this, but that you were not

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1 aware of any requests by generators for documentation  
2 that had not been met. Was that correct?

3 A. That is correct.

4 Q. Do you personally oversee or see every  
5 request that comes in? Are you personally aware of  
6 every request for documentation that comes in to your  
7 company?

8 A. I am personally aware of any request that  
9 comes in to the company that is something that is out  
10 of the ordinary or an unusual request. When -- I'm  
11 the district manager for the facility, so I have  
12 complete control and responsibility for the  
13 day-to-day operations, and if something is asked to a  
14 -- even if it's something right now that we're making  
15 an exception for for a customer that's already been  
16 approved to do, if another customer asks for it,  
17 they'll still ask me if it's okay to provide this to  
18 that particular person. So I am aware of everything  
19 that's requested, yes.

20 Q. Are those requests made directly to you by  
21 the generator?

22 A. What type of requests are you --

23 Q. Requests for additional documentation?

24 A. Requests for additional documentation, yes.  
25 The reason we know that they want it is because

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1 they've contacted us. If you're saying directly by  
2 the generator, we have requests for reports from  
3 within different facilities inside a health care  
4 organization.

5           At times, there's disconnects between  
6 environmental services or accounts receivable or  
7 somebody else within the facility. The invoices are  
8 typically sent to a different location than the  
9 pickup or service location is on the manifest, so  
10 they may not have the ability to match those two  
11 pieces up because of their own internal bureaucracy.  
12 So we may have somebody from Environmental Services  
13 call us to request a copy of their last three months'  
14 invoices, and on the other side of it we have may  
15 have somebody call from the accounts payable to ask  
16 for copies of some manifests. So we talk to, you  
17 know, all sorts of people within the facility.

18       Q. Let me go back and re-ask the question,  
19 because it's targeted just towards you, not the  
20 entire company, so the answer shouldn't be we or the  
21 company; it's are the requests from the generators  
22 for additional documentation made directly to you?

23       A. They have been at times, yes.

24       Q. Are they all?

25       A. No.

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1           Q.    How do you know if a request from a  
2 generator is made to a -- someone other in your  
3 company that doesn't get forwarded to you?

4           A.    Well, if it is an unusual request or out of  
5 the normal, I know that I'm spoken to about that  
6 request, because it won't happen without my approval.  
7 A lot of these reports that are requested to be  
8 generated aren't generated by the salespeople within  
9 the office; they're generated from either the area  
10 office, the corporate office, or within another  
11 individual that asks me if it's okay to provide this  
12 information.  So when it's an unusual request that  
13 isn't something that is typically generated from our  
14 system, I'm aware of when it happens.

15          Q.    So it's not possible, under your  
16 understanding, that a generator could make a request  
17 of a document to a customer service representative  
18 and not have it go to you?

19          A.    That's not what I said.  I said that if it  
20 was something out of the norm.  All of our people  
21 within our office have the ability to print out  
22 copies of invoices, copies of information, that is,  
23 information that has already been provided to the  
24 generator.  At times, they lose that information.  
25 Reprints, everybody has the ability to do, and that's

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1 done on a regular basis. They don't ask me if it's  
2 okay, because that's something that is done on a  
3 regular basis. If it's something that is unusual  
4 that requires the computer department to be involved  
5 or some of the people in the support offices for the  
6 area, it has to be approved through myself before it  
7 can happen.

8 Q. So before a document such as a certificate  
9 of destruction or proof of an overweight charge would  
10 be released to a generator, it would have to go  
11 through you?

12 A. No. Certificates of destruction, typically,  
13 if it's a signed certificate of destruction, which is  
14 something we normally don't provide, yes, it would go  
15 through me. An overweight report is something that  
16 is readily available for people to look at. It's  
17 sent to all the sales individuals to support, you  
18 know, the calls that they may receive and be able to  
19 be helpful on the phone when people call in to them.

20 Q. So it is possible that a request for an  
21 overweight report may not have been brought to your  
22 attention?

23 A. Yes.

24 MR. HAFFNER: Okay. I don't think I have  
25 any other questions of the witness, Your Honor.



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1           JUDGE RENDAHL: Okay. I may have a few.  
2 Let me just go through and see if they haven't  
3 already been answered.

4

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

6 BY JUDGE RENDAHL:

7           Q. Mr. Philpott, way back in the beginning this  
8 morning, when you were talking with Mr. Johnson, when  
9 you came on board after the merger with BFI and  
10 Stericycle, are most of the same employees from  
11 Stericycle in the Kent office, in terms of the  
12 customer service representatives, still with the  
13 company?

14          A. Well, the -- kind of the -- I guess the --  
15 one of the main people that's in there, Don Wilson,  
16 has been with BFI/Stericycle for 12, 13 years. He's  
17 always been there, he's a fixture. The  
18 transportation manager is the same. Jeff Norton,  
19 MAE, was from the BFI side.

20          Q. I'm sorry, who?

21          A. Jeff Norton.

22          Q. You said something, MA?

23          A. Major account executive, MAE, was from  
24 there. Probably 50 percent of our drivers are the  
25 same. You know, like I said prior, I came over, and

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1 you know, there are some different customer service  
2 reps within the facility, but we've had the same  
3 representation that people have known about and dealt  
4 with for, you know, 12 years within the office.

5 Q. Were there -- just let me look. In your  
6 discussions about Mr. Campbell, you're not aware of  
7 every communication between your driver and the  
8 facility that they're picking up or dropping off  
9 with, are you?

10 A. No.

11 Q. Okay. So conversations could have occurred  
12 with a facility that you're not familiar with?

13 A. Well, they obviously converse with them  
14 daily. You know, our main face-to-face contact with  
15 our customers are our drivers, our representation,  
16 but our drivers are all instructed and they don't  
17 make any statements or any commitments for what we  
18 can and we can't do. They basically are  
19 knowledgeable on packaging requirements, because it's  
20 their job to be aware of what they're allowed to haul  
21 and not allowed to haul, so they're knowledgeable on  
22 that.

23 If there's any service related issues or any  
24 questions, they, on a regular basis, and it's what  
25 they're told to do, is to tell them to call the

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1 customer service at the office or to contact their  
2 representative directly, or they'll come back to the  
3 office and they provide a note and put it in the  
4 in-box for that generator -- that generator had a  
5 question and could you please call them regarding  
6 this.

7 Q. Okay. When you say they do not make  
8 commitments, they're told not to make commitments,  
9 but you don't know what is said with every facility;  
10 correct?

11 A. Yes, yeah, correct.

12 Q. Okay. And I had a question about your --  
13 what's been marked as Exhibit 219, which is the fax  
14 from Cody -- Jody at Covanta. Do you have that? Did  
15 this fax arise because of a contact from Covanta to  
16 you or because of a contact you made to Covanta?

17 A. Jody contacted me because I believe that she  
18 was contacted by someone asking for a copy of our  
19 agreement. After that time, I called her, she called  
20 me, we went back and forth, we were both looking for  
21 a copy of the agreement. Stericycle, when they first  
22 got into the business out here, used a law firm,  
23 Johnson Komar, who's located in Chicago, and they're  
24 kind of the keepers from all of the historic records,  
25 and at the same time, Marion County's facility there,

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1 they're part of Covanta, and all their records are  
2 back in the Midwest somewhere, and somebody had  
3 requested a copy of this from her and she couldn't  
4 produce it. When I had trouble finding a copy and  
5 she did, as well, she said, Hey, let's just sign  
6 another one, and that's --

7 Q. So are you aware whether anybody ever did  
8 locate that initial provisional agreement?

9 A. Nobody has told me if they've located it on  
10 our side and she has not told me if they've  
11 definitively not found it or found it on her side,  
12 no.

13 Q. So you're not aware of whether it has been  
14 found or not?

15 A. No.

16 Q. Okay. I just want to clarify a question  
17 about the system, the bio track data generating  
18 system. Did I understand you correctly that the  
19 signature on the manifest from either Morton or North  
20 Salt Lake facility, those signatures are based on the  
21 review of the detail in the bio track system, not  
22 based on a personal observation of the treatment or  
23 destruction?

24 A. Yes, the person that's signing the manifest  
25 isn't the person that is putting the waste in the

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1 incinerator, the autoclave or the ETV; it is a person  
2 within the office that's signing that they have, you  
3 know, proof that the waste has been received there.

4 Q. Okay.

5 A. The manifest that we have for the state here  
6 that's signed is proof of receipt of waste. There's  
7 -- the state doesn't require proof of destruction.  
8 The state requirement for medical waste is proof of  
9 -- you have to provide proof of receipt and certify  
10 you've received the waste, and that's what they're  
11 certifying at the plant.

12 Q. So when you're referring to the manifest,  
13 we're talking about Exhibit 65; correct?

14 A. Correct.

15 Q. Okay. And the only other question I have  
16 for you is one of the last questions you had from Mr.  
17 Haffner had to do with the information -- request for  
18 information that would go through you, as opposed to  
19 just generally. And you identified a certificate of  
20 destruction as something -- a request that would have  
21 to go through you?

22 A. Correct.

23 Q. And an overweight report is something that  
24 any of the folks in the office could do?

25 A. Correct.

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1 Q. What about a container detail report?

2 A. A container detail report can be pulled up  
3 by a salesperson.

4 Q. So that's not something that you would know  
5 about if somebody requested that kind of information?

6 A. Not always, no, but they do make it a habit  
7 of telling me when people do request that.

8 Q. Okay. But you don't have to approve it?

9 A. No.

10 JUDGE RENDAHL: All right. That's all I  
11 have. Mr. Johnson, do you have any redirect?

12 MR. JOHNSON: Yes, Your Honor.

13

14 R E B U T T A L R E D I R E C T

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

16 BY MR. JOHNSON:

17 Q. Mr. Philpott, are you District Manager of  
18 Stericycle, Inc.?

19 A. I am the district manager for Stericycle of  
20 Washington, but I am also responsible for running the  
21 plant, as well, for Stericycle, Inc., yes.

22 Q. But this issue of the corporate relationship  
23 seems to be one that causes a fair amount of  
24 confusion. I'm going to refer you to your own  
25 testimony on Exhibit 60, and ask you if the first

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1 line under paragraph one is true and correct?

2 A. Yes.

3 Q. So you are district manager for the Pacific  
4 Northwest of Stericycle, Inc., is that correct?

5 A. Correct.

6 Q. And is it Stericycle, Inc. that operates the  
7 Morton processing plant?

8 A. Yes, it is.

9 Q. And is it Stericycle, Inc. that operates the  
10 incinerator in North Salt Lake?

11 A. Yes.

12 Q. I think -- it sounded to me like there was a  
13 little confusion in your response to Judge Rendahl's  
14 first question. I understood her question to be  
15 whether the -- after the merger between Stericycle  
16 and BFI, that the Stericycle personnel that had been  
17 involved with the operation prior to the merger  
18 remained essentially intact after the merger. Is  
19 that the question as you understood it?

20 A. No.

21 Q. Okay. Would you -- would you clarify sort  
22 of whose personnel remained after the merger and  
23 whose personnel, the names that you gave us, where  
24 those folks came from in terms of the entities that  
25 existed prior to the merger?

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1           A.    After the merger in November of '99, I was  
2   the -- held the same capacity at BFI prior to the  
3   merger, which at that time they called it a district  
4   vice president.  At Stericycle, it's district  
5   manager.  Upon the merger, I was named district  
6   manager for the combined company and the current --  
7   Phil Scott was the name of the district manager at  
8   the time for Stericycle.  He left the company because  
9   he didn't want to step down and take a different job.

10                We maintained at that time the customer  
11   service representatives for both companies for almost  
12   a year, and then basically, just through the  
13   combination of combining the two companies and  
14   attrition of people, turnover, those people have gone  
15   away.  We still retained some drivers that were  
16   Stericycle drivers.  We have drivers that were BFI  
17   drivers at the time.

18           Q.    Okay.  Let me ask you this.  How about --  
19   you mentioned a bunch of names.  Don Wilson.  Was he  
20   -- before the merger, what company did he work with?

21           A.    BFI.

22           Q.    Chris Dunn, before the merger, what company  
23   did he work with?

24           A.    BFI.

25           Q.    Jeff Norton, before the merger, what company



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1 did he work with?

2 A. BFI. And I obviously was from BFI, as well.

3 Q. You were from BFI, and I think you said  
4 something about 50 percent of the drivers that are  
5 currently on staff were with which company?

6 A. They were either with Stericycle or BFI.

7 MR. JOHNSON: Okay. I have no further  
8 questions, Your Honor.

9 JUDGE RENDAHL: Anything else, Mr. Haffner?

10 MR. HAFFNER: No, Your Honor.

11 JUDGE RENDAHL: Okay. Mr. Philpott,  
12 hopefully this is the last time I can say you're  
13 excused. So you're excused. Let's be off the record  
14 for a few minutes while we change witnesses.

15 (Recess taken.)

16 JUDGE RENDAHL: Let's be back on the record.  
17 Go ahead, Mr. Johnson.

18 MR. JOHNSON: Do you want to caution the  
19 witness on the record or --

20 JUDGE RENDAHL: As to what?

21 MR. JOHNSON: That he's still under oath.

22 JUDGE RENDAHL: Sure. Mr. Stromerson, you  
23 remain under oath from your prior testimony, so just  
24 be advised.

25 THE WITNESS: Thank you.

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1 MR. JOHNSON: Thank you, Your Honor.

2 Whereupon,

3 CHRISTOPHER STROMERSON,

4 having been previously duly sworn, was re-called as a

5 witness herein and was examined and testified as

6 follows:

7

8 R E B U T T A L D I R E C T E X A M I N A T I O N

9 BY MR. JOHNSON:

10 Q. Mr. Stromerson, I would like you to describe

11 the tub wash systems at North Salt Lake, the

12 incinerator facility operated by Stericycle, Inc. in

13 North Salt Lake and the medical waste processing

14 facility at Morton, Washington.

15 A. The tub washing facilities at both locations

16 are essentially a conveyor system where water is

17 dispersed under pressure from all sides of the

18 container. The container's placed on the conveyor

19 upside down, water pressure comes from underneath the

20 container, from the sides, and the top. It passes

21 through a wash and a rinse section and is deposited

22 at the other end.

23 Q. Okay. Obviously, these containers have held

24 biomedical waste before they've gone through the wash

25 system. How does Stericycle ensure that the

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1 containers are not contaminated with infectious  
2 substances?

3 A. We have a tub washing policy in place that  
4 allows, essentially, three different ways in which we  
5 can ensure that the container is washed and  
6 disinfected appropriately. One of those means is  
7 through 180-degree water with contact time of a  
8 minimum of 15 seconds. There's also hyper --  
9 hypochlorite solution at -- I believe it's 500 parts  
10 per million for a contact time of three minutes.

11 JUDGE RENDAHL: Can you spell hypochlorite?

12 THE WITNESS: H-y-p-o-c-h-l-o-r-i-t-e.

13 JUDGE RENDAHL: Thank you.

14 THE WITNESS: Mm-hmm. And then, lastly,  
15 there's a quaternary ammonium. Q-u-a-t-e-r-n-y --  
16 I'm sorry, q-u-a-t-e-r-n-a-r-y.

17 JUDGE RENDAHL: Quaternary?

18 THE WITNESS: Quaternary, correct.

19 JUDGE RENDAHL: Ammonia?

20 MR. JOHNSON: Ammonium.

21 THE WITNESS: We call it quat, for short.

22 JUDGE RENDAHL: Ammonia or ammonium?

23 MR. JOHNSON: Ammonium.

24 THE WITNESS: Ammonium.

25 JUDGE RENDAHL: Well, are you the witness,

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1 Mr. Johnson?

2 MR. JOHNSON: I'm sorry. I'm going to hand  
3 you out a piece of paper that has all these spellings  
4 on them. That would be helpful.

5 JUDGE RENDAHL: Okay. Please go ahead.

6 THE WITNESS: And that's 400 -- I believe  
7 it's 400 parts per million for the same contact time  
8 of three minutes.

9 Q. Mr. Stromerson, I'm going to hand you a  
10 document and ask you to identify it, if you would,  
11 please?

12 A. This is our tub washing policy that's  
13 applicable to all of our processing facilities.

14 Q. Okay. So Mr. Stromerson, the three  
15 alternatives that you were describing are described  
16 in this tub washing policy?

17 A. Yes, they are.

18 Q. And in what portion of the policy?

19 A. You'll find these three methods in Section  
20 Two, under scope. They're identified in Section  
21 2.1.1, .2 and .3.

22 Q. Okay. So Mr. Stromerson, in the case of a  
23 situation where the appropriate water temperature  
24 cannot be reached, what does the plant facility do?

25 A. They have on hand, typically, the quat

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1 solution that is able to be fed either manually or  
2 automatically into the tub wash system.

3 Q. When you say fed into the system, how does  
4 that work?

5 A. That can typically be through a hand pump  
6 situation or an automatic diaphragm pump.

7 Q. Okay. But where does it go? I mean, I  
8 think you said there's a conveyor system. I'm sort  
9 of seeing this conveyor system with tubs moving along  
10 and water spraying up, down and sideways, sort of  
11 like a car wash for these tubs; is that right?

12 Except that you've got a sprayer underneath the tubs,  
13 as well. Is that sort of roughly the way it works?

14 A. That's a good example. I said that there's  
15 a wash and a rinse section. Those are actually  
16 reservoirs of a couple hundred gallons of this water,  
17 and so this other disinfection chemical, the  
18 hypochlorite or the quaternary, is inserted into the  
19 wash section of the washer.

20 Q. So it goes into this reservoir, then, from  
21 whence it is sprayed onto and in and over the tubs?

22 A. Yes.

23 MR. JOHNSON: Okay. Your Honor, I don't  
24 think we marked this, but I would like to ask that it  
25 be marked at this time.

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1           JUDGE RENDAHL: Okay. I'm going to mark the  
2 Stericycle Reusable Container Washing Quality Control  
3 Procedures, it's a five-page document, marked as  
4 Exhibit 105.

5           Q. Okay. Mr. Stromerson, have you actually  
6 observed the tub wash operations at North Salt Lake?

7           A. Yes, I have.

8           Q. And have you observed whether the  
9 disinfectant chemicals that are referenced in Section  
10 2.1.2 or 2.1.3 of this policy are available and in  
11 use at that facility?

12          A. Yes, they are. In fact, I took care of the  
13 environmental safety and health position at that  
14 facility for approximately eight months last year,  
15 and that drum of chemical is situated right at the  
16 entrance to the tub wash and they have the  
17 appropriate testing materials right adjacent to it,  
18 so it was checked on a regular basis.

19          Q. So is this policy followed, then?

20          A. Yes, it is.

21          Q. At North Salt Lake?

22          A. Yes, it is.

23          Q. How about at Morton?

24          A. It is followed there, as well.

25          Q. Do you have responsibilities for ensuring

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1 that this policy is followed at Morton?

2 A. Yes, I do. I have to check on that facility  
3 at least once a month.

4 MR. JOHNSON: Your Honor, I'd like to offer  
5 Exhibit 105 for admission at this time.

6 JUDGE RENDAHL: Mr. Haffner.

7 MR. HAFFNER: No objection.

8 JUDGE RENDAHL: Okay. What's been marked as  
9 Exhibit 105, the Reusable Container Washing Quality  
10 Control Procedures for Stericycle, will be admitted.

11 Q. Mr. Stromerson, are you aware of the use by  
12 Stericycle of deodorizer to treat medical waste  
13 containers after they have been washed?

14 A. Yes, I am. It's not necessarily a  
15 treatment, because the treatment for the cleansing  
16 part takes place in the tub washing situation, but  
17 there's certain times of the year where a container,  
18 as it sits nested, which is one stacked inside the  
19 other is how we deliver them, in the hotter times of  
20 the year during the summer, it is best to use a  
21 deodorizer at that time.

22 Q. What kind of deodorizer is used, do you  
23 know?

24 A. Most of them have been a citrus-type  
25 additive.

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1 Q. Can you describe that any more -- with any  
2 more detail? I'm not really familiar with the citrus  
3 additive.

4 A. It's typically a water soluble solution that  
5 is slightly more viscous than water itself, and after  
6 the tub comes out of the tub washer, the excess water  
7 is shaken off and basically this deodorizer is placed  
8 into a garden sprayer and they spray some of this  
9 material into the container.

10 Q. Is that like a hose end sprayer or a  
11 handheld pump system or what kind of a sprayer is  
12 that?

13 A. To use your phrase, a handheld pump sprayer.  
14 It's a pump sprayer that may be a gallon to three  
15 gallons or five gallons, depending on the size you  
16 have. You place the liquid material in this  
17 container, you screw the top onto it, and pump  
18 pressure into the container, and then the release of  
19 the handle extrudes the liquid material in.

20 Q. Is this material of a consistency that could  
21 appear slimy or slick?

22 A. It can be, yes.

23 Q. Would it leave a film of some kind on the  
24 tubs?

25 A. It potentially could.



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1 Q. I mean, does it? I mean, in the ordinary  
2 course of things? I mean, what's the -- how would a  
3 generator observe the deodorizer on the tubs, or  
4 would they?

5 A. They may, as they're nested, you know, some  
6 of that water may not be able to evaporate. As such,  
7 the material, the deodorizer would not be able to  
8 evaporate, so the residue of that would still be  
9 visible.

10 Q. Does it have a color?

11 A. Most of it is rather colorless, although I  
12 know that there's been some orange and even a grape  
13 color, a purple color.

14 MR. JOHNSON: Your Honor, I'm going to ask  
15 at this point that we mark and then potentially admit  
16 Mr. Haffner's response to one of my records  
17 requisitions with the attachments that are on it.

18 JUDGE RENDAHL: Okay.

19 MR. JOHNSON: And then I wanted to ask Mr.  
20 Stromerson about it. I don't think he needs to  
21 identify the documents, since he doesn't know  
22 anything about it as such, but anyway, let me provide  
23 you a couple copies.

24 JUDGE RENDAHL: Okay. Well, let's go off  
25 the record for a moment.

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1 (Discussion off the record.)

2 JUDGE RENDAHL: Let's be back on the record.  
3 I'll mark as Exhibit 106 -- let's be off the record  
4 again.

5 (Discussion off the record.)

6 JUDGE RENDAHL: Okay. Let's be back on the  
7 record. I will mark as Exhibit 106 Kleen  
8 Environmental's responses or, really, Mr. Carney's  
9 responses to Record Requisitions Number 1 and 2. Go  
10 ahead, Mr. Johnson.

11 Q. Okay. Mr. Stromerson, I would like to just  
12 ask you a couple of questions about Exhibit 106. You  
13 see that the regulations identified under paragraph  
14 one are 40 CFR 262.23 and 262.40, and then provision  
15 of the Washington Administrative Code, which is WAC  
16 173-303-210. Have you had an opportunity to review  
17 those regulatory provisions?

18 A. I had an opportunity to review the 40 CFR  
19 reference, but not the WAC reference.

20 Q. Okay. With respect to the 40 CFR reference,  
21 does that -- can you indicate whether that provision  
22 is applicable to the handling or transportation of  
23 biomedical waste?

24 A. It's my understanding that the 40 CFR  
25 reference is most applicable to hazardous waste, but

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1 not necessarily hazardous materials, which regulated  
2 medical waste falls under, to my understanding.

3 Q. Okay. Mr. Stromerson, I don't ask you to be  
4 a lawyer on this, but I'm going to hand you a copy of  
5 the first page of Part 262 40 CFR, and the provisions  
6 of that Part 262 that were cited in Mr. Haffner's  
7 e-mail, 262.23 and 262.40, and ask you if you have  
8 any further thoughts on whether that applies to  
9 biomedical waste?

10 MR. HAFFNER: Objection, Your Honor. Calls  
11 for a legal conclusion.

12 JUDGE RENDAHL: Mr. Johnson.

13 MR. JOHNSON: Well, what I'm trying to do is  
14 ask Mr. Stromerson, based on his experience in  
15 biomedical waste handling, whether these regulations  
16 are regs that he believes apply in that context. I  
17 think that, you know, he's the regulatory compliance  
18 officer for Stericycle and ought to be able to  
19 comment on that.

20 MR. HAFFNER: I think that's been asked and  
21 answered.

22 JUDGE RENDAHL: I guess I tend to agree.  
23 I'm not sure what the benefit of this is. I think  
24 that it can be argued in brief or argued -- you know.

25 MR. JOHNSON: I think you're right, Your

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1 Honor. We'll truncate that discussion. I would like  
2 to ask that this exhibit be admitted at this time,  
3 the response to the records request.

4 JUDGE RENDAHL: Mr. Haffner.

5 MR. HAFFNER: No objection.

6 JUDGE RENDAHL: Okay. What's been marked as  
7 Exhibit 106 will be admitted.

8 MR. JOHNSON: I have no further questions  
9 for Mr. Stromerson, Your Honor.

10 JUDGE RENDAHL: Okay. Mr. Haffner.

11 MR. HAFFNER: No questions, Your Honor.

12

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

14 BY JUDGE RENDAHL:

15 Q. Okay. I need to ask just a few about the --

16 A. Okay.

17 Q. -- tub washing quality control procedures.

18 I notice up in the right-hand corner, upper  
19 right-hand corner, there's no effective date or  
20 superseding date. Do you know when this policy went  
21 into place?

22 A. I don't have an exact date, but based on  
23 when this came out and the people I was working with  
24 at that time, I put it somewhere around the latter  
25 part of 2001 to, at the latest, first part of 2002.

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1 Q. Did you have any part in preparing this  
2 material?

3 A. I did not prepare it, but I was asked to  
4 review it before it was sent out to the company.

5 Q. And does this tub washing procedure apply  
6 both to the Morton plant and the Salt Lake City  
7 plant?

8 A. Yes.

9 Q. Now, I note on the second page, under Item  
10 7.5, which talks about the water temperature --

11 A. Mm-hmm.

12 Q. -- the last sentence indicates that washing  
13 containers should not commence until both time and  
14 temperature is corrected. But I understood you to  
15 say that if the temperature goes below, then you can  
16 use the quat solution. Is that -- which -- so can  
17 you clarify Section 7.5 for me?

18 A. Yes, if you actually flip back to the first  
19 page and look at 2.1, near the end of first paragraph  
20 it says, Remove visible soil combined with at least  
21 one of the following. So what typically happens is  
22 that the heating system sometimes for these washers  
23 may be shut down, say between shift change or when  
24 there's a time when the shift, previous shift may end  
25 earlier, so that would thus cause the water

1797

1 temperature to drop, and then when production begins,  
2 they still need to wash the containers, so the extra  
3 measure of the quat solution in this example would be  
4 readily available to be used. Then, when the water  
5 temperature comes back up to above 180 degrees, they  
6 have the choice of either continuing with the  
7 solution or discontinuing it at that time.

8 Q. And how would somebody know if the  
9 temperature had dropped below? Is there some  
10 temperature reading right on a gauge or do they have  
11 to test it?

12 A. For temperature, there is a gauge. At the  
13 Salt Lake facility, it's a digital gauge. At our  
14 Morton facility, it's a --

15 MR. JOHNSON: Analog gauge?

16 THE WITNESS: It's a gauge that -- much like  
17 a speedometer. The needle would move as the heat --  
18 to reflect the heat of the water.

19 Q. Okay. Thank you. In your position, as I  
20 understand, you work out of the Kent office and may  
21 answer the phone?

22 A. Correct.

23 Q. Are you aware of any complaints made to the  
24 Kent office of the condition of the reusable tubs?

25 A. Not directly. I've heard that sometimes the

1798

1 condition of the tubs may have excess water in them,  
2 and that's the result from, as they're coming out of  
3 the tub washer, there's still moisture on them and  
4 then, as they're nested, that moisture would then  
5 settle into the container.

6 Q. And are you aware who the complaints have  
7 come from?

8 A. I do not have specific examples, no.

9 JUDGE RENDAHL: Okay. That's all I have.  
10 Mr. Johnson.

11 MR. JOHNSON: No further questions, Your  
12 Honor.

13 JUDGE RENDAHL: Okay. Mr. Stromerson, I  
14 think you're done now, too. Thank you.

15 THE WITNESS: Thank you very much.

16 JUDGE RENDAHL: You may step down. Let's be  
17 off the record for a moment.

18 (Recess taken.)

19 JUDGE RENDAHL: All right. Let's be back on  
20 the record. Mr. Norton, you haven't testified yet in  
21 this proceeding, have you?

22 MR. NORTON: That is correct.

23 JUDGE RENDAHL: Okay. Could you state your  
24 full name and work address for the record, please?

25 MR. NORTON: Jeffrey Dale Norton. My work

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1 address is 20320 80th Avenue South, in Kent,  
2 Washington.

3 JUDGE RENDAHL: Thank you. And could you  
4 raise your right hand, please?

5 Whereupon,

6 JEFFREY DALE NORTON,  
7 having been first duly sworn, was called as a witness  
8 herein and was examined and testified as follows:

9 JUDGE RENDAHL: Okay. Go ahead, Mr.  
10 Johnson.

11

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

13 BY MR. JOHNSON:

14 Q. Mr. Norton, would you please tell us what  
15 your present position is with Stericycle?

16 A. My present position is I am a major account  
17 executive for Bio Systems, which is a division of  
18 Stericycle.

19 Q. And when you say Stericycle in this context,  
20 are you referring to Stericycle, Inc.?

21 A. I am, yes.

22 Q. And how long have you held that position  
23 with Bio Systems?

24 A. Roughly, since January of this year.

25 Q. Okay. And what was your position prior to



1800

1 January of this year?

2 A. I was a major account executive for  
3 Stericycle of Washington.

4 Q. Okay. And what was the scope of your  
5 responsibility at that time?

6 A. As a major account executive, I -- most of  
7 my time is spent with our larger generators of  
8 medical waste, mostly hospitals and -- that's a  
9 general statement, but most of our hospitals are our  
10 largest generators.

11 I also deal with any customers that  
12 generally need special handling, so a request that's  
13 outside of our normal scope of service or that can't  
14 be handled internally a lot of times the request will  
15 come to me so I can, in person, take care of what  
16 needs to be taken care of.

17 Q. Did you have a geographic sort of scope of  
18 responsibility prior to January?

19 A. Yes, I was major account executive for --  
20 the territory was north of I-90 for myself. I also  
21 had Seattle in there, because part of that goes below  
22 I-90, or south of, and I also had Western Canada,  
23 which included British Columbia and Alberta.

24 Q. And what does a major account executive do?

25 A. Well, seeing as how we've got to get out of

1801

1 here sometime --

2 Q. So you have to summarize, give us the basic  
3 categories.

4 A. For the most part, a lot of education with  
5 customers. If they're larger customers, we do a lot  
6 of in-servicing, and by in-servicing, I mean they set  
7 up a forum at a conference, usually in a hospital,  
8 but we've done it for other facilities, long-care  
9 term -- long-term nursing facilities, and we give  
10 education on safe handling of bio hazards, whether  
11 it's the nursing or environmental services, the  
12 people that generally handle the biohazardous waste,  
13 on packaging, and we do waste audits at these  
14 facilities.

15 And with the waste audits, what we do is --  
16 seems kind of an oxymoron, but we are trying to  
17 reduce their waste, their medical waste going out and  
18 help them better segregate. Most of the initiatives  
19 for hospitals, because they are such a large waste  
20 stream and the largest waste stream in their  
21 community, is to reduce the waste going out of there,  
22 so I do everything I can to help them with that. And  
23 that's a Stericycle policy.

24 Q. Okay. When you talked about reducing their  
25 waste in the waste audits, do you mean reducing their

1802

1 biomedical waste?

2 A. That's correct, their biomedical waste.

3 Q. Okay. I think you talked about  
4 in-servicing. Is that different from the educational  
5 aspect of your work?

6 A. No, that's one and the same.

7 Q. Okay.

8 A. In the hospital, they generally call it  
9 in-servicing. For all their different departments,  
10 they have to have so much in-servicing during the  
11 year on different topics. And biohazard waste, safe  
12 handling of biohazard waste is one of the topics that  
13 is generally needed to have in-serviced at a hospital  
14 or larger generator of medical waste.

15 JUDGE RENDAHL: Just as a reminder, you may  
16 be nervous sitting there in that seat --

17 THE WITNESS: Yeah.

18 JUDGE RENDAHL: -- but try and slow down a  
19 bit. It's easier to hear.

20 THE WITNESS: Right.

21 Q. It's sometimes useful to think about it as  
22 if you were dictating your answer, if that's helpful.  
23 Prior to January of 2004, were you responsible for  
24 some of the bio technology laboratories that have  
25 testified in this proceeding?

1803

1 A. Yes.

2 Q. Were you responsible for Zymogenetics?

3 A. Yes.

4 Q. ICOS?

5 A. Yes.

6 Q. Berlex?

7 A. Yes.

8 Q. Fred Hutchinson Cancer Research Center?

9 A. Yes.

10 Q. Pacific Northwest Research Institute?

11 A. I wasn't aware of them until the  
12 proceedings, to be honest with you, so --

13 Q. Okay. What kinds of contacts did you have  
14 with the biotech companies, biotech laboratory  
15 companies that we referred to that you did have  
16 contact with?

17 A. Numerous contacts with most of the -- with  
18 all of those, and they would fall under kind of our  
19 special handling customers, because they require  
20 special documentation, you know, we seem to keep  
21 going over with regards to a certificate of  
22 destruction or a container detail report, depending  
23 on who you talk to, they want something a little bit  
24 different. So that was what I dealt with them on  
25 most of the time, as well as some smaller service

1804

1 issues, but anything outside the scope of a pickup or  
2 like, you know, extra containers or something of that  
3 matter, I dealt with those people that testified,  
4 yes.

5 Q. How often did you deal with, say, the folks  
6 at Zymogenetics and who, in particular, did you deal  
7 with there?

8 A. At Zymogenetics, Don Wang, Barbara Bell,  
9 Crispin Enguerra, and that's E-n-g-u-e-r-r-a, who are  
10 the handlers inside for medical waste, and Don Wang  
11 is the environmental health and safety manager. And  
12 that was all prior to Tony Smith coming on there,  
13 because I dealt with Tony Smith, who was the  
14 testifier at Immunex, Targeted Genetics and at Zymo.

15 Q. When did Tony Smith come on there? I don't  
16 recall his testimony, but maybe it's in the record?

17 A. I couldn't be accurate, but it's within the  
18 last year and a half.

19 Q. Okay. But you have dealt with Tony Smith,  
20 as well?

21 A. Yes.

22 Q. Did any of those people at any time ever  
23 request unusual documentation or special  
24 documentation to evidence processing or destruction  
25 of their waste?

1805

1           A.    No, at Zymogenetics, Don Wang was my major  
2    contact there, my major point of contact.  He  
3    requested yearly -- our new insurance, liability  
4    insurance that changes on a yearly basis, our King  
5    County permit that changes on a yearly basis, and  
6    things of that nature to have on file.  So a lot of  
7    times those are the only documents he would request  
8    from me.

9           Q.    And these other people that we mentioned --  
10   how about Tony Smith?  Did he ever request additional  
11   documentation from you?

12          A.    Tony Smith did when he was at Targeted  
13   Genetics.  And he received exactly what we talked  
14   about, what we give to the Bremerton Naval, which is  
15   the container detail report signed off by the  
16   district manager of the Pacific Northwest, Mike  
17   Philpott, because they wanted a name attached to the  
18   certificate of destruction, and that was really the  
19   first time I heard of that, outside of Bremerton  
20   Naval requesting it.

21          Q.    Okay.  So that was when he was at Targeted  
22   Genetics?

23          A.    That's correct.

24          Q.    But when he came over to Zymogenetics, let's  
25   say within the last couple years, did he or somebody

1806

1 else at Zymogenetics make the request of similar  
2 documentation from you?

3 A. No.

4 Q. Did they request a return of manifests  
5 signed by the processing plant?

6 A. No.

7 Q. Did they request container detail reports?

8 A. No.

9 Q. And how often did you have contact with the  
10 Zymogenetics people?

11 A. Between Don, Barbara, Crispin, before Tony's  
12 arrival, I would say on a quarterly basis, and that  
13 continued the same, actually, after Tony, so I'd say  
14 on a quarterly basis. I had contact with them in  
15 many different capacities, whether it was scheduling  
16 an audit of our facility or just requesting the  
17 documentation I talked about, our liability  
18 insurance, as well as our permits to handle the  
19 waste.

20 Q. Does Tony Smith have your cell phone number?

21 A. Yes, he does.

22 Q. Does he call you on your cell phone?

23 A. Yes, he does.

24 Q. How about the ICOS people? Did you have  
25 contact with ICOS people when you were a major

1807

1 account executive?

2 A. Yes, I did, mostly with Brad Gong, who is  
3 the manager of environmental health and safety.

4 Q. Did you also deal with Al Campbell?

5 A. Yes, I did.

6 Q. Did Brad Gong or Al Campbell or anyone else  
7 at ICOS ever request additional or unusual  
8 documentation from you with respect to the treatment  
9 or disposal of their waste?

10 A. No.

11 Q. How often did you have contact with either  
12 Brad Gong or Al Campbell?

13 A. Well, Brad Gong and Al Campbell probably --  
14 probably in the same -- you know, three to four times  
15 per year I would have contact with them, and  
16 sometimes they were, you know, maybe it could be  
17 consecutive, like, weeks where we're dealing with the  
18 same issue. I know it's been talked about regarding  
19 their service, whether it's -- the timing or the tub  
20 dropoff, and some of that was handled by me in the  
21 early goings, before we worked out a plan.

22 Q. Okay. You're talking about the scheduling  
23 --

24 A. That's right.

25 Q. -- and their window for service?



1808

1 A. That's correct.

2 Q. Okay. Did Brad Gong or Al Campbell ever  
3 indicate to you that they would prefer to use  
4 cardboard boxes instead of reusable tubs, plastic  
5 tubs, for their pathological or trace chemotherapy  
6 waste?

7 A. No, quite the contrary. When the -- when we  
8 originally merged and switched to boxes, they had an  
9 issue with the boxes themselves and wanted to make  
10 sure -- I had to give them information regarding the  
11 types of tests that this cardboard has gone through  
12 for treatment of biohazard waste.

13 Q. So when the change came later, when  
14 Stericycle implemented the use of these reusable  
15 plastic gray tubs for the waste headed for  
16 incineration, did they have any complaints about  
17 that?

18 A. No.

19 Q. Did Brad Gong or Al Campbell or anyone else  
20 associated with ICOS ever ask you or indicate to you  
21 that the distance traveled to the incineration  
22 facility in North Salt Lake was an issue for them?

23 A. No.

24 Q. I didn't ask you with respect to  
25 Zymogenetics, so maybe I'll backtrack here for a

1809

1 minute. Did the folks you had contact with at  
2 Zymogenetics ever express unhappiness with the use of  
3 reusable plastic tubs instead of cardboard boxes?

4 A. No. No, in fact, because they do use a lot  
5 of our Rubbermaid red reusable tubs for their medical  
6 waste, which they have the opportunity to use six  
7 other containers, including cardboard boxes, for that  
8 waste, and they've always chose to use the red 28 and  
9 40-gallon Rubbermaid tubs, which is the exact same  
10 tub that we use for incineration, although it's gray.

11 Q. When you refer to the red tubs, that's waste  
12 destined for processing at Morton and not by  
13 incineration; is that right?

14 A. That is correct.

15 Q. And did the people at Zymogenetics ever  
16 express any concern to you with respect to the  
17 distance required to be traveled to the incinerator  
18 facility at North Salt Lake?

19 A. No, the only thing they ever requested were  
20 permits.

21 Q. And did you provide those to them?

22 A. Yes.

23 Q. Did you deal with Berlex Company?

24 A. Yes.

25 Q. Did you deal with Donna Hoskins there?

1810

1           A.    Yes, I did.  She also worked at Immunex, and  
2 I worked with her there.

3           Q.    So how many years did you work with Donna  
4 Hoskins?

5           A.    Probably five years.

6           Q.    And how often did you have contact with her?

7           A.    Donna, mostly on a yearly basis, when she  
8 would ask for a container detail report for her last  
9 year's waste and destruction, the container detail  
10 report that's been brought up here.

11          Q.    Well, let me ask you about that.  Did you  
12 have other contacts with her unrelated to this annual  
13 request for container detail report?

14          A.    Yes, and I wouldn't know how often, but, on  
15 occasion, they would call for the same reasons.  Most  
16 of the customers will require our King County permit  
17 update, as well as our liability insurance, and those  
18 are things that she would request, as well.

19          Q.    Did you provide your cell phone number to  
20 Donna Hoskins and Brad Gong, Al Campbell, the folks  
21 at Zymogenetics?

22          A.    Yes.

23          Q.    Did they use it?

24          A.    Yes.

25          Q.    Did you provide e-mail contact information

1811

1 to them?

2 A. Yes.

3 Q. Did they use your e-mail?

4 A. Yes.

5 Q. All of these people, or some more than  
6 others or -- I don't want to ask the question so  
7 generally that you --

8 A. I've received -- off the top of my head, I  
9 know that I have received e-mails from Tony Smith,  
10 Don Wang from Zymogenetics, Donna Hoskins at Berlex,  
11 Mike Radder at Fred Hutchinson, and David Lahti, who  
12 was the predecessor to Mike Radder at Fred Hutchinson  
13 Cancer Research.

14 JUDGE RENDAHL: Can you spell that name,  
15 please?

16 THE WITNESS: David Lahti?

17 JUDGE RENDAHL: Yes.

18 THE WITNESS: L-a-h-t-i.

19 JUDGE RENDAHL: Thank you.

20 Q. Okay. And in your contacts with Donna  
21 Hoskins, did she request unusual or special  
22 documentation with respect to treatment or disposal  
23 of the Berlex medical waste?

24 A. Nothing outside of the container detail  
25 report.

1812

1 Q. Tell us about that. What did she ask for  
2 and what did you provide her?

3 A. On a yearly basis, she -- and I would be  
4 speculating here, because, since it's on a yearly  
5 basis, there was no urgency for it, other than maybe  
6 to reconcile with her records of what -- how much  
7 waste they shipped out. They don't ship out a lot of  
8 waste, so I don't know if medical waste is on the top  
9 of their scale for the urgency on there, but that's  
10 why I never understood the yearly request, because I  
11 can give that on a monthly request. And if I  
12 remember right, she specifically wanted it for the  
13 yearly request to reconcile with her numbers for the  
14 year, and that was it.

15 Q. Okay. When you're referring to the  
16 container detail report, are you referring to a  
17 document similar to the example shown in Exhibit 68?

18 A. Yes.

19 Q. Did Donna Hoskins ever request a signed  
20 certificate of destruction from you or from  
21 Stericycle?

22 A. No.

23 Q. Did Donna Hoskins ever express unhappiness  
24 with the use of plastic reusable tubs for  
25 pathological or trace chemotherapy waste?

1813

1 A. No.

2 Q. Did Donna Hoskins ever express concern or  
3 unhappiness with the distance traveled to the  
4 incinerator facility at North Salt Lake?

5 A. No.

6 Q. Switching over to Fred Hutchinson Cancer  
7 Research Center, I think you mentioned that you had  
8 contact there with David Lahti and with Mike Radder;  
9 is that correct?

10 A. That is correct.

11 Q. And I gather David Lahti was Mike Radder's  
12 predecessor?

13 A. That's correct, as well as Steven Anderson,  
14 who may or may not still work there, but he was in  
15 charge of their department.

16 Q. And about how frequent was your contact with  
17 these folks at Fred Hutch?

18 A. Three to four times a year, I would say, and  
19 that's, you know, and that's a quarterly, either a  
20 proactive call or reacting to something that -- one  
21 of their needs. And that could be they -- Fred  
22 Hutchinson, we went back and forth, because we  
23 allowed them -- or not allowed them, but they just  
24 requested to stay in boxes, so we kept them in boxes  
25 for their incinerate only waste, because a certain

1814

1 sharps container that they used fit perfectly into  
2 the cardboard box and they requested that as a means  
3 to save money on the amount of containers that were  
4 going out of there.

5 Q. So this is for a type of waste that they  
6 designated for incineration?

7 A. That is correct.

8 Q. Even though sharps would not require  
9 incineration under the Stericycle tariff?

10 A. Well, these are trace chemotherapy sharps.

11 Q. Oh, okay.

12 A. So they did require incineration, so they  
13 would have had to go into a gray tub. They did not  
14 fit very well in the gray tub, so we just kept them  
15 in the cardboard boxes. And being that it wasn't wet  
16 waste, it wasn't a huge concern, so --

17 Q. Are they still in cardboard boxes, as far as  
18 you know?

19 A. Far as I know, yes.

20 Q. Were they as of the end of your service as a  
21 major account executive at the end of '03?

22 A. Yes.

23 Q. Did any of the people you've identified at  
24 Fred Hutchinson Cancer Research Center ever request  
25 any special or unusual type of documentation with

1815

1 respect to the processing or destruction of their  
2 medical waste?

3 A. No.

4 Q. You talked about the cardboard boxes, so  
5 we'll go past that, maybe, but the basic point there  
6 is Stericycle allowed them to use the container that  
7 they preferred; is that correct?

8 A. That is correct.

9 Q. And that container was a cardboard box?

10 A. That's correct.

11 Q. Did any of the people at Fred Hutchinson  
12 Cancer Research Center ever express concern about the  
13 distance traveled to the incinerator facility at  
14 North Salt Lake?

15 A. No, and one of my last dealings with Mike  
16 Radder that I can remember was setting up a tour at  
17 the facility in Salt Lake.

18 Q. Do you remember when that was?

19 A. I do not. I believe it was during the  
20 Olympics when they were there, because he mentioned  
21 that he had friends there or something and was going  
22 to do something with the Olympics, but that could  
23 have been another phone call before that, so I  
24 shouldn't -- no.

25 Q. And did you deal with other biotechnology



1816

1 laboratories, other than the ones we've identified  
2 here so far? For example, did you deal with Immunex?

3 A. Yes, Immunex and now Amgen.

4 Q. And Targeted Genetics?

5 A. Targeted Genetics, NeoRx and -- let's see.

6 JUDGE RENDAHL: Did you say NeoRx?

7 THE WITNESS: Yeah, it's N-e-o-R-x.

8 Q. Capital R-X, maybe?

9 A. Yes.

10 Q. Did any of those biotechnology laboratories  
11 ever request special documentation with respect to  
12 the processing or disposal of their biomedical waste?

13 A. Yes, and that is Immunex, which is now  
14 Amgen, did.

15 Q. What did they request?

16 A. They requested some sort of certificate of  
17 destruction, and during my last -- this was during my  
18 last time at my previous position with Stericycle as  
19 the major account executive near the end of '03, met  
20 with them and discussed doing something that we  
21 currently do for the Bremerton Naval facility, which  
22 is a signed certificate of destruction on top of the  
23 container detail report.

24 Q. And do you know what was arranged with  
25 Immunex, what is being done?

1817

1           A.    I believe at this time they are getting back  
2   the container detail report and a signed manifest,  
3   but I don't know that for sure.

4           Q.    Okay.

5           A.    That would be something you'd have to ask  
6   Erik Jacobson.

7           Q.    So the Immunex people requested -- as far as  
8   you know, they got what they requested?

9           A.    That's correct.

10          Q.    And I think you also testified earlier that  
11   Targeted Genetics, at least while Tony Smith was  
12   there, requested some kind of documentation?

13          A.    That's correct.  They requested and were  
14   satisfied at the time with the container detail  
15   reports, similar to the -- I believe it's 222.

16          Q.    Exhibit 68?

17          A.    Sixty-eight, but we have the certificate of  
18   destruction signed by Mike on that document.

19          Q.    That's like Exhibit 222?

20          A.    That's correct.

21          Q.    Okay.  Are those companies, the additional  
22   biotech laboratory companies that you referred to,  
23   using reusable tubs for their incinerate only waste?

24          A.    Correct, yes, for the most part, except for  
25   Targeted Genetics.  Targeted Genetics was another one

1818

1 that requested to stay in boxes, so we did that, let  
2 them stay in boxes, at their request.

3 Q. Okay. So as far as you know, then, the  
4 other companies had no objection to using the  
5 reusable plastic tubs for their incineration waste?

6 A. That's correct, being that a lot of it's wet  
7 waste, yeah, there was no objection to the containers  
8 to me.

9 Q. What's the issue with wet waste and the use  
10 of cardboard?

11 A. Well, in some of the facilities, the waste  
12 that they are giving us is laboratory specimens that  
13 are frozen and then given to us -- they're usually  
14 packed prior to when we get there, and in a cardboard  
15 box, the cardboard box can lose its dexterity, if you  
16 will. So with wet waste, because it gets heavy, for  
17 one, and it also can condensate on the outside if  
18 it's not properly packaged, and so the wet waste, it  
19 was a lot easier for them to put it into the tub  
20 because it doesn't obviously lose its dexterity.

21 Q. When you say dexterity, I'm a little -- I'm  
22 not familiar with the way you've used that term.  
23 What do you mean by that a cardboard box would lose  
24 its dexterity?

25 A. Its composure, its construction. I mean, it

1819

1 would burst out to the sides as the liquid -- as it  
2 melts and the bag fills, as well as if you stack them  
3 on top of each other, which a lot of these places  
4 have limited storage, the boxes will crush and they  
5 will lose their -- there's a word I'm looking for.

6 Q. Maybe integrity?

7 A. Integrity.

8 Q. Structural integrity?

9 A. Thank you, yes. Structural integrity.  
10 That's exactly what I'm looking for. Thanks.

11 Q. Mr. Philpott testified a little bit about  
12 the meeting with the Health Environment Laboratory  
13 Professionals group, the HELP group.

14 A. Yes.

15 Q. Do you know when that meeting was supposed  
16 to take place?

17 A. Yes, that meeting -- Brad Gong had called me  
18 and asked me to present at their meeting on May 18th,  
19 and I don't know the year, but I believe it was 2001.  
20 And I was going to bring our district manager, Mike  
21 Philpott, to the meeting, and so we got it all set  
22 up, I called Brad back and confirmed that we can do  
23 that, we'll be there, you know, whatever you want, it  
24 was all the biotech community, to go over any issues  
25 with the merger, new containers or anything like

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1 that. It was a good opportunity for us to meet with  
2 many people at once.

3 And Brad Gong had faxed a confirmation a  
4 couple weeks prior with directions, which I had been  
5 to their facility, and had called me to see that I  
6 received that and I said yes. Unfortunately, I mean,  
7 I can remember this only because it still makes me  
8 sick to my stomach when I think about getting the  
9 call that I wasn't there. But I threw away that  
10 piece of paper, and on that was the new date, which  
11 was May 17th.

12 So on May 17th, when I was in Spokane with  
13 our district manager, visiting customers, and got a  
14 call from the office asking where I was, Mike put it  
15 well. I panicked, couldn't make it back from Spokane  
16 to Bothell within 15 minutes, but -- that wasn't  
17 going to work, so -- after that, I called Brad Gong  
18 and I apologized and --

19 Q. When you say after that, you mean right at  
20 that time?

21 A. Basically, on the way home, after I knew the  
22 meeting had probably adjourned, I called Brad Gong  
23 and I apologized, I didn't look at his confirmation  
24 and the date had changed, and took full  
25 responsibility, and asked for a listing of the people

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1 that were at the meeting so that I could personally  
2 call them, talk to them, meet with them. And at that  
3 point, he was not happy with me and would not give me  
4 that information. So I did it upon myself, and over  
5 the years, including all the testifiers that were  
6 here, I was able to reestablish relationships with  
7 all of these people and good ones, you know, really,  
8 best of my knowledge.

9 Q. I had one exhibit I'd like you to look at.  
10 Mr. Norton, I'm handing you a document and I would  
11 like you to identify it, if you can.

12 A. This is a document that was given to me from  
13 a customer that was approached by Kleen Environmental  
14 to basically fill in the blanks and offer either  
15 testimony or support for their application.

16 MR. JOHNSON: Okay. Your Honor, I'd like to  
17 have this exhibit marked, if I may.

18 JUDGE RENDAHL: Okay. Let's see. Let's  
19 mark it as Exhibit 107, fill in some blanks here.  
20 And this is a form letter to WUTC from -- or I would  
21 just say dated January 27th, 2004, concerning the  
22 Kleen application. And you've asked for admission?

23 MR. JOHNSON: Yes, Your Honor.

24 JUDGE RENDAHL: Any objection?

25 MR. HAFFNER: No, Your Honor.

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1 JUDGE RENDAHL: Okay. That Exhibit 107 will  
2 be admitted.

3 Q. Mr. Morton, you've indicated, I think, that  
4 you had no contact with Pacific Northwest Research  
5 Institute?

6 A. That's correct.

7 Q. Is there any special reason that you had no  
8 contact with them or --

9 A. No special reason. I was never aware of any  
10 concerns they had that I could help with. And to my  
11 knowledge, a fairly small quantity generator, you  
12 know, probably wouldn't have a lot of problems with  
13 their medical waste, you know, being so small.

14 MR. JOHNSON: Your Honor, I have no further  
15 questions for Mr. Norton.

16 JUDGE RENDAHL: Okay. Mr. Haffner.

17

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

19 BY MR. HAFFNER:

20 Q. Mr. Norton, how would a major account get in  
21 touch with you when they needed to when you were a  
22 major account representative?

23 A. They could get ahold of me. I had a  
24 personal extension with our company. I also have a  
25 cell phone number and an e-mail.

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1 MR. HAFFNER: No other questions, Your  
2 Honor.

3 JUDGE RENDAHL: Okay. I just have a few.

4

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

6 BY JUDGE RENDAHL:

7 Q. I want to clarify your testimony about  
8 requests from Zymogenetics before and after Mr.  
9 Smith, Mr. Tony Smith worked for them. Did I  
10 understand you correctly that both before and after  
11 Mr. Smith worked for Zymogenetics, that no one from  
12 the company requested a certificate of destruction,  
13 the container detail report or signed manifests?

14 A. That's correct.

15 Q. Okay. So both before and after?

16 A. That's correct.

17 Q. Did you ever receive any complaints from any  
18 of the biotech clients or other large quantity  
19 generator clients concerning the reusable tubs and  
20 the quality of the tubs?

21 A. No, other -- I retract. Yes, with regards  
22 to water in the tubs that is left in there and not  
23 able to evaporate.

24 Q. And what was the concern about that?

25 A. Generally, that when a customer is



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1 un-nesting the tubs, that water would come out and  
2 get the employee wet. Not a lot of water, but enough  
3 to splash them.

4 Q. Did anyone ever bring to your attention  
5 concern about contamination to their facility because  
6 of the water in the container?

7 A. No.

8 Q. And this exhibit, the form letter, who did  
9 you receive that letter from?

10 A. Tony Smith.

11 Q. And when did this happen?

12 A. Right around January the 27th. It was very  
13 close to the date of --

14 Q. And that was prior to your changing over  
15 from being a major account representative?

16 A. No, it was after. I had lunch with Tony on  
17 a personal -- more of a personal basis relationship  
18 that we had.

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

20 Mr. Johnson.

21

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

23 BY MR. JOHNSON:

24 Q. Mr. Norton, did you ever receive complaints  
25 from anyone associated with the biotech laboratories

1825

1 about the cleanliness of the reusable tubs?

2 A. No.

3 MR. JOHNSON: No further questions, Your  
4 Honor.

5 JUDGE RENDAHL: Okay. Well, thank you very  
6 much, Mr. Norton. Oh, I'm sorry.

7 MR. HAFFNER: Your Honor, can I follow up on  
8 one question you had?

9 JUDGE RENDAHL: Yes, you may. Sorry.  
10 You're not excused yet.

11

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

13 BY MR. HAFFNER:

14 Q. You mentioned that Exhibit 107 was given to  
15 you by, I believe, Tony Smith?

16 A. Yes.

17 Q. Did he explain to you how he obtained a copy  
18 of the letter?

19 A. Via e-mail.

20 Q. From whom did he get it?

21 A. I do not know.

22 Q. Did he explain whether he was given any  
23 instructions about the use of the letter?

24 A. Yes, he told me this is a form letter that  
25 Kleen was sending out to try to get support for their

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1 certificate.

2 Q. Okay. So he did say that he got it from  
3 Kleen?

4 A. Yeah, from Kleen, I'm sorry. I thought you  
5 meant a person.

6 Q. And did he explain whether or not he was  
7 being asked to sign this and send it in to the  
8 Commission?

9 A. That's correct. He was asked to sign this  
10 and send this in to the Commission.

11 Q. Okay. Do you know if he was also asked to  
12 personalize the information that was on the letter?

13 A. Yes.

14 Q. Okay.

15 A. Yes, he was.

16 MR. HAFFNER: No other questions, Your  
17 Honor.

18 JUDGE RENDAHL: Anything further, Mr.  
19 Johnson?

20 MR. JOHNSON: No, Your Honor.

21 JUDGE RENDAHL: All right. Now you're  
22 excused, Mr. Norton. Thank you very much. Let's be  
23 off the record.

24 (Recess taken.)

25 JUDGE RENDAHL: Let's be back on the record.

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1 We're now going to take the testimony of Mr.  
2 Jacobson. Mr. Jacobson, if you could state your full  
3 name for the record and your work address, please?

4 MR. JACOBSON: It's Erik Jacobson, and it's  
5 20230 80th Avenue, and that's in Kent, Washington.

6 JUDGE RENDAHL: Is Jacobson with an E or an  
7 O?

8 MR. JACOBSON: That's s-o-n.

9 JUDGE RENDAHL: S-o-n, all right. Could  
10 you raise your right hand, please?

11 Whereupon,

12 ERIK JACOBSON,  
13 having been first duly sworn, was called as a witness  
14 herein and was examined and testified as follows:

15 JUDGE RENDAHL: Please go ahead, Mr.  
16 Johnson.

17 MR. JOHNSON: Thank you, Your Honor.

18

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

20 BY MR. JOHNSON:

21 Q. Mr. Jacobson, could you please state your  
22 present position?

23 A. I'm a major account executive.

24 Q. With what company?

25 A. Stericycle, Inc.

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1 Q. And we -- how long have you held that  
2 position?

3 A. As of this March, it will be five years.

4 Q. So five years as of March --

5 A. This upcoming March, '05.

6 Q. You have to wait -- we can't both talk at  
7 the same time.

8 A. Sorry.

9 Q. Okay. So that means you started in March  
10 2000?

11 A. Right.

12 Q. You heard Mr. Norton's testimony with  
13 respect to the responsibilities of a major account  
14 executive. Was there anything you'd like to add to  
15 that list of functions and tasks that you think  
16 should be in terms of your job?

17 A. Well, I think Jeff covered a lot of it. We  
18 do a lot of different things and our responsibility  
19 is to essentially manage our territories, make sure  
20 that we're visiting customers, make sure that  
21 customers were aware of changes that Stericycle has  
22 to offer, other services, as well as make sure that  
23 they have adequate training, waste audits are  
24 provided and in-services are provided, as well as  
25 just keeping up with making sure that contracts are

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1 current.

2 For me, that was more or less in --  
3 actually, not so much in Oregon -- not so much in  
4 Washington, but in Oregon.

5 Q. Okay. Mr. Norton testified that his  
6 responsibilities changed at the beginning of this  
7 year. Did your responsibilities also change?

8 A. That's correct.

9 Q. Would you explain what your responsibilities  
10 were before January 2004 and then after?

11 A. Before January, I was responsible for the  
12 management of the large accounts in Oregon, as well  
13 as the southern half of Washington, and Jeff and I,  
14 along with Mike Philpott, made the decision of where  
15 that boundary would be. After, I took responsibility  
16 for all of Oregon and all of Washington State, for  
17 all major accounts.

18 Q. Are you going to be able to do all that?

19 A. I have been.

20 Q. But your actual job duties are the same,  
21 notwithstanding the change in the scope of the  
22 territory that you're responsible for?

23 A. That's correct.

24 Q. Now, Mr. Jacobson, I think Mr. Norton  
25 testified that, prior to January 2004, he was

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1 responsible for the Stericycle accounts in Seattle,  
2 including the biotech laboratory folks that have  
3 testified, whose companies have testified in this  
4 hearing. Are you now responsible for Seattle and the  
5 biotech laboratory generators that we've been talking  
6 about in this hearing?

7 A. Yes.

8 Q. Okay. When you took over the -- did you  
9 have any relationship with those folks, the biotech  
10 lab folks before January 2004?

11 A. No.

12 Q. Okay. When you took over that  
13 responsibility, what actions did you take?

14 A. Well, the first thing that happened was Jeff  
15 and I had a meeting, and we went through all of the  
16 major accounts and he presented me with all of the  
17 current up-to-date information, as well as the files  
18 just to get me up to speed in terms of where they  
19 were, in terms of the points of contact. And from  
20 there, actually Jeff and I spent some time driving to  
21 all the different accounts and meeting them so that  
22 the hand-up would go smoothly from Jeff to myself.

23 Q. Okay. So did the discussion of the major  
24 accounts and the contact personnel at the major  
25 accounts that you had with Mr. Norton include the

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1 biotechnology laboratory companies?

2 A. Yes.

3 Q. Okay. And then did you follow up in any way  
4 with those companies?

5 A. Yes, I actually made outbound calls trying  
6 to set up meetings just to be able to touch base,  
7 introduce myself, and see if there were any needs  
8 that weren't, you know, that I could meet at that  
9 time.

10 Q. And let's just talk about the companies  
11 individually. How about ICOS Corporation?

12 A. Yes, actually, I called them quite early on,  
13 several times, to try and set up a meeting.

14 Q. Who did you call?

15 A. Brad Gong.

16 Q. When you say early on, when would that have  
17 been?

18 A. That would have been in the month of  
19 February.

20 Q. Okay. And were you able to set up a meeting  
21 with Mr. Gong?

22 A. I left messages. It wasn't until sometime  
23 later, I believe -- I think it was -- I think it was  
24 May 7th that we actually -- Mike and I actually met  
25 with them.



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1 Q. So between February and May 7th, what was  
2 going on in terms of your efforts to reach ICOS?

3 MR. HAFFNER: Your Honor, I want to object  
4 to the line of questioning, maybe the relevance of  
5 this witness as a rebuttal witness, given the time  
6 frame within which he's held the position to deal  
7 with the shippers that testified.

8 I think he stated that he took over the  
9 position of all of Washington early in '04, which  
10 would have been about the time of the application,  
11 and if the Commission is to look at the period prior  
12 to the application, I don't think this witness'  
13 testimony would be relevant.

14 JUDGE RENDAHL: Mr. Johnson.

15 MR. JOHNSON: Well, Your Honor, I think  
16 we're dealing with a statewide biomedical waste  
17 application. And Mr. Jacobson was responsible for  
18 half of the state of Washington prior to January of  
19 2004. So his knowledge is certainly relevant in that  
20 regard. I guess the question that you might ask is  
21 whether the issue of his follow-up contacts following  
22 his transition with the new accounts is relevant, but  
23 I guess I'd like to explore that and then allow --  
24 then you could make a decision either as to whether  
25 it's relevant and what weight it should be given or,

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1 if you think it's not relevant, you could strike it.

2 JUDGE RENDAHL: I think I'll just decide  
3 right now. I don't think it's appropriate to inquire  
4 into anything, at least for this witness, post the  
5 time of the application, because he didn't have any  
6 experience with these biotech folks prior to that  
7 time.

8 So I mean, I -- any discussion of -- I guess  
9 mostly the time period has to do with improvements  
10 that Stericycle would have made, and that's not  
11 really appropriate under the Commission's rules.

12 MR. JOHNSON: I don't think I'm going to ask  
13 him to talk about improvements that Stericycle has  
14 made. I agree with you that the application needs to  
15 be judged as of the date of the application.

16 JUDGE RENDAHL: And Stericycle's  
17 performance.

18 MR. JOHNSON: And Stericycle's service  
19 should be judged as of that date.

20 JUDGE RENDAHL: So what relevance is this  
21 discussion post February?

22 MR. JOHNSON: Well, what I thought it was  
23 relevant to was the fact the generators told him one  
24 thing in his contacts with them and then said a  
25 different thing in the hearing.

1           MR. HAFFNER: Well, what -- whether they  
2 told him anything or even what they told him after  
3 the application was submitted is irrelevant. What's  
4 relevant is the shipper sentiment prior to the filing  
5 of the application.

6           MR. JOHNSON: Well, no, I think that shipper  
7 sentiment is -- I think what you heard in the hearing  
8 was shipper sentiment during the hearing. You can  
9 ask about the Stericycle service and its performance  
10 as of the date of the application, but the issue of,  
11 you know, what the generators have requested from  
12 Stericycle and what they have, you know, how they  
13 have testified in this hearing, to the extent those  
14 are inconsistent, that's relevant.

15           JUDGE RENDAHL: Well, I'm going to allow it  
16 for now, but if it looks later, Mr. Haffner, that  
17 there's really no relevance, I'm willing to entertain  
18 a motion to strike.

19           MR. HAFFNER: Okay.

20           Q. Okay. So I think I asked you what was going  
21 on between February 2004 and your meeting on May 7th  
22 with the ICOS representatives?

23           A. Well, being that I have a large territory  
24 and have a lot of customers to see in it, typically  
25 I'll make a series of outbound calls and then keep

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1 track of those within the file, but if I don't get a  
2 call back, you know, kind of move on to the next, you  
3 know, folks to visit.

4 I received a call back from Brad indicating  
5 that, you know, a meeting might be possible, and we  
6 set up a date, and then subsequently Mike and I met  
7 with him.

8 Q. Okay. And what was the discussion that you  
9 had with Brad Gong, and were other people present at  
10 that meeting on May 7th?

11 A. Allen Campbell was there, and basically, I  
12 was wanting to introduce myself, asking if there was  
13 anything that they wanted from us that maybe they  
14 weren't getting currently, just to find out how  
15 things were going, basically, and that's what I was  
16 doing for all of the customers that were new in my  
17 area.

18 Q. And what did they say to you in terms of  
19 anything additional that they needed from Stericycle?

20 A. At that time they mentioned they wanted some  
21 sort of signed documentation that would be coming  
22 back to them showing the certification of destruction  
23 or something to that effect.

24 Q. Okay. And what was the response at that  
25 time?

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1           A.    I told them that what I would do, I would  
2   prepare some items for them and bring those items  
3   with me to the meeting and explain our entire system  
4   at that time.

5           Q.    And did you do that?

6           A.    Yes.

7           Q.    And what was the outcome of the meeting in  
8   terms of what kind of documentation they requested  
9   and did you provide it?

10          A.    Well, essentially, first I'd like to say  
11   that I don't think they fully understood our bio  
12   track system, how it worked and how it went back to  
13   the invoice.  It's something that they didn't have a  
14   clear understanding of.  So after explaining that, I  
15   presented them with a couple of options that we could  
16   make available to them, one of which was a container  
17   detailed report that could be, in this case, e-mailed  
18   to Brad or to Allen or both.  The other was to set up  
19   a system whereby they would receive a signed manifest  
20   from the plant.

21          Q.    And did they choose an option or request  
22   either of these things?

23          A.    Right, well, I said that I would make both  
24   available.  Basically, after I had gone in and  
25   explained the bio track system, how our containers

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1 are scanned at the time of pickup and then scanned  
2 prior to destruction, giving them a better  
3 understanding of what we do and how it all works,  
4 they decided that if they were receiving the  
5 container detailed report, that would solve their  
6 need for additional information.

7 Q. And is the container detail report that  
8 you're referring to a document of the type that is  
9 shown as Exhibit 68 in this proceeding?

10 A. Yes.

11 Q. Did Mr. Gong or Mr. Campbell request a copy  
12 of the manifest signed by the plant?

13 A. No, as a matter of fact, I offered that. It  
14 was, again, the presence of Mike, as well as Brad and  
15 Allen. I said that we would make one or both  
16 available, and that if you were only receiving the  
17 container detailed report, that at any time, if you  
18 wanted, you could call and I would certainly begin to  
19 give you the manifest as an additional item, but I've  
20 not received any further calls.

21 In an additional act that it was something  
22 where I actually called them -- I've called them  
23 several times since just to make sure that the  
24 information they're getting is still meeting their  
25 needs, as well as they're not having any problem in

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1 receiving it.

2 Q. And who did you speak to on those occasions?

3 A. Brad Gong.

4 Q. And what was the response?

5 A. He said no, it was great, it was meeting  
6 their needs, and that they did not need any further  
7 information.

8 Q. Mr. Jacobson, I'm going to hand you the  
9 document we've marked as Exhibit 222, and ask you if  
10 you've seen a document like this before?

11 A. I have.

12 Q. And in what context?

13 A. This document was something that was used  
14 for the Bremerton Naval contract, as part of their  
15 contract.

16 Q. Okay. Have you used that or are you aware  
17 of whether Stericycle has used that document or  
18 something like it in connection with other customers?

19 A. I personally have not, other than the fact  
20 that I've now taken over the Bremerton Naval  
21 accounts, and this continues to be the document used  
22 for them. I currently do not use this document for  
23 any other customers that I have.

24 Q. Have you received other requests from  
25 customers at any time in your employment as a major

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1 account executive for different or unusual types of  
2 documentation for processing or disposal of  
3 biomedical waste from a customer?

4 A. Yes.

5 Q. Well, what types of requests have you  
6 received?

7 A. Well, it can run the gamut. We have a lot  
8 of customers that are now receiving container  
9 detailed report on a monthly, ongoing basis.

10 MR. HAFFNER: Your Honor, I'm going to  
11 object. I know he started to answer, but, again, I  
12 think this is a broad, general question to all  
13 shippers, and this is supposed to be rebuttal as to  
14 the testimony that's been in the record. I think it  
15 should be limited at least to the shippers that  
16 testified.

17 MR. JOHNSON: Well, Your Honor, I don't  
18 agree with that. The relevance of the shipper  
19 testimony that we had in this proceeding is for the  
20 issue of sentiment in the community, and to the  
21 extent that you have two or three or four or five  
22 individuals identifying issues that, you know, nobody  
23 else has or that they have identified issues where  
24 they have not requested any kind of service from  
25 Stericycle, those things need to be -- we need to be



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1 able to present that.

2 I think the point that I'm trying to show  
3 here is that where Stericycle was asked to provide  
4 additional documentation and did so, and that is  
5 relevant to putting in context the testimony of the  
6 generators that came into this proceeding.

7 MR. HAFFNER: But I think there's been  
8 testimony to that effect already by both Mr. Philpott  
9 and by Mr. Norton. To the extent that we're getting  
10 more generalized testimony to that effect about what  
11 happened in Southern Washington and Oregon I think is  
12 just cumulative evidence and not in rebuttal to the  
13 direct testimony.

14 MR. JOHNSON: Well, Your Honor, I do believe  
15 it is appropriate rebuttal for the reasons I've  
16 provided. The shipper testimony is intended to reach  
17 a general issue, which is whether Stericycle's  
18 service is satisfactory, basically. And there were  
19 -- you know, that issue is addressed by examples of  
20 individuals and individual companies and the  
21 generator testimony. We're trying to respond to the  
22 issues raised on a more general basis. I think  
23 that's appropriate.

24 JUDGE RENDAHL: Can you rephrase the  
25 question or state it again?

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1 MR. JOHNSON: I'll try.

2 Q. Mr. Jacobson, what I'd like to ask you is --  
3 and all my questions will be related to generators  
4 located in the state of Washington and the services  
5 provided by Stericycle of Washington in the state of  
6 Washington. So the question that I believe I asked  
7 was, with respect to your experience as a major  
8 account executive, have you received requests for  
9 special or unusual documentation from Washington  
10 generators with respect to their -- the requests for  
11 evidence of processing treatment or disposal of their  
12 biomedical waste that's unusual or special? Maybe  
13 I've tangled that up now.

14 JUDGE RENDAHL: I guess I'm not --

15 MR. HAFFNER: I'm going to renew the  
16 objection.

17 JUDGE RENDAHL: I guess I agree it's  
18 cumulative, and I'm just not sure -- unless it's  
19 tailored to the area that Mr. Jacobson addressed  
20 prior to the time the application was filed, I guess  
21 I'm not seeing the cumulative necessity of the  
22 evidence.

23 MR. JOHNSON: Well, I guess, you know, Your  
24 Honor, the cumulative is perhaps a fine line. Mr.  
25 Jacobson's area of responsibility was different than

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1 Mr. Norton's prior to January 2004. And we've only  
2 got a couple, two or three people here with knowledge  
3 that's relevant to this issue, and I'm trying to  
4 present a show, a systematic practice by Stericycle  
5 and its major account executives in dealing with  
6 their customers in the state of Washington.

7 JUDGE RENDAHL: Okay. Let's do it. Let's  
8 have the question, let's do it, let's just go. Go  
9 ahead.

10 THE WITNESS: Yes, and in terms of  
11 documentation, we would be talking about container  
12 detailed reports for various customers. Some  
13 customers have requested that signed manifests be  
14 returned to them from the plant.

15 Q. And in each of these cases, are you  
16 providing the container detail report or the manifest  
17 signed by someone at the plant?

18 A. Yes.

19 Q. Okay.

20 A. Additional information, I guess somewhat  
21 related, would be volume reports that are requested  
22 either yearly, some cases quarterly, that go into  
23 details about, you know, obviously the number of  
24 containers, cost, so forth and so on, that I will  
25 actually build on Excel spreadsheets and then forward

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1 that information specific to the customer.

2 Q. Mr. Jacobson, do you return the phone calls  
3 you get from your customers?

4 A. Yes.

5 Q. Do you return all of them?

6 A. Yes.

7 Q. Within what time frame do you return your  
8 calls?

9 A. Well, I would say within 24 hours, unless  
10 I'm on vacation.

11 Q. Okay. And do your customers have your cell  
12 phone number?

13 A. Yes, they do. It's on my card.

14 Q. Okay. Is your cell phone on 24 hours a day?

15 A. Yes.

16 Q. Do you receive calls on the weekends at  
17 night from your customers?

18 A. Yes, sorry. Yes.

19 MR. JOHNSON: No further questions, Your  
20 Honor.

21 JUDGE RENDAHL: Mr. Haffner.

22 MR. HAFFNER: No questions, Your Honor.

23 JUDGE RENDAHL: I don't believe I have any  
24 questions, either. Let me look at my notes. I have  
25 one question.

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

2        BY JUDGE RENDAHL:

3            Q.    At the time of your meeting with the ICOS  
4    personnel, Mr. Campbell and Mr. Gong, were you aware  
5    of the Kleen application?

6            A.    I honestly don't remember. I think I  
7    probably was.

8            Q.    Did the topic ever come up during that  
9    meeting?

10          A.    No.

11                    JUDGE RENDAHL: That's all I have. Mr.  
12    Johnson.

13                    MR. JOHNSON: No questions, Your Honor.

14                    JUDGE RENDAHL: Mr. Haffner.

15                    MR. HAFFNER: None, Your Honor.

16                    JUDGE RENDAHL: Okay. Thank you very much,  
17    Mr. Jacobson. You're excused. Let's be off the  
18    record for a moment.

19                    (Recess taken.)

20                    JUDGE RENDAHL: Let's be back on the record.

21    Ms. Batte, could you state your full name and your  
22    work address for the record, please?

23                    MS. BATTE: Anna Laura Batte, and the  
24    address is 20230 80th Avenue South, Kent, Washington,  
25    98032.

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1 JUDGE RENDAHL: Okay. And is it AnnaLaura,  
2 all one word?

3 MS. BATTE: No, two. And I go as A. Laura.

4 JUDGE RENDAHL: And Batte, I understand, is  
5 B-a-t-t-e?

6 MS. BATTE: Yes.

7 JUDGE RENDAHL: Okay. Could you raise your  
8 right hand, please?

9 Whereupon,

10 ANNA LAURA BATTE,  
11 having been first duly sworn, was called as a witness  
12 herein and was examined and testified as follows:

13 JUDGE RENDAHL: Okay. Please go ahead, Mr.  
14 Johnson.

15

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

17 BY MR. JOHNSON:

18 Q. Ms. Batte, would you state what your present  
19 position is with Stericycle?

20 A. Inside sales coordinator.

21 Q. What are the jobs of inside sales  
22 coordinator?

23 A. To set up new accounts, to assist customers  
24 that have special needs as far as packaging issues.  
25 And this is the small quantity generators, this is

1846

1 not the larger accounts. And resolve issues between  
2 them and something that a customer service rep  
3 wouldn't help them with.

4 Q. When you say things that a customer service  
5 rep would not help them do --

6 A. Overweight report. Those are forwarded to  
7 me now, as well.

8 Q. I see. So a customer service  
9 representative, in the terminology you're using,  
10 would be the person answering the telephone?

11 A. That's correct.

12 Q. Okay. And they would -- if they could  
13 manage the problem, they would?

14 A. Yes.

15 Q. They'd take care of it. And if they can't  
16 handle it and something special more is needed, then  
17 they would refer to you?

18 A. Yes.

19 Q. And this would primarily involve small  
20 quantity generators?

21 A. Yes.

22 Q. Ms. Batte, how long have you held the  
23 position of inside sales coordinator?

24 A. Since November of 2003.

25 Q. What was your position prior to that time?

1847

1 A. Customer service rep.

2 Q. Okay. And then, again, would you describe  
3 the functions of a customer service rep?

4 A. My primary job was to answer the telephones  
5 and to schedule pickups for on-call customers or  
6 customers that needed an extra pickup, to change the  
7 frequency of their service, that would be more in the  
8 small quantity generators, to -- I just lost my mind.

9 Q. Okay. Well, let me ask you a question that  
10 I'll slip in here. Would that include also  
11 responding to changes in customer needs for  
12 additional containers, lids, bags, you name it?

13 A. Yes.

14 Q. Okay. And you would deal directly with  
15 those things, and how would you respond to requests  
16 like that?

17 A. I would either, if it was a scheduling  
18 thing, I would put it into the computer; if it was  
19 something for the driver, I would hand write a note  
20 and put it with their paperwork.

21 Q. And they have a box or something?

22 A. Yes, they have a portfolio they carry.

23 Q. Okay. How long did you serve as customer  
24 service rep?

25 A. From March, end of March in '01 until



1848

1 November of '03.

2 Q. And during the period when you were a  
3 customer service representative or after, if it's  
4 relevant, did you have contact with Mr. Al Campbell  
5 of ICOS Corporation?

6 A. Yes.

7 Q. What kind of contacts were those?

8 A. He would call in for container request or  
9 call in because we weren't there when he expected us  
10 to be there, within the time frame. That's basically  
11 what I remember.

12 Q. Okay. And how often did you have contacts  
13 with Mr. Campbell?

14 A. Me personally, probably once a month.

15 Q. Okay. And did Mr. Campbell -- I think you  
16 mentioned that he would request additional containers  
17 or something like that. Were there problems with  
18 scheduling?

19 A. The extra containers, I don't recall.

20 Q. Oh, I'm sorry.

21 A. I mean, I -- as far as getting the  
22 containers to him, that wouldn't have been a problem,  
23 no.

24 Q. Okay. But did -- okay. So were there  
25 problems that he identified when he talked to you?

1849

1 A. Yes, we weren't coming when he wanted us  
2 there.

3 Q. Okay. When was that?

4 A. Between 8:00 and 8:30.

5 Q. Okay. And about what time in this time  
6 frame that we're talking about. I think you said you  
7 started as a customer service representative in March  
8 of 2001?

9 A. Yes.

10 Q. So was it right around that time or was it  
11 later? When was that?

12 A. It was later.

13 Q. Do you have any -- can you put it in a time  
14 frame?

15 A. Six, eight months later.

16 Q. So sometime in 2001, basically?

17 A. Mm-hmm.

18 Q. Did those problems get resolved?

19 A. Yes.

20 Q. How did they get resolved, if you know?

21 A. Well, through numerous things, the problems  
22 between Al and I were resolved. He used to call and  
23 be very verbally abusive to anyone that answered the  
24 phone, and I got tired of it and told him to quit  
25 fussing at me, and he became very nice to me after

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1 that. I know that Mike Philpott spoke to him and  
2 attempted to resolve issues. The sales reps, Erik  
3 Jacobson -- or excuse me, Jeff Norton spoke with him  
4 trying to resolve issues.

5 Q. Okay. And did you feel that you were able  
6 to develop a relationship with Mr. Campbell?

7 A. After I fussed at him, I did develop a  
8 rapport with him and get to know his hobbies.

9 Q. Okay. And did Mr. Campbell ever tell you,  
10 give you any complaints about Stericycle's service,  
11 other than this issue of scheduling that you  
12 mentioned?

13 A. Not that I recall.

14 Q. Did he talk to you about wanting additional  
15 documentation with respect to the processing or  
16 destruction of ICOS's biomedical waste?

17 A. Not that I recall.

18 Q. Would you recall?

19 A. No, if -- that is something that, if he  
20 would have asked me, I would have deferred to the  
21 account rep.

22 Q. Okay. So you would have sent an issue like  
23 that to Mr. Norton?

24 A. Yes.

25 Q. Okay. Have you ever failed to return one of

1851

1 Al's phone calls?

2 A. No.

3 Q. How quickly do you respond to his phone  
4 calls?

5 A. I would have responded to his immediately.

6 Q. Okay.

7 A. Within -- you know, as soon as I hung up,  
8 because of our past history.

9 Q. And the past history was the conflict that  
10 you --

11 A. Yes.

12 Q. -- mentioned. But that was resolved?

13 A. Yes, absolutely.

14 Q. And after it was resolved, did Mr. Campbell  
15 actually request to speak with you by name?

16 A. Yes.

17 Q. Okay. So -- and you dealt with him on a  
18 whole range of issues?

19 A. No, mainly on tub requests, stop, schedule  
20 requests where they wanted to not have a pickup or  
21 have a pickup.

22 Q. Were his requests unusual?

23 A. As -- not unusual. Maybe more high  
24 maintenance would be a better word.

25 Q. When you say high maintenance, what do you

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1 mean by that?

2 A. Most of our customers that have a smaller  
3 quantity of tubs would, on their manifest -- or not  
4 on their manifest, on the driver's route sheets, it  
5 says how many tubs they're going to need, and  
6 normally they'll get 10 every stop and it's not a  
7 problem. And we would have more frequent, I'm going  
8 to have more or less from him.

9 Q. So changing the tub order?

10 A. Yes.

11 Q. Did you have contact with the other biotech  
12 labs that we've been talking about, Zymogenetics,  
13 Berlex, Fred Hutchinson Cancer Research Center, or  
14 Pacific Northwest Research Institute?

15 A. Berlex and Immunex, when they were together,  
16 and they were all up on Capitol Hill, they had  
17 multiple sites, and the drivers would have us call  
18 them half an hour ahead of time for the pickup.

19 Q. And what was the purpose of that call?

20 A. Because Lee Brown or Ivan were at different  
21 sites and would have to go to another site to let the  
22 driver in to the waste.

23 Q. When you say -- you refer to Lee Brown or  
24 Ivan, these are people working at Immunex?

25 A. Mm-hmm.

1853

1 Q. Was that a yes?

2 A. Yes.

3 MR. JOHNSON: Okay. No further questions.

4 JUDGE RENDAHL: Mr. Haffner.

5

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

7 BY MR. HAFFNER:

8 Q. I think you mentioned that you've been  
9 assisting small quantity generators with service  
10 problems?

11 A. (Nodding.)

12 Q. Since when have you been working on that?

13 A. Since November.

14 Q. November of 2003?

15 A. Yes.

16 MR. HAFFNER: No other questions.

17 JUDGE RENDAHL: And I don't have any  
18 questions.

19 THE WITNESS: Thanks.

20 JUDGE RENDAHL: So Mr. Johnson, do you have  
21 anything further?

22 MR. JOHNSON: No, thank you.

23 THE WITNESS: I was getting out of here as  
24 fast as I could.

25 JUDGE RENDAHL: Thank you very much.

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1 THE WITNESS: You're welcome.

2 MR. JOHNSON: Thank you.

3 JUDGE RENDAHL: So in terms of the next  
4 steps, we are going to be back here in this room on  
5 Tuesday morning at 9:00 to first hear from Mr. Olson.  
6 We'll have some brief direct by you.

7 MR. HAFFNER: Okay.

8 JUDGE RENDAHL: Then tender for cross, and  
9 then, again, Mr. McCloskey, and so that we can lay  
10 some foundation for the questions that you will ask,  
11 Mr. Johnson, if that's appropriate.

12 MR. JOHNSON: I think that works fine.

13 JUDGE RENDAHL: Okay. And I realize, Mr.  
14 Haffner, you've indicated you're not requiring Mr.  
15 Johnson to give you notice of either --

16 MR. HAFFNER: Right.

17 JUDGE RENDAHL: -- the in-person witness or  
18 affidavits.

19 MR. HAFFNER: Yes, that's correct.

20 JUDGE RENDAHL: Okay. So at this point,  
21 hopefully we'll just take a half day, and then we  
22 won't need to change the briefing schedule further  
23 from the 19th of November to the 3rd. I will send a  
24 notice out -- I guess it doesn't make any sense.  
25 I'll e-mail everyone, especially because Mr. Trautman

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1 and Mr. Sells weren't here, I'll send an e-mail to  
2 the list indicating the location for Tuesday, but  
3 won't send out a formal notice.

4 Is there anything else we need to attend to  
5 before we adjourn today?

6 MR. JOHNSON: Let's see, Your Honor. We had  
7 at least one exhibit that we marked that was not  
8 admitted, as I recall. I guess we still need to talk  
9 about that, because that's Exhibit 222, and neither  
10 Mr. Haffner nor I have the data requests available to  
11 us.

12 JUDGE RENDAHL: Right. And I guess if we  
13 can resolve that on Tuesday, that would be my  
14 preference.

15 MR. HAFFNER: Actually, given the testimony  
16 surrounding the exhibit, I don't have a problem  
17 having it admitted. I think it's been pretty well  
18 explained. I'm not worried about the fact that it  
19 wasn't disclosed.

20 JUDGE RENDAHL: All right, so --

21 MR. HAFFNER: Whether the request was made  
22 is, I don't think, significant.

23 JUDGE RENDAHL: So we don't need to delve  
24 into that issue.

25 MR. HAFFNER: Correct.



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1 JUDGE RENDAHL: So you're agreeing to the  
2 admissibility of 222?

3 MR. HAFFNER: Yes.

4 JUDGE RENDAHL: All right. So Exhibit 222  
5 will be admitted. I just want to clarify, Exhibit  
6 106, which was the record requisition, I did admit  
7 that, didn't I?

8 MR. JOHNSON: I show it as admitted, but I  
9 wasn't sure when I marked it.

10 JUDGE RENDAHL: That was the Carney record  
11 requisition responses.

12 MR. HAFFNER: What number?

13 JUDGE RENDAHL: 106.

14 MR. JOHNSON: Looks like this.

15 MR. HAFFNER: Yes, I had it as admitted.

16 JUDGE RENDAHL: I thought it was. I just  
17 wanted to clarify. All right. So the only -- we do  
18 have -- I did want to ask you, Mr. Johnson, we had  
19 identified for Mr. Philpott Stericycle lease and the  
20 King County assessor report on your part. Are you  
21 withdrawing that for Mr. Philpott?

22 MR. JOHNSON: Yeah, I don't intend to offer  
23 the lease.

24 JUDGE RENDAHL: And then, did you need the  
25 Web site printouts of the property? Because we

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1 didn't -- I just noticed on my list that we didn't  
2 address this.

3 MR. HAFFNER: No, no.

4 JUDGE RENDAHL: So both of those are  
5 withdrawn?

6 MR. HAFFNER: Yes.

7 JUDGE RENDAHL: All right.

8 MR. HAFFNER: What numbers are those, again?

9 JUDGE RENDAHL: Eighty-eight and 89.

10 MR. JOHNSON: Your Honor, I guess there is  
11 one other thing that's pending, and that is the  
12 motion to strike --

13 JUDGE RENDAHL: Right.

14 MR. JOHNSON: -- the exhibits.

15 JUDGE RENDAHL: It's due on Monday.

16 MR. HAFFNER: Monday.

17 JUDGE RENDAHL: And I have received the  
18 transcript for that, so I do have it available for me  
19 to review.

20 MR. JOHNSON: Yeah, I have it available now,  
21 as well, so I believe at least I am in a position to  
22 address it.

23 MR. HAFFNER: I know we have it. I've not  
24 reviewed it yet.

25 JUDGE RENDAHL: Okay. So I'm just looking

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1 through the exhibit list here. Okay. So at this  
2 point, the only exhibits I have on my list that we  
3 have not addressed one way or the other are the  
4 information you provided this morning, Mr. Haffner,  
5 that we have split between Mr. Olson and Mr.  
6 McCloskey.

7 MR. HAFFNER: Correct.

8 JUDGE RENDAHL: And Exhibits 52 and 53.

9 MR. HAFFNER: Can I go through my list and  
10 see what we did on Exhibit 90?

11 JUDGE RENDAHL: I believe it was admitted.

12 MR. HAFFNER: That was in.

13 JUDGE RENDAHL: That was the response to  
14 Bench Request Number 1.

15 MR. JOHNSON: Right.

16 JUDGE RENDAHL: And I will not, over the  
17 weekend, be making -- sending you a revised version.  
18 I'll do that after our hearing on Tuesday, when the  
19 hearing is complete. I'll send you a final version.

20 Okay. Is there anything else we need to  
21 address?

22 MR. HAFFNER: No.

23 JUDGE RENDAHL: Okay. Well, we are  
24 adjourned. We'll be off the record until Tuesday,  
25 the 26th, at 9:00. Thank you very much.

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(Proceedings adjourned at 4:15 p.m.)

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