

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3	WASHINGTON UTILITIES AND)	
	TRANSPORTATION COMMISSION,)	
4)	DOCKET NO. UR-950619
	Complainant,)	
5)	
	vs.)	
6)	
	US ECOLOGY, INC.,)	
7	Respondent.)	
	-----)	
8	Petition of US ECOLOGY, INC.,)	
	for an Order Regarding the)	DOCKET NO. UR-950620
9	Accounting Treatment of the)	VOLUME 4
	Benton County Property Tax)	Pages 257 - 436
10	Liability)	
	-----)	

11
12 A hearing in the above matter was held
13 at 9:10 a.m. on October 9, 1995, at 1300 South
14 Evergreen Park Drive Southwest, Olympia, Washington
15 before Chairman SHARON L. NELSON, Commissioners
16 RICHARD HEMSTAD, WILLIAM R. GILLIS and Hearing
17 Examiner JOHN PRUSIA.

18
19 The parties were present as follows:
20 US ECOLOGY, INC., by JAMES M. VAN NOSTRAND,
21 Attorney at Law, 411 108th Avenue Northeast, Bellevue,
Washington 98004.

22 WASHINGTON UTILITIES AND TRANSPORTATION
23 COMMISSION STAFF, by ANN RENDAHL, Assistant Attorney
24 General, 1400 South Evergreen Park Drive Southwest,
Olympia, Washington 98504.
25 Cheryl Macdonald, CSR
Court Reporter

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APPEARANCES (Cont.)

TELEDYNE WAH CHANG, by JOHN WILEY GOULD,
Attorney at Law, 800 Pacific Building, 520 SW Yamhill,
Portland, Oregon 97201.

PORTLAND GENERAL ELECTRIC COMPANY, by JAY
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1 P R O C E E D I N G S

2 JUDGE PRUSIA: Let's be on the record then.
3 The hearing will please come to order. The Washington
4 Utilities and Transportation Commission has set for
5 hearing at this time and place upon due and proper
6 notice to all interested parties dockets Nos.
7 UR-950619 and UR-950620. The first docket is
8 captioned Washington Utility and Transportation
9 Commission, complainant, versus US Ecology, Inc.,
10 respondent. The notice of hearing was issued on
11 September 20, 1995. The hearing is being held at
12 Commission headquarters in Olympia, Washington on
13 October 9, 1995. This is the revenue requirement
14 phase of this proceeding and today's hearing is
15 limited to cross of the company. The hearing is being
16 held before Chairman Sharon L. Nelson and
17 Commissioners Richard Hemstad and William Gillis.
18 Commissioner Hemstad is not here yet. I assume he
19 will be here soon. I'm John Prusia, administrative
20 law judge with the Commission. Take appearances
21 beginning with the company, Mr. Van Nostrand.

22 MR. VAN NOSTRAND: Thank you, Your Honor.
23 On behalf of US Ecology, James Van Nostrand, 411 108th
24 Avenue Northeast, Bellevue 98004.

25 JUDGE PRUSIA: For the Commission.

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1 MS. RENDAHL: Ann Rendahl, assistant
2 attorney general representing Commission staff. My
3 address is 1400 South Evergreen Park Drive Southwest
4 Olympia, Washington.

5 JUDGE PRUSIA: Thank you. For the
6 intervenors beginning with Mr. Dudley.

7 MR. DUDLEY: Yes. Jay Dudley with Portland
8 General Electric Company. I'm with the legal
9 department. That's 212 Southwest Salmon
10 Street, Portland, Oregon 97204.

11 JUDGE PRUSIA: Mr. Gould.

12 MR. GOULD: John Gould for Teledyne Wah
13 Chang. My office is in Portland, 520 Southwest
14 Yamhill, Eighth Floor, Portland, 97204.

15 JUDGE PRUSIA: Thank you. Are there any
16 other appearances today?

17 Let the record reflect that there was no
18 response. We'll now deal with preliminary matters.
19 The first matter is admitting prefiled exhibits.
20 Before we went on the record, I marked for
21 identification a number of the prefiled exhibits.
22 Exhibit No. -- first let me say that at the last
23 hearing I made an error in the numbering of the
24 exhibits. I had indicated that the final report of US
25 Ecology was Exhibit 14 and that the stipulation would

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1 be Exhibit 15. I had miscounted the exhibits, and the
2 correct numbering is the final report of the
3 collaborative group is Exhibit 13 and the stipulation
4 regarding rate design and ratemaking issues is Exhibit
5 14. This morning we premarked for identification
6 Exhibit 15 BCB-1 which is a 20-page testimony of Barry
7 C. Bede.

8 Exhibit 16 for identification is BCB-2, one
9 page educational background and qualifications of
10 Barry C. Bede.

11 Exhibit 17 for identification is BCB-4,
12 three-page. It's Organization and Activity of
13 American Ecology.

14 Exhibit 18 for identification, BCB-7, one
15 page headed Equipment Replacement Program.

16 Exhibit 19 for identification, BCB-8,
17 five-page petition with attachments headed Petition
18 for Accounting Order.

19 Exhibit 20 for identification, BCB-9,
20 two-page form letter from Barry Bede to customers
21 dated 5-5-95 with attachment.

22 Exhibit 21 for identification, BCB-10, one
23 page document headed Summary of Generators'
24 Projections of 1996 Shipments to Facility.

25 Exhibit 22 for identification, BCB-11,

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1 four-page document schedules A, B and C of tariffs.

2 (Marked Exhibits T-15, 16 - 22.)

3 JUDGE PRUSIA: Has everyone had an
4 opportunity to inspect those prefiled exhibits?

5 May we enter into the record the documents
6 marked 15 through 22 for identification by agreement
7 of counsel?

8 MR. DUDLEY: Yes.

9 MS. RENDAHL: Yes, Your Honor.

10 JUDGE PRUSIA: Let the record reflect that
11 all of the counsel indicated in the affirmative. All
12 right, then. Those documents will be entered into the
13 record.

14 (Admitted T-15, 16 - 22.)

15 MR. DUDLEY: As a housekeeping matter, Your
16 Honor, may we at this point put in a transcript
17 correction for the last hearing and that is the
18 references to Exhibits 14 and 15 should be 13 and 14
19 respectively. I think that would be the way of
20 clearing up what we've got already in the record.

21 JUDGE PRUSIA: Yes. You may make that
22 correction in the transcript.

23 Are there any other preliminary matters
24 before the witness takes the stand?

25 May we have your witness then, Mr. Van

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1 Nostrand.

2 MR. VAN NOSTRAND: Thank you, Your Honor.

3 The company calls Barry Bede.

4 Whereupon,

5 BARRY BEDE,

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

7 herein and was examined and testified as follows:

8

9 DIRECT EXAMINATION

10 BY MR. VAN NOSTRAND:

11 Q. State your name and spell it for the
12 record, please.

13 A. My name is Barry Christopher Bede, B A R R
14 Y, Christopher. Last name is B E D E.

15 Q. Your title with US Ecology is what?

16 A. I'm vice-president with US Ecology.

17 Q. And you recognize what's been marked for
18 identification as Exhibit T-15 as your prefiled direct
19 testimony in this case?

20 A. Yes, I do.

21 Q. Do you have any additions or corrections to
22 make to Exhibit T-15 at this time?

23 A. No, I do not.

24 Q. And you also have before you what's been
25 marked for identification as Exhibits 16 through 22?

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1 A. I do.

2 Q. And do you recognize those as the exhibits
3 accompanying your prefiled direct testimony in this
4 case?

5 A. Yes, I do.

6 Q. Are those exhibits true and correct to the
7 best of your knowledge?

8 A. Yes, they are.

9 MR. VAN NOSTRAND: Your Honor, Mr. Bede is
10 available for cross-examination.

11 JUDGE PRUSIA: Ms. Rendahl.

12

13 CROSS-EXAMINATION

14 BY MS. RENDAHL:

15 Q. Good morning, Mr. Bede.?

16 A. Good morning.

17 Q. I would like to start by asking you a few
18 questions about the structure and history of US
19 Ecology just by way of background.

20 A. Yes.

21 Q. Your testimony on page 4 and Exhibit 17 or
22 BCB-4 describes the current organization structure of
23 American Ecology. Is American Ecology a subsidiary or
24 holding company of another corporation?

25 A. No, it is not.

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1 Q. When was US Ecology formed as a
2 corporation?

3 A. I believe US Ecology was formed as a
4 corporation initially in 1964 as Nuclear Engineering
5 Company, and then it operated as an independent
6 company, and it was assumed by Teledyne and operated
7 as nuclear engineering company as a subsidiary of
8 Teledyne, and then in I believe in 1982 it was spun
9 off as a subsidiary of American Ecology; American
10 Ecology being the parent company with two
11 subsidiaries, one National Ecology which was a wasting
12 energy company, and then US Ecology which included the
13 chemical and radioactive waste disposal facilities and
14 other service companies.

15 Q. How long has US Ecology operated the site,
16 the Richland site?

17 A. US Ecology has operated the site officially
18 since 1968. In 1965 California Nuclear was given the
19 contract to operate the facility. Subsequently in
20 1968 US Ecology, or at the time Nuclear Engineering
21 Company, assumed or bought California Engineering. We
22 have officially -- our history is traced back to the
23 1965, I believe, in February of 1965 through
24 California Engineering.

25 Q. When did Nuclear Engineering change its

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1 name to US Ecology?

2 A. I believe it was in 1982.

3 Q. So except for the change -- US Ecology
4 began operating the site then after it acquired the
5 site from California Nuclear then in 1968?

6 A. That's correct.

7 Q. And there's been no change in the corporate
8 structure in US Ecology since that time?

9 A. Well, at that time it was Nuclear
10 Engineering Company. There hasn't been a change in
11 the structure at that time.

12 Q. Except for the change of name?

13 A. That's correct.

14 Q. Thank you. I would like to now turn to
15 your testimony about US Ecology's investigation of
16 potential releases of hazardous materials at the site.

17 A. Yes.

18 Q. I believe that starts on page 11 of your
19 testimony.

20 A. What is the reference of exhibit?

21 JUDGE PRUSIA: That would be Exhibit 15.

22 A. Yes.

23 Q. I'm sorry, that would be page 12, page 11
24 is the wells.

25 A. That's correct.

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1 Q. In your testimony you indicate that US
2 Ecology is conducting an investigation that's
3 consistent with requirements of state and federal law
4 to investigate trenches at the Hanford facility or the
5 Richland site; is that correct?

6 A. Yes. We're investigating solid waste
7 management units that were identified for potential
8 releases by an EPA investigation at our facility in
9 1992.

10 Q. And the EPA is investigating the site due
11 to -- under the Resource Conservation and Recovery
12 Act?

13 A. They are investigating it under a Hanford
14 part B permit that is issued to the Department of
15 Energy, Richland operations, in which our facility was
16 included in a definition of facility in which the
17 permit was to be applied.

18 Q. I'm sorry, it was included in the
19 definition of --

20 A. Of facility.

21 Q. But that is under a Resource Conservation
22 Recovery Act investigation or RCRA?

23 A. Yes, it is.

24 Q. What does RCRA cover?

25 A. It covers the -- it deals with any

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1 hazardous potential or actual hazardous releases --
2 the releases of hazardous constituents and any solid
3 waste management unit.

4 Q. And hazardous constituents, that covers
5 hazardous waste, correct, which is different from low
6 level radioactive waste?

7 A. Yes, it does. There is a definitional
8 problem. In the federal level radioactive waste is
9 included under hazardous waste. In the state of
10 Washington there is a differentiation between
11 hazardous and radioactive waste, and in the nuclear
12 Regulatory Commission there is a differentiation
13 between radioactive and hazardous waste. It's only
14 EPA that has a broader definition that includes
15 radioactive waste under the umbrella category of
16 hazardous waste.

17 Q. And that's in EPA's regulations?

18 A. Yes, it is.

19 Q. So is US Ecology then being required to
20 conduct an investigation or is it doing it on its own?

21 A. We are being requested by the Department of
22 Energy, which is the permittee, to conduct these
23 investigations, and the obligation is that the land is
24 federally owned and is leased to the state of
25 Washington and the state of Washington subleases the

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1 land to US Ecology. We are not voluntarily doing
2 investigations of our facility. In fact we filed
3 litigation, initial litigation, to exclude our site
4 from the permit.

5 Q. Now, when you said DOE, is that the state
6 Department of Ecology?

7 A. No, the Department of Energy.

8 MS. RENDAHL: Your Honor, I would like to
9 have marked for identification this document. I will
10 note that it's a response to a staff data request part
11 of which was marked as confidential by the company,
12 but that part that was marked as confidential is not
13 included in what I'm distributing right now.

14 JUDGE PRUSIA: I've been handed a
15 multi-page document which is -- appears to be response
16 of US Ecology, Inc. to data request No. 21 issued by
17 the staff of the Commission. I will mark the document
18 for identification as Exhibit 23.

19 (Marked Exhibit 23.)

20 Q. Mr. Bede, did you provide these documents
21 in response to staff's data request No. 21?

22 A. Yes, I did.

23 Q. Would you please describe what each of
24 these documents is?

25 A. Well, the first document is a final report

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1 dealing with a RCRA facility assessment report done by
2 contractor PRC Projects out of Seattle, and it deals
3 with the assessment, the RCRA assessment, of our
4 facility.

5 Q. I think these got out of order
6 unfortunately. What's the next document?

7 A. The document November 5, 1991, that's a
8 certified letter that was sent to US Ecology? The
9 first one I have is the RCRA facility assessment. The
10 second document is a trip report.

11 Q. I guess I'm referring to the labels at the
12 top, attachment 21B, et cetera. There's 21B and then
13 the next I have is 21E. Is that what you have?

14 A. Proposed investigation program? Is that
15 what you're referring to?

16 Q. Yes. Would you identify what that is?

17 A. That is a proposed investigation program
18 that is -- was developed for our facility. I believe
19 this was done by our contractor. Yes. It identifies
20 the various solid waste management units and our
21 proposed investigation for hazardous constituents at
22 our facility.

23 Q. And then the next attachment that's
24 included?

25 A. Is that 21A?

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1 Q. It may very well be.

2 A. I'm sorry.

3 Q. Do you also have a 21C? You should have
4 everything but 21D. In fact they should be in order
5 A, B, C, D, E with D excluded.

6 A. C is radioactive materials license.

7 Q. And could you identify what attachment
8 21E is. I'm sorry.

9 A. I don't have 21E.

10 Q. You don't. Well, let me hand it to you.

11 A. Maybe I should put these in order. Here is
12 21E, yes, thank you. I'm in order now.

13 Q. Thank you. Sorry for the confusion.

14 A. No problem. 21E is a letter to Mr. Bob
15 Cordts of the Department of Ecology in the state of
16 Washington, and it is a proposed investigation program
17 for US Ecology's Hanford site. Again, this is for
18 investigation of the potential releases of hazardous
19 materials at our facility.

20 Q. Thank you.

21 MS. RENDAHL: Your Honor, I would move
22 admission of the document.

23 MR. VAN NOSTRAND: No objection.

24 JUDGE PRUSIA: Let me ask first, did you
25 want those reordered?

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1 MS. RENDAHL: Please, A through E with D
2 excluded.

3 JUDGE PRUSIA: All right. Is there any
4 objection to the admission of what has been marked for
5 identification as Exhibit No. 23?

6 MR. VAN NOSTRAND: No.

7 JUDGE PRUSIA: Mr. Dudley, Mr. Gould?

8 MR. GOULD: No objection.

9 JUDGE PRUSIA: Let the record reflect that
10 there is no objection. That exhibit will then be
11 admitted and will be admitted reordered with
12 attachment 21A through E and there's no D.

13 (Admitted Exhibit 23.)

14 MS. RENDAHL: Thank you.

15 Q. Mr. Bede, you said that US Ecology has been
16 required to conduct an investigation by the Department
17 of Energy. Has US Ecology been required to apply for
18 its own RCRA permit?

19 A. No.

20 Q. Has US Ecology been requested to apply for
21 a RCRA permit?

22 A. No, not concerning this issue. US Ecology
23 sent in a part B application, I believe, in 1982 or
24 1984 when the issue of scintillation vials became an
25 issue in which that was designated to be a RCRA waste

00274

1 at that time. Prior to 1984 that was not a RCRA waste
2 at our facility.

3 Q. Could you explain what part A and part B
4 are for a RCRA permit application?

5 A. Part A deals with the operations of a
6 hazardous waste or mixed waste facility under RCRA.
7 Part B is a closure plan for a RCRA facility. We sent
8 a letter for clarification to EPA asking -- saying
9 that we have materials that now have been designated
10 as RCRA waste. How should those be dealt with. We
11 made that application to the state of Washington in
12 1984. The state of Washington has not acted on that
13 application in the last 11 years, and it was a
14 protective filing, asking the question how should we
15 deal with this potential problem at our facility or
16 how do we deal with waste that is now designated as
17 RCRA waste that has previously been disposed of at our
18 facility, disposed of under our NRC license for low
19 level radioactive waste. We are strictly a low level
20 radioactive waste facility. We are not a RCRA
21 disposal facility.

22 The federal government indicated that waste
23 we previously had been taking from 184 forward would
24 be RCRA waste and those would be no longer accepted at
25 our facility. We indicated to generators that these

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1 wastes would no longer be accepted under our NRC
2 license. Our NRC license gave us the opportunity for
3 a de minimus quantity exemption for hazardous quality
4 materials. There was also some change in the state of
5 Washington dealing with the disposal of lead at the
6 time. That is not a RCRA waste but it's a dangerous
7 waste in the state of Washington. Upon notification
8 of these changes, generators were given further
9 notification and no additional waste was accepted at
10 our facility.

11 Q. Thank you. Mr. Bede, if you could turn to
12 what's attachment 21B of Exhibit 23. This document
13 describes in addition to other information the history
14 of US Ecology's filing of part A and part B --

15 A. That's correct.

16 Q. -- applications?

17 A. Yes.

18 Q. And so when US Ecology filed its part A
19 permit application --

20 A. We never filed a part A permit application.
21 We filed a part B application, I believe. Part A, I
22 believe, is for operation facility. Can you reference
23 that in the document? To my knowledge we did not file
24 part A.

25 Q. If you turn to page 9 of attachment 21B.

00276

1 A. Yes.

2 Q. It indicates the second to last sentence on
3 that page "a RCRA part A treatment storage and
4 disposal permit application dated" --

5 A. I stand corrected. That was submitted in
6 1980, that's correct.

7 Q. And it indicates that the application was
8 accompanied by a letter expressing uncertainty about
9 the status of the facilities. Is that what you were
10 talking about in terms of RCRA waste being defined --

11 A. Yes, it was.

12 Q. And then again US Ecology filed a part A
13 application in 1985?

14 A. Yes.

15 Q. In addition to --

16 A. Well, that's correct. It was an updated
17 part A application. It wasn't a new application. In
18 1980, I believe, they believed our part A application
19 was incomplete and then we amended that in 1985.

20 Q. And then in 1985 the US Ecology lost its
21 interim status. Could you explain what that means?

22 A. Interim status is the assumption we are
23 going to operate a facility and then you can progress
24 in the regulatory form to have your site continued to
25 be evaluated. It was determined that interim status

00277

1 was lost so no hazardous waste could be coming into
2 your facility.

3 Q. Why did US Ecology not finish the
4 application process?

5 A. Mainly because we were not a hazardous
6 waste facility and we were seeking clarification.
7 These were protective filings for -- asking EPA to
8 clarify that we are -- have been historically a low
9 level radioactive waste facility and now you have
10 designated certain low level waste that's at our
11 facility as hazardous waste and we were asking how
12 should we proceed.

13 Q. So when did the U.S. Department of Energy
14 initiate its RCRA hazardous waste permit for the
15 Hanford site?

16 A. I believe that it was initiated in 1990,
17 and then it was -- went out to public hearing in 1992,
18 and then in 1994 in -- I believe in September that
19 permit was issued, and it was issued jointly by the
20 Environmental Protection Agency and the Washington
21 Department of Ecology.

22 Q. And as a part of that permit, the Richland
23 site was indicated as a solid waste management unit at
24 the Hanford site?

25 A. To our surprise, yes, our facility was

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1 included in that -- in the initial draft permit, the
2 document that came out in February of 1992.

3 Q. Was the site included due to US Ecology's
4 resistance, for lack of a better word, to complete an
5 application for RCRA?

6 A. No. It was included only in the broad
7 definition of facility that included all physical
8 operations on the Hanford reservation. We were the
9 only private operation. All other operations were
10 affiliated with the Department of Energy. We do not
11 have a direct connection to the Department of Energy.
12 We maintain a sublease with the state of Washington,
13 which has a direct relationship with the Department of
14 Energy through a 99-year lease that was initiated in
15 1964.

16 Q. If you could go back to page 9 of
17 attachment 21B.

18 A. Yes.

19 Q. The report indicate that US Ecology
20 disposed of nonradioactive hazardous chemical waste at
21 the site from 1968 until '72; is that correct?

22 A. That's correct. Under our low level
23 radioactive waste materials license.

24 Q. And the chemical waste included xylene,
25 benzene, toluene and scintillation fluids; is that

00279

1 correct?

2 A. In the chemical -- are you referring to the
3 chemical trench?

4 Q. Yes.

5 A. There were no scintillation vials
6 referenced in the chemical trench at all.

7 Q. Does the company have complete information
8 about the amounts and the types of chemicals that were
9 placed in the chemical trench?

10 A. We do not.

11 Q. Why didn't the company maintain detailed
12 records?

13 A. We have records. They are not detailed
14 records at the time of the 1968 to '72 period.
15 Shipping bills of lading and shipping dock records are
16 available. Also we, through an exhaustive
17 investigation not only by the company but also by the
18 Department of Health to identify who those generators
19 were, we were only able to identify four generators
20 who had deposited of waste, and we went to those four
21 generators and asked for clarifying records. I
22 believe two of the four are now out of business and
23 did not have any records. The other two indicated
24 that they had no historical records about those
25 shipments.

00280

1 Q. Are those two still current generators or
2 customers of US Ecology?

3 A. One is.

4 Q. I have a question about a statement that
5 appears on page 8 of this document. The first
6 paragraph under section 3.2 states that "no attempt by
7 US Ecology has been made to record the exact location
8 of individual shipments of waste within a trench.
9 According to US Ecology this was done purposefully to
10 discourage unauthorized recovery of waste."

11 A. No. That is an inaccurate statement. You
12 have to realize, this report was contested by the
13 company very vigorously and there were additional
14 comments that were put in saying that this report was
15 an inaccurate report in its draft form and those
16 clarifications were not made in the final report.

17 Q. Do you know what that refers to in terms of
18 discouraging unauthorized recovery of waste?

19 A. No. We contested that and we asked what
20 they meant by that.

21 Q. "In addition to the nonradioactive chemical
22 waste US Ecology also disposed of mixed waste at the
23 site until 1985."

24 A. We did not.

25 Q. You did not dispose of --

00281

1 A. We have not disposed of any mixed waste at
2 our facility that was designated as a mixed waste at
3 the time of acceptance of that material. All waste we
4 have received at the time of acceptance has been low
5 level radioactive waste. Waste that is strictly
6 authorized under our license with the Department of
7 Health.

8 Q. Let me rephrase that. Did US Ecology
9 receive waste that is now characterized as mixed waste
10 until 1985?

11 A. Yes.

12 Q. And that's waste that contains both
13 hazardous and radioactive waste; isn't that correct?

14 A. It contained both radioactive and hazardous
15 constituents in the waste, yes.

16 Q. And those wastes were disposed of in
17 trenches 1 through 11A mixed waste, for what's now
18 defined as mixed waste?

19 A. Our records, yes, this was the material in
20 those trenches, yes.

21 Q. So if the company deposited nonradioactive
22 hazardous waste at the site, why should the current
23 ratepayers be required to pay for the corrective
24 action concerning these materials?

25 A. This material was accepted under our

00282

1 radioactive materials license. It was under a de
2 minimus quantity exemption. This material was
3 manifested and accepted by the state of Washington for
4 appropriate disposal at our facility. This material
5 was -- came from historical generators that used our
6 facility and some of them continued to use our
7 facility.

8 Q. What federal and state agencies are
9 currently imposing environmental monitoring
10 requirement on the company in addition to EPA?

11 A. Under our license the Department of Health
12 is requiring investigation for radiological
13 constituents at our facility. There is no other
14 authority that is -- that currently is -- has
15 authority to ask for additional monitoring at our
16 facility.

17 Q. Mr. Bede, you mentioned that in reference
18 to attachment 21B there is a clarification report that
19 the company filed. Is that available?

20 A. Those are comments, yes. That is
21 available, and I had thought that was included in our
22 response. If it has not been included we can give you
23 those comments. Those comments were on the draft
24 report and also on the final report in which we were
25 highly critical of the information that was in this

00283

1 document, and that was the basis of our litigation.

2 MS. RENDAHL: Your Honor, I would like to
3 make a record requisition for the company's
4 clarification.

5 JUDGE PRUSIA: I believe that would be
6 record requisition No. 2. I only have record of one
7 --

8 MS. RENDAHL: I know that there's been two
9 bench requests but I am not aware of any record
10 requisitions.

11 JUDGE PRUSIA: Mr. Paine made one to Mr.
12 Saleba.

13 MS. RENDAHL: Oh, that's true.

14 JUDGE PRUSIA: That would be record
15 requisition No. 2, the Commission staff's request for
16 the company's response to the attachment 21B. Would
17 that be correct to characterize it in that way.

18 MS. RENDAHL: Your Honor, could I clarify
19 that would be the clarification to the draft and the
20 final reports?

21 JUDGE PRUSIA: Yes.

22 MS. RENDAHL: Thank you.

23 (Record requisition 2.)

24 A. These are comments to the Environmental
25 Protection Agency specifically dealing with this

00284

1 report.

2 Q. Thank you.

3 A. There are comment --

4 Q. I don't believe there's a question pending.

5 Mr. Bede, so at this time, US Ecology
6 reports in terms of environmental monitoring to the
7 federal EPA?

8 A. No. Strictly to the state of Washington,
9 to the Washington Department of Health. There is no
10 reporting that goes to any other -- to any other
11 federal agency other than the Nuclear Regulatory
12 Commission. No other agency has regulatory oversight
13 at our facility at this time.

14 Q. But you've indicated that the department of
15 the -- federal Department of Energy is requesting this
16 investigation be conducted. Does that include
17 environmental monitoring in that investigation?

18 A. Yes, it does. They are not requesting it
19 be done. The Environmental Protection Agency is
20 requesting it to be done. In fact the Department of
21 Energy is contesting our inclusion into this permit.
22 The basis of that inclusion, they believe that if
23 there are concerns about our facility they should be
24 handled not through their RCRA part B permit but in
25 the direct relationship between either the state of

00285

1 Washington or the EPA to US Ecology. We have a permit
2 that is being issued to the Department of Energy by
3 EPA. There is no direct connection between EPA and US
4 Ecology. It is strictly through the Department of
5 Energy. Department of Energy is contesting our
6 inclusion in that.

7 Q. Did you say that the Department of Energy
8 is contesting their inclusion as a RCRA permit or your
9 site as part of your permit?

10 A. They are contesting our site as being
11 included in their RCRA part B permit.

12 Q. Thank you. In your testimony you refer to
13 an investigation plan that the company has developed
14 to identify the potential release. Is this plan --
15 who is this plan directed to? Just Department of
16 Energy or --

17 A. No. The plan is directed to the
18 Environmental Protection Agency, and the Washington
19 Department of Ecology that has authorization over
20 hazardous waste, and mixed waste.

21 Q. So is the state Department of Ecology,
22 are they pursuing this on behalf of EPA?

23 A. Yes, they are.

24 Q. Are they the --

25 A. Currently EPA --

00286

1 Q. Excuse me. May I ask my question? Are
2 they, the state agency that is, for lack of a better
3 word, licensed or certified by EPA to conduct this
4 investigation?

5 A. They will be. Right now they don't have
6 the EPA authority for investigation and remedial
7 action or correction action. That is to be
8 transferred to the state of Washington within the next
9 year, I would imagine. Early indications were that
10 that authority would be transferred to the state in
11 November of last year, and it wasn't done at that time
12 and it has not been done to this date but it is
13 anticipated that that action will be taken, which will
14 be basically take EPA out of the direct relationship
15 for their site. That authority is transferred to the
16 state Department of Ecology.

17 Q. So then company would be reporting both to
18 Ecology and state Department of Health in terms of
19 complying with any closure or environmental
20 monitoring?

21 A. No, no. It is in our program -- we are
22 suggesting that this be done strictly under our
23 radioactive materials license in which the Department
24 of Health would be given the authority to oversee the
25 investigation of hazardous constituents at our

00287

1 facility.

2 Q. Referring to attachment 21E --

3 A. Yes.

4 Q. -- which is the company's proposal, it
5 indicates on the cover letter that there was a meeting
6 between the Department of Ecology and Department of
7 Health and the company and that this proposal is
8 submitted pursuant to that meeting. Is there some
9 sort of discussion between the company and Department
10 of Health and Department of Ecology to somehow
11 consolidate any reporting requirements in one program?

12 A. That's the direction that we're trying to
13 do, and that reporting requirement will just be to the
14 company to the Department of Health. This plan, the
15 proposed investigation program, is really the third
16 generation proposal that US Ecology has made. The
17 first proposal was a RCRA facility investigation that
18 was filed before the permit was issued to the
19 Department of Energy. The assumption is that if we
20 filed a RCRA investigation that we could be deleted
21 from the permit. We also -- that was rejected.

22 Subsequently we issued a soil sampling
23 program to EPA, and I believe in January of this year
24 that was also rejected. This is the third attempt by
25 the company to resolve the investigation program.

00288

1 This program is directed to the state of Washington.
2 The other two programs were directed to EPA. We were
3 instructed by EPA to deal directly and negotiate with
4 the Department of Ecology to resolve this issue, and
5 then EPA would review that decision on the assumption
6 that corrective authority is going to be transferred
7 to the state of Washington eventually.

8 There are different requirements. Under
9 RCRA EPA has authority -- there are certain RCRA
10 requirements that you have to meet. If the state of
11 Washington takes over that authority there are new
12 Model Toxic Control Act, or MOTCA, requirements that
13 you have to meet.

14 Q. So the company is trying to combine all of
15 its requirements in one area?

16 A. That's correct. We're trying to get beyond
17 a one agency. This plan is to be implemented by the
18 Department of Health.

19 Q. So has the company currently reached any
20 agreement with the Department of Ecology and
21 Department of Health in this proposed plan?

22 A. There is no agreement at this time. We
23 have a proposed plan that is being evaluated at this
24 time. There needs to be a memorandum of understanding
25 between the state agencies in order to implement this

00289

1 plan. That MOU has not been completed at this time.

2 Q. Do you have any estimate of when that will
3 be completed?

4 A. We were very hopeful that that could have
5 been completed months ago.

6 Q. In the company's proposed investigation
7 program, it proposes installation of two vadose zone
8 monitoring cluster wells; is that correct?

9 A. That's correct.

10 Q. What is a vadose zone?

11 A. The vadose zone is the area between where
12 waste is disposed of and your ground water or aquifer.
13 At our facility we excavated trenches to 45 feet from
14 the ground level and we disposed of waste from 45 feet
15 up to eight feet of that ground level. The area would
16 be between the 45 feet, which is the bottom of a
17 trench, and the aquifer that is at approximately 322
18 feet under our facility. So you have approximately a
19 280-foot area that is called the unsaturated area
20 where waste has not been infiltrated. It's a -- and
21 there is no moisture in that area.

22 Q. And so what would the vadose zone
23 monitoring cluster wells monitor?

24 A. They would monitor any releases under this
25 program, any releases of any hazardous constituent

00290

1 from our trench basically from the bottom of the
2 trench at various locations. One of the problems at
3 our facility is that we are a low level radioactive
4 waste disposal facility. Under NRC and the Department
5 of Health our point of compliance is at the ground
6 water not at the bottom of our trenches. Under EPA
7 and state regulations the point of compliance is where
8 -- defined as your waste disposal unit which is
9 actually the trench. The waste disposal unit at our
10 facility includes the entire site under our Department
11 of Health regulation. So you have conflicting
12 regulations between the state of Washington,
13 Department of Ecology and Department of Health, and
14 our plan tries to solve that by putting the authority
15 under the Department of Health to implement Department
16 of Ecology authority for hazardous waste.

17 Q. The company is proposing to install the
18 wells under the chemical trench and trench No. 5; is
19 that right?

20 A. That's correct.

21 Q. And these are the same wells that are
22 referred to on page 11 of your testimony?

23 A. No, they're not. Page 11 of my testimony
24 deals with installing wells, vadose monitoring wells
25 for the Department of Health. These are separate

00291

1 wells. Our idea was to try and incorporate these into
2 one investigation. That has not been achieved.
3 Testimony on page 11 deals with what our license
4 requirements are. The Department of Health maintains
5 that we shall do investigation of the vadose zone for
6 radiological constituents. The RCRA investigation
7 plan is for hazardous constituents. These are two
8 different programs.

9 MS. RENDAHL: Your Honor, I would like to
10 have marked for identification this document.

11 JUDGE PRUSIA: I've been handed a
12 multi-page document entitled Response of US Ecology,
13 Inc. to data request No. 23 of the Commission staff.
14 I will mark that document for identification as
15 Exhibit No. 24.

16 (Marked Exhibit 24.)

17 Q. Mr. Bede, if you would refer to page -- I'm
18 sorry. Could you identify what this document is.

19 A. This is a document done by our contractor
20 Grant Environmental, and this is for a vadose
21 monitoring plan dealing with radiological constituents
22 at our facility. This was a license requirement, and
23 we included this document in our closure plan
24 submission to the Department of Health. This does not
25 deal with any hazardous investigation of the vadose

00292

1 soil.

2 Q. And you submitted this to staff in response
3 to data request No. 23?

4 A. Yes, we did.

5 MS. RENDAHL: Your Honor, I move admission
6 of the exhibit.

7 JUDGE PRUSIA: Are there any objections to
8 the admission of the document that's been marked for
9 identification as Exhibit No. 24?

10 MR. VAN NOSTRAND: No.

11 JUDGE PRUSIA: Let the record reflect that
12 there is no affirmative response. Hearing none that
13 exhibit will be admitted.

14 (Admitted Exhibit 24.)

15 Q. Mr. Bede, if you could look at page 3-1
16 of Exhibit 24.

17 A. Exhibit 24 again is the document you just
18 gave me?

19 Q. Correct.

20 A. Yeah.

21 Q. The second paragraph to the bottom states
22 that "the cluster wells will be placed at the chemical
23 trench in between trenches 4 and 5."

24 A. That's correct.

25 Q. And then referring back to Exhibit

00293

1 attachment 21E, on page 3, it also talks about placing
2 these cluster wells near the chemical trench and near
3 trench 5. If the company installs cluster wells under
4 Department of Health requirements for radiological
5 constituents, then those same wells will be used for
6 hazardous constituents?

7 A. No.

8 Q. But they will be in the same location,
9 correct?

10 A. Well, they will be in the same trenches,
11 not necessarily the same locations. One is for
12 radiological investigation, one is for hazardous
13 investigation -- hazardous constituent investigation.
14 It would be nice to be able to incorporate those but
15 we haven't at this time. There are competing
16 regulatory requirements for those wells.

17 Q. If you have cluster wells for radiological
18 constituents why can you not test them -- why can you
19 not test for hazardous constituents using the same
20 wells?

21 A. Because there are different constituents
22 that you are monitoring for and you have different
23 requirements specifications for those wells to be
24 installed. Difference in screening, difference in
25 type of equipment that you can be using, also

00294

1 basically a difference in installation of those wells.

2 Q. Referring to Exhibit 24, again, how are the
3 vadose zone wells that are proposed in this program to
4 be constructed, what materials will be used to
5 construct these wells?

6 A. I believe that's outlined in -- on table 3
7 dealing with cost estimate. I don't know the exact
8 equipment that's going to be used. There are drilling
9 specifications, sampling specifications that have to
10 be met to the standards of the Department of Health
11 for radiological constituents. Their hydrogeologist
12 is going to determine what exactly that equipment is
13 going to be. That has not been totally finalized by
14 the Department of Health. We have a proposal to them
15 and it is our assumption we can implement this
16 proposal, but I don't have the specifications of what
17 exact equipment is going to be used.

18 MS. RENDAHL: Your Honor, I would like to
19 have marked for identification as Exhibit 25 and 26
20 two different documents.

21 JUDGE PRUSIA: Do you have a preference as
22 to which document gets which number?

23 MS. RENDAHL: Yes. Could you mark as
24 Exhibit 25 data request 22 and its response and then
25 26 as the Teledyne Wah Chang.

00295

1 JUDGE PRUSIA: I've been handed a
2 multi-page document which is the response of US
3 Ecology, Inc. to data request No. 22 of Commission
4 staff. That has been marked for identification as
5 Exhibit No. 25.

6 I've been handed a second multi-page
7 document, which is a supplemental response of US
8 Ecology to data request No. 608 submitted by Teledyne
9 Wah Chang. I have marked that for identification as
10 Exhibit No. 26.

11 (Marked Exhibits 25 and 26.)

12 Q. Mr. Bede, looking at what's been marked as
13 Exhibit 25, is this a copy of your response to staff's
14 data request No. 22?

15 A. Yes, it is.

16 Q. Could you describe what the document is?

17 A. It's the ground water monitoring well
18 management plan that was submitted to the Department
19 of Health.

20 Q. And looking at what's been marked as
21 Exhibit 26.

22 A. This is the response letter from the
23 Department of Ecology dealing with specific questions
24 I directed to the department dealing with the funding
25 of investigation and installation of both vadose and

00296

1 ground water monitoring wells at our facility.

2 Q. And you provided this response to Teledyne
3 Wah Chang in response to its data request?

4 A. Yes, we did.

5 MS. RENDAHL: Your Honor, I would move
6 admission of the two documents.

7 MR. VAN NOSTRAND: I have no objection,
8 Your Honor, as long as it's noted for the record that
9 page 9 of 9 of Exhibit 25 contains markings not made
10 by the company's original response.

11 MS. RENDAHL: Excuse me?

12 MR. VAN NOSTRAND: Page 9 of 9 of Exhibit
13 25 contains delineations on the right-hand side not
14 included in the company's original response.

15 MS. RENDAHL: Thank you.

16 MR. VAN NOSTRAND: Additions done on the
17 far right-hand column is not work product of the
18 company.

19 JUDGE PRUSIA: And what's been marked for
20 identification as Exhibit No. 26, is everyone able to
21 read --

22 MS. RENDAHL: Your Honor, this was the copy
23 that was provided in response to data request. I
24 could request the company to provide a clean copy for
25 submission to the record at a later date.

00297

1 JUDGE PRUSIA: Is a cleaner copy available?

2 THE WITNESS: I don't know at this time.

3 This is the copy that I had in my office.

4 MR. VAN NOSTRAND: What we have is from
5 you?

6 THE WITNESS: This is the only copy I have.
7 I can look if someone else in the company has a clean
8 copy or the Department of Health has another copy.

9 JUDGE PRUSIA: With the correction Mr. Van
10 Nostrand indicated that he has no objection to the
11 admission of these two exhibits. Are there any other
12 objections to the admission of Exhibits 25 and 26?

13 MR. GOULD: None.

14 JUDGE PRUSIA: Let the record reflect that
15 there is no affirmative response. Hearing none
16 documents marked for identification as Exhibits No. 25
17 and 26 are admitted --

18 (Admitted Exhibits 25 and 26.)

19 JUDGE PRUSIA: -- with the correction on
20 page 9 of 9 of Exhibit 25 that the notations on the
21 right-hand side were not in the original and should be
22 disregarded.

23 Q. Mr. Bede, looking at Exhibit 25, this
24 document or plan was prepared at the request of
25 Department of Health?

00298

1 A. Yes, it was.

2 Q. As a part of the post closure plan
3 document?

4 A. As part of our license requirement.

5 Q. And the report indicates that there are
6 currently five ground water monitoring wells at the
7 site; is that correct?

8 A. That's correct.

9 Q. How long have these wells been in place, do
10 you know?

11 A. I believe they were installed in 1988.

12 Q. Do you know what the construction of these
13 wells is, what they're made from, the current ground
14 water monitoring wells?

15 A. I'm not a hydrogeologist or engineer. I
16 don't know the exact materials.

17 Q. Do you know if it's steel or PVC pipe?

18 A. I believe they're PVC pipe with steel
19 screens on the bottom, approximately 40 feet of
20 screening that goes into the aquifer or the water
21 table.

22 Q. If you look in the right-hand corner is
23 that titled page 3 of 9 --

24 A. Yes.

25 Q. -- there's a discussion of the existing

00299

1 wells. Would you agree that, as it states, that wells
2 3, 8, 10 and 13 are constructed of 8-inch diameter
3 schedule 40 mild steel casing?

4 A. That's right. That's what that does state,
5 yes.

6 Q. And that the fifth well is constructed of
7 PVC casing?

8 A. That's the statement, yeah, that's correct.

9 Q. Do you know if there have been any repairs
10 or replacements to these existing wells since they
11 were installed?

12 A. No. There was an investigation that we put
13 a camera down them and there was no indication of any
14 deterioration.

15 Q. How many years does US Ecology expect these
16 wells to remain in operation?

17 A. The five existing wells?

18 Q. Correct.

19 A. That depends on regulatory requirement.
20 There's some concern about those existing five wells
21 do not meet criteria for them being RCRA wells or
22 wells to collect hazardous constituents from the
23 ground water. With a change in regulatory
24 requirements, those wells could be replaced
25 immediately.

00300

1 Q. Were it not for regulatory requirements,
2 how long do you think these wells would be functional?

3 A. I'm not exactly sure. They've been
4 operating since 1988. We just investigated them.
5 They seem to be -- seem to be continuing to function.
6 I'm not an engineer. I don't have the longevity of a
7 specific well. They are not going to last forever. I
8 imagine you could have some deterioration in them or
9 you could have some type of activity that would
10 compromise them and they would have to be replaced.

11 Q. Just for clarification, if you look to the
12 next page, page 4 of 9 --

13 A. Yes.

14 Q. -- would you agree that the first paragraph
15 after Roman numeral V states "the existing wells were
16 installed in 1985."

17 A. Yeah, I stand corrected. I said in 1988.
18 They were installed in 1985, yes, as this statement.

19 Q. The statement also -- the paragraph also
20 states that "there are no trends which indicate a near
21 term limit to their useful lifetime." Is that the
22 company's --

23 A. That's the statement. This is our report.

24 Q. Concerning the two proposed -- the new
25 proposed wells, the company is proposing two

00301

1 additional wells to be constructed?

2 A. That's correct.

3 Q. And has this plan been accepted by
4 Department of Health?

5 A. They have preliminarily accepted it. There
6 is some question about going through right now about
7 the location of our down gradient well. There is a
8 determination that there should be two additional
9 wells. It's just a question of where the down
10 gradient one should be located, and that came out just
11 last week. We've gotten a contractor, and this
12 contractor is available to install those wells this
13 year.

14 Q. Will the two proposed wells be constructed
15 using the same type of materials as the existing five,
16 or I guess the steel casing?

17 A. Yes. I believe they will be. Our plans
18 are to have a little bit different screening in them.
19 We had a 40-foot screening in our ground water wells,
20 but the anticipation of the reduction of the ground
21 water since the activities at the Hanford reservation
22 have reduced the level of the ground water and the
23 need for screening might not be 40 feet any more.

24 Q. On page 11 of your testimony you state that
25 the cost of the wells -- that the company is proposing

00302

1 to recover cost of the wells over a period of five
2 years; is that correct?

3 A. That's correct.

4 Q. Given that there are five wells that have
5 been in place for 10 years and show no need at this
6 time to be repaired, and that the company has placed
7 -- has not placed a near term limit on those wells'
8 usefulness, wouldn't it be reasonable to recover the
9 cost of the new wells over a longer period of time?

10 A. Not necessarily. A five-year period
11 provides us with some confidence that they will be
12 able to perform for that period of time. There is no
13 guarantee after five years that those wells would be
14 accepted or continued to function. Just because the
15 first five are -- have existed for 10 years indicates
16 -- doesn't indicate the other two are going to last
17 that long.

18 Q. Are there any current or proposed wells in
19 any locations where the company plans to dig new
20 trenches?

21 A. The operating well is going to be just
22 close to our new trench 18 that is going to -- that's
23 going to be excavated this year. And that is a new
24 trench.

25 Q. Will that cause any disruption of that

00303

1 well? You stated an operating well is near that
2 trench?

3 A. No. The operating well, it's not next to
4 the trench. It's -- it's off from where the new
5 trench will be. We had a proposal as our facility
6 expanded for additional ground water monitoring wells
7 to be installed. There is a potential if the entire
8 100 acres is used that 33 wells would be implemented.
9 That was on the assumption we could continue to take
10 large volumes of waste.

11 We're now a regional facility and our
12 closure plan, we're estimating that less than 50
13 percent of the 1200 acres is going to be utilized.
14 It's our belief that these additional two monitoring
15 wells at this time should meet the additional volume
16 capacity of the next six to eight years but that could
17 change if additional volume comes into our facility.

18 Q. Concerning the vadose zone wells that we
19 were talking about before, I have a couple of
20 additional questions, and if you look to Exhibit 26 --

21 A. Yes.

22 Q. On page 2 of the letter from Department of
23 Ecology?

24 A. The letter from Mike Wilson? Yes.

25 Q. The letter dated March 9, 1995.

00304

1 A. Yes, that's it.

2 Q. Paragraph 3 indicates, "The Department of
3 Health has determined that a vadose monitoring system
4 will be required." Is that correct?

5 A. That's correct, yes. That's a license
6 requirement, yes.

7 Q. And in discussing the recovery of costs it
8 indicates that -- the letter states that the costs for
9 the monitoring required or associated with Ecology or
10 RCRA -- I'm sorry -- that the costs would be
11 recoverable as operational costs any costs related to
12 the ecology or RCRA monitoring; is that correct?

13 A. No, but what it says is that any -- that
14 any vadose monitoring system is recoverable at the
15 site closure account to the extent the costs
16 are directly related to the Department of Health
17 closure requirement. Then it goes on to say costs
18 associated with the Department of Ecology or RCRA
19 hazardous waste will be recovered as routine or
20 operating costs. That part of the costs associated
21 with taking analysis of hazardous constituents.

22 Q. So I guess this goes back to my apparent
23 confusion earlier that it appears that both Department
24 of Health and Ecology are requiring the vadose system,
25 and it seems to be the same type of system?

00305

1 A. No. They are not requiring the same type
2 of system. They are two separate requirements. One
3 requirement of the Department of Health deals with
4 looking for radiological constituents in the vadose
5 zone, and meeting requirements of saying, okay, if you
6 find something in the vadose zone your point of
7 compliance is at your ground water.

8 Under the vadose zone investigation of the
9 Department of Ecology, that would indicate that
10 analysis -- that any releases from your trenches in
11 the vadose zone the point of compliance would be at
12 your trenches. Basically under the Department of
13 Ecology any release you would find would be determined
14 as a release. Under the Department of Health even if
15 you found a release of radiological material in the
16 vadose zone that would not be a release because your
17 point of compliance is at your ground water. Until
18 that release reached your ground water there would be
19 no need for any type of remedial action or corrective
20 action. It's a difference of point of compliance of
21 the two systems.

22 Q. Going back to Exhibit 24, the report states
23 that US Ecology currently has two vadose zone wells in
24 an experimental monitoring program?

25 A. That is correct, yes.

00306

1 Q. Do you know what the materials that these
2 wells were constructed with? Do you have any idea?

3 A. I believe they are steel casing vadose.
4 They are vertical wells. They go straight down and
5 they penetrate into the vadose zone. The question is
6 not -- has been raised with these wells is that you
7 can say they only monitor what is the corridor from
8 the site of a trench. The issue is they don't monitor
9 what is underneath your trench, and the issue is that
10 the Department of Health was interested in doing
11 vadose monitoring wells for soil samplings under the
12 trench.

13 Q. That's fine. I'm not questioning why you
14 put these two in place. My question just had to do
15 with the construction of the wells.

16 A. Yes.

17 Q. And so you've indicated that it's basically
18 steel construction as you understand it?

19 A. I believe so, yes.

20 Q. And are the proposed wells proposed to be
21 of similar construction?

22 A. Yes, they are. But they are going to be
23 different type of wells. The screening is going to be
24 larger in those wells and you're going to be able to
25 take samplings from a broader area.

00307

1 Q. Do you know what the cost to construct the
2 existing wells was?

3 A. Existing -- I don't have that at this time,
4 no.

5 Q. So if the vadose wells that you're
6 proposing are similar to the construction in terms of
7 steel casing than the current wells, wouldn't it be
8 reasonable to recover them over a longer period than
9 five years?

10 A. Not necessarily. Certainly those wells may
11 only operate for a four or five year period. Our
12 vadose monitoring wells have only been installed for a
13 short period of time and we don't know how long they
14 will last.

15 Q. Going back to the ground water monitoring
16 wells, I just have a couple of more questions on these
17 wells.

18 A. Certainly.

19 Q. I think you indicated that there may be
20 regulatory requirements that are changing to change
21 whether those wells -- the construction of those wells
22 should be changed?

23 A. No. There's just a question of where the
24 location should be of the -- I believe it's the down
25 gradient well.

00308

1 Q. So you're not going to be pulling out those
2 wells. It's just a question of whether there are
3 additional wells needed to meet the regulatory
4 requirement?

5 A. No, we're not pulling out -- you're
6 referring to the five ground water monitoring wells we
7 have now?

8 Q. Correct.

9 A. Those will continue to exist. There are
10 two additional wells that we are going to be
11 installing, one up gradient and one down gradient.
12 There's just a question -- there's no change in
13 regulatory requirement. It's just a change of -- just
14 a debate is going on the locations we selected, are
15 those the appropriate locations.

16 Q. I'm going to move on to a different
17 subject. I am sure you will be happy about that.

18 On page 15 of your testimony, and I guess
19 it's been marked as Exhibit 18, BCB-7, which is your
20 equipment lease exhibit.

21 A. Yes.

22 Q. You've indicated a five year replacement
23 program to replace aging equipment at the site,
24 correct?

25 A. That's correct.

00309

1 MS. RENDAHL: Your Honor, I'd like to mark
2 another document. I believe this will be Exhibit 27.

3 JUDGE PRUSIA: I have been handed a
4 multi-page document which is response of US Ecology,
5 Inc. to data request No. 19 issued by Commission
6 staff. I'm marking that document for identification
7 Exhibit No. 27.

8 (Marked Exhibit 27.)

9 Q. Mr. Bede, is this your response to staff's
10 data request No. 19?

11 A. Yes, it is.

12 MS. RENDAHL: Your Honor, I move for
13 admission of the document.

14 JUDGE PRUSIA: Are there any objections to
15 the admission of the document that's been marked as
16 Exhibit No. 27?

17 MR. VAN NOSTRAND: No.

18 JUDGE PRUSIA: Let the record reflect there
19 is no affirmative response. Hearing none the exhibit
20 will be admitted.

21 (Admitted Exhibit 27.)

22 JUDGE PRUSIA: Ms. Rendahl, could you give
23 me an estimate of how much longer you will have for
24 the cross.

25 MS. RENDAHL: Maybe another 15 minutes max.

00310

1 Do you want to break right now for morning break?

2 JUDGE PRUSIA: This might be a good time to
3 break. At this time then we will take our midmorning
4 break. Be back in 15 minutes. Be back at 10:45 a.m.
5 Let's be off the record.

6 (Recess.)

7 JUDGE PRUSIA: Let's be back on the record.
8 First there's a housekeeping matter that I neglected
9 to take care of earlier, thought I could take care of
10 now. A number of parties are not present for today's
11 session. As far as I am aware, all of the parties are
12 participating in this phase of the proceeding.
13 However, there are a number who elected not to conduct
14 any cross-examination.

15 I have a letter from James Fells on behalf
16 of Precision Castparts indicating that Precision has
17 decided to participate in the revenue requirement
18 phase but that they would not be conducting any
19 independent cross-examination today. I have a similar
20 letter from Melvin Hatcher on behalf of Washington
21 Public Power Supply System and James Irish on behalf
22 of Bonneville is present today but is also not
23 participating in the cross-examination. Now, I
24 believe Mr. Dudley can advise us about some of the
25 other -- one or more of the other parties.

00311

1 MR. DUDLEY: Yes. I've been in touch with
2 the attorney for Public Service Colorado. They are in
3 the same category as you mentioned for the others.
4 They are still participating but they are just not
5 present here today for the cross-examination.

6 JUDGE PRUSIA: Thank you, Mr. Dudley. Is
7 there anything else we need to take up before Ms.
8 Rendahl continues?

9 Continue, Ms. Rendahl.

10 MS. RENDAHL: Thank you. I believe we had
11 just -- Exhibit 27 had just been admitted.

12 JUDGE PRUSIA: Correct.

13 Q. Mr. Bede, as of the date of the response in
14 June, you indicated that there have been no equipment
15 leases executed; is that correct?

16 A. That's correct.

17 Q. Has the company entered into any lease
18 arrangements or contracts since that date?

19 A. No, we haven't but we're planning to do
20 that immediately. As soon as those contracts are in
21 place they will be provided to you.

22 Q. When you say immediately, what's your
23 estimation of time?

24 A. I would think within weeks we're going to
25 try and do this. One of the reasons why those were

00312

1 not entered into, there was some question about our --
2 some of the waste that was coming into our facility,
3 mainly the Portland General Electric waste, and there
4 was some uncertainty of what sort of cash flow
5 problems that might put on the company, and that was
6 one of the reasons why we didn't enter into those
7 contracts basically within the last month. But we
8 certainly plan to do that as quickly as possible
9 since the Portland General Electric waste is now
10 coming in.

11 Q. Looking at the list in Exhibit 18.

12 A. Yes.

13 Q. Which of the vehicles on that list are you
14 going to be entering into -- or do you plan to enter
15 into contracts on?

16 A. Those in 1996. I believe there's a
17 grader, scraper, a pickup and also a crew van.

18 Q. But you don't plan to enter into any
19 contracts for the vehicles listed for years 1997
20 through 2000?

21 A. Well, eventually we will, but at this time
22 it's very difficult to enter into a contract that's
23 going to be -- going to be enforceable five years from
24 now. I think it's appropriate to enter into these
25 contracts within a short period of time when you need

00313

1 delivery of the equipment. Mainly the equipment
2 might change -- the models might change that you're
3 requesting, but.

4 Q. So is the -- in the Exhibit 18, is the
5 annual lease cost approximately the same?

6 A. The annual lease cost? You're referring
7 to --

8 Q. For year 1996 for the contracts you intend
9 to enter into.

10 A. Yes.

11 Q. Turn now to page 16 of your testimony
12 or 15 and 16 which refer to the Benton County tax
13 proposal.

14 A. Yes.

15 Q. You indicate that the company is seeking to
16 collect its tax liability for calendar year '95
17 through any excess revenue that was collected during
18 '95 in the settlement agreement; is that correct?

19 A. That's correct.

20 Q. Now that we're in the fourth quarter of
21 1995, does it appear the company will have excess
22 revenue?

23 A. Yes, it does appear that based on the
24 incoming Trojan shipments that our calculation is that
25 we will -- there will be some refund that -- refund

00314

1 revenue that will be available for this.

2 Q. Would that refund revenue be sufficient to
3 cover the tax liability for 1995?

4 A. My estimate, the answer is no.

5 Q. Are you familiar with the settlement
6 agreement that was agreed to in 1994 by all the
7 parties in the prior proceeding?

8 A. Yes, I am.

9 Q. Wouldn't that settlement agreement preclude
10 any increase in rates for 1996?

11 A. Not necessarily. I think that there is
12 some flexibility, that this is an additional
13 regulatory requirement that's put on us, and I think
14 instead of going and trying to develop a new
15 settlement agreement or amend the settlement agreement
16 that we believe that this is appropriate.

17 Q. Well, wouldn't any attempt to recover the
18 tax liability through the refund in 1995 require an
19 amendment of the settlement agreement, not just
20 approval by the Commission but also amendment of the
21 settlement agreement?

22 A. I believe it can be done without the
23 amendment of the settlement agreement. This is a
24 liability that is being realized at this time. By our
25 plan this money would be put in an escrow account

00315

1 and if the company succeeds in challenging this it
2 would be returned to the generators. It will be just
3 a delayed reimbursement for them and their interest is
4 also involved in that so if this is not a liability at
5 the time, the generators would get this -- their
6 rebates back eventually.

7 Q. Mr. Bede, you were -- you indicated you
8 were the vice-president for US Ecology?

9 A. That's correct.

10 Q. In Exhibit 2, I believe -- I'm sorry,
11 Exhibit 16, which is BCB-2, I believe it indicates
12 you're the operations manager for the Washington --
13 operations manager for US Ecology. Is that the same
14 position?

15 A. That's correct. Basically there's just a
16 change in title. It's the same position. My
17 responsibilities have been maintained. There's been
18 some reorganization within the company and that my
19 title has been changed.

20 Q. So as the vice-president but with the same
21 responsibilities, you're responsible for regulatory
22 compliance?

23 A. Yes, I am.

24 Q. And that would include overseeing the
25 company's application for review of its special

00316

1 nuclear materials license?

2 A. That's correct, yes.

3 Q. When did the company last submit an
4 application for review of its special nuclear
5 materials license?

6 A. I believe it was in 1994, and we've been in
7 timely renewal since that time.

8 Q. I'm sorry. You've been --

9 A. Timely renewal. That means that our
10 current operating license, the previous one, is still
11 in effect.

12 Q. Has the Nuclear Regulatory Commission which
13 has responsibility for the review of the application,
14 has it completed its review of your application?

15 A. It has not.

16 Q. Do you know why they haven't completed
17 renewal?

18 A. I think it's -- I would venture it's
19 probably to say a staffing problem and also they're
20 going through reorganization now in which they are
21 asking for costs recovery for all license
22 applications.

23 Q. When does the company expect the completion
24 of the renewal of the license?

25 A. As soon as the NRC accepts our application.

00317

1 They are just reviewing it. It's not -- the review
2 process is just going on. We believe we have a valid
3 application and it should be accepted.

4 MS. RENDAHL: Your Honor, I have one last
5 exhibit for Mr. Bede I would like to have marked as
6 Exhibit 28.

7 JUDGE PRUSIA: I've been handed a two-page
8 document. It is response of US Ecology to data
9 request No. 29 issued by Commission staff. I will
10 mark that for identification as Exhibit No. 28.

11 (Marked Exhibit 28.)

12 Q. Mr. Bede, if you look at the second page of
13 this document, does your name appear at the bottom?

14 A. Yes, it does.

15 Q. Did you receive a copy of this document?

16 A. Yes, I did.

17 Q. So is this -- although it was not submitted
18 by you, is this the company's response to staff data
19 request 29?

20 A. Yes, it is.

21 MS. RENDAHL: Your Honor, I move admission
22 of the document.

23 MR. VAN NOSTRAND: No objection.

24 JUDGE PRUSIA: Are there any objections to
25 the admission of Exhibit No. 28?

00318

1 Let the record reflect that there is no
2 objection. Hearing none, Exhibit No. 28 is admitted.

3 (Admitted Exhibit 28.)

4 Q. Mr. Bede, could you explain what this
5 document is, the telephone record, the second page.

6 A. This is a record of a communication between
7 Robert Hogg and a US Ecology employee dealing with the
8 relicensure and the estimated expenses that NRC is
9 projecting for 1995 for renewal of our special nuclear
10 materials license.

11 Q. Who is Robert Hogg?

12 A. Robert Hogg is the -- I believe assistant
13 director for the low level radioactive waste program
14 with the Nuclear Regulatory Commission.

15 Q. Who in the company prepared this record of
16 conversation with Mr. Hogg?

17 A. I believe it was Mark LeDeaux.

18 Q. And what -- is he with American Ecology?

19 A. No, he's with US Ecology.

20 Q. What division of US Ecology is he with?

21 A. With the radiological division.

22 Q. The discussion at the bottom indicating --
23 that this telephone record indicating 1995 .2 FTE and
24 in 1996 .3 FTE. Do you know what those -- what that
25 indicates, what that means?

00319

1 A. That indicates the amount of time NRC is
2 projecting for one of their employees to review our
3 license application.

4 Q. You indicated earlier that the NRC is
5 considering under its reorganization asking for
6 recovery of costs for review of licenses?

7 A. They are doing that now, yes.

8 Q. And so this is the basis of US Ecology's
9 proposal for recovery in 1995 and 1996 for licensing
10 costs?

11 A. Yes, it is. Based on the NRC estimate of
12 these full-time employees.

13 Q. Mr. Bede, are you familiar with the
14 document provided by Mr. Nicodemus which is marked as
15 HON-3, his proforma adjustments?

16 A. Yes, I am.

17 Q. What do the amounts in the proforma
18 adjustment for 1995 for the licenses represent?

19 A. I believe they represent our special
20 nuclear materials licensing costs and also other
21 licensing costs that would relate to our radioactive
22 materials license.

23 Q. So is this just for the NRC review or is it
24 other license renewal costs?

25 A. I believe it's just the NRC review.

00320

1 Q. When is US Ecology required to file its
2 next application for review of its special nuclear
3 materials license?

4 A. I believe that a license is issued for a
5 five year period. We are past that, the November
6 1994. If they issue a new license it will be a five
7 year license from November 1994 until November 1998, I
8 believe, a five year license, and then it would be
9 renewed again in '88 or '89. Yes, 1990 or 1989.

10 Q. So although the licenses would be renewed
11 either this year or next year, the next renewal date
12 would date back to when the last license expired?

13 A. I believe we're trying to negotiate that
14 when they issue the license it will be a five year
15 license from the time they issue it.

16 Q. Mr. Bede, in your involvement with US
17 Ecology, for the last -- well, how long have you been
18 with US Ecology?

19 A. I've been with US Ecology for 11 years now.

20 Q. And you're familiar with the low level
21 radioactive waste disposal business?

22 A. Yes, I am.

23 Q. What is the -- what do you consider to be
24 the risks that US Ecology has as a company and being
25 involved as a low level radioactive waste

00321

1 depository site?

2 A. Well, there are certainly revenue risks.
3 Currently with our Ritzland site with decreasing
4 volumes. There are also additional regulatory risks
5 with new regulations being implemented on the company.
6 There are financial risks with -- we talked about our
7 equipment. In our current rate case there's no
8 depreciation for our equipment and we're -- that's
9 been capitalized off. If something breaks now and
10 there is a financial risk to keep the facility
11 operating we have equipment that's been -- that's
12 somewhere between 16 and I think -- and 32 years old
13 that eventually will have to be replaced on the site.
14 That's a financial risk of course to continue to
15 operate. There is maybe a risk involved with the
16 Department of Energy and the maintenance of the prime
17 lease, and potentially some risk involved with the
18 renewal of the sublease.

19 Q. You mentioned regulatory risk. What did
20 you mean by that?

21 A. The change of regulation that would
22 indicate that past procedures are -- have to be
23 revised and new requirements that are implemented on
24 the company.

25 Q. Do you think there's any risk to the

00322

1 company in terms of the nature of the materials that's
2 accepted at the site?

3 A. Certainly there is. We take acceptance of
4 that material and we assume ownership of that
5 material. Eventually we are responsible for all the
6 waste that is disposed of at our facility. We assume
7 the generators are -- have correctly manifested all
8 the material. There could be some risk if a generator
9 sends us material that is -- turns out to be
10 incorrectly manifested and that generator is no longer
11 available for correcting that problem. Then we would
12 assume liability.

13 There's also probably -- there's also
14 insurance risk, environmental impairment insurance
15 risk that if something migrates into our facility from
16 the rest of the Hanford reservation, there could be
17 some risk in negotiating with the Department of Energy
18 to determine what is the source of that contamination.
19 That's one of the reasons why we have a sophisticated
20 monitoring system not only to monitor what waste is
21 being disposed of at our facility, but what waste
22 could potentially migrate from the other operations at
23 the Hanford reservation. Best example of that is the
24 ground water that runs under our site. There's also a
25 trinium plume that is resulting from Department of

00323

1 Energy's operations. That is a potential liability to
2 the company once it gets under our facility.

3 MS. RENDAHL: I have no further questions
4 of the witness at this time.

5 JUDGE PRUSIA: Thank you, Ms. Rendahl. Mr.
6 Dudley, do you have any cross?

7 MR. DUDLEY: Yes, thank you, Your Honor.

8

9 CROSS-EXAMINATION

10 BY MR. DUDLEY:

11 Q. Good morning, Mr. Bede.

12 A. Good morning.

13 Q. I want to resume a little bit where Ms.
14 Rendahl was talking about some of these equipment
15 leases, and I guess the distinction I want to draw to
16 your attention here about the lease questions are of
17 the two witnesses that are appearing here today, who
18 of you or Mr. Nicodemus made the decision to lease
19 instead of buying and who would be the appropriate
20 witness to talk about for the accounting treatment of
21 the leases for regulatory purposes?

22 A. I believe Mr. Nicodemus, our accounting
23 witness, is best prepared to answer that question.

24 Q. And then for the first part of my concern
25 there, the decision to lease instead of buying, who

00324

1 would be the best witness for that?

2 A. I believe Mr. Nicodemus would be the best.

3 Q. The actual decision, the operational
4 decision to do that?

5 A. Well, it was a joint decision. Certainly I
6 was -- I'm in charge of securing those leases and
7 certainly I consult with Mr. Nicodemus about either
8 leasing or buying that material or those new pieces of
9 equipment. It was my final decision to say that we
10 were going to lease this from the recommendation
11 from him and other people in the company.

12 Q. Well, let me just -- if you don't feel
13 comfortable with some of these questions, let me know
14 and we can ask them of Mr. Nicodemus. On your Exhibit
15 18, this is the listing of equipment that you're
16 intending to be leasing over the next five years at
17 the site; is that correct?

18 A. Yes, it is.

19 Q. Now, the way I understand this calculation
20 is that you show the lease costs for the years 96
21 through the year 2000?

22 A. That's correct.

23 Q. And you add them up and divide by five. Is
24 that how that's handled for the purposes of this case?

25 A. Basically that's what's done.

00325

1 Q. And does that mean that the amounts you
2 recover for the lease program might be overstated over
3 actual costs for the early years of this leasing
4 program?

5 A. I don't believe they will. This is taking
6 into account you're going to be leasing this material
7 four or five year periods in '96 through the year
8 2000. Our actual expenses for 1996 are going to be --
9 are indicated in my exhibit.

10 Q. Yes. And I guess that's what I'm trying to
11 get at. If I understand your exhibit here, your
12 actual expense for '96 you're expecting to have about
13 \$140,000. Do you see that?

14 A. That's correct.

15 Q. And yet the adjustment you're asking in
16 this case to be collected every year is about
17 \$288,000, and that's the figure I see at the bottom of
18 that column.

19 A. That's correct.

20 Q. So I guess to come back to my point is that
21 at least in the early years, and that's '96, '97 and
22 '98 you will be overcollecting under this adjustment
23 compared to the lease payment you're expecting to
24 make?

25 A. I think possibly Mr. Nicodemus would be in

00326

1 a better position to answer that question. I am not
2 an accountant and he is and I'm sure he would provide
3 you with the best answers.

4 Q. Okay, good. Now, drawing your attention to
5 just by reference a -- I don't need to show this to
6 you unless your counsel feels it's necessary. In a
7 response to a data request propounded to you by
8 Portland General the company said that there was no
9 detailed decision of the -- no detailed analysis of
10 lease versus buy. Is that -- let me restate that.
11 Your response to data request said that there was no
12 detailed lease versus buy analysis performed. Would
13 that be correct?

14 A. I believe that's correct. Which data
15 request response are you --

16 Q. That would be your response to PGE request
17 No. 201. And I don't mean to introduce these as
18 exhibits or anything. I just want to establish that
19 as a foundation.

20 A. Yes. That's what our statement is, yes.

21 Q. So my question is then, exactly what kind
22 of analysis did you perform in order to make the lease
23 versus buy decision?

24 A. I believe it was a cash flow analysis of
25 looking at what the liability of the company or the

00327

1 impact of the company would be to outright buying
2 this material over -- or leasing it. A contract to
3 buy this equipment could not be spread over as many
4 years as a lease contract. And also the idea of
5 replacing equipment on a more frequent basis than 16
6 or every 32 years is certainly envisioned by the
7 company. We were operating under a different -- as a
8 proprietary company under a different type of
9 philosophy than we are under regulatory requirement
10 now.

11 Q. Now, when you say cash flow considerations,
12 Mr. Bede, do you mean that the company would not have
13 the cash available to buy the equipment or that it
14 would simply prefer to use the cash for something
15 else?

16 A. It's very possible we would not have the
17 cash to buy this equipment. I base this on our
18 revenue requirement of last year. We made refunds but
19 we did not make our revenue requirement. Additional
20 impact of us paying -- making an allocation of cash
21 for this could provide some liability or some harm to
22 the company. We might not have the ability to do
23 that.

24 Q. And what was the total margin plus
25 depreciation determined by this Commission in the 1992

00328

1 rate case, Mr. Bede?

2 A. I believe it was a 29 percent margin.

3 Q. Do you know the dollar figure that was
4 involved with that?

5 A. I believe it was \$1.2 million.

6 Q. Would you accept subject to check it was
7 about \$1.4 million?

8 A. Yes.

9 Q. And what would be the purchase cost of the
10 equipment for each year?

11 A. I'm not exactly sure. Maybe Mr. Nicodemus
12 can identify these better. In the exhibit, my Exhibit
13 7 outlines the annual lease costs on a yearly basis
14 for each of these to make up the total of \$1.4 million
15 and divided over a five year period that comes up
16 with \$288,000 a year.

17 Q. In your last response your reference to
18 Exhibit 7 was your BCB-7 which is now 18?

19 A. Yes, Exhibit 18, right.

20 Q. Now, would one alternative to just leasing
21 equipment would be to just getting the industrial
22 equivalent to the auto loan?

23 A. I'm not -- I think maybe Mr. Nicodemus can
24 maybe address these questions better. I'm not exactly
25 sure on the application of an auto loan for very heavy

00329

1 equipment if that's analogous or not.

2 Q. Would Mr. Nicodemus be the most appropriate
3 witness to answer more questions about your lease
4 versus buying decision?

5 A. I believe he is, yes.

6 Q. Now, Mr. Bede, you're familiar with the way
7 that the operating margin is calculated in this case,
8 are you not?

9 A. Yes, I am.

10 Q. And if you include lease payments in your
11 operating expenses, does that increase the operating
12 margin received by US Ecology?

13 A. Based on our 199 -- on our current rate
14 case or the one that's submitted here?

15 Q. Either one.

16 A. I believe it increases, yes. The margin is
17 applied to that, yes.

18 Q. And, on the other other hand, if you were
19 to purchase the equipment, isn't it correct that the
20 depreciation costs would not be included in the
21 calculation of the operating margin?

22 A. I'm not exactly sure. I'm sure Mr.
23 Nicodemus can address that better than I can, give a
24 more accurate answer.

25 Q. Mr. Bede, if you were to purchase this

00330

1 equipment, over what life would it be depreciated?

2 A. I don't have familiar -- I'm not familiar
3 with purchasing costs. Again, I think Mr. Nicodemus
4 could very easily answer that question.

5 Q. In the request for information on leases,
6 the one that I believe was admitted as Exhibit No. 27,
7 do you see that?

8 A. Yes.

9 Q. How did you expect the equipment to be
10 handled at the termination of the lease?

11 A. Again, I think Mr. Nicodemus can answer
12 that. He has experience in those contracts and the
13 value of equipment afterwards.

14 Q. What I mean by that, so Mr. Nicodemus can
15 be prepared here, is that will you own the equipment
16 at that point or will you purchase at market value or
17 those kind of considerations is what I'm asking about.

18 Now, back to your Exhibit 18, Mr. Bede.
19 This shows that the largest single increment in any
20 lease cost will occur in 1999. Do you see that?

21 A. That's correct, yes.

22 Q. How did the company determine that this
23 equipment will be needed to be replaced in 1999?

24 A. I believe they looked at what is necessary
25 to replace on the site right away in 1996. The dozer

00331

1 and scraper have the greatest liability of breaking
2 down, and I think it was sort of a look at
3 theoretically how long something is going to last and
4 the priority of replacing all the equipment, and
5 certainly we have equipment from 16 to 32 years there.
6 There may be a prudent financial decision would be
7 made you should replace all the equipment right away.

8 Q. Well, is it possible, Mr. Bede, that the
9 equipment that you're slating for replacement there
10 will last longer than you're expecting?

11 A. Well, some of the equipment has probably
12 lasted much longer than their traditional life,
13 probably as a result of our excellent maintenance
14 program at the facility, but when you keep something,
15 you have a truck that I believe is over 40 years old
16 still operating in the facility, and major equipment
17 has lasted a long time. I think it's -- you can run
18 -- some people continue to run a model A and I guess
19 theoretically you can keep something going forever.

20 Q. So I guess it is -- with your excellent
21 maintenance program it is possible the equipment that
22 you're talking about there might last longer is what
23 I'm hearing you say.

24 A. The equipment is operating right now. It's
25 just a question of what new equipment is coming on,

00332

1 better equipment, more efficient equipment available
2 to better operate the facility. I think certainly new
3 equipment is justified.

4 Q. Now, the company, does it have similar
5 equipment at some of its other sites? Now, I know
6 that you have facilities at Nevada and Kentucky and
7 Texas, so the question is, do you have equipment
8 similar to what you're requesting replacement here at
9 your other facilities, Mr. Bede?

10 A. There's no similar equipment at this time
11 at our Beatty facility. I'm not sure. I think there
12 are graders and scrapers at our Teco facility in
13 Texas, but that's a hazardous waste facility. There
14 is no -- this is the only operating low level
15 radioactive waste facility that the company operates.

16 Q. What you're saying is there's no -- now,
17 Beatty doesn't accept any new low level radioactive
18 waste?

19 A. That's correct. That is a closed facility
20 as are the Sheffield, Illinois and Maxey Flats,
21 Kentucky sites.

22 Q. So there's no equipment available at
23 Beatty, is what you're saying, the Beatty site?

24 A. To my knowledge there is not.

25 Q. And there's no equipment available at the

00333

1 Sheffield site?

2 A. To my knowledge there is not.

3 MR. DUDLEY: Could I make a record
4 requisition at this time to just have the company
5 review the equipment that's available at the Beatty
6 and Sheffield sites.

7 Q. And was there one other, the Maxey Flats
8 site?

9 A. Yes. Those are all three closed
10 facilities. There is no operating equipment at those
11 facilities right now.

12 Q. To your knowledge?

13 A. To my knowledge, that's right.

14 Q. It shouldn't be a difficult request to
15 respond to then. So my question is if you could just
16 double-check and see there's no similar equipment at
17 any of those similar facilities.

18 A. For Beatty, Sheffield and Maxey Flats?

19 Q. Yes, your closed facilities.

20 JUDGE PRUSIA: That would be record request
21 No. 3 to review the availability of operating
22 equipment at the Beatty and Sheffield and Maxey Flats
23 closed facilities and provide you with a report when
24 available.

25 MR. DUDLEY: Yes.

00334

1 (Record Requisition 3.)

2 Q. Now, Mr. Bede my next inquiry would be
3 about the corporate overheads and the corporate fee.
4 Would those best be directed to Mr. Nicodemus?

5 A. Yes, they would be.

6 Q. Finally, I would like to direct a few
7 questions about salaries at the site, Mr. Bede.

8 A. Certainly.

9 Q. In the 1992 case, Mr. Ashe, who was a
10 company witness at that time, stated that with the
11 anticipated volume reduction to about 100,000 cubic
12 feet the company would be able to reduce personnel
13 from 25 to 21 employees. And just by comparison, Mr.
14 Bede, the volume in 1990 was about 300,000 cubic feet.

15 A. 1990, yes, it was 384,000 cubic feet.

16 Q. Now, in this case the -- well, let me stop
17 you right there. Would you accept those figures
18 subject to check that Mr. Ashe's statement in the '92
19 case and the 1990 volumes?

20 A. Yes.

21 MR. DUDLEY: And I can get counsel a
22 reference to that statement from Mr. Ashe.

23 Q. Now, in this case Mr. Bede, what is the
24 total current employment at the Richland site?

25 A. There are 21 people physically at our

00335

1 Richland facility. We are replacing one person.
2 There are 20 now. One person has taken another
3 position as of last Tuesday but he's being replaced
4 within the next week.

5 Q. Now, in response to the PGE data request
6 No. 221, I see a listing of employees, and by my count
7 there's a total of 24 employees you show at the site.

8 A. We show there are three additional
9 individuals included in that, Arvil Crase, myself and
10 Ann Alvord, who is my secretary. The three of us are
11 located in Olympia. That's how you come up with 24.

12 Q. Now, do you know back in '92 whether Mr.
13 Ashe had in mind yourself and Mr. Crase and Ms. Alvord
14 when he stated he thought that the employees could be
15 reduced from 25 to 21?

16 A. He was talking specifically about the
17 operations employees, the people physically at
18 Richland. I don't believe he was including the three
19 of us, no.

20 Q. Now, Mr. Bede, did US Ecology make a
21 proposal to the Department of Energy regarding
22 operation of the Department of Energy low level
23 radioactive waste site at the Richland area?

24 A. It didn't deal with the operation of the
25 Department of Energy facility. It dealt with

00336

1 directing waste at that facility to our facility.

2 Q. Well, a little bit of background. There's
3 just -- in a brief paragraph tell us what other low
4 level facility is there in the Hanford area, Mr. Bede.

5 A. There's a low level radioactive waste
6 facility operated by the federal government through a
7 contractor, Westinghouse, that's located approximately
8 three miles from our facility that takes waste that
9 is generated -- is Department of Energy waste that is
10 generated on site and accepted from I believe 12
11 different national labs throughout the country that
12 have contracts with Hanford reservation.

13 Q. So the proposal that you made was to
14 instead of having waste sent to that facility would
15 have the waste sent to your facility there at
16 Richland?

17 A. For final disposal, right. The Department
18 of Energy's facility is an interim storage facility
19 really and we were offering them the potential of
20 permanent disposal at a facility that is owned by the
21 Department of Energy and located on the Hanford
22 reservation.

23 Q. Now, I take it that the -- your proposal
24 was rejected to the Department of Energy; is that
25 right?

00337

1 A. Yes, it was. Assistant Secretary Tom
2 Grumley rejected our proposal.

3 Q. And what they said is they wanted to
4 proceed with the competitive procurement for disposal
5 of the low level radioactive waste; isn't that
6 correct?

7 A. That's what the letter states, yes.

8 Q. And when do you expect that competitive
9 procurement to be initiated by the Department of
10 Energy?

11 A. I really don't know. We were just given
12 this in the letter and the time line is -- I think is
13 strictly up to the Department of Energy. There is
14 some question even if they can do that. There's some
15 resistance to even putting that -- there's some
16 resistance to the accuracy of that statement that was
17 in the Grumley letter of even the potential of putting
18 any waste out for competitive bid at Hanford.

19 Q. But if it could happen it would be -- the
20 result would be additional waste being buried at your
21 facility there in Richland, correct?

22 A. What he talked about -- his competitive
23 statement dealt with the operation of the Department
24 of Energy facility, low level facility, the potential
25 of shipping waste off site or the potential of I guess

00338

1 using our facility if it could be worked out.

2 Q. And again if this proposal were successful
3 it would result in additional waste being buried at
4 your facility, additional on top of what you're
5 currently getting from your current selection of
6 generators?

7 A. Yes, it would under a separate -- this
8 waste would not be comingled with any commercial
9 waste. It will be a separate operating facility.

10 Q. Well, it would still be within your 100
11 acres there?

12 A. Yes, within the 100 acres there but it is
13 potential that we could even -- if we succeeded in
14 getting -- leasing additional land adjacent to our 100
15 acres it could be also operated in that land also.

16 Q. Don't get me wrong, I don't think this is a
17 bad idea.

18 A. I don't think you should think it's a bad
19 idea.

20 Q. I'm just trying to explore what this might
21 mean for the company.

22 A. Certainly.

23 Q. Do you have any idea what kind of volume
24 the national labs send to the other facility there in
25 Richland, the DOE facility?

00339

1 A. Last year I believe they sent about 80,000
2 cubic feet of material.

3 Q. Then I take it -- I would make this
4 request, Mr. Bede, that if there's any new development
5 on this area during the time that the record is open
6 in this case you will make the participants here aware
7 of those new developments?

8 A. Certainly. At this time our proposal is
9 rejected, and I don't know where it's going to go from
10 there.

11 MR. DUDLEY: That's all I have. Thank you,
12 Mr. Bede.

13 JUDGE PRUSIA: Mr. Gould, do you have any
14 questions for this witness?

15 MR. GOULD: Yes, thank you.

16

17 CROSS-EXAMINATION

18 BY MR. GOULD:

19 Q. Mr. Bede, I wanted to refer first to
20 Exhibit 23 which was that multi part exhibit with the
21 RFA in it and your investigation plan?

22 A. Yes. That's Exhibit 23, that's correct.

23 Q. Would you take up the attachment 21B?

24 A. That's the RCRA facility assessment
25 reports, final report.

00340

1 Q. My first question is, is that the final
2 report? Has there been a subsequent report?

3 A. No, this is the final report. There was a
4 draft report that came out. We commented both on the
5 draft report and on the final report.

6 Q. Let me ask you about the draft and then
7 this final. A couple of questions. On page 8 of this
8 piece, there is the statement under section 3.2 down
9 in the middle, it says, "No attempt by US Ecology has
10 been made to record the exact location of individual
11 shipments of waste within a trench." Do you see that?

12 A. Yes.

13 Q. Was that a statement that you took
14 exception to in the draft?

15 A. We did, but under our operating procedures
16 we don't record the exact location of every barrel or
17 every shipment that came into our facility or that has
18 come into our facility.

19 Q. Even now?

20 A. We don't try and speculate where exactly
21 the waste is in the trench. We can tell you
22 approximately where it is.

23 Q. What about on a relative basis? Do you
24 have better records now than you did?

25 A. No question we have much better records now

00341

1 than we did at that time.

2 Q. Looking back at this sentence, at that
3 time did you take exception to the way this was worded
4 in the draft?

5 A. Yes. Because we attempted to contact the
6 generators and try to determine when the trench was
7 excavated and the priority of when waste came in.

8 Q. And notwithstanding that comment, did this
9 sentence remain the way it was written in the draft?

10 A. Yes, it did.

11 Q. Did you take exception to its inclusion in
12 this final report?

13 A. I believe we did, yes. I will have to
14 check my comments but I believe we did.

15 Q. Those are the comment you're going to
16 submit pursuant to a prior question?

17 A. That's correct.

18 Q. Next sentence, "According to US Ecology
19 this was done purposely to discourage unauthorized
20 recovery of waste."

21 A. We took great exception to that statement.

22 Q. Notwithstanding that exception, was the
23 same sentence included in this report?

24 A. That's correct.

25 Q. And you took exception again to this?

00342

1 A. Yes, we did.

2 Q. Now, they're citing there for that last
3 sentence apparently a letter or some document that was
4 issued by your company. Do you see that?

5 A. Yes.

6 MR. GOULD: Your Honor, may I have a record
7 requisition, please, for that document. It is
8 specifically listed in the back of this document under
9 bibliography. On page 22 -- Mr. Bede, would you help
10 us? I believe it's the next to the last item there.

11 A. Pardon me?

12 Q. The document to which I'm referring is
13 listed on page 22 and it's the next to last item?

14 A. Yes. Part B application closure and post
15 closure US Ecology low level site October 29, 1985.

16 Q. Yes. And I'm asking for a copy of that,
17 please.

18 A. Okay.

19 JUDGE PRUSIA: This will be record
20 requisition No. 4, request of Teledyne of the company
21 for a copy of US Ecology 1985 part B application
22 closure and post closure plans US Ecology low level
23 radioactive disposal facility. October 29, 1985.

24 (Record requisition 4.)

25 Q. Ms. Rendahl asked you this question but I

00343

1 confess I didn't understand the answer. It was about
2 the RCRA investigation that you're being asked to take
3 pursuant to the RFA and the question was, what in your
4 opinion is the reason that current ratepayers should
5 pay for the investigation of that past activity?

6 A. That material came into our facility as low
7 level radioactive waste, came into our current
8 license, and was fully acceptable under our license.
9 That material was regulated by the state of Washington
10 and accepted as appropriate waste to come into our
11 facility. The liability of our facility should relate
12 to what waste has been disposed of there. That waste
13 was not treated as being different than other waste
14 that we had been receiving. It was fully authorized
15 by the state of Washington for receipt.

16 Q. At the time of its deposition?

17 A. That's correct.

18 Q. But the matters are different today, the
19 materials?

20 A. Well, we have an attempt to retroactively
21 apply regulations to when material came into our site
22 and say that, well, that material was something other
23 than low level radioactive waste. In today's
24 standards scintillation vials, even lead, is
25 considered to be a hazardous waste. At the time we

00344

1 received that it was not. It was characterized as low
2 level radioactive waste.

3 Q. Did the change in that particular view of
4 the world coincide with the commencement of regulation
5 by this Commission for rates?

6 A. No. It commenced in 1984 when RCRA gave
7 the reauthorization to apply -- have authority in the
8 state of Washington, received authority, RCRA
9 authority, to oversee hazardous materials, hazardous
10 wastes that are disposed of in the state.

11 Q. Does that investigation involve the
12 deposition of materials prior to the commencement of
13 rate regulation by this Commission?

14 A. I don't believe so. Can you clarify the
15 question? I don't quite understand what you're
16 asking.

17 Q. Why don't you look at 21B. Isn't the RCRA
18 investigation for, number one, the chemical trench
19 and, number two, trenches 1 through 11 alpha?

20 A. That's correct. Those are designated
21 as solid waste management units.

22 Q. Yes. And weren't those trenches all closed
23 prior to rate regulation by this Commission?

24 A. None of the trenches have been closed at
25 our facility at this time. We have not -- we don't --

00345

1 there's been an interim closure but no trenches are
2 under final closure at our facility now.

3 Q. The reason -- if you and I were to quarrel
4 about that it would be our definition of closure,
5 wouldn't it?

6 A. Closure would relate --

7 Q. Look at page 13 of the RFA.

8 A. Okay.

9 Q. Under unit status the first sentence says
10 "trenches 1 through 11 alpha are filled and closed."

11 A. Okay.

12 Q. And you're using closed in a different
13 sense than that is?

14 A. They are no longer receiving waste.

15 Q. So I should rephrase it this way, I guess.
16 The trenches that are involved in the RCRA
17 investigation are chemical trench in trenches 1
18 through 11 alpha which are no longer receiving waste?

19 A. They are nonoperating trenches, yes.

20 Q. And have not been operating trenches since
21 the rate regulation by this Commission?

22 A. That's correct. The last operation was
23 trench 11A and that was in 1985.

24 Q. A couple of questions specifically about
25 the vadose zone cluster wells. The money that you are

00346

1 proposing to have to spend on those cluster wells in
2 this proceeding are for vadose monitoring, but it
3 isn't clear to me whether it's for hazardous materials
4 monitoring or radioactive materials monitoring. I
5 know you were trying to make that distinction. Is it
6 one or the other?

7 A. No. It's both. There are two different
8 programs, vadose monitoring for radiological
9 constituents and vadose monitoring for hazardous
10 constituent.

11 Q. Which may require two sets of cluster
12 wells?

13 A. It could, yes. Well, under our proposal,
14 yes, that's where we're -- in our rate case you are
15 looking at two separate programs, ground water
16 monitoring program for radiological constituents, a
17 vadose monitoring for radiological constituents and
18 then a RCRA -- RCRA system for hazardous constituents.

19 Q. And in response to Ms. Rendahl's question
20 in this you were seeking to explain that there may be
21 two sites of the cluster wells but it may require four
22 different wells or four different -- it may require
23 different wells for the different material you're
24 trying to monitor?

25 A. That's correct, yes. The question is you

00347

1 can't -- under current technology there's a question
2 -- you can't under the same well extract both
3 radioactive and hazardous samples at the same time.

4 Q. Apparently.

5 A. Yes.

6 Q. The detail of which we don't know yet in
7 this rate case. You don't quite have the details
8 worked out?

9 A. I'm not an engineer. I don't have the
10 details on that. This is the statement that's been
11 made to us. You can't have just one well that can
12 sample everything.

13 Q. But notwithstanding the lack of operational
14 details, you have an estimate of the total costs that
15 would be involved for purposes of this rate case?

16 A. That's correct.

17 Q. And it's the number you have in this rate
18 case?

19 A. That's correct.

20 Q. For whatever distinction you have to draw
21 between those wells?

22 A. That's correct, yes.

23 Q. Is it also true that you know where they're
24 going to be?

25 A. No, not the specific location of the wells.

00348

1 We have made a recommendation of where those are going
2 to be put.

3 Q. Yes. That recommendation is in 21E of
4 Exhibit 23, isn't it?

5 A. This is strictly for the RCRA wells, RCRA
6 vadose monitoring wells.

7 Q. For the RCRA vadose monitoring wells we
8 know apparently from figure 4 that you have proposed
9 that the cluster wells be near the chemical trench and
10 trench 5?

11 A. That's correct.

12 Q. Both of those are closed in the sense that
13 they're not actively taking materials?

14 A. That's correct.

15 Q. Now, where -- but you have not proposed
16 where the other -- where the radiological wells would
17 be?

18 A. We're proposing they should also be at the
19 chemical trench and trench No. 5. The chemical trench
20 being if you're going to have any potential releases
21 you might most likely find them in there. Sort of if
22 there are bad actors on the site these trenchers
23 should be the most representative trenchers. The
24 trench No. 5 has the highest trinium content, and the
25 chemical trench is of question because of the records

00349

1 that are available.

2 It's also regulatory requirement. Our
3 regulators are telling us, yes, you should look at
4 these. The RCRA and the Department of Ecology is
5 saying, well, you not only have to look at those two
6 for vadose purposes, you have to release each solid
7 waste unit individually. So you must do some
8 investigation on each trench that has been designated
9 a solid waste management unit.

10 Q. Vadose investigation?

11 A. That's what they're calling for.

12 Q. But your proposal is -- notwithstanding
13 that statement your proposal thus far is to monitor
14 the zones adjacent to the chemical trench and trench
15 5?

16 A. For the initial vadose monitoring, to look
17 at those two.

18 Q. The money that's in this rate case?

19 A. That's correct, yes.

20 Q. I would like to leave that and go on to
21 the tax matter with Benton County for a minute ---

22 A. Certainly.

23 Q. -- which I think starts about page 15 of
24 your testimony. Your estimate of the potential tax
25 liability to Benton County for excise tax in 1996

00350

1 is about \$648,343?

2 A. Yes, it is.

3 Q. And as I read your testimony, if that came
4 to pass you would pay that amount on or about April
5 30, 1997?

6 A. For year 1996 tax liability, I believe
7 that's correct.

8 Q. And you're proposing then to collect for
9 1996 that \$648,000 as a schedule C charge?

10 A. That's correct.

11 Q. Which is a charge outside the revenue
12 requirement?

13 A. That's right.

14 Q. And it was your, meaning the company's,
15 estimate that that would be your liability for 1996,
16 the 648?

17 A. No. That was Benton County's estimate I
18 believe based on -- we have not received our 1996 tax
19 bill. Based on historical information of the value of
20 our facility is the assessed value of the site, is \$46
21 million. We're assuming that that is the continued
22 liability.

23 Q. Your answer to our 628 said that we haven't
24 been assessed yet, but based on 1993 and 94 and 95
25 when these are going to be the same that's about 648?

00351

1 A. That's correct. That's also a statement
2 that's been made informally to me by the Benton County
3 treasurer.

4 Q. And that treasurer said to you orally or
5 some other way in writing, too, I guess, that for the
6 purpose of assessing the '93, '94 and '95 taxes that
7 he had valued the property at \$45,657,960?

8 A. Yes.

9 JUDGE PRUSIA: Let's be off the record.

10 (Discussion off the record.)

11 JUDGE PRUSIA: Let's take our lunch break
12 now and be back at 1:30. We'll be adjourned until
13 1:30.

14 (Lunch recess taken at 12:00 p.m.)

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00352

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AFTERNOON SESSION

2

(1:34 p.m.)

3

JUDGE PRUSIA: Let's be back on the record.

4

We're back on the record after our afternoon lunch

5

break. I believe we're resuming now with Mr. Gould's

6

cross-examination of Mr. Bede. He was asking him

7

about the Benton County tax.

8

MR. GOULD: Thank you.

9

Q. Just to recapitulate, I was seeking to

10

establish an identity of two numbers. One was the

11

county valuation and the number there was \$45,657,960?

12

A. Yes.

13

Q. And the tax which you nominated for use in

14

1996 -- for 1996 purposes for this rate case

15

was 648,000 and some dollars?

16

A. That's correct. I think that's based on

17

the valuation of \$1.14 per thousand or something like

18

that, which is the current valuation.

19

Q. And the -- you got to those numbers by

20

inference because the county had used the same numbers

21

for '93, '94 and '95?

22

A. That's correct, yes.

23

Q. And in fact had used the same numbers from

24

1991 it turns out?

25

A. That's correct.

00353

1 MR. GOULD: Like to mark an exhibit,
2 please, for identification.

3 Q. Can you identify that --

4 MR. GOULD: Do we have a number for
5 identification?

6 JUDGE PRUSIA: I've been handed a
7 multi-page document. It is response of US Ecology
8 Inc. to data request No. 604 of Teledyne Wah Chang.
9 And I'm marking that for identification as Exhibit No.
10 29.

11 (Marked Exhibit 29.)

12 Q. Can you identify that document, Mr. Bede?

13 A. Yes. This is the appraisal report from
14 Benton County to support their valuation of the
15 property tax, and to justify the income approach to
16 assessing personal property tax.

17 Q. The pages are not marked on that exhibit,
18 but about the third one in there is the -- at the top
19 of the page it says income approach. Do you see that?

20 A. Yes.

21 Q. And it's from there that we learn that the
22 county's calculation of value for the property was the
23 \$45 million figure that we've been talking about?

24 A. That's correct, yes.

25 Q. And so it turns out that there has been no

00354

1 subsequent calculation by the county, or by you for
2 that matter, and so we have since this calculation
3 been using that number for the purposes of talking
4 about the Benton County tax?

5 A. We're using that number for 1995 and 1996,
6 that's correct. We haven't received the 1996
7 valuation yet.

8 Q. I understand. Apparently what the county
9 did was to take a statement of gross income from your
10 company as shown on this calculation page in the
11 magnitude of 12 and a half million dollars for that
12 year?

13 A. That's from the B and O tax, yes, gross
14 revenue.

15 Q. And assumed a capitalization rate of 13.5
16 percent. Do you see that, oh, on the right-hand side?
17 Do you see the net operating income?

18 A. Yes,. I see that, yes.

19 Q. Overall rate?

20 A. That's correct.

21 Q. That's their assumed capitalization rate of
22 what you should be earning, I guess.

23 A. I guess.

24 Q. Do you understand that concept?

25 A. Yes.

00355

1 Q. And thereby they derive the \$45 million
2 figure for the value of the leasehold; is that
3 correct?

4 A. That's correct, yes.

5 Q. Now, that's assuming an income from that
6 property, and the property we're talking about is 100
7 acres that you sublease to run your facility, correct?

8 A. That's correct.

9 Q. An income from that property, from your
10 operations of about 12 and a half million dollars but
11 in fact your revenues in the 1996 case, in this case,
12 are not 12 and a half million dollars, are they?

13 A. Our revenue is not. We are rate regulated
14 now, yes.

15 Q. Well, in fact the number that you are
16 presenting to the Commission has a revenue requirement
17 in the magnitude of six and a half million?

18 A. That's right.

19 Q. Now, that's a revenue requirement. B and
20 O tax is a gross revenue which is representing then
21 something other than income attributable to earnings
22 from this rate case?

23 A. That's correct.

24 Q. And what is the magnitude or what is the
25 leftover attributable to?

00356

1 A. Well, I believe that there is taxation on
2 the tax we -- the tax on the B and O tax, the site
3 surveillance fee and the PC and M fee, which we do
4 collect, which would be a gross revenue figure that
5 the B and O tax is based on.

6 Q. Let's stop and go back on that. The gross
7 figure you think is determined by revenue from this
8 rate case, from activities undertaken pursuant to this
9 regulated activity, yes?

10 A. That's correct, yes.

11 Q. Which is in the magnitude of six and a half
12 million?

13 A. That's in our 1996 rate case.

14 Q. And what else?

15 A. Included in your gross revenue is your B
16 and O tax payment which would be schedule B which
17 would be some of the schedule B -- schedule C --
18 schedule C.

19 Q. Schedule C collections?

20 A. That's correct.

21 Q. How much is that?

22 A. Well, that's -- I don't have that for sure.
23 That's the B and O tax, site surveillance fee and the
24 PCM fee. I believe that is approximately \$12.50 per
25 cubic feet.

00357

1 Q. No. In gross dollars per use, is it \$6
2 million?

3 A. I don't believe so.

4 Q. What's the magnitude of it?

5 A. Well, our B and O tax is 3.5 percent of the
6 gross revenue and then site surveillance fee I believe
7 is \$2.54 per cubic foot.

8 Q. Yes. I mean, can you --

9 A. It all depends on what volume comes in.
10 Certainly these are volume-based charges so as volume
11 goes up or volume goes down that's going to vary.

12 Q. Do you understand the nature of my
13 question?

14 A. I believe I do. Maybe you can --

15 Q. Shall I ask it again?

16 A. Please.

17 Q. The setting is this: We have a county who
18 apparently thinks you earn, because you told them so
19 in a B and O tax return for 1991, in the magnitude of
20 \$12 and a half million a year from all sources covered
21 by B and O tax?

22 A. That's correct.

23 Q. And they are using that same figure, \$12
24 and a half million, for purposes of a 1996 -- you
25 think -- tax assessment since that's what you tell us

00358

1 in your rate case?

2 A. That's correct.

3 Q. And so I'm seeking to know the components
4 of the revenue that would add up to about 12 and a
5 half million. We know from your filing in this case
6 that about six and a half of it is your
7 revenue requirement regulated by this Commission?

8 A. Yes.

9 Q. We know because you just told us that part
10 of that is revenue derived from collections you're
11 authorized to make but are not rate regulated per se,
12 simply collect them, schedule C charges, right?

13 A. Yes.

14 Q. Question is, I know they're based on volume
15 or a thousand things, and may be based in part on
16 walking in and getting the license or not. What's the
17 magnitude of that income for a year, in your opinion?

18 A. Well, we are contesting the basis of the
19 personal property tax. We believe it's the value of
20 your buildings and equipment, and previously that
21 assessment was \$5200 a year, and they've had a 12,000
22 percent increase up to \$648,000 a year.

23 Q. I see our problem. When I say schedule C
24 you're lumping into schedule C the Benton County tax
25 and so you're having trouble?

00359

1 A. No.

2 Q. I'm just seeking to know, we know part of
3 the magnitude of that schedule C. It's 648,000?

4 A. That's correct, yeah.

5 Q. What's the rest of that income, gross
6 income?

7 A. There's the site surveillance fee, the B
8 and O tax.

9 Q. All of those things together, what do you
10 think the magnitude of that income is?

11 A. Is today or --

12 Q. Yeah, for 1996.

13 A. I can't tell you in 1996. Again, those are
14 based on volume figures. If we were able to take --
15 if we have 300 or 400,000 cubic feet come in it could
16 be a substantial figure. If we have 80,000 cubic feet
17 or 110,000 I haven't worked it out. I don't know
18 exactly what that figure is.

19 MR. VAN NOSTRAND: Your Honor, could I
20 possibly interject here and try to clear this up?

21 JUDGE PRUSIA: Yes.

22 MR. GOULD: Well, I'm seeking -- that John
23 or this John?

24 MR. VAN NOSTRAND: Your Honor is who I
25 said.

00360

1 MR. GOULD: Excuse me.

2 JUDGE PRUSIA: If you could help clarify
3 that.

4 MR. VAN NOSTRAND: Well, I think what needs
5 to be pointed out is this is based on 1991 gross
6 income. In 1991 the site was a national site dumping
7 400,000 cubic feet of waste and you can't compare '91
8 to '95 so there's no way we're going to get from six
9 and a half million up to 12 million. So if we're
10 trying to figure out how we get from six and a half up
11 to 12 million it can't be done because the site went
12 from a national site to a regional site and then rate
13 regulated, so rather than --

14 MR. GOULD: Maybe I should clarify. If we
15 can't get up to 12 and a half million we ought not to
16 be having that number in the case directly or
17 indirectly. We ought not to be collecting against
18 these ratepayers.

19 JUDGE PRUSIA: The question is where does
20 the 12 and a half million come from?

21 MR. GOULD: Yes. Part of the answer that
22 counsel has given him is that a certain amount has
23 gone away and isn't there any more so we're not
24 seeking to get to 12 and a half. I think that's
25 right, we're not. I'm trying to find out --

00361

1 JUDGE PRUSIA: Could you phrase your
2 question in such a way to --

3 Q. Mr. Bede, I guess that we might agree if
4 we talked about it more, that 12 and a half million is
5 not a realistic amount of gross income taking into
6 consideration all of your collections for the next
7 rate year?

8 A. We're limited. It's probably not, not a
9 realistic figure, but to our -- to this point Benton
10 County thinks it's a realistic figure because they've
11 used that as a basis for assessment.

12 Q. Tell me why it isn't realistic.

13 A. Basically we are no longer a national
14 facility. We're not taking the volumes we had
15 previously. Also we are rate regulated. Also there
16 are additional -- may be additional charges that are
17 not being collected that are assumed to be gross
18 revenue of the company.

19 Q. Do you know what a more realistic number
20 might be?

21 A. I don't know what that number is.

22 Q. Have you attempted to calculate it?

23 A. Benton County is the one who is calculating
24 that. I don't know we're in the position to calculate
25 what that is. You have the 6.5 million in our rate

00362

1 case, which is a schedule A cost, and then you're
2 going to have schedule B costs, which are heavy
3 equipment and also are some of the --

4 Q. Now, listen carefully to this one.

5 A. Okay.

6 Q. In all of your filings to Benton County and
7 against Benton County and all of the places that
8 you're waging war with Benton County, have you filed a
9 number that apprises them or the mediator to whom you
10 are then addressing your complaint of your view of
11 what a more realistic income number is?

12 A. We believe the income number from our
13 buildings and equipment should be approximately I
14 think \$26,000 at which time you would have the
15 assessment on -- no, I believe it's -- I believe it's
16 \$171,000 is the value of our building/equipment, and
17 that there should be assessment based on that. Not on
18 the income that the building's equipment generates but
19 the actual replacement costs of those buildings and
20 equipment.

21 Q. Yeah. I asked you what the income was and
22 whether you had given Benton County an income number
23 and you answered me in terms of the value of the
24 building.

25 A. We have not given them an income.

00363

1 Q. You answered me in terms of the value of
2 the building in your mind.

3 A. That's what we are currently -- we have
4 been paying, the basis of the replacement value of
5 our --

6 Q. Now, listen carefully. Benton County and
7 you are quarelling about how to value your land,
8 aren't you?

9 A. The value of buildings.

10 Q. Or even whether --

11 A. Just buildings and equipment.

12 JUDGE PRUSIA: If you could let Mr. Bede
13 finish his answer.

14 A. Property tax, as you know is applied to the
15 land. Personal property tax relates to your buildings
16 and equipment. Our contention is they're trying to
17 evaluate everything in addition to our gross revenue
18 that those buildings and equipment are generating, and
19 that's in the basis of our litigation, and we were
20 very successful in Benton County Superior Court. It
21 was overturned by the Court of Appeals. The state
22 Supreme Court refused to hear the case. We're back in
23 the Board of Tax Appeals on the first and second I
24 believe of November to try and resolve this issue.
25 But if it's not resolved we have an outstanding

00364

1 liability. In 1996 that liability we're planning to
2 be a schedule B cost. It may not be 12 and a half
3 million dollars or it may not be \$648,000. It may be
4 some other number. But whatever that number is, if we
5 are not -- we do not succeed that is a liability we'll
6 have to be paying. We have no choice but paying that
7 if we lose in the litigation.

8 Q. Assume for a moment that the county is
9 correct that the way to value your activity on this
10 land, on this sublease, is by an income valuation
11 approach?

12 A. Yes.

13 Q. Just assume that for a minute. Assuming
14 that to be true, have you given them an alternative
15 income other than the 12 and a half that they're
16 using?

17 A. No, we have not.

18 Q. Why?

19 A. We believe that you shouldn't be using the
20 income approach to determine personal property tax.

21 Q. Yes, but I've asked you to assume that
22 they're right about that.

23 A. We have not assumed a rate. That's why
24 we're in litigation.

25 Q. You won't assume it?

00365

1 A. Umm --

2 Q. Again, assuming they're right, what's a
3 more realistic number than \$12.5 million for your
4 income for a year?

5 A. Would be our revenue requirement
6 established by rate regulation plus whatever schedule
7 B and C costs would be.

8 Q. Plus --

9 A. That would give you your gross revenue.

10 Q. How about NARM/NORM revenues?

11 A. NARM/NORM revenues would be part of your
12 gross revenue, yeah. But into this rate case those
13 are going to be -- there's going to be some credit
14 given in reducing your revenue requirement based on
15 that gross revenue. Also, in 1996 there may not be
16 any NARM revenue.

17 Q. What were the company's gross receipts in
18 1991 from NARM/NORM?

19 A. Zero.

20 Q. Zero?

21 A. I believe they were. NARM and NORM in
22 1991, NARM waste was considered to be low level
23 radioactive waste and that did not come in as a
24 specific type of waste.

25 Q. What will be your NARM/NORM revenues for --

00366

1 estimated for this rate year period?

2 A. 1996?

3 Q. Yes.

4 A. I'm assuming that we will have no NORM
5 revenue whatsoever if the state continues to maintain
6 a limit of 8600 cubic feet of waste in total. It is
7 not economic for us to receive NORM waste if that's
8 the situation. Our marketing sales cost would exceed
9 what the revenue of that 8600 would bring in.

10 MR. GOULD: Like to mark these for
11 identification, please.

12 Q. Teledyne Wah Chang asked the company to
13 give us their '93-94 B and O tax returns as request
14 626. Do you recognize this as a part of that?

15 JUDGE PRUSIA: Excuse me. First let me say
16 I've been handed -- I believe it's an eight page -- I
17 counted -- document which appears to be a set of
18 copies of monthly excise tax returns which I have
19 marked for identification as Exhibit No. 30.

20 (Marked Exhibit 30.)

21 Q. Do you recognize those as part of your
22 returns for those years?

23 A. This is part of it. I believe this is only
24 for 1994, isn't it? I'm looking at -- thumbing
25 through these these appear to only --

00367

1 Q. Yes.

2 A. In the last six months of '94.

3 Q. Well, in the last three months.

4 A. Yes.

5 Q. Do you see that?

6 A. Yes.

7 Q. Do you see Mr. Nicodemus's name there at
8 the bottom?

9 A. I believe that's his signature, yes.

10 Q. I believe these questions may be more
11 appropriate for him and if they are just tell me.

12 A. Certainly.

13 Q. Of interest are lines in column 1, which is
14 the first column on the left of numbers. Line 9,
15 which appears to be erased by some kind of punch
16 there --

17 A. Looks like somebody's three-holed puncher
18 got it.

19 Q. Line that reads radioactive waste disposal
20 and line 18 service and other activity. Do you see
21 those?

22 A. Yes.

23 Q. What does line 18 represent?

24 A. I think it may that be Mr. Nicodemus would
25 be in a better position to indicate what those are. I

00368

1 would venture to guess that the line 9 is the
2 radioactive waste disposal revenue and line 18 is the
3 services and other activities revenue.

4 Q. You don't know specifically?

5 A. No. I think Mr. Nicodemus.

6 Q. Will Mr. Nicodemus know that?

7 A. I believe he will.

8 Q. All right. We'll try him.

9 Suppose that this Commission were to decide
10 that for the purpose of allowing you some relief for
11 Benton County tax for 1996 that it was constrained by
12 whatever reason to using the income approach -- that
13 is the approach used by the taxing district involved.
14 What will you say to them about the proper gross
15 revenue to assume and the proper capitalization rate
16 to assume for the purposes of that approach for the
17 calculation of the proper tax to withhold in this
18 case?

19 A. It will be our gross revenue.

20 Q. And what would that number be if 12 and a
21 half million is not appropriate?

22 A. As I've said before, I don't know in 1996
23 what that number is. That's the assumption. The only
24 number assumed is that we if our revenue requirement
25 is maintained \$6.5 million will be a portion of that.

00369

1 If we have no NORM revenue coming in, no NORM will be
2 accumulated with that the same as if we have no
3 schedule B or C costs. It would only be what our
4 revenue requirement would be.

5 Q. Whatever your true revenues would be?

6 A. Whatever our true revenues would be, yes,
7 that's right. I'm not sure what our true revenues in
8 1996 are going to be. There seems to be some
9 uncertainty with regulatory requirements right now
10 about what other activities could be used to enhance
11 that gross revenue beyond what we have in our revenue
12 requirement.

13 MR. GOULD: Your Honor, next number,
14 please, for identification of this document.

15 JUDGE PRUSIA: Yes. I've been handed a
16 multi-page document.

17 Q. Suffice just to identify I think as the
18 settlement agreement 1994?

19 A. It's a settlement agreement with a cover
20 letter attached to it.

21 JUDGE PRUSIA: I've marked that for
22 identification as Exhibit No. 31.

23 (Marked Exhibit 31.)

24 Q. Do you recognize this document, Mr. Bede?

25 A. Yes, I do.

00370

1 Q. This was the settlement agreement for what?

2 A. This was the settlement agreement that was
3 negotiated in the early part of 1994 for dealing with
4 1993 revenues.

5 Q. Would you agree that this agreement has the
6 company undertaking to make refunds, if there are
7 excess revenues in 1995?

8 A. Yes, yes, I am.

9 Q. This is the question really that Ms.
10 Rendahl asked you, but I will ask again. Based on
11 this settlement agreement, do you not believe the
12 company bound by this agreement so that the petition
13 for accounting could not be used to invade the
14 principles of this agreement?

15 MR. VAN NOSTRAND: Objection, Your Honor.
16 As Mr. Gould himself conceded, Ms. Rendahl already
17 asked this question. It's already been answered by
18 this witness.

19 JUDGE PRUSIA: That's correct.

20 MR. GOULD: I just thinks it bears a little
21 more exploration, and I believe this witness can do
22 it.

23 JUDGE PRUSIA: Well, he's answered the
24 question you asked, then you can explore it.

25 Q. Can your petition for accounting be honored

00371

1 by the Commission without a breach of this agreement?

2 MR. VAN NOSTRAND: Objection, calls for a
3 legal conclusion.

4 JUDGE PRUSIA: Sustained.

5 A. I am not an attorney.

6 JUDGE PRUSIA: You don't have to answer.

7 THE WITNESS: That's why I'm not an
8 attorney.

9 Q. What is the company's view about the
10 existence of the settlement agreement as a binding
11 document on the company?

12 A. It was set up to address -- to settle
13 litigation and set the course until a new rate case
14 was filed and indicated at the time that rate case
15 should be filed.

16 Q. Did it settle that matter? Was there
17 litigation arising out of that matter?

18 A. Not at this time, no. It settled the
19 litigation.

20 Q. To your knowledge is there any provision in
21 the agreement that allows for a mechanism like the
22 petition for accounting?

23 A. Again, I'm not an attorney. I don't
24 believe there is. I think one of the strategies could
25 have been to invalidate the settlement agreement or

00372

1 attempt to amend it immediately after we had -- we
2 found out about this additional liability from Benton
3 County. We chose not to do that. We chose to try and
4 fund this liability through the existing settlement
5 agreement of, say, well, refunds. The potential for
6 refunds is still available for this -- for the year
7 1995. It's just a question of if there is an
8 additional liability. We believe that liability is an
9 operating expense that was unforeseen in February of
10 1994. That's a liability that has to be funded. If
11 it is not funded then the site does not operate.

12 MR. GOULD: Thank you, Mr. Bede.

13 JUDGE PRUSIA: Mr. Gould, you have not
14 moved for admission of these exhibits.

15 MR. GOULD: Thank you. I would like to
16 move admission of Exhibits 29, 30 and 31.

17 JUDGE PRUSIA: Any objections to the
18 admission of exhibits marked for identification as No.
19 29, 30 and 31?

20 MR. VAN NOSTRAND: No.

21 JUDGE PRUSIA: Let the record reflect that
22 there is no response. Hearing none those exhibits
23 will be admitted.

24 (Admitted Exhibits 29, 30 and 31.)

25 JUDGE PRUSIA: I believe we've finished

00373

1 with the attorneys. Do the commissioners have any
2 questions for this witness? Commissioner Gillis.

3

4

EXAMINATION

5 BY COMMISSIONER GILLIS:

6 Q. Mr. Bede, we had a lot of discussion this
7 morning about the wells. Would you remind me again
8 what are the materials that the wells are engineered
9 to monitor?

10 A. The ground water monitoring wells will
11 extend into the ground water. They will take various
12 water samples. The vadose zone will take moisture and
13 gaseous samples in the vadose zone. The assumption is
14 that there should be very little moisture in that
15 vadose zone and that's really to determine the amount
16 of moisture there, and then also if there are any
17 either radiological or hazardous constituents in a
18 gaseous or a liquid form we'll be able to evaluate
19 those.

20 Q. And what events are triggered if there are
21 some radiological or hazardous constituent that are
22 identified through the monitoring?

23 A. Well, in the vadose zone, as I explained,
24 the radiological constituents, the point of compliance
25 is at the ground water so even if you found something

00374

1 in the vadose zone, a radio nucleite in the vadose
2 zone, you do not have a release. Under the
3 Environmental Protection Agency and RCRA, their point
4 of compliance is right in the trench, so if you found
5 anything in the vadose zone you would have a release.
6 If you had a release under RCRA you would have to take
7 some corrective action.

8 Q. And what would that corrective action be?

9 A. It could be a number of things, from
10 consuming the waste to capping, capping the facility.

11 Q. And is the company liable for those costs
12 associated with that?

13 A. I believe we are, yes.

14 Q. What I was curious about is what mechanisms
15 does the company use to protect yourself from I guess
16 the potential financial impacts of an event such as
17 that? This could be real expensive?

18 A. We have environmental impairment insurance
19 that deals with radiological constituents. We don't
20 have it for hazardous constituents because we are
21 strictly a low radioactive level waste site and not a
22 hazardous waste site.

23 Q. So there is insurance?

24 A. Yes.

25 Q. If there were -- you said it's the

00375

1 hazardous materials that you -- well, you are licensed
2 for hazardous materials?

3 A. That's correct. We are not a hazardous
4 waste disposal facility. Any hazardous waste
5 constituents that would be found at our site to my
6 understanding would not be covered under our current
7 insurance policies. We're strictly a low level site.

8 Q. So what would happen if those materials
9 were discovered, if there are hazardous components?

10 A. Well, you would have to probably monitor
11 those for a long period of time and eventually take
12 some corrective action.

13 Q. Your company, though, would be liable for
14 those kind of situations?

15 A. I believe we will be, yes.

16 COMMISSIONER GILLIS: Thank you.

17 COMMISSIONER HEMSTAD: I have no questions.

18 JUDGE PRUSIA: Chairman Nelson.

19

20 EXAMINATION

21 BY CHAIRMAN NELSON:

22 Q. Just one. Mr. Bede, with respect to the
23 Benton County issue that's pending before the Board of
24 Tax Appeals, do you have any idea when that proceeding
25 will be finished and a resolution or a decision made?

00376

1 A. Our hearing is on I believe November 1 and
2 2. I think it's up to the Board of Tax Appeals to
3 determine when their decision is. We would hope it
4 would be rather immediate. Then they would support
5 us. I imagine the issue could be back in the courts
6 no matter which party is maintained there.

7 Q. Well, I guess maybe another way of asking
8 the question is how long do you think the funds will
9 be held in escrow or is that just too hard to guess?

10 A. I really don't know. Initially the reason
11 why our -- the court of appeals overturned the
12 Superior Court opinion was that they didn't believe we
13 had exhausted administrative revenue. We should
14 have gone to the Board of Tax Appeals originally. I
15 imagine -- I would be hopeful if the Board of Tax
16 Appeals believes that they should continue to use a
17 replacement value that Benton County would not appeal,
18 but I am not -- I can't venture to say what that would
19 be. I imagine if -- I can confidently say if we do
20 not succeed in the Board of Tax Appeals that the
21 company will appeal that decision and we'll be back in
22 Benton County Superior Court or most likely probably
23 in Thurston County Superior Court.

24 Q. So it could be some period of time that the
25 funds are held in escrow?

00377

1 A. I believe it could be, yes.

2 CHAIRMAN NELSON: Thank you.

3 JUDGE PRUSIA: Mr. Van Nostrand, do you
4 have any redirect for this witness?

5 MR. VAN NOSTRAND: Yes, I do, Your Honor.
6 Like to distribute a couple of exhibits. If I could
7 have response to 609 marked as the next exhibit.

8 JUDGE PRUSIA: I have been handed two
9 documents. One is a one page document response of US
10 Ecology, Inc. to data request No. 609 of Teledyne Wah
11 Chang. I've marked that for identification as Exhibit
12 No. 32. The other is a two page document, response of
13 US Ecology Inc. to data request No. 202 of PGE. I've
14 marked that as Exhibit No. 33 for identification.

15 (Marked Exhibits 32 and 33.)

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

17

18 REDIRECT EXAMINATION

19 BY MR. VAN NOSTRAND:

20 Q. Mr. Bede, do you recall the questions this
21 morning from Ms. Rendahl about why the company chose
22 the 5 year amortization period for the ground water
23 monitoring wells?

24 A. Yes, I do.

25 Q. And does the response to data request

00378

1 609 which has been marked as Exhibit 32 express the
2 company's view as to why a five year period was
3 chosen?

4 A. Yes, it does.

5 MR. VAN NOSTRAND: Your Honor, move the
6 admission of Exhibit 32.

7 JUDGE PRUSIA: Is there any objection to
8 the admission of Exhibit No. 32?

9 Hearing none that exhibit will be admitted.

10 (Admitted Exhibit 32.)

11 Q. Mr. Bede, do you recall the discussion this
12 morning about the equipment that the company proposes
13 to replace at the site through the equipment leases?

14 A. Yes, I do.

15 Q. And you made a number of statements
16 regarding the age of that equipment?

17 A. Yes, I did.

18 Q. And does the data request response 202
19 which has now been marked as Exhibit 33 describe the
20 equipment which the company proposes to replace over
21 the site?

22 A. Yes, it does.

23 Q. Could you please identify some of those
24 items of equipment that are going to be replaced?

25 A. In 1996 we have a 22-year-old Cat dozer and

00379

1 a 22 year-old scraper; 1997, a 36 year-old grader.
2 1998 we have a 56-year-old lube truck in addition to a
3 number of other things. 1999, 23-year-old water wagon
4 and a 20 year-old forklift and in the year 2000 a 16-
5 year-old forklift and two 15 year-old Cats or
6 bulldozers.

7 Q. And the company was asked in response to
8 part C of this data request what it expects to do with
9 the treatment of any sales revenue from disposal of
10 this equipment and what are the company's intentions
11 with respect to that?

12 A. I believe I deferred to Mr. Nicodemus to
13 answer that question. At this time I'm not sure.

14 Q. What does the response to part D of Exhibit
15 33 say?

16 A. We have no proposal at this time for the
17 treatment in revenues derived from equipment. Because
18 of the age of the equipment and the proceeds seem to
19 be very minimal, I don't know what the value of a 56
20 year-old lube truck would be or if anybody would be
21 interested in that or a 36-year-old grader.

22 MR. VAN NOSTRAND: Your Honor, move the
23 admission of Exhibit 33.

24 JUDGE PRUSIA: Is there any objection to
25 the admission of Exhibit No. 33?

00380

1 Hearing none the exhibit will be admitted.

2 (Admitted Exhibit 33.)

3 Q. Mr. Bede, following up some questions from
4 Ms. Rendahl this morning about the nature of the low
5 level radioactive waste in the disposal industry, how
6 would you characterize the risk associated with this
7 industry?

8 A. We are probably one of the most highly
9 regulated industries in the nation, and the
10 unpredictability of what additional regulatory
11 requirements may be put on the site would indicate
12 that there can be great risk.

13 Q. And do these regulatory requirements tend
14 to change over time?

15 A. Yes, they do. They certainly have in the
16 past.

17 Q. And in your view, do you see the regulatory
18 requirements in the future being more or less than
19 they were in the past?

20 A. Definitely more.

21 Q. And turning in particular to the cost of
22 the ground water monitoring wells that you discuss on
23 page 11 of your testimony, does the company have any
24 choice as to whether or not it's going to install the
25 ground water monitoring wells you discuss?

00381

1 A. No. That's a licensing requirement,
2 regulatory requirement, requested by the Department of
3 Health.

4 Q. And can the site continue to operate if
5 these ground water monitoring wells are not installed?

6 A. We would be out of compliance with our
7 license and I would be unable to continue to operate
8 unless we were in compliance with our license.

9 Q. And how would the company fund the recovery
10 or the installation of these ground water monitoring
11 wells if there was no provision made for recovery of
12 these costs in rates?

13 A. I really don't know. I don't see another
14 alternative.

15 Q. With respect to the vadose zone monitoring
16 wells discussed on bottom of page 11 of your
17 testimony, does the company have any choice as to
18 whether or not it's going to install these vadose zone
19 monitoring wells?

20 A. No. That again is a regulatory requirement
21 by the Department of Health and we must fulfill that
22 requirement.

23 Q. Could the site continue to operate if
24 these vadose zones monitoring wells were not
25 installed?

00382

1 A. No. Again, we would be out of compliance
2 with our license and unable to accept waste under our
3 licenses.

4 Q. And how would the company fund these costs
5 if there was no provision made in rates for their
6 recovery?

7 A. Again, I really don't see another
8 alternative available. I don't know.

9 Q. With respect to the RCRA investigation, if
10 the company was required to conduct an investigation
11 in response to the RCRA investigation, will it have
12 any choice as to whether or not it chooses to
13 participate in that activity?

14 A. I don't believe so. In the long run we
15 will certainly be involved in that again. As I
16 explained, it's a Department of Energy permit and we
17 contest to being in that permit. If we are instructed
18 to do that and regulators in the state or federal
19 regulators require it, we have no choice. It becomes
20 a regulatory requirement.

21 MR. VAN NOSTRAND: No further questions,
22 Your Honor.

23 JUDGE PRUSIA: Is there any redirect for
24 this witness, Ms. Rendahl?

25 MS. RENDAHL: One recross question.

00383

1

2

RECROSS-EXAMINATION

3 BY MS. RENDAHL:

4 Q. Mr. Bede, looking at Exhibit 33.

5 A. Yes, that's the replacement five year
6 replacement plan.

7 Q. Correct -- no. It's what Mr. Van Nostrand
8 just introduced as the age of the equipment?

9 A. That's right, yes.

10 Q. What have the company's maintenance costs
11 been for maintaining the vehicles on this list some of
12 which are upwards of 20, 30 years old?

13 A. I don't have access to that information
14 right away.

15 Q. So you don't know off the top of your head
16 right now?

17 A. I don't know off the top of my head what
18 those maintenance costs for these specific pieces of
19 equipment are, no. They're required to continue to be
20 an operating condition. The thought is if one cannot
21 be -- cannot be fixed it's going to have to be
22 replaced.

23 MS. RENDAHL: No further questions.

24 JUDGE PRUSIA: Mr. Dudley.

25

00385

1 HARRY NICODEMUS,
2 having been first duly sworn, was called as a witness
3 herein and was examined and testified as follows:

4 MR. VAN NOSTRAND: Do you want to premark
5 his exhibits, Your Honor? We can just proceed to do
6 that now.

7 JUDGE PRUSIA: These are the prefiled
8 exhibits?

9 MR. VAN NOSTRAND: Yes. I believe his
10 testimony would be T-34.

11 JUDGE PRUSIA: And HON-2 would be Exhibit
12 35, HON-3 would be Exhibit 36 and HON-4 would be
13 Exhibit 37.

14 (Marked Exhibits T-34, 35 - 37.)

15

16 DIRECT EXAMINATION

17 BY MR. VAN NOSTRAND:

18 Q. Mr. Nicodemus, could you state your name
19 and spell your last name for the record, please.

20 A. Yes. My full name is Harry Oscar
21 Nicodemus, IV, and my last name is N I C O D E M U S.

22 Q. And do you have before you what's been
23 marked for identification as Exhibit T-34?

24 A. Yes.

25 Q. Do you recognize that document as your

00386

1 prefiled direct testimony in this case?

2 A. Yes.

3 Q. Do you have any additions or corrections to
4 make to Exhibit T-34?

5 A. No.

6 Q. If I asked you the questions set forth in
7 Exhibit T-34 today, would you give the answers as set
8 forth in that exhibit?

9 A. Yes, I would.

10 Q. And you also have before you what's been
11 marked for identification as Exhibit 35, 36 and 37?

12 A. Yes.

13 Q. Were these exhibits prepared under your
14 direction and supervision?

15 A. Yes, they were.

16 Q. Do you have any additions or corrections to
17 make to them?

18 A. No.

19 Q. Are they true and correct to the best of
20 your knowledge?

21 A. Yes.

22 MR. VAN NOSTRAND: Your Honor, move the
23 admission of Exhibit T-34 and Exhibit 35 through 37
24 and Mr. Nicodemus is available for cross-examination.

25 JUDGE PRUSIA: Thank you. Are there any

00387

1 objections to the admission of Exhibits No. T-34 and
2 35 through 37? Hearing none those exhibits will be
3 admitted.

4 (Admitted Exhibits T-34, 35-37.)

5 JUDGE PRUSIA: Ms. Rendahl, do you have any
6 cross for this witness?

7 MS. RENDAHL: Yes, I do.

8

9 CROSS-EXAMINATION

10 BY MS. RENDAHL:

11 Q. Good afternoon, Mr. Nicodemus.

12 A. Good afternoon.

13 Q. Before addressing some of the specific
14 adjustments mentioned in your testimony, I have a few
15 questions about the column labeled 1994 test year in
16 Exhibit 36. Are the account balances which appear in
17 that column the same account balances which appear in
18 the company's general ledger?

19 A. What we do is take the general ledger of
20 the company, which obviously has a ton of subaccounts,
21 if you will, and we take those balances in total and
22 spread them to these categories which seem to be the
23 categories that followed the last rate case. So we
24 tried to, on schedule 36, to use the same categories
25 that were previously used, and what that means is

00388

1 taking the specific subaccounts of the company in the
2 general ledger and getting these numbers to these
3 categories.

4 Q. If you look at I think it's the eighth
5 account line down, direct charge, radiological site
6 operations?

7 A. Yes.

8 Q. Now, this account is for the expenses of a
9 consulting firm working on the company's environmental
10 monitoring issues. Is that your understanding?

11 A. My understanding of what would be in there
12 would be a combination of consulting fees having to do
13 with the particular site as well as certain personnel
14 that are reflected from an administrative standpoint
15 that would be also going into that category.

16 MS. RENDAHL: Your Honor, I would like to
17 have this document marked for identification.

18 JUDGE PRUSIA: I've been handed a seven
19 page document which each page is headed US-Richland
20 Account Roll-up and EBINT Reconciliation for the
21 Year Ended 12-31-94. I've marked that for
22 identification as Exhibit No. 38.

23 (Marked Exhibit 38.)

24 Q. Mr. Nicodemus, are you familiar with this
25 document?

00389

1 A. Yes, I am.

2 Q. Could you identify what this document is?

3 A. Yes. This is the exercise that I
4 previously described that we took our general ledger
5 -- for instance, on page 1 the salary number which is
6 made up of many subaccounts and rolled that up into
7 the Meg 01179, which is the first number in the
8 operating expense on schedule 36, and it's an exercise
9 that was continued down through our general ledger to
10 come up with the roll-up of the numbers shown on 36.

11 Q. Is this document prepared under your
12 direction?

13 A. Yes.

14 MS. RENDAHL: Your Honor, I move admission
15 of the document.

16 JUDGE PRUSIA: Is there any objection to
17 the admission of the document marked for
18 identification as Exhibit No. 38?

19 Let the record reflect that there is no
20 negative response. The exhibit is admitted.

21 (Admitted Exhibit 38.)

22 Q. Mr. Nicodemus, would you look at page 4,
23 please, of the roll-up.

24 A. Yes.

25 Q. And if you look at the fourth grouping of

00390

1 accounts in the middle of that page?

2 A. Yes, ma'am.

3 Q. It indicates a direct charge for rad site
4 ops for \$294,807?

5 A. Yes.

6 Q. And is that the same as -- is that the
7 number that was used to put together the 1994 test
8 year account number?

9 A. Yes, but I don't know off the top of my
10 head the difference between the \$295,271 and the
11 \$294,807.

12 Q. So this document essentially takes the
13 general ledger and brings it into the numbers for the
14 1994 test year column?

15 A. Yes, ma'am.

16 Q. Looking at the exhibit under the account
17 labeled amortization or WUTC rate case, it's almost at
18 the bottom of the Exhibit 36?

19 A. Yes.

20 Q. This reflects an amount of \$105,000?

21 A. Yes.

22 Q. Is this the remaining amount of the cost
23 for the 1992 rate case?

24 A. That is simply a mathematical calculation
25 of 33.3 percent of the original estimate in the

00391

1 previous rate case of \$315,000.

2 Q. Is this amount booked in the general
3 ledger?

4 A. No, it is not. Could I qualify that,
5 ma'am?

6 Q. Yes, you may.

7 A. It is not booked in the general ledger as a
8 specific amortization. In other words, when we
9 estimated that we would spend \$315,000 in the prior
10 rate case, obviously the professional fees which are
11 the bulk of that 315 were booked to items like legal
12 fees, other consulting fees. So I would like to state
13 that, yes, it is booked in the general ledger but it
14 is not booked as a specifically identifiable
15 amortization.

16 Q. So if this isn't booked as a specific
17 amortization in the general ledger, the costs for the
18 rate case were expensed as they were incurred then?

19 A. Yes.

20 Q. And so if they were expensed as incurred,
21 and they're also amortized in the account labeled
22 amortization WUTC rate case, so would you show credits
23 in the expense accounts where the costs were booked?

24 A. Yes, that's correct.

25 Q. Looking at page 3 of your testimony,

00392

1 paragraph 1 which refers to salaries and it's the
2 first line in HON-3 or Exhibit 36?

3 A. Yes.

4 Q. Now, in your testimony you state that the
5 salary increases that are included in the proforma
6 adjustments are based on union contract or union
7 agreed increases; is that correct?

8 A. The increases that are shown in 95 and 96
9 are a combination of the union increases that are
10 mentioned under my salary explanation with a blended
11 in on nonunion people, and I think that one of our
12 responses shows by person the increases in '95 and 96,
13 so the \$59,000 increase for 1995 is a combination of
14 the union people going up 3.5 percent and then the
15 nonunion people going up as stated in -- I don't have
16 the schedule in front of me but there's one that goes
17 employee by employee.

18 Q. And that was provided in response to a data
19 request?

20 A. Yes.

21 Q. So what is the basis for the increases for
22 the nonunion employees?

23 A. That is basically a trending within
24 American Ecology over historical periods as to
25 nonunion increases provided on an annual basis.

00393

1 Q. So it's a historical basis?

2 A. Yes.

3 Q. So there's no agreement with nonunion
4 employees concerning how much their salary might
5 increase with respect to the union increases?

6 A. No.

7 Q. Referring to page 4 of your testimony, in
8 paragraph 4 which addresses permits and licenses, you
9 indicate that the company will have special nuclear
10 materials license review costs of approximately
11 \$56,000 in 1995 and \$84,000 in 1996; is that correct?

12 A. Yes. Those are incremental costs.

13 Q. When you say incremental costs could you
14 explain what you mean?

15 A. Yes. In other words, the base year cost of
16 \$136,000 is anticipated ongoing and then we anticipate
17 incremental costs of \$56,000 on top of that in '95 and
18 another \$28,000 in 1996, and this basically ties to
19 the, I think, data request 29 involving Mr. Hogg that
20 was discussed previously.

21 Q. These are adjustments based on an
22 understanding that the NRC or the Nuclear Regulatory
23 Commission will be sending the company a bill for its
24 work performed in reviewing the license?

25 A. Yes, that's correct.

00394

1 Q. And so will you anticipate receiving
2 separate bills in 1995 and 1996?

3 A. I think so. All we have at this point in
4 time is this letter of information from Mr. Hogg, and
5 I have not been given information as to how the
6 billing will really come across.

7 Q. When you say this letter of information,
8 are you referring to the telephone -- the description
9 of a telephone conversation or do you in fact have a
10 letter from Mr. Hogg?

11 A. No. I meant to say just the transcript or
12 what have you of the telephone conversation with Mr.
13 Hogg that is in the I think data request 29.

14 Q. So the company hasn't received any other
15 information from the NRC concerning the costs for the
16 license review?

17 A. No, we have not.

18 Q. Looking at the next paragraph down in your
19 testimony which concerns depreciation in operating
20 equipment, in putting together your summary accounting
21 statement, which is Exhibit 36, what was the basis for
22 the five year depreciation schedule for the ground
23 water and cluster wells?

24 A. On an accounting basis? It was -- it
25 was an estimated useful life that we attached to those

00395

1 particular assets that were anticipated to be put in.

2 Q. Did you consult any documents concerning
3 setting out depreciation schedules for different
4 equipment in putting together this estimate?

5 A. What I basically did was review what I
6 thought were similar assets within American Ecology
7 and attached a useful life that I thought approximated
8 what we were using elsewhere.

9 Q. Turning to the next page of your testimony
10 in paragraph 7 which concerns the equipment leases?

11 A. Yes, ma'am.

12 Q. Did you -- were you present when Mr. Bede
13 testified that the company was anticipating entering
14 into leases in the near future?

15 A. Yes, I was.

16 Q. Are you familiar at all with what the
17 company intends to do in entering into these leases?

18 A. I am just aware, if I can answer it like
19 this, that the company from a cash flow standpoint,
20 based on the large dollar amounts that will be
21 representative, if these assets were bought outright,
22 from a cash flow standpoint the company will go under
23 a leasing arrangement rather than an outright
24 purchase.

25 Q. So you wouldn't know what the terms of the

00396

1 leases are or projected terms of leases or --

2 A. Not at this point in time.

3 Q. Not until the actual leases are signed?

4 A. Yes.

5 Q. Looking at the next page of your testimony
6 which is paragraph 11 concerning bad debt expense?

7 A. Yes.

8 Q. Your sentence concerning bad debt expense
9 indicates that the company has made a change in the
10 methodology of calculating its bad debt expense; is
11 that correct?

12 A. I am not sure in the previous rate case how
13 the provision for bad debt expense was being provided.

14 Q. Is the .5 percent for bad debt expense a
15 different methodology than what was used in the prior
16 year?

17 A. I think it is. I am now providing -- the
18 .5 percent was an estimate based on revenues to -- per
19 the P and L. Put aside what I felt was a
20 representative bad debt expense which is not
21 necessarily from an accounting standpoint what the
22 actual write-offs would approximate for the company
23 which would go against the balance sheet or a
24 provision for bad debts, an allowance account.

25 Q. Just for the record, could you explain what

00397

1 P L is, P and L or --

2 A. Yes. Profit and loss statement, income
3 statement, and the allowance account would simply be
4 on your balance sheet as a contra account to your
5 accounts receivable. It would be a netting down of
6 your receivables based on realizable value, but it
7 would be on the balance sheet rather than the income
8 statement. The .5 percent is what basically makes it
9 to the income statement.

10 MS. RENDAHL: Your Honor, I would like to
11 have this document marked for identification as
12 Exhibit 39.

13 JUDGE PRUSIA: I've been handed a one page
14 document. It's response of US Ecology to data request
15 No. 39 of Commission staff. And it is marked for
16 identification as Exhibit 39.

17 (Marked Exhibit 39.)

18 Q. I guess there won't be any confusion about
19 this one. Mr. Nicodemus, a copy of the company's
20 response or your response to staff request No. 39?

21 A. Yes, it is.

22 MS. RENDAHL: Your Honor, I move for
23 admission of the document.

24 JUDGE PRUSIA: Is there any objection to
25 the admission of document that has been marked as

00398

1 Exhibit No. 39?

2 MR. VAN NOSTRAND: No.

3 JUDGE PRUSIA: Hearing no objection the
4 exhibit will be admitted.

5 (Admitted Exhibit 39.)

6 Q. Mr. Nicodemus, is this response the same
7 as what you've just given me in terms of the company's
8 explanation for the .5 percent bad debt expense?

9 A. Yes, it is.

10 Q. Wouldn't you agree that the calculated bad
11 debts expense should be an amount that's fairly close
12 to actual write-offs for a given year, that there
13 should be some correlation between the actual
14 write-offs and the calculated bad debts expense?

15 A. I would have to say that the .5 percent or
16 whatever number is derived there should track an
17 historical over time/history, if you will, not
18 necessarily just a write-off in a year, just one year
19 prior to providing a provision in the subsequent year.
20 The statement that was made on here that US Ecology
21 did not record bad debt write-offs by the Richland
22 site in years prior to 1993, what that statement is
23 saying was that for the balance sheet that US Ecology
24 was a company that had several sites from a legal
25 entity standpoint put together, and it just was not

00399

1 individually identified as the Richland, Washington
2 site as far as a bad debt write-off against the
3 allowance account. That's what I was trying to say in
4 that particular statement.

5 Q. Would it be possible, though, to calculate
6 then some kind of a bad debt schedule based on an
7 historical average of actual write-offs from the
8 company's books?

9 A. Yes, but on top of that, in providing a
10 provision, .5 or whatever, that the company would be
11 obligated based on just beyond the historicals
12 probably providing a reasonable allowance just based
13 on what is going to be needed beyond that, so I would
14 have to say that a .5 provision or whatever the number
15 should be, should be a combination of an historical as
16 well as the current and projected customer base that
17 possibly could have a bad debt thrown against it.

18 Q. So then you are saying that you have -- the
19 company does have a history of its bad debts for US
20 Ecology but that those -- that historical -- those
21 historical records include the Beatty site, for
22 example, and other sites?

23 A. Yes.

24 Q. On Exhibit 39 it indicates that the actual
25 bad debts for 1993 were \$5500 approximately; is that

00400

1 correct? That's the exhibit I just handed to you, the
2 data request response.

3 A. Okay.

4 Q. And the actual bad debts for 1993 are about
5 \$5500?

6 A. That was the amount that was written off
7 against the balance sheet. If that is your
8 determination of -- you know, your definition of -- if
9 you write off some bad debts, that is correct, against
10 the allowance account.

11 Q. And with the .5 percent estimate would you
12 agree subject to check that that's approximately
13 \$33,000?

14 A. Yes.

15 Q. So you're saying that given the 1994 actual
16 write-off or the 1993 actual write-off that a proforma
17 dollar amount of \$33,000 is a reasonable expectation
18 of the amount for 1996?

19 A. Yes, I am. And I am saying that based on
20 historical write-offs plus my determination of the
21 accounts that are currently at risk from a credit
22 standpoint that are resident in accounts receivable,
23 so I address that from the standpoint of historical
24 and also looking forward based on the current customer
25 base.

00401

1 Q. Looking now at paragraph 12 just below,
2 you've indicated that the current rate case costs the
3 company is proposing to amortize them over a period of
4 three years; is that correct?

5 A. Yes.

6 Q. Are you familiar with the stipulation that
7 was recently approved by the Commission on the rate
8 design portion of this case or are you aware that
9 there's a stipulation been reached in this --

10 A. Yes, I am aware of it.

11 Q. Are you aware that it provides that the
12 company will not file another rate case for a period
13 of six years?

14 A. Yes.

15 Q. Given that, wouldn't the company seek to
16 amortize the rate case expenses over a six year period
17 as opposed to a three year period?

18 A. I put together the schedule based on the
19 knowledge that I had at that point in time as to what
20 was used previously, which was three years.

21 Q. Wouldn't you consider it to be reasonable,
22 given the settlement, to amortize rate case expenses
23 over a six year period if the company would not be
24 filing another case for six years?

25 A. Yes.

00402

1 Q. Are the current rate case costs being
2 expensed as they're being incurred?

3 A. No. They are being put in a balance sheet
4 account to be amortized.

5 Q. What account -- which balance sheet
6 account?

7 A. They're in a prepaid expense account. I do
8 not know the exact general ledger number, but it's on
9 the balance sheet and it's in a prepaid asset account.

10 Q. I just have a few more questions for you
11 concerning corporate allocation. That appears on page
12 7 of your testimony on the corporate expense and
13 subparagraph C?

14 A. Yes.

15 Q. In that paragraph you refer to an
16 allocation of approximately \$882,000 of corporate
17 expense allocated to the Richland site. Can you tell
18 me what that \$882,000 corporate expense is
19 comprised of?

20 A. The \$882,000 is comprised of departments at
21 the corporate office that are not similarly identified
22 in the 1994 test year, i.e., right above that, data
23 processing personnel, accounting is an example. What
24 this 882 would capture would be the remainder of the
25 corporate office expenses that are allocated to the

00403

1 Richland site that are not specifically identified via
2 line item above that number.

3 Q. Is a large portion of that cost
4 attributable to the health physics and rad
5 administration departments?

6 A. Yes.

7 Q. Can you tell me what the allocation of the
8 costs for that department are to the Richland site?

9 A. I believe that in their entirety those --
10 the health physics department is allocated to the
11 Richland site being -- during the test year being the
12 only revenue producing operational site within the rad
13 group.

14 Q. But there are other sites that the company
15 is developing at this time; is that correct?

16 A. That's correct.

17 Q. The health physics and rad administration
18 departments are part of American Ecology or US
19 Ecology?

20 A. I believe they're part of US Ecology.

21 Q. But they are located not in Richland but in
22 corporate departments?

23 A. Yes, and some of them are even located --
24 some of the health physics people are like in
25 Tennessee, resident there now, and some are in -- some

00404

1 of the rad admin people are like out of California,
2 and some are in Houston.

3 Q. Why are they located in those areas when
4 they're 100 percent allocated to the Richland site?

5 A. At the tail end of 1994 we made an
6 acquisition in Tennessee and some of the people that
7 are in the 1994 test year are now -- instead of living
8 in Houston live in Oak Ridge, Tennessee.

9 Q. What is the acquisition in Tennessee?

10 A. It was part of Quadrex Corporation. It's a
11 low level radioactive waste processing facility, not
12 disposing.

13 Q. Do any of these employees do any work for
14 this Quadrex processing facility?

15 A. Now they do.

16 Q. Now meaning this current year?

17 A. Yes.

18 Q. These are employees that, prior to the
19 current year, were in Houston?

20 A. Yes, they were.

21 Q. Some of them are working on the processing
22 facility. How is 100 percent of their costs allocated
23 to the Richland facility?

24 A. Well, in 1994 the only revenue producing
25 rad site for most of the year that we had was

00405

1 Richland. We did not make that acquisition until the
2 fourth quarter of 1994.

3 Q. What is the current -- approximately what
4 percentage of their time is devoted to Richland
5 activities versus Quadrex activities?

6 A. I really don't know.

7 MS. RENDAHL: I have no further questions
8 at this time.

9 JUDGE PRUSIA: This will be a good time for
10 a break. Before we leave if we could have an estimate
11 from Mr. Dudley and Mr. Gould on their time for
12 cross-examination.

13 MR. DUDLEY: I believe about half an hour.

14 MR. GOULD: A little bit less.

15 JUDGE PRUSIA: Then we should be able to
16 wrap it up this afternoon. We'll take our mid
17 afternoon break at this point. Be back at 20 after.
18 Let's be off the record.

19 (Recess.)

20 JUDGE PRUSIA: Let's be on the record.
21 We're back on the record after our afternoon break. I
22 believe Ms. Rendahl has a couple of more questions to
23 ask the witness.

24 Q. Hello again, Mr. Nicodemus.

25 A. Hello.

00406

1 Q. Looking back at Exhibit 38, which is the
2 roll-up.

3 A. Okay.

4 Q. And looking on page 4, again to the direct
5 charge rad site operations, there are several account
6 numbers listed for some of the entries. Are these
7 expense accounts from the general ledger?

8 A. Yes.

9 Q. And looking at the entry for Grant
10 Environmental, there's no account number listed there;
11 is that correct?

12 A. Yes.

13 Q. Why is there no account number listed?

14 A. That was some environmental cost that from
15 an outside consulting fee standpoint that we initially
16 thought the state of Washington would allow through
17 the closure plan. In other words, it would stay out
18 of a rate case environment, and we received back
19 negative confirmation from the state that that was
20 going -- they were going to see that as being
21 something that should be in closure. Therefore, we
22 moved it from the balance sheet over into the rate
23 case, if you will, and that's the history on that
24 one.

25 Q. And underneath that it says permits and

00407

1 license G and A R and it's blacked out. Do you know
2 why that's blacked out?

3 A. I'm not sure. I'm looking at the account
4 number that's shown in the column right besides it,
5 726592715. I don't know for sure. I'm guessing that
6 maybe that was the specific account number that it was
7 gathered from but I don't know for sure.

8 Q. Have you made any other entries to HON-3
9 that aren't listed as expenses in the general ledger?

10 A. No.

11 MS. RENDAHL: Thank you. I have no further
12 questions.

13 JUDGE PRUSIA: Mr. Dudley?

14 MR. DUDLEY: Yes, thank you.

15

16 CROSS-EXAMINATION

17 BY MR. DUDLEY:

18 Q. Good afternoon, Mr. Nicodemus.

19 A. Good afternoon.

20 Q. Just a follow-up on that last couple of
21 questions from Ms. Rendahl there. I'm looking at your
22 Exhibit 38 on page 4, and that same set of expenses
23 she was asking you about looks like it totals to be
24 direct charge, rad site operations of \$294,000. Do
25 you see that?

00408

1 A. Yes, sir, I do.

2 Q. And that gets carried, does it not, over to
3 your Exhibit 36? About a fifth of the way down that
4 first column of 1994 test year of -- you've got
5 \$295,000 of rad site operations there; is that
6 correct?

7 A. Yes, sir. I don't know the difference off
8 the top of my head.

9 Q. But the way this works with the -- you're
10 claiming this expense for rate purposes means that
11 you're assuming that US Ecology will have expenses,
12 direct charges of radiological site operations, of
13 something on the order of \$300,000 for each year of
14 the six years that these rates will be in effect. Is
15 that what that operationally means by carrying that
16 charge?

17 A. That's correct.

18 Q. And that \$300,000 does include this --
19 apparently this one time charge of Grant Environmental
20 going back here to Exhibit 38 of looks like \$194,000.
21 Is that correct?

22 A. Yes, it does.

23 Q. Now, let's talk about leases here for a
24 little bit. I know that you were in the hearing room
25 this morning and you heard some of the questions that

00409

1 I was asking to Mr. Bede. He was kind enough to defer
2 some of them to you. My question to you, in that
3 colloquy we were looking at Exhibit 18 which was Mr.
4 Bede's Exhibit 7, and I pointed out to him that the
5 least -- the annual lease expenses for some of the
6 early years were less than the total lease expense
7 asked for rate recovery in this case. Do you recall
8 those questions?

9 A. Yes, I did.

10 Q. And the question, Mr. Nicodemus, to you is,
11 what would be the accounting treatment of those over
12 collections in '96 and 97 and a little bit in '98 over
13 the amount being claimed in the rate case?

14 A. Until we definitively enter into leases on
15 this particular list, this list assumes that these
16 will be accounted for as operating leases. I.e., the
17 amounts that you see down here for an annual lease
18 cost will be directly what's recorded on the profit
19 and loss statement. Until leases are entered into
20 there is no way for me to tell whether they will be
21 construed as an operating lease or a capital lease.
22 The major difference between the two being that a
23 capital lease will have accompanying depreciation with
24 it rather than an operating lease that covers -- that
25 basically carries pure rental expense.

00410

1 Q. Now, I also asked Mr. Bede about the lease
2 versus buy decision, and the response that was given
3 to a data request from Portland General said that no
4 detailed analysis had been performed. And the
5 question to you, Mr. Nicodemus, is, what analysis was
6 performed on the lease versus buy decision?

7 A. The response about a no detailed lease
8 versus buy analysis is accurate. The determination of
9 going with a lease rather than buying the equipment is
10 driven based on the prevailing cash flows of the total
11 corporation not being in a position to outright
12 purchase these major pieces of equipment that have a
13 very high price tag on them from the get-go. That
14 determination of utilization of cash over time through
15 leasing rather than outright purchase was what drove
16 the company to consider leasing rather than buying, as
17 well as a credit agreement with our bank that is
18 basically maxed out from a borrowing standpoint as we
19 speak.

20 Q. Now, as I've discussed with Mr. Bede, one
21 alternative to leasing would be the industrial
22 equivalent of the automobile loan; is that correct?

23 A. Sir, I don't think that would be possible
24 in that our prevailing credit agreement with Texas
25 Commerce Bank gives them the right, if you will, to

00411

1 the company entering into any additional outright
2 purchase agreements outside of their own interest, and
3 it is my take that they will not allow the company to
4 go through another party. It's based on the
5 prevailing credit agreement.

6 Q. Well, let me just back up for a minute.
7 In the earlier response to me, you said that -- I
8 caught it here as the total cash flows of the
9 corporation. When you made that remark, Mr.
10 Nicodemus, which corporation are you talking about?

11 A. I was talking about American Ecology
12 corporation in total.

13 Q. Not just the --

14 A. No, I was not referring to this side.

15 Q. US Ecology?

16 A. Right.

17 Q. I hear ads on TV down in Portland all the
18 time where these auto dealers are telling me that I
19 can buy an automobile even if I've got bankruptcy or
20 little credit or no credit at all, and I'm wondering
21 how come US Ecology is any different. I mean, why
22 can't you go out and get yourself a Cat bulldozer from
23 some finance company that would let you buy it with no
24 credit or little credit or et cetera?

25 A. It is my understanding, again based on the

00412

1 prevailing credit agreement with Texas Commerce Bank,
2 that based on collateralizing of assets that exist
3 within that credit agreement that it would be very
4 difficult for us to get their okay to go outside of
5 their own lending agreement to get another party
6 involved. That is my understanding of the arrangement
7 with TCB.

8 Q. And it's your understanding that they
9 wouldn't loan you the money to buy a bulldozer? After
10 all, when you buy a bulldozer you've got a big fat
11 asset sitting here that's got a lot of value attached
12 to it and it can be sold and put on the market and as
13 long as you had enough down payment, wouldn't they
14 loan you the money on that thing?

15 A. I'm positive that they would not. They
16 have with us a set dollar amount of total loans
17 outstanding, and the company is at that limit as we
18 speak.

19 Q. Now, there's a lot of banks down in Texas,
20 aren't there?

21 A. Yes.

22 Q. Have you investigated credit lines with
23 other institutions?

24 A. Yes.

25 Q. And your opinion is none of them would be

00413

1 any better than your current credit arrangement in
2 terms of being able to give you that kind of cash
3 flow?

4 A. We have gone to other banks, and at this
5 point in time we are stuck with the prevailing
6 arrangement with Texas Commerce Bank.

7 Q. Now, are you familiar with the way that the
8 operating margin in this case is calculated?

9 A. Yes, I am.

10 Q. And I think, as Mr. Bede acknowledged this
11 morning, that when you include lease payments in your
12 operating expense that does increase the operating
13 margin received by US Ecology; isn't that correct?

14 A. Yes.

15 Q. And on the other hand if you were to
16 purchase equipment it's correct that the depreciation
17 cost would not be included in the calculation of the
18 operating margin; isn't that correct?

19 A. Yes.

20 Q. Now, from the customer standpoint, would
21 purchasing the equipment lead to a lower revenue
22 requirement than leasing the equipment?

23 A. From a customer standpoint?

24 Q. Yes, sir.

25 A. Yes.

00414

1 Q. And conversely, from the company's
2 standpoint, does leasing the equipment produce a
3 higher margin, that is, a higher profit, than
4 purchasing the equipment?

5 A. Yes.

6 Q. Did you do any analysis of the relative
7 impact on ratepayers of one versus the other?

8 A. No, I did not.

9 Q. Now, in your opinion, should the company's
10 business determination on whether to lease or purchase
11 necessarily control the accounting treatment for
12 regulatory purposes?

13 A. Could you repeat that, please.

14 Q. Sure. In your opinion, should the
15 company's business determination on whether to lease
16 or purchase necessarily control the accounting
17 treatment for regulatory purposes?

18 A. I would have to answer that that the term
19 of the lease, i.e., operating or capital, is going to
20 be the determining factor as to the accounting
21 treatment that is properly used under generally
22 accepted accounting principles, and as I stated
23 previously, until those leases are emphatically
24 entered into and can be examined from a theory
25 standpoint, you cannot at this point in time ascertain

00415

1 whether it will truly be an operating lease or a
2 capital lease.

3 Q. Now, just a matter of curiosity with
4 Commerce Bank. If they're not going to let you borrow
5 the money for this stuff, and they're not going to
6 lend you the money for these pieces of equipment, Mr.
7 Nicodemus, what makes you so sure they're going to let
8 you lease them because isn't it true that a lease
9 creates a financial obligation on behalf of the
10 company that is a commitment on the company's part to
11 make payments that's going to impair their lending and
12 the credit lines they have with you right away?

13 A. I guess the way I would answer that is
14 based on the annual lease costs that are shown under
15 BCB 7, that the only financial covenant that would
16 probably be affected with this are certain earnings
17 covenants that the company has in total, and in my
18 opinion these annual lease costs would fit under the
19 TCB financial covenant as in earnings of the company.

20 Q. And if you paid the identical amount as
21 payments under the, quote, auto loan that we're
22 talking about, wouldn't that also fit under the
23 covenant for Commerce Bank?

24 A. Again, beyond the covenants, it is my
25 understanding on the existing credit agreement with

00416

1 Texas Commerce Bank that they will not accept an
2 outside lending, if you will, of money so that this
3 could be outright purchased or leased by another --
4 from another party.

5 Q. In other words, they won't let you borrow
6 money from anybody else is what you're saying?

7 A. That's correct.

8 Q. Even if the total borrowing experience
9 would fit under the covenant?

10 A. It goes beyond the covenant. It's a
11 stipulation in the credit agreement that basically
12 says you do business with us and that's it.

13 Q. Now, would you agree -- back to accounting
14 treatment, Mr. Nicodemus. Would you agree that the
15 accounting treatment that might be used for regulatory
16 purposes could be different than the actual operating
17 expense you have for this equipment?

18 A. I don't know that I have knowledge enough
19 to give you an answer on that, and I am saying that
20 from a standpoint of other than the rate case
21 amortization which seems to be, if you will, an off-
22 ledger acceptable item, I don't know beyond that what
23 in rate case is allowable off your general ledger. I
24 wouldn't be in a position to answer that.

25 Q. If you were to purchase this equipment,

00417

1 over what life would it be depreciated?

2 A. These assets that are listed under BCB 7
3 would -- other than service vehicles, I'm talking
4 mainly the major pieces of equipment like the dozers
5 and scrapers -- would be depreciated over a five to
6 seven year life probably.

7 Q. And you're saying that with the recognition
8 that some of the equipment that you're replacing is in
9 the range of 10 to 15 to 50 years old?

10 A. Yeah. I'm saying that from a standpoint of
11 estimated lives for accounting purposes are just that.
12 There's a life that's set up from the acquisition of
13 the asset and the actual lives can obviously differ
14 from the accounting lives.

15 Q. Would it -- at this time I would make the
16 next record requisition, and I think that would be --
17 going to guess -- 5.

18 JUDGE PRUSIA: Next one would be No. 5.

19 MR. DUDLEY: And that would be for the
20 equipment that's listed on your Exhibit 18. If you
21 could give us the schedule showing the life for each
22 piece of equipment and how it would be determined, the
23 life for depreciation purposes.

24 THE WITNESS: Okay.

25 JUDGE PRUSIA: I will identify that request

00418

1 as record requisition No. 5.

2 (Record Requisition 5.)

3 Q. Now, if I could briefly refer you to the
4 response you made to our record request -- excuse me,
5 our data request No. 204, and do you have that sir?

6 A. Is this the one that was directed to Mr.
7 Bede, sir?

8 Q. Yes. Well, we asked it to the company
9 generally and it looks like it got Mr. Bede's answer
10 on it here, and the question was, "Explain the basis
11 for requesting five year leases for the equipment."
12 Do you see that?

13 A. Yes, I do.

14 Q. And then the response there is, "Five year
15 leases are not necessarily being requested for the
16 equipment." Do you see that?

17 A. Yes, I do.

18 Q. Is that accurate?

19 A. Yes, it is.

20 Q. Now, there was an exhibit here. It was
21 marked earlier and I just need to find it, Exhibit
22 No. 27. This is the question about the workup of the
23 dollar figures for the equipment leases. It was
24 response to staff request No. 19.

25 A. Okay.

00419

1 Q. Do you have that?

2 A. Yes, I do.

3 Q. And I draw your attention to attachments 19
4 A and 19B. Those are your letters to a Ford
5 dealership and Caterpillar dealership on some of the
6 equipment. Do you see that?

7 A. Yes, I do.

8 Q. And the very bottom sentence on each letter
9 asks each vendor to assume a five year term for each
10 lease. Do you see that?

11 A. Yes, I do.

12 Q. Why did you ask each vendor to assume a
13 five year term for the lease?

14 A. I really don't know. That came from Mr.
15 Hayes, the facilities manager, and I don't know.

16 Q. Would Mr. Bede be able to answer that
17 question?

18 A. He may be able to.

19 Q. And I take it then the information supplied
20 from these two vendors, what I can see from attachment
21 C to Exhibit 27, were used to work up the least cost
22 estimates that you have in Exhibit 18; is that
23 correct?

24 A. Yes.

25 Q. And so all of the leases we see in Exhibit

00420

1 18 are all based on five year basis; is that correct?

2 A. They seem to be.

3 Q. Now, Mr. Nicodemus, in your request for
4 leases, how do you expect the equipment to be handled
5 at the termination of the lease? And by that I mean
6 will you own it or will you purchase it or what's the
7 purchase price to be determined on and things like
8 that?

9 A. Until the specific leases are entered into,
10 I would not have an opinion as to how at the
11 termination of the lease -- what kind of bargain
12 purchase price or trade-in value or -- I couldn't
13 determine that until the leases are officially entered
14 into.

15 Q. Moving to another subject matter, Mr.
16 Nicodemus, to the corporate overheads area, here I
17 refer you to your Exhibit 36 which was your HON-3.

18 Q. Now, it's true, is it not, Mr. Nicodemus,
19 that from the last rate case to the current rate case
20 the corporate fees have increased from about \$330,000
21 to over \$900,000?

22 A. I don't know the prior amount. Your 882 is
23 the current '94 corporate fee.

24 Q. All right. I will take that as \$800,000,
25 but would you accept subject to check the corporate

00421

1 fee for this site was \$331,000?

2 A. Subject to check.

3 MR. VAN NOSTRAND: Can you give me some
4 details on what period, what exhibit, where you're
5 getting that number.

6 MR. DUDLEY: I can do that. Shall we do
7 that off the record?

8 MR. VAN NOSTRAND: As long as I get it
9 before the end of today.

10 Q. Now, isn't it also true that the
11 methodology used to determine the allocated corporate
12 fee has changed from the '92 case to the current case?

13 A. Yes.

14 Q. And that makes an item by item comparison
15 of the expenses that are included in each difficult to
16 undertake. Would you agree with that?

17 A. Yes, I do.

18 Q. Why were the changes in reporting made?

19 A. First of all, the corporate office was
20 relocated in 1993 from Louisville, Kentucky to
21 Houston. Secondly, the accounting system that existed
22 in Louisville on a Wang computer, because of its
23 extreme age, was not relocated to Houston. A new
24 computer system was put in. An associated new chart
25 of accounts was put in. The combination of that

00422

1 physical move as well as the change in accounting
2 system probably lends itself to the biggest reasons
3 why the methodologies are different now compared to
4 years ago.

5 Q. To your knowledge, will there be future
6 changes to the reporting method for the corporate fee?

7 A. I can't 100 percent predict that, but I
8 mean, I guess I'm not anticipating a new accounting
9 system, and I'm hopefully not anticipating a change in
10 the corporate office, so I would think the current
11 methodology would stay in place.

12 Q. And you recognize, of course, that if it
13 doesn't stay in place again comparisons will be
14 difficult to make from what's being requested in this
15 case?

16 A. I understand.

17 Q. With respect to the corporate fee, what are
18 the components of the known and measurable proforma
19 adjustments that are requested for '95 and '96?

20 A. In both cases the increases for '95 and
21 '96, the 51,000 '95 and the 31,000 '96, were purely at
22 the same rate of increase that was resident in the
23 salary increase on line 1 with the assumption being
24 that the components of corporate fee would probably
25 move in the same relative way as overall salaries.

00423

1 Q. And the same is true in '96?

2 A. Yes.

3 Q. So the corporate fee we're talking about in
4 this Exhibit 36 here is more than the 882 when you add
5 the proforma adjustments in there. It's \$972,000;
6 isn't that correct?

7 A. Yes, it is.

8 Q. Now, the corporate fee is comprised of
9 several major components, is it not?

10 A. Yes. As I answered earlier, it is the part
11 of the departments that are not singularly identified
12 above corporate fee and it's Richland allocation of
13 those particular departments, for instance, finance,
14 executive, legal,

15 Q. Well, it's got an allocation based on cost
16 of sales from those general departments?

17 A. Yes.

18 Q. And that's about \$274,000; is that correct?
19 I'm looking at your response to staff request No. 26.

20 A. Your number again, sir?

21 Q. It's attachment 26A, page 4.

22 A. On that particular page that you're looking
23 at, if I'm reading this, where you're coming from on
24 this, it's the five six five seven number that is
25 subject to allocation?

00424

1 Q. Yes.

2 A. That's correct.

3 Q. So I don't want to introduce this as an
4 exhibit, I just want to get a Q and A here on the
5 record. One portion of the corporate fee is \$274,000
6 and that's based on the department allocation that you
7 described earlier; is that right?

8 A. I think -- are you referring to the 295
9 sir -- I'm sorry, the 274.

10 Q. Do you have page 4 of 4, sir?

11 A. Yes.

12 Q. I'm looking at the Richland line and over
13 to cost of sales allocation. Do you see that?

14 A. Yes, I do.

15 Q. And that's \$274,000?

16 A. That's right.

17 Q. And that's the allocation from these
18 departments based on cost of sales?

19 A. That is correct.

20 Q. And another part of the corporate fee is
21 also, as we talked about with Ms. Rendahl, is the
22 health physics; is that correct?

23 A. And rad administration.

24 Q. And health physics is \$182,000; is that
25 right?

00425

1 A. Yes.

2 Q. And rad administration is \$456,000?

3 A. Yes.

4 Q. And are those the major component of the
5 corporate fee?

6 A. Yes, they are.

7 Q. And both health physics and rad
8 administration are 100 percent allocated to the
9 Richland site?

10 A. Yes, sir.

11 Q. Now, how was the health physics charge
12 determined in the present case?

13 A. The health physics department in total,
14 which we have supplied, which is made up of X number
15 of people and their associated cost, it's primarily
16 driven off salaries.

17 Q. And I think you told us earlier that the
18 reason it was 100 percent allocation was because
19 Richland was the only rad operation making money in
20 '94; is that right?

21 A. Yes.

22 Q. It's your hope that you will have other rad
23 operations that will make money sometime between here
24 and the year 2000, isn't it?

25 A. We have a couple sites in California and

00426

1 Nebraska that we're trying to develop and at this
2 point in time we have not gotten them to a revenue
3 producing state.

4 Q. So using your same methodology, when the
5 time comes when they would get to a revenue producing
6 state that health physics will be allocated with the
7 sites that produce revenue?

8 A. Yes, sir.

9 Q. Back to health physics charge again. How
10 was that health physics charge determined in the
11 previous case?

12 A. I don't know, sir.

13 Q. Now, the same thing with respect to rad
14 administration. Well, let me ask a new question. Why
15 were the allocated rad administration expenses moved
16 from an operating expense to a corporate fee account?
17 I'm talking about from the last case to the current
18 case.

19 A. From an operating standpoint and for the
20 Richland P and L we felt like it was better to have
21 the P and L for Richland be totally just from a
22 responsibility standpoint the site-specific cost, and
23 we did not want a bunch of corporate charges sitting
24 up in the top half of the P and L. Therefore, we
25 moved it down into an allocation category.

00427

1 Q. Now, just like health physics, rad
2 administration is \$456,000 figure, is 100 percent
3 allocated to the Richland site?

4 A. Yes, sir.

5 Q. And again that's based on the fact that in
6 '94 Richland was the only revenue producing rad site?

7 A. It was the only rad producing site making
8 money with a bottom line.

9 Q. Okay. And just like with health physics it
10 is your hope that some of your other operations will
11 produce money in the foreseeable future?

12 A. We hope they get to that state.

13 Q. And when that happens, the allocation of
14 the rad administration will then be allocated to those
15 other sites as well as the Richland site?

16 A. Yes, that's correct.

17 Q. Now, do you have the -- do you have your
18 response to Portland General request No. 220?

19 A. I think so. Yes, I do.

20 Q. Now, in this response you allocate
21 corporate overheads to the California and Nebraska
22 sites; is that correct?

23 A. Yes, sir.

24 Q. And just -- I don't want to introduce this
25 but I just have a couple of questions here. On your

00428

1 attachment 220A you've got a line item for health
2 physics?

3 A. Yes.

4 Q. Do you see that?

5 A. Uh-huh.

6 Q. And that's about a \$3,000 figure. Can you
7 explain why that's a \$3,000 figure on that -- on that
8 sheet and a \$182,000 figure on the response to the
9 staff request that we talked about earlier?

10 A. I think that this particular number of
11 \$3300 was pulled from a separate department, if you
12 will, that the \$182,000 which we have supplied P and
13 Ls for, backs that number up. I would have to try to
14 find this \$3300 on the general ledger. I don't know
15 off the top of my head, sir.

16 Q. All right. And I'm going to ask you to do
17 that for me, and I would also in conjunction with
18 the figure further down, Mr. Nicodemus, you have for
19 rad administration on the response to PGE 220, you
20 have \$17,000, yet on the response to the staff data
21 request you've got the \$458,000 figure, so if you
22 could be kind enough for record requisition No. 6 to
23 reconcile those for us, please.

24 A. Sure.

25 JUDGE PRUSIA: All right. I will identify

00429

1 that request as record requisition No. 6.

2 (Record Requisition 6.)

3 Q. Just one last question. You did talk about
4 your acquisition of Quadrex Corporation and some of
5 the health physics people in the health physics
6 departments are now in Tennessee, and I just want to
7 double-check with you. When was the Quadrex
8 Corporation acquired by American Ecology?

9 A. September 19, 1994.

10 Q. Not in 1993?

11 A. No.

12 Q. Did you have any activities with Quadrex or
13 did you have any -- did you do any work with Quadrex
14 prior to that time having employees on the premises or
15 move material that was in their possession prior to
16 that time?

17 A. I'm not sure. The effective date of the
18 acquisition was 9-19-94.

19 MR. DUDLEY: That's all I have.

20 JUDGE PRUSIA: Mr. Gould.

21

22 CROSS-EXAMINATION

23 BY MR. GOULD:

24 Q. Are you still feeling alive there and
25 awake?

00430

1 A. Sure.

2 Q. Do you want to stand up a minute or
3 anything?

4 A. I'm fine.

5 Q. A couple of questions first about page 4 of
6 your testimony.

7 JUDGE PRUSIA: Mr. Gould, do you still
8 estimate it will take about 15 minutes?

9 MR. GOULD: 20, 22 and a half minutes.

10 Q. The increases there entitled Permits and
11 Licenses, was it your testimony to Ms. Rendahl that
12 the \$56,000 for 1995 and the \$84,000 for 1996 are in
13 addition to a base amount that you spend each year on
14 your SNM license?

15 A. Yes, that was my testimony.

16 Q. And what is that base amount?

17 A. The base amount as shown on schedule 36 is
18 \$136,000.

19 Q. Do you know how long that remains at that
20 level or does it vary? Would you anticipate it to
21 vary over time?

22 A. I don't know.

23 Q. But currently you're figuring that there's
24 a base license fee of \$136,000 for the SNM license; is
25 that correct?

00431

1 A. Yes.

2 Q. And in addition you're anticipating \$56,000
3 more for 1995 and 84,000 for 1996?

4 A. Yes, sir.

5 Q. On a couple of pages earlier in your
6 testimony at page 2 you have I think a nice
7 description at the bottom of that page, the last
8 paragraph about schedule C fees and taxes.

9 A. Right.

10 Q. Did you write this sentence, "These items
11 do not constitute revenue to the company inasmuch as
12 the company is merely collecting taxes, fees or
13 surcharges to be paid to a governmental agency." Did
14 you write that?

15 A. Yes, I did.

16 Q. And that's your test, I guess, for
17 inclusions on schedule C, isn't it?

18 A. What I was referring to on page 2 are what
19 I call pass through items, i.e., Benton County
20 surcharge, B and O tax, PC and M fee, site
21 surveillance fee, WUTC fee.

22 Q. Why not the SNM fees?

23 A. Because it is not a specifically
24 identifiable fee that is passed along to the customer,
25 and these other ones, in my opinion, are what I call

00432

1 pass through and are identifiable with a specific rate
2 per, mainly, cubic foot or percent of revenues that
3 simply pass through, and accounting technique would be
4 to show that outside of the recordable revenues.

5 Q. Well, you could take \$186,000 and divide it
6 by some kind of unit of deposition and get a fee,
7 couldn't you?

8 A. I guess I feel, sir, that the charge that
9 you're talking about is a pure operating cost to the
10 site, and is not a pass through item.

11 Q. But it is a fee paid to a governmental
12 agency?

13 A. Yes, it is.

14 Q. I'm going to refer next to Exhibit 30.
15 It's a copy that you didn't get so I'm going to walk
16 up and hand you a copy or do you have that one there?

17 A. Is this it?

18 Q. Yeah.

19 A. Got it.

20 Q. This was part of a response to the
21 company's response to request 626 I think from
22 Teledyne Wah Chang, and that's your signature at the
23 bottom, I think?

24 A. Yes, it is.

25 Q. Do you remember that we started a

00433

1 discussion of this with Mr. Bede? And what knowledge
2 do you have of the detail involved in making the
3 entry, for example, on line 9 which is the radioactive
4 waste disposal gross revenue? Do you see that line?

5 A. Yes, I do.

6 Q. What does that constitute?

7 A. That 3.515 percent is --

8 Q. Excuse me, I don't --

9 A. It's out in column 4, sir. You can barely
10 read it.

11 Q. Oh, yes, thank you.

12 A. The mathematics of line 9 is you start with
13 a gross amount of billing, if you will, that is
14 applied to special nuclear material revenues. That's
15 in column 1. Column 2, which is substantiated on the
16 second page, are the particular PC and M, site
17 surveillance and surcharges which are subtracted to
18 arrive at a net revenue number, if you will, and the
19 then the three five one five as a percent is applied
20 to column 3.

21 Q. But the type of revenue that comprises
22 line 9, what is that? What is the source?

23 A. I don't know, sir. All I've got on a cheat
24 sheet is that the 3.515 is on nonspecial nuclear
25 material revenues and line 18 is on special nuclear

00434

1 material and NORM revenues, so that's the only
2 description I have with me that differentiates between
3 9 and 18 in column 1.

4 Q. Do you have that detail someplace else?

5 A. Yes, I do.

6 MR. GOULD: Like to make that a record
7 requisition request, please, Your Honor.

8 JUDGE PRUSIA: I will identify that request
9 as record requisition No. 7.

10 (Record Requisition 7.)

11 Q. And let see if I can be specific. I would
12 like the specific description of the revenue source
13 for lines 9 and 18 for this data request which was
14 calendar year 1993 and '94 B and O return.

15 A. Yes, sir.

16 MR. GOULD: That's all I have. Thank you
17 very much.

18 JUDGE PRUSIA: Do the commissioners have
19 any questions for this witness?

20 CHAIRMAN NELSON: No.

21 COMMISSIONER HEMSTAD: No.

22 COMMISSIONER GILLIS: No.

23 JUDGE PRUSIA: Mr. Van Nostrand, do you
24 have any redirect?

25 MR. VAN NOSTRAND: I just have one area I

00435

1 would like to clarify, Your Honor.

2

3

REDIRECT EXAMINATION

4 BY MR. VAN NOSTRAND:

5 Q. Mr. Nicodemus, do you recall in response to
6 questions from Ms. Rendahl regarding the appropriate
7 period over which to amortize rate case expenses?

8 A. Yes, I do.

9 Q. And the reference was to the requirement in
10 the -- or the aspect of the stipulation that specifies
11 a six year term of the stipulation?

12 A. Yes.

13 Q. And is it your understanding from the
14 stipulation that the company has agreed to stay out
15 with respect to a general rate filing during the term
16 of the stipulation?

17 A. Yes.

18 Q. And does the stipulation preclude the
19 company from seeking rate relief under any and all
20 possible circumstances?

21 A. I don't think it does.

22 Q. And would there be other rate proceedings
23 possible other than a general rate case that would not
24 be precluded under the stipulation?

25 A. There are those possibilities, to my

00436

1 understanding.

2 Q. Were those taken into account in
3 determining the number of years over which to amortize
4 rate case expenses?

5 A. If there is a possibility that something
6 can be done before six years the conservative
7 accounting treatment would be if there is a
8 possibility that a useful life of less than six years
9 be used in that amortization.

10 MR. VAN NOSTRAND: No further questions.

11 JUDGE PRUSIA: Is there any recross?

12 MS. RENDAHL: No, Your Honor.

13 JUDGE PRUSIA: Mr. Dudley, Mr. Gould?
14 Commissioners have anything out of that?

15 Anything further to come before us this
16 afternoon?

17 MR. VAN NOSTRAND: No, Your Honor.

18 JUDGE PRUSIA: Well, then, we'll adjourn
19 for the day. I believe the next hearings are
20 scheduled in December. Be off the record.

21 (Hearing adjourned at 4:22 p.m.)

22

23

24

25