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CT- 2021-002

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THE COMPETITION TRIBUNAL

CT-2021-002

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c.C-34, as amended;

AND IN THE MATTER OF the ~~proposed~~ acquisition of Tervita Corporation by Secure Energy Services Inc.;

AND IN THE MATTER OF an Application by the Commissioner of Competition for an order pursuant to 92 of the *Competition Act*;

BETWEEN:

COMMISSIONER OF COMPETITION

Applicant

- and -

**SECURE ENERGY SERVICES INC.
TERVITA CORPORATION**

Respondents

AMENDED ~~AMENDED~~ NOTICE OF APPLICATION

TAKE NOTICE that the Commissioner of Competition (the “**Commissioner**”) will make an application to the Competition Tribunal (the “**Tribunal**”), on a day and place to be determined by the Tribunal, pursuant to section 92 of the *Competition Act*, R.S.C. 1985, c. C- 34, as amended (the “**Act**”) for an order:

~~(a) directing the Respondents not to proceed with the proposed acquisition of Tervita Corporation (“**Tervita**”) by Secure Energy Service Inc. (“**Secure**”) (the “**Proposed Transaction**”);~~

~~(b) in the alternative, requiring Secure not to proceed with the acquisition of such assets as are required for an effective remedy in all the circumstances;~~

~~(a) to dissolve Secure Energy Services Inc.’s (“**Secure**”) acquisition of Tervita Corporation (“**Tervita**”) (the “**Transaction**”) in such manner as the Tribunal directs;~~

(a) dispose of such assets of Secure Energy Services Inc. (“**Secure**”) as are required for an effective remedy in all the circumstances as a result of Secure’s acquisition of Tervita Corporation (“**Tervita**”) (the “**Transaction**”);

(b) requiring the Respondents to provide the Commissioner with at least 30 days advance written notice of any future proposed merger, as such term is defined by section 91 of the Act, involving either the Respondent for a period of five years, where the proposed merger would not otherwise be subject to notification pursuant to Part IX of the Act;

(c) requiring the Respondents pay the costs of this proceeding; and

(d) such further and other relief as the Commissioner may request and this Tribunal may consider appropriate.

AND TAKE NOTICE that if you do not file a response with the Registrar of the Tribunal within 45 days of the date upon which this Application is served upon you, the Tribunal may, upon application by the Commissioner and without further notice, make such Order or Orders as it may consider just, including the Orders sought in this Application.

AND TAKE FURTHER NOTICE that the Applicant will rely on the Statement of Grounds and Material Facts below in support of this Application and on such further or other material as counsel may advise and the Tribunal may permit.

AND TAKE FURTHER NOTICE that a concise statement of the economic theory of the case is attached hereto as Schedule "A".

THE ADDRESSES FOR SERVICE ARE:

For Secure Energy Services Inc.:

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Attention: Brian Facey

For Tervita Corporation:

~~Bennett Jones
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District of Columbia 20006
USA
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Fax: 1-202-204-0498~~

~~Attention: Melanie Aitken~~

The Applicant proposes that the hearing of this matter be held in Ottawa, Ontario and heard in English.

For the purposes of this Application, service of all documents on the Commissioner may be served upon:

Department of Justice Canada
Competition Bureau Legal Services
Place du Portage, Phase I
50 Victoria Street, 22nd Floor
Gatineau QC K1A 0C9
Tel: 819.997.2837
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Attention: Jonathan Hood
Paul Klippenstein
Ellé Nekiar

STATEMENT OF GROUNDS AND MATERIAL FACTS

I. OVERVIEW

1. Secure competed vigorously with Tervita to provide oil and gas waste services (“**Waste Services**”) in the Western Canadian Sedimentary Basin (“**WCSB**”). ~~If Secure is permitted to acquire Tervita~~ After acquiring Tervita, ~~the merged entity will have~~ Secure has significantly enhanced market power that is unlikely to be constrained. Oil and gas producers will likely pay materially higher prices and experience a deterioration in the quality of service to dispose of waste at a time when the oil and gas industry, an important sector of the Canadian economy, is struggling.
2. ~~The merged entity would~~ Secure controls the vast majority of supply of Waste Services in the WCSB and will be is the only reasonable option for many customers in an industry with high barriers to entry for competitors and high transportation costs for customers. Maps are attached as Appendix 1 showing the locations of facilities used to provide Waste Services including industrial landfills, treatment recovery and disposal facilities (“**TRDs**”), and water disposals wells.
3. The ~~Proposed~~ Transaction eliminates the fierce competition that existed between Secure and Tervita. ~~The Respondents have~~ Secure and Tervita had developed competing Waste Services facilities in close proximity to each other – sometimes opening facilities right across the road from one another, leading to decreased prices and service improvements. For a significant number of customers, Secure and Tervita ~~are~~ were the only or the two closest geographic options for Waste Services. Proximity is critical to oil and gas customers when choosing a Waste Services vendor due to the high costs of transportation.
4. The Waste Services business is characterized by high barriers to entry, including regulatory, financial and reputational barriers as well as a mature market. In addition, given the significant size of Secure post-transaction, new entry or

expansion would not be timely, is unlikely, and would be insufficient to constrain an exercise of market power.

5. Oil and gas producers in the WCSB may also retain environmental consulting and waste management companies (referred to in this Application as “**Environmental Management Companies**”) to provide a portfolio of environmental services associated with drilling for oil and gas including environmental consulting services, solids control, demolition & decommissioning, and equipment rentals (“**Environmental Services**”). Secure and Tervita also offered Environmental Services and may sometimes bundle them with Waste Services. ~~Through its dominance in Waste Services, the Proposed Transaction is likely to provide Secure with the ability and incentive to foreclose Environmental Management Companies. This will likely lead to higher prices and degraded services for Environmental Services customers.~~

6. ~~The Proposed Transaction is also likely to substantially prevent competition in Northeastern British Columbia (“**NEBC**”), where Secure had planned to open an industrial landfill in Wonowon, BC. But for the Proposed Transaction, Secure’s landfill in Wonowon would have competed with Tervita’s Silverberry and Northern Rockies landfills for Waste Services. Customers in NEBC would have benefited from the likely decreased prices and increased quality of service had Secure’s Wonowon landfill opened.~~

II. THE PARTIES

7. The Applicant, the Commissioner, is responsible for the administration and enforcement of the Act.

8. Secure is a publicly traded company headquartered in Calgary, Alberta and listed on the Toronto Stock Exchange. Secure owns and operates 18 TRDs, 6 industrial landfills (as well as one it does not own but operates under contract), and 15 standalone water disposal wells in the WCSB that provide Waste Services. Secure also offers a wide range of Environmental Services associated with oil and gas

drilling including: the sale of drilling fluids, production chemicals, and water services, and demolition, decommissioning, remediation, and reclamation of oil and gas wells.

9. Tervita ~~is~~ was a publicly traded company based in Calgary, Alberta. Its common shares ~~are~~ were listed on the Toronto Stock Exchange. Among other assets, Tervita ~~owned~~ owned and ~~operated~~ operated 44 TRDs, 22 industrial landfills (18 of which ~~are~~ were owned by Tervita, one of which it ~~operated~~ operated under a contract, and three sites that Tervita ~~marketed~~ marketed under contract for other landfill operators), 3 cavern disposal facilities, and 8 standalone water disposal wells in the WCSB. Tervita ~~also offered~~ offered a range of Environmental Services including the demolition, decommissioning, remediation, and reclamation of oil and gas wells.

III. THE PROPOSED TRANSACTION

10. Secure acquired all the issued and outstanding shares of Tervita on July 2, 2021.
10. ~~Pursuant to an Arrangement Agreement, dated March 8, 2021, Secure and Tervita intend to carry out an all-share transaction. Under the Plan of Arrangement, Secure will acquire all of the issued and outstanding shares of Tervita and upon completion of the transaction, Secure and Tervita shareholders will own approximately 52% and 48%, respectively of Secure.~~

IV. INDUSTRY BACKGROUND

11. The WCSB is a vast sedimentary basin in Western Canada, including southwestern Manitoba, southern Saskatchewan, Alberta, northeastern British Columbia and the southwest corner of the Northwest Territories. The WCSB contains one of the world's largest reserves of petroleum and natural gas.
12. Various forms of waste are produced in connection with the development, operation, remediation and reclamation of oil and gas wells including produced water, waste water, sludge, drill cuttings, contaminated soil and other chemicals.

Oil and gas customers, which includes a number of small to medium sized enterprises, generally pay third parties to take this waste, depending on its composition, to three types of facilities: TRDs, industrial landfills, and standalone water disposal wells.

13. TRDs process contaminated fluids that contain mixtures of solids, oil and water. At the TRD, each of the solids, water, and oil components are separated using centrifuges or other thermal processes. If the TRD facility contains a terminal with a pipeline connection, the oil recovered from the waste will be delivered via pipeline to an oil and gas plant. If the TRD is not connected via terminal to a pipeline, the oil will be trucked to a facility which has a terminal. The water is disposed of at a disposal well, often co-located at the TRD, and the solids are separately disposed of at an industrial landfill.
14. Industrial landfills are engineered sites that dispose of solid waste. As discussed above, industrial landfills receive solid waste produced from TRDs but also receive solid waste directly from oil and gas customers, particularly contaminated soil and drill cuttings. In Alberta and Saskatchewan, industrial landfills that receive oilfield waste streams fall into two categories, Class I (hazardous oilfield waste) and Class II (nonhazardous oilfield waste) industrial landfills. The majority of solid oil and gas waste in Alberta and Saskatchewan is nonhazardous and is disposed of in Class II landfills. In British Columbia, both hazardous and nonhazardous solid oilfield waste is disposed of in secure landfills.
15. Solid waste that has been contaminated with naturally occurring radioactive materials (“**NORM Waste**”) can only be disposed of in a landfill licensed to accept NORM Waste. In the WCSB, the only two landfills that can accept solid waste contaminated with NORMs are ~~Tervita’s~~ Silverberry landfill in NEBC (formerly owned by Tervita) and Secure’s Pembina landfill in Alberta.
16. Standalone disposal wells are used to dispose of produced or waste water.

17. Once produced, the various types of waste streams are trucked to the appropriate type of Waste Services facility. Typically, trucking costs constitute a high percentage of disposal costs and are paid by the oil and gas producer. Therefore, hauling distance is a key factor in a customer's decision as to which facility to send waste. Some oil and gas customers can avoid trucking produced water if they are connected by pipeline to a facility with a disposal well.
18. While oil and gas companies are responsible for the waste produced while drilling for oil and gas, there are a large number of orphaned and abandoned well sites across the WCSB. Regulatory authorities in Alberta, British Columbia and Saskatchewan are responsible for remediation and reclamation for these well sites. They purchase Waste Services to dispose of certain types of waste during the remediation and reclamation process.
19. In 2020, the federal government announced a \$1.7 billion stimulus package to help fund the closure of orphan and inactive wells in the WCSB. A portion of these funds will be used to purchase Waste Services that Secure and Tervita ~~currently~~ previously competed to provide. Both Secure and Tervita had publicly referenced the importance of this stimulus package to their future revenues prior to Secure's acquisition of Tervita. An increase in the price of Waste Services will decrease the number of orphaned and abandoned sites that can be remediated and reclaimed pursuant to this stimulus package.
20. In addition to Waste Services, there is a comprehensive portfolio of Environmental Services associated with drilling for oil and gas, including environmental consulting services, solids control, demolition & decommissioning, and equipment rentals. Environmental Management Companies that offer these Environmental Services may also require Waste Services from Tervita or Secure. Tervita and Secure also competed to offer several of the Environmental Services listed above prior to Secure's acquisition of Tervita.

21. The ~~Proposed~~ Transaction ~~will~~ results in Secure owning the vast majority of TRDs, industrial landfills, and third-party standalone disposal wells in the WCSB. No other company who provides Waste Services comes close to having the geographic range and breadth of facilities that Secure now has after acquiring Tervita ~~will have if it acquires Tervita~~.

V. THE RELEVANT MARKETS

A. Relevant Product Market

22. The relevant product markets for assessing the effects of the ~~Proposed~~ Transaction are: (i) the supply of waste processing and treatment services by TRDs; (ii) the disposal of solid oil and gas waste into industrial landfills, (iii) the disposal of produced and waste water into water disposal wells owned by third party Waste Service providers; and (iv) the disposal of NORM Waste into landfills permitted to accept this type of solid waste; ~~and (v) the provision of Environmental Services~~.
23. Customer switching between different types of Waste Services listed above is generally not possible due to federal and provincial regulations that restrict disposal of certain waste streams to certain types of facilities, as well as the technical capabilities of facilities.
24. Caverns can take certain types of waste streams that can be disposed of at TRDs and disposal wells. As such, caverns can be considered a functional substitute for TRDs and disposal wells. There are five operating caverns in the WCSB that accept third-party waste – three are were owned by Tervita, one is owned by White Swan Environmental Ltd. (“**White Swan**”) and one is owned by Plains Environmental.
25. Solid NORM Waste can only be disposed of in landfills permitted to accept this type of waste. There are no functional substitutes for the disposal of solid NORM Waste into permitted landfills.

26. Produced water and waste water can only be disposed of in disposal wells.
27. Other waste management options such as on-site storage or bioremediation are not close substitutes for the services provided by landfills, TRDs, and disposal wells. On-site storage for long periods is neither practical nor economically feasible. Bioremediation may only be practical for a narrow range of contaminated soil not impacted by salts, heavy metal, or heavy end hydrocarbons.
28. Environmental Services are not a functional substitute for the provision of Waste Services. Environmental Management Companies may need to purchase Waste Services to offer certain Environmental Services. For example, an Environmental Services Company remediating a well site may need to dispose of contaminated soil in an industrial landfill.

B. Relevant Geographic Market

29. The relevant geographic market for this Application is the aggregated locations of customers for Waste Services in the WCSB that ~~currently~~ previously benefited from the competition between Secure and Tervita. Waste Services customers most affected are located generally in NEBC, Northwestern Alberta, Western Alberta, the conventional heavy oil region, Lloydminster and Kindersley.
30. Suppliers of Waste Services can and do price discriminate among their customers. They identify and charge different prices to customers based on, among other factors, the customer's geographic location. Because transportation costs constrain the ability of customers to haul waste to disposal facilities that are distant from the location where the waste is produced, the geographic location of where the waste is produced is an important factor to determine the price of disposal.
31. Because the Respondents have has the ability to price discriminate, when defining geographic markets it is appropriate to aggregate the oil and gas customers based on ~~their~~ its location and the number of competitive options available to it ~~them~~. Two sets of oil and gas customers that will experience the largest impact from the

~~Proposed~~ Transaction are: (1) those oil and gas customers whose location means that the ~~Proposed~~ Transaction effectively resulted in a merger to monopoly; and (2) those oil and gas customers whose location means that the ~~Proposed~~ Transaction will reduced their competitive options from 3 to 2. Even those oil and gas customers that will have more than two competitive options will still be affected by the ~~Proposed~~ Transaction.

VI. THE ~~PROPOSED~~ TRANSACTION IS LIKELY TO SUBSTANTIALLY LESSEN AND ~~PREVENT~~ COMPETITION

32. The ~~Proposed~~ Transaction will eliminates the competitive rivalry between Secure and Tervita, the two largest suppliers of Waste Services in the WCSB and by far each other's closest competitor. For some customers of Waste Services in the WCSB, the ~~Proposed~~ Transaction will result in a merger to monopoly, as the next closest facility may be hundreds of kilometers away. For example, oil and gas customers with wells between Tervita's Silverberry landfill and Secure's Saddle Hills landfill (now both owned by Secure) would have to travel well over 400 kilometers to get to the next closest third party landfill.
33. Customers are were able to play Secure and Tervita ~~the Respondents~~ off one another to get the best price and the highest quality services. ~~Currently, when a customer switches from one Respondent that will result in a loss of profit to the other Respondent. If~~ Because Secure acquired Tervita, ~~then~~ the profit Secure would have lost from a customer switching to Tervita pre-Transaction will be recaptured, giving Secure an ability to raise prices ~~once it acquires Tervita~~.
34. The removal of Tervita as a competitor coupled with, among other things, high barriers to entry, increased concentration and limited remaining competition, is likely to allow Secure to exercise new or enhanced market power resulting in a likely substantial lessening of competition, to the detriment of Waste Services customers which includes a number of small to medium sized enterprises.

35. The new or increased exercise of market power by Secure is likely to take the form of an increase in prices for Waste Services and/or a decrease in Waste Services service quality. An increase in the price of Waste Services will also likely decrease the number of orphaned and abandoned sites that can be remediated and reclaimed based on the current stimulus package.
36. ~~The Proposed Transaction is also likely to prevent or substantially lessen competition in two additional ways.~~
37. ~~First, Secure has submitted an application to the British Columbia Environmental Assessment Office to construct a secure landfill near Wonowon in NEBC. As of June 2020, Secure's representatives publicly projected that this landfill would be operational by the third quarter of 2021. If it had been opened, this new landfill would have competed with Tervita's Silverberry and Northern Rockies landfills. Competition between these landfills would have likely decreased price and increased quality of service for customers in NEBC. With the Proposed Transaction, Secure no longer plans to open this landfill.~~
38. ~~Second, as described above, Secure will be is by far the largest provider of Waste Services in the WCSB which may be bundled with Environmental Services. Secure will have has the incentive and ability to increase price and/or degrade service quality of Waste Services to Environmental Services competitors who cannot offer bundled services, leading to new or increased market power in the provision of Environmental Services. This will likely lead to higher prices and degraded services for Environmental Services customers.~~

VII. SECTION 93 FACTORS SUPPORT LIKELY SUBSTANTIAL LESSENING AND/OR PREVENTION OF COMPETITION

39. A number of section 93 factors support the conclusion that the ~~Proposed~~ Transaction is likely to lessen ~~or prevent~~ competition substantially in the provision of Waste Services and Environmental Services in the WCSB.

A. Barriers to Entry

40. Secure's dominant position in the provision of Waste Services in certain areas of the WCSB will not likely be constrained by entry or expansion as barriers to building a facility that provides Waste Services are high. Therefore, timely entry by potential competitors is unlikely to occur on a sufficient scale and with sufficient scope to constrain a material price increase.
41. Barriers to entry include regulatory and permitting requirements for establishing a waste disposal site; high capital costs; reputational barriers; high sunk costs; market maturity; and limits on the number of available geologically suitable sites for waste disposal.
42. Secure's entry demonstrates the high barriers to entry. Secure was started in 2007 by former employees and contractors of Tervita. After Secure entered the market, there were multiple lawsuits between Secure and Tervita. Tervita (which, at the time, was called CCS) alleged that a number of its former employees conspired to take Tervita's confidential information and formed Secure for the purpose of taking certain business opportunities from Tervita. Specifically, in its Statement of Claim, Tervita alleged that if Secure had not taken this confidential information Secure would not have been able to establish itself as a competitor as quickly as it did.
43. Finally, given the absolute size of Secure ~~if it~~ after acquiring Tervita, entry is unlikely to occur on a sufficient scale or scope, or within the time required to constrain an exercise of market power by Secure.

B. Removal of a Vigorous and Effective Competitor

44. The ~~Proposed~~ Transaction ~~will~~ eliminates the head-to-head rivalry between Secure and Tervita, who are the two largest providers of Waste Services in WCSB. For a significant number of customers, Secure and Tervita ~~are~~ were the two closest geographic options for Waste Services.
45. Since its creation in 2007, the rivalry between Secure and Tervita had been intense, extending to every aspect of their business leading to better price and

service outcomes for customers of Waste Services. In an effort to win back business that has been lost to Secure, Tervita had, for example, increased spending on promotional items, increased advertising in newspapers and at a public venues, become a sponsor of the Calgary Stampede, and increased spending at client events, such as hockey games and golf tournaments.

46. Tervita had built facilities close to new Secure facilities including its South Grand Prairie landfill, Fox Creek TRD, and Willesden Green landfill. Oil and gas companies ~~would~~ benefited from decreased prices and better service where Secure and Tervita operated facilities in close proximity to each other. The direct competition between these facilities, and others, is eliminated with the ~~Proposed~~ Transaction.

C. Insufficient Effective Remaining Competition

47. There is insufficient remaining competition to constrain an exercise of market power by Secure. The remaining competitors may follow price increases by Secure if as there is one less competitor in the market.
48. As described above, and evident from the maps attached at Appendix 1, no other company comes close to having the facilities to match the geographic scope and product depth of Secure ~~and Tervita~~. Combining the assets of Secure and Tervita ~~would~~ results in one entity owning 62 TRDs, 24 landfills, 3 caverns, and 8 standalone disposal wells in the WCSB. Post transaction, remaining competitors ~~may~~ include:
- a. Wolverine Energy and Infrastructure, which operates five TRDs in Alberta and one industrial landfill in Saskatchewan;
 - b. Aqua Terra Water Management ("**Aqua Terra**"), which operates eight standalone disposal wells – two in British Columbia, five in Alberta, and one in Saskatchewan;

- c. Ridgeline Canada Inc., which accepts certain types of solid waste at municipal landfills in Alberta and Saskatchewan;
 - d. RemedX, which operates one industrial landfill in Breton, Alberta;
 - e. Catapult Water Midstream (“**Catapult**”), which operates two standalone disposal wells in Alberta and one in British Columbia;
 - f. Medicine River Oil Recyclers (“**MROR**”), which operates one TRD in Drayton Valley, Alberta; and
 - g. White Swan, which operates one cavern and one TRD in Alberta.
49. The scope and scale of Secure’s operations after it acquired Tervita, including the breadth of its facility infrastructure, ability to service multiple well sites for larger customers, diverse customer relationships, and organizational advantages, provides a significant advantage over its rivals. Rival firms are unlikely be to be able to constrain an exercise of market power following the ~~Proposed~~ Transaction.
50. Some municipal landfills may accept volumes of contaminated soil and drill cuttings. However, the volume of this type of waste accepted by municipal landfills is insignificant relative to the volumes of contaminated soil and drill cuttings produced in the WCSB and collected by Secure and Tervita at their landfills prior to the acquisition. Municipal landfills are often not located as close to oil and gas wells as the Respondent’s landfills.
51. Oil and gas producers may have internal waste disposal capabilities. Even oil and gas producers that have some self-disposal capacity still rely on third party water disposal wells, TRDs and landfills to dispose of their waste. Facilities owned by oil and gas producers are generally not permitted to offer Waste Services to other third parties. Waste Services are not the core competencies of oil and gas customers who prefer to use their capital to produce oil and gas.
52. Oil and gas customers do own and operate a number of water disposal wells that can receive water produced in the ordinary operation of a well. However, even oil and gas customers that operate their own water disposal wells typically need third

party water disposal wells because their own wells cannot handle the volume of water that is needed to complete the drilling of a well. As well, these oil and gas customers may not have internal water disposal capacity available for all of their well locations, and must rely on third party disposal capacity from vendors such as the Respondents.

53. Secure and Tervita are were by far the largest third party operators of water disposal wells. In February 2021, Secure and Tervita combined to inject over 20,000 cubic meters of waste water. By comparison, in that same month, the next three largest competitors (Aqua Terra, MROR, and Catapult) combined to inject less than 6,000 cubic meters.

VIII. RELIEF SOUGHT

54. As described in detail above, the ~~Proposed~~ Transaction is likely to result in a substantial lessening ~~and/or prevention~~ of competition in many different relevant markets across the WCSB. Therefore the Commissioner requests the relief sought in the Notice of Application above.

DATED AT Ottawa, Ontario, this 29th day of June, 2021

Original signed by Matthew Boswell

Commissioner of Competition

SCHEDULE “A” – CONCISE STATEMENT OF ECONOMIC THEORY

1. Secure and Tervita competed vigorously to provide Waste Services in the WCSB prior to the Transaction.
2. The development, operation, remediation and reclamation of oil and gas wells produces various forms of waste that depending on the wastes composition must be disposed of at a specialized facility. These services are not functional substitutes for each other. Therefore, relevant product markets are (i) the supply of waste processing and treatment services by TRDs; (ii) the disposal of solid oil and gas waste into industrial landfills; (iii) the disposal of produced and waste water into water disposal wells owned by third party Waste Service providers; and (iv) the disposal of NORM Waste into landfills permitted to accept this type of solid waste.
3. A functional substitute for some Waste Services at these facilities would be disposal in caverns, as such caverns can be considered substitutes in the relevant product market for TRDs and disposal wells. A hypothetical monopolist of any of these four types of services could profitably impose a small but significant and non-transitory price increase.
4. Suppliers of Waste Services price discriminate among their customers. They identify and charge different prices to customers, based on, among other factors, the customer’s geographic location. Because transportation costs constrain the ability of customers to haul waste to disposal facilities that are distant from the location where the waste is produced, the geographic location of where the waste is produced is an important factor to determine the price of disposal.
5. Therefore, the relevant geographic market is the aggregated locations of customers for Waste Services in the WCSB that ~~currently~~ previously benefited from the competition between Secure and Tervita. Waste Services customers most

affected are located in NEBC, Northwestern Alberta, Western Alberta, the conventional heavy oil region, Lloydminster and Kindersley.

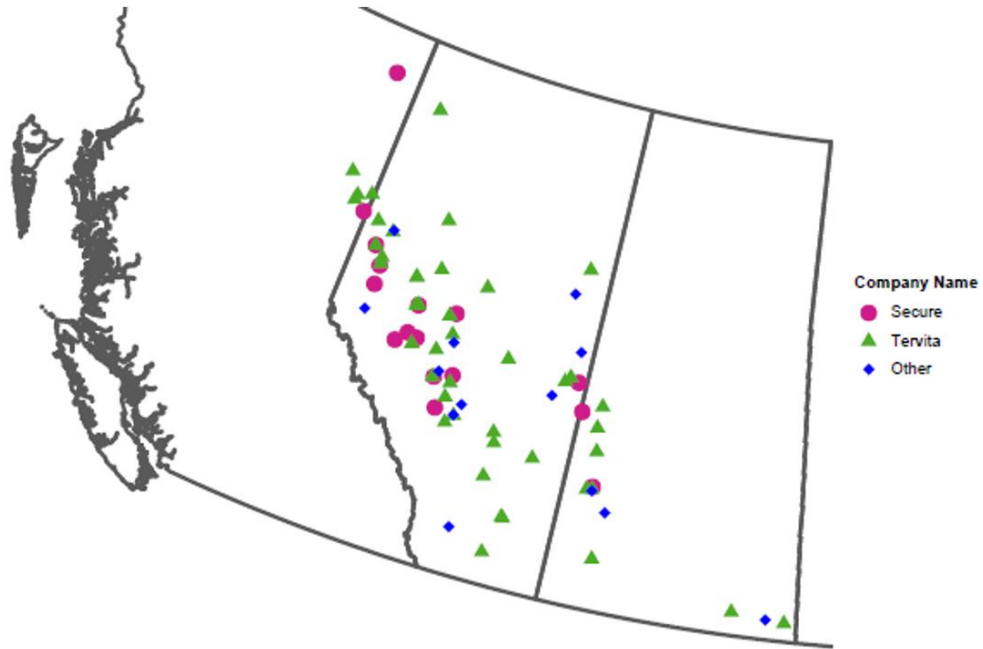
6. The ~~Proposed~~ Transaction causes the loss of competition between Secure and Tervita for Waste Services, likely increasing prices and decreasing the quality of Waste Services. Secure and Tervita are were by far the two largest suppliers of Waste Services in the WCSB and each other's closest competitor. The ~~Proposed~~ Transaction will increase the ability for the merged entity to raise prices, since profit that would otherwise have been lost by customers' ability to switch between ~~the Respondents'~~ Secure and Tervita's competing facilities will be recaptured by the merged firm.
7. Entry or expansion by competitors is unlikely to occur in a timely and sufficient manner due to high barriers to entry. The barriers to entry faced by a potential entrant include regulatory and permitting requirements, high capital costs, reputational barriers, high sunk costs, market maturity, and limits on the number of geologically suitable sites for waste disposal.
8. The remaining competition, including any competition from customers' ability to leverage or build its own facilities, ~~would~~ is not likely to be an effective constraint on an exercise of market power by if Secure ~~acquires Tervita~~.
9. The ~~Proposed~~ Transaction increases concentration for the provision of Waste Services in the WCSB.
10. Based on the above, it is likely that the ~~Proposed~~ Transaction ~~would~~ provides Secure with a new or increased ability to exercise market power. Therefore, the ~~Proposed~~ Transaction will likely lead to a substantial lessening of competition for the provision of Waste Services in WCSB.
11. ~~The Proposed Transaction is also likely to prevent competition for the disposal of solid waste into industrial landfills in NEBC. But for the Proposed Transaction,~~

~~Secure would have opened an industrial landfill in NEBC in competition with Tervita's Silverberry and Northern Rockies landfills. This new competition would have likely decreased prices and increased quality of service for customers in NEBC. With the Proposed Transaction, Secure no longer plans to open this landfill.~~

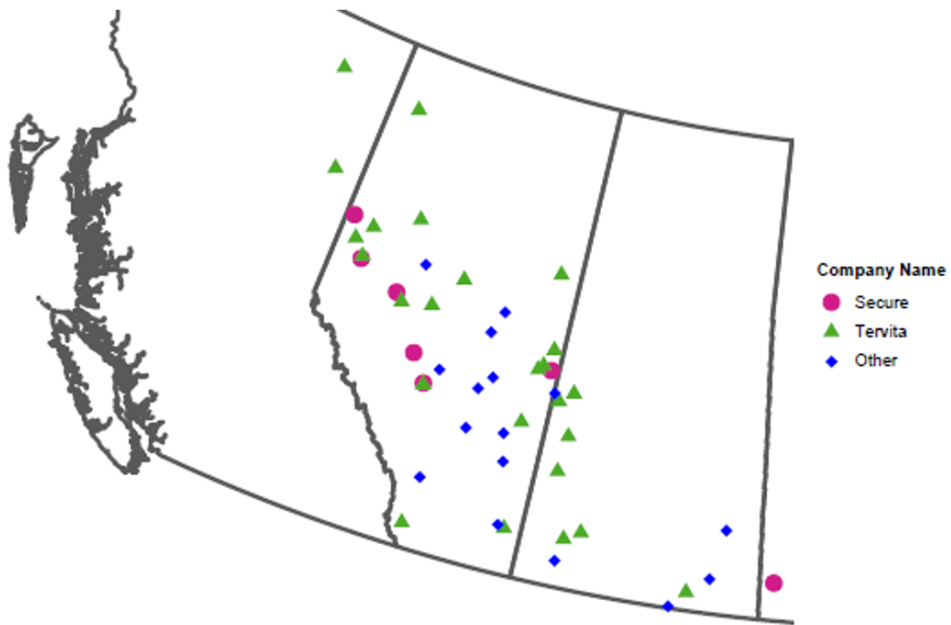
- ~~12. The Respondents Secure and Tervita also competed to provide Environmental Services. Environmental Services include environmental consulting services, solids control, demolition & decommissioning, and equipment rentals.~~
- ~~13. Certain Environmental Services require access to facilities that provide Waste Services. For example, an Environmental Services Company remediating a well site may need to dispose of contaminated soil in an industrial landfill.~~
- ~~14. As described above, the Proposed Transaction provides Secure with the ability to exercise market power in the provision of Waste Services in certain areas of the WCSB. Secure will have has the ability and incentive to extend its dominance in Waste Services to i) foreclose rival Environmental Services providers from accessing Secure's Waste Services and/or ii) drive customers to use Secure's Environmental Services through bundling with Waste Services.~~
- ~~15. This will result in a likely substantial lessening of competition for the provision of Environmental Services. Oil and gas companies will likely pay higher prices or receive decreased quality of service for Environmental Services.~~

Appendix 1

Map of TRD facilities operated by Tervita, Secure, and competitors in the WCSB



Map of landfill facilities operated by Tervita, Secure, and competitors in the WCSB



Map of water disposal facilities operated by Tervita, Secure, and competitors in the WCSB

