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Date: March 28, 2022

CT- 2021-002

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CT-2021-002

OTTAWA, ONT.

Doc. # 125

THE COMPETITION TRIBUNAL

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

AND IN THE MATTER OF the 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 section 92 of the *Competition Act*.

BETWEEN:

THE COMMISSIONER OF COMPETITION

Applicant

- and -

SECURE ENERGY SERVICES INC.

Respondent

**AFFIDAVIT OF ANDREW HARINGTON
(Sworn March 25, 2022)**

I, **Andrew Harington**, of the City of **Toronto**, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a Chartered Professional Accountant (formerly referred to as a Chartered Accountant), Chartered Financial Analyst charterholder, and Chartered Business Valuator. I am a Principal in the Toronto office of The Brattle Group. I have been retained by Blake, Cassels & Graydon LLP, counsel for the respondent, to provide my expert opinion regarding productive efficiencies that would be lost in the event that the Competition Tribunal were to issue an order

under section 92 of the *Competition Act* for a disposition of certain assets of the respondent, SECURE Energy Services Inc.

2. Attached as Exhibit “A” to my affidavit is my expert report in this matter dated March 25, 2022.

3. Included as Appendix “A” to my report is my curriculum vitae.

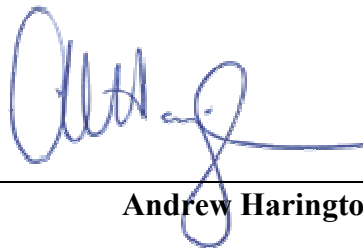
4. Included as Appendix “B” to my report is my acknowledgement of expert witness.

5. I swear this affidavit for the purposes of the within application and for no other purpose

SWORN remotely by)
Andrew Harington)
in the City of Toronto in the Province)
of Ontario, before me in the City of)
Toronto in the Province of Ontario,)
on March 25, 2022 in accordance)
with O. Reg 431/20, Administering)
Oath or Declaration Remotely.)

Gullon Schreier

A commissioner for taking affidavits



Andrew Harington

A handwritten signature in black ink that reads "Colleen Schreiter". The signature is written in a cursive style with a large initial 'C'. Below the signature is a solid black horizontal line.

**This is Exhibit "A" to the Affidavit
of
Andrew Harington
Affirmed on March 25, 2022**

Commissioner of Competition v. SECURE Energy Services Inc.

PRODUCTIVE EFFICIENCIES ARISING FROM THE ACQUISITION OF
TERVITA CORPORATION

PREPARED BY

Andrew C. Harington
CPA, CA, CFA, CBV

MARCH 25, 2022



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Electronic copy of schedules and documents listed in Section A, C and D of
the Scope of Review 1



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March 25, 2022

Blake, Cassels & Graydon LLP
199 Bay Street
Suite 4000, Commerce Court West
Toronto, Ontario M5L 1A9

Attention: Mr. Robert Kwinter

Re: Commissioner of Competition v. SECURE Energy Services Inc.

I. Introduction

1. On July 2, 2021, SECURE Energy Services Inc. (“SECURE” or the “Respondent”) acquired all of the issued and outstanding shares of Tervita Corporation (“Tervita”)¹ (the “Transaction”). On June 29, 2021, the Commissioner of Competition filed a Notice of Application (the “Notice of Application”) with the Competition Tribunal (the “Tribunal”) seeking, among other things, an order under

¹ References herein to Tervita refers to the company previously known as Tervita Corporation.

section 92 of the *Competition Act*² (the “Act”) for a disposition of certain assets of SECURE, which have not been specified.³

2. Blake, Cassels & Graydon LLP (“Counsel”), counsel to SECURE, has requested my opinion on the quantum of productive efficiencies that would be lost in the event that the Tribunal were to issue an order, as described in more detail below.

II. Professional Qualifications and Expertise

3. I, Andrew Harington, am a Chartered Professional Accountant (formerly referred to as a Chartered Accountant), Chartered Financial Analyst charterholder, and Chartered Business Valuator. I am a Principal in the Toronto office of The Brattle Group. Prior to joining The Brattle Group in 2016, I was a Managing Director at Duff & Phelps and a partner at its predecessor firm, Cole & Partners. Before this, I had over 7 years of experience in mergers and acquisitions, advisory, corporate restructuring and financial advisory services.
4. I have extensive experience in quantifying efficiencies in competition-related matters including for the Competition Bureau and private parties regarding mergers, or proposed mergers, involving, among others: Agrium Inc., BCE Inc., CCS Corporation (subsequently renamed Tervita Corporation), Cintas Corporation, Labatt Brewing Company Limited, Parrish & Heimbecker, Limited, Rogers Wireless Communications Inc., Suncor Energy Inc., Superior Plus Corp, West Fraser

² Competition Act, R.S.C. 1985, c. C-34.

³ Amended Notice of Application, August 20, 2021, *The Commissioner of Competition v. SECURE Energy Services Inc.*, CT-2021-002, ¶1.

Timber Co. Ltd., Yellow Pages Group Inc.. I have been qualified by the Competition Tribunal as an expert in the quantification of efficiencies.

5. Attached hereto and marked as Appendix A is a copy of my *curriculum vitae*.
6. I have no interest, financial or otherwise, in the subject of my opinion. I understand that I have an obligation to be independent as an expert witness and I confirm that I have read, understood and signed the Acknowledgement of Expert's Duty attached as Appendix B. Brattle is being compensated on an hourly basis for the time I have taken to prepare my report and to testify.
7. I have prepared this report with the assistance of other professionals under my direction and supervision and references herein to "we" or "our" are intended to be interpreted as such.
8. This report constitutes an Expert Report as defined by the CBV Institute (formerly the Canadian Institute of Chartered Business Valuators) and is prepared in the context of an "Investigative and forensic accounting engagement" as defined in the "Standard Practices for Investigative and Forensic Accounting Engagements" issued by CPA Canada (formerly the Chartered Accountants of Canada), and has been prepared in conformity with those standards by persons acting independently and objectively. The fees payable under the terms of my engagement agreement are not contingent upon an action or event resulting from the use of my report. See the Restrictions and Limitations section of this report for further discussion.

III. Mandate

9. Counsel has retained me to opine on the dollar value of productive efficiencies under section 96 of the Act (“Productive Efficiencies”) for each of the following:
- a. The Productive Efficiencies that are likely to be realized as a result of the Transaction; and
 - b. The Productive Efficiencies that would be lost in the event of a hypothetical remedial order of the Competition Tribunal (“Tribunal”). In doing so, Counsel has requested me to provide my opinions as to the Productive Efficiencies lost in the event of a hypothetical divestiture order as at each of:⁴
 - i. The date of closing of the Transaction (the “Date of Closing Approach”); and
 - ii. The assumed date of the Tribunal Order (the “Tribunal Order Date Approach”).
10. Counsel has informed me that the Commissioner has amended his application and is no longer seeking dissolution of the Transaction but is instead seeing a divestiture of unspecified assets. I have further been advised by Counsel that the Tribunal may wish to consider the efficiencies related to

⁴ The Date of Closing Approach is included to allow the Tribunal to consider the Efficiencies, as if they were being considered on the eve of the closing of the Transaction and are reduced on account of the delay until achieving the Efficiencies and all costs to the economy (i.e. negative Efficiencies) necessary to achieve the Efficiencies prospectively from that date.

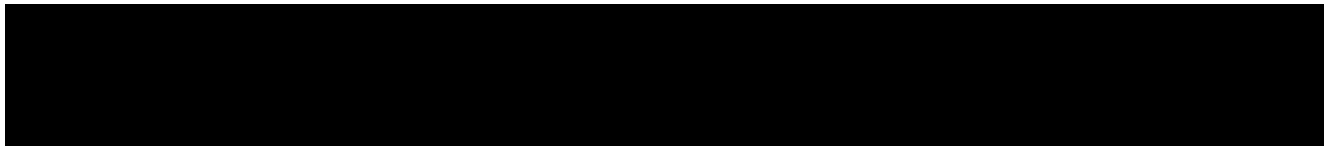
I believe that the Tribunal Order Date Approach better reflects the real economic impact in that the Efficiencies that arise from integration activities that will have already occurred are not reduced on account of any “delay” and, similarly, all costs that have already been incurred by that date are sunk costs and are not deducted.

I provide no opinion, from a legal perspective, as to which approach is appropriate. Further, if the Tribunal determines that an alternative approach to either of these is preferable, I believe that I likely have all the requisite information to undertake computations of the Productive Efficiencies lost under such approach.

the specific assets that may be the subject of a hypothetical divestiture order. There are too many permutations and combinations of facilities that could be the subject of a hypothetical divestiture order to reasonably quantify the efficiencies associated with all theoretically possible orders in advance, and the quantum of back office efficiencies may vary materially depending on the nature and scope of such an order. However, to assist the Tribunal, Counsel has instructed me to opine on the efficiencies associated with two alternative hypothetical divestiture orders (hereinafter the “Hypothetical Divestiture Orders”) in respect of the facilities listed in Appendix C, specifically comprising:⁵

- a. **Hypothetical Divestiture Order 1** - The former Tervita facilities listed in correspondence from Mr. Jonathan Hood dated August 4, 2021, indicated as having been derived from the list of Tervita facilities from Exhibits 25-30 of the Affidavit of Dr. Nathan Miller dated June 29, 2020, being those Tervita facilities Dr. Miller considers to be “market type” 2-to-1 and 3-to-2;⁶ and
- b. **Hypothetical Divestiture Order 2** - The former Tervita facilities indicated in the expert report of Dr. Nathan Miller dated February 25, 2022 (the “Miller Report”), at Exhibit 9, as being what he considers to be “market type” 2-to-1 and 3-to-2.


11. In addition, for purposes of analyzing the Hypothetical Divestiture Orders, Counsel has instructed me to assume that:



⁵ Should the Tribunal determine that an alternative Divestiture Order is appropriate, I believe I have the necessary information to compute the Productive Efficiencies lost under such order in a supplementary report.

⁶ See Commissioner’s s. 104 Application Record, pages 2774 to 2779.



- 
- c. The Alberta Energy Regulator (“AER”) would require a purchaser of any of the facilities to take on the asset retirement obligations (“ARO”) associated with those facilities;
 - d. Any package of facilities being divested would need to be economically viable to a prospective purchaser; and
 - e. The Tribunal would require that any divestiture occur within 6 months of the date of the Order.



13. For purposes of all my opinions relating to Productive Efficiencies Counsel has instructed me:

- a. From a legal perspective, to consider only the geographic location where the Productive Efficiencies will be taking place so as to make the Canadian economy more efficient; and

- b. To consider the Affidavit of Mr. Rory Johnston, dated February 24, 2022 (the “Johnston Report”).
14. For purposes of the Tribunal Order Date Approach Counsel has instructed me to assume that the likely date of Tribunal Order would be June 30, 2023.
15. Counsel has also instructed me to compute the cumulative Productive Efficiencies over an appropriate period following closing of the Transaction – which I have done in this case over a 10 year period given the nature of the industry and integration plans – net of reductions on account of the time required to implement each aspect of integration that gives rise to the Productive Efficiencies, as well as on account of the costs required to achieve the savings. The Productive Efficiencies have been determined in constant dollars and at their present value using a discount rate of 8% per annum, using mid-period discounting where appropriate.¹⁰

¹⁰ Neither the Merger Enforcement Guidelines (“MEGs”) nor the preceding 2004 version of the MEGs suggest the appropriate discount rate. The 1991 version of the MEGs, however, state at paragraph 5.7.1: “The real discount rate employed to compute present values should be consistent with the discount rates used to evaluate investment projects funded in whole or in part by the federal government. These standard rates are generally found in the Treasury Board’s Benefit - Cost Guidelines and similar federal government documents.” The 8% rate adopted is the most recent pre-tax discount rate recommended for evaluation of regulatory interventions in Canada as set out in: Treasury Board of Canada Secretariat, “Canadian Cost-Benefit Analysis Guide: Regulatory Proposals,” 2007, <https://www.tbs-sct.gc.ca/rtrap-parfa/analys/analys-eng.pdf>). This rate was set in 2007 and is high by today’s standards (See, for example, Innovation, Science and Economic Development Canada, “Cost-Benefit Analysis of the Canada Small Business Financing Program,” January 2015, http://www.ic.gc.ca/eic/siTe/061.nsf/eng/h_02912.html) but, to be conservative, it is used. The effect of a high rate reduces the net present value of the Productive Efficiencies and the competitive effects.

16. Counsel has also asked me to describe whether all “fixed cost categories” applicable to SECURE’s facility operations are included as Productive Efficiencies and, if not:
- a. which cost categories are not considered that would appropriately be incorporated into the overall lifetime profitability of a facility; and
 - b. whether Dr. Miller’s calculations of profit consider these categories.

IV. Summary of Conclusions

17. Based on the scope of my review, and subject to the assumptions, restrictions and limitations noted herein, in my opinion the Productive Efficiencies arising from the Transaction is as set out in Schedule 1 and summarized in Table 1, below.¹¹

TABLE 1: SUMMARY OF PRODUCTIVE EFFICIENCIES ARISING FROM THE TRANSACTION		
	Run Rate Efficiencies	10 Year Discounted Net Present Value
CA\$ 000's		
Efficiencies from the Transaction		
Source: Schedule 1		

¹¹ To assist the reader, my conclusions in this report are expressed as point estimates. However, such precision is not possible in respect of hypothetical scenarios such as those addressed herein. Accordingly, my conclusions should be considered as a range around the point estimates. Based on the information I have reviewed and the assumptions I have adopted, I believe that the conclusions presented herein are reasonable and appropriate in the circumstances.

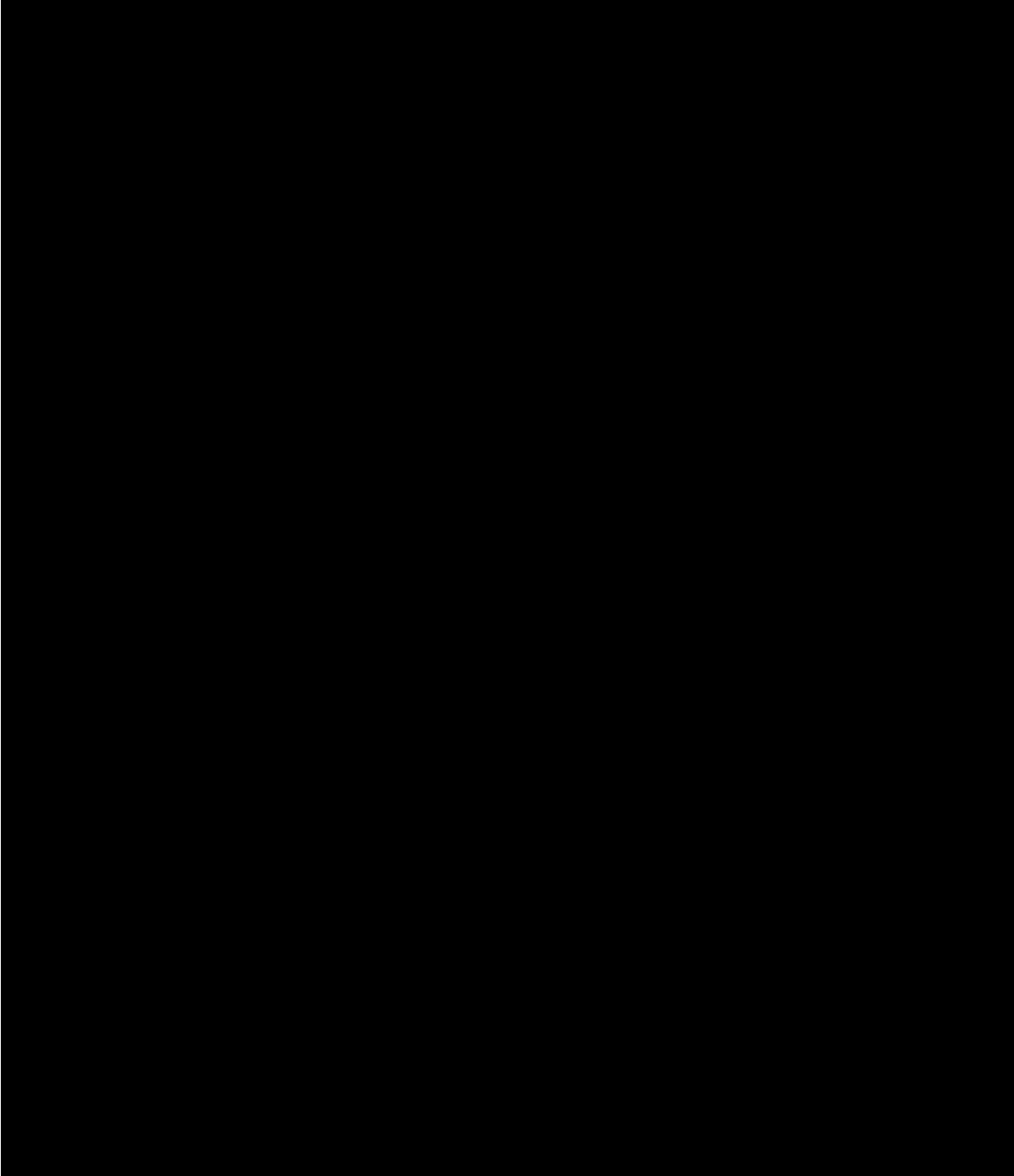
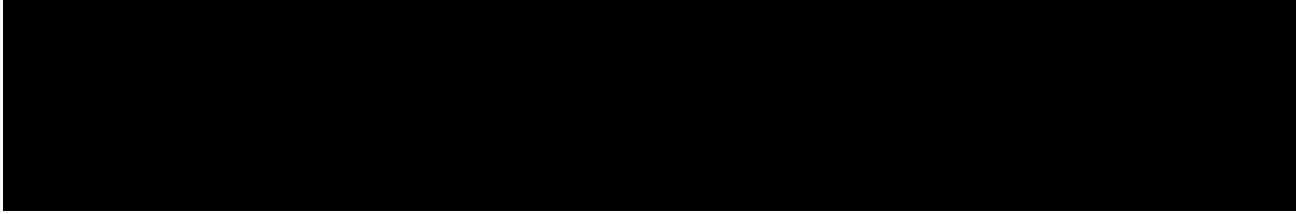
18. Based on the scope of my review, and subject to the assumptions, restrictions and limitations noted herein, in my opinion the Productive Efficiencies arising from the Transaction that would be lost in the event that the Tribunal were to issue one of the Hypothetical Divestiture Orders is as set out in Schedule 1 and summarized in Table 2, below. As requested, I have calculated this under both the Date of Closing Approach and the Tribunal Order Date Approach.

TABLE 2: SUMMARY OF PRODUCTIVE EFFICIENCIES LOST UNDER THE HYPOTHETICAL DIVESTITURE ORDERS

<i>CA\$ 000's</i>	Run Rate Efficiencies	10 Year Discounted Net Present Value
Efficiencies Lost from Hypothetical Divestiture Order Option 1		
Date of Closing Approach		
Tribunal Order Date Approach		
Efficiencies Lost from Hypothetical Divestiture Order Option 2		
Date of Closing Approach		
Tribunal Order Date Approach		
Source: Schedule 1		

19. Note that, for both of my conclusions set out above, I have considered real world events that have occurred since the actual closing of the Transaction, that would have occurred irrespective of the Transaction.





22. Unless otherwise indicated, all figures in this report are in Canadian dollars.

The Costs Considered by Dr. Miller

23. Counsel has also asked me to describe whether all fixed cost categories applicable to SECURE's facility operations are included as Productive Efficiencies and, if not:
- a. which cost categories are not considered that would appropriately be incorporated into the overall lifetime profitability of a facility; and
 - b. whether Dr. Miller's calculations of profit consider these categories.
24. In summary, my response is that no, irrespective of the industry, not all fixed cost categories are included as Productive Efficiencies. Rather, Productive Efficiencies look only at categories of costs (irrespective of fixed or variable) that would be *avoided or reduced* if a facility is to be closed as a result of a transaction. Generally, avoided costs are fixed costs because for the purpose of my analysis of Productive Efficiencies, variable costs continue to be incurred at remaining facilities, albeit at a lower rate per unit in certain circumstances.
25. Accordingly, there are categories of costs that Dr. Miller does not include in his calculation of "variable profit" that I do not include in my calculations of Productive Efficiencies that are appropriately incorporated into the overall lifetime profitability of a facility.¹² These include:
- a. Upfront capital costs, as reflected in the depreciation or depletion expense (which applies to all categories of facility);
 - b. Periodic capital costs, as reflected in the depreciation or depletion expense (which applies most significantly to landfills but also to FSTs and SWDs); and

¹² See the Miller Report, paragraphs 149 to 152.

- c. End of life capital costs, as reflected in the ARO accrual expense (which applies to all categories of facility).
26. Other than for specifically identifiable one-time capital costs that are avoided through the integrations, I have not considered any of these cost categories as Productive Efficiencies. Further, I believe that certain of these “fixed costs” in fact vary with volume and are more appropriately considered variable costs. Dr. Miller does not consider any of these costs in his calculation of “variable profit”.
27. For further discussion see Section XIII.

V. Assumptions

28. All assumptions are as set out in this report, including in the footnotes to the Schedules.

VI. Scope of Review

29. In reaching my conclusions, I have reviewed and relied upon information from the documents and discussions listed in Appendix D.
30. Except as otherwise noted herein, I have not audited or otherwise verified the information listed in Appendix D. My conclusions are dependent upon the accuracy of this information.

VII. Background

31. In this section, I provide my general understanding of the industry, the Parties to the Transaction and the rationale for the Transaction. It is not intended to be comprehensive as I understand that the readers of this report have been provided with numerous other documents relating to these topics. Rather, it is intended to provide factual background relevant to understanding SECURE management's integration plans and the resulting Productive Efficiencies from the Transaction.

VII.A. The Midstream Infrastructure and Related Environmental Services Industry

32. SECURE, and previously Tervita, are primarily engaged in providing midstream infrastructure and related environmental services to customers in the oil and gas industry.¹³ Midstream infrastructure services include assisting oil and gas producers in the processing, storing and marketing of oil and gas. Midstream infrastructure services act as a connection between the drilling and completion sites of upstream oil and gas producers and the downstream oil refineries, petrochemical plants and retail outlets. Other services provided by midstream infrastructure companies include terminalling, transportation of oil and gas, oil treating, waste management, site demolition and decommissioning, site remediation and reclamation, emergency response and spill containment, metals recycling, and waste container services.¹⁴

¹³ Secure Annual Information Form 2020 - 2020_AIF_Secure.pdf, page 7; Tervita Annual Information Form 2020 - 2020_AIF_Tervita.pdf, pages 11-12.

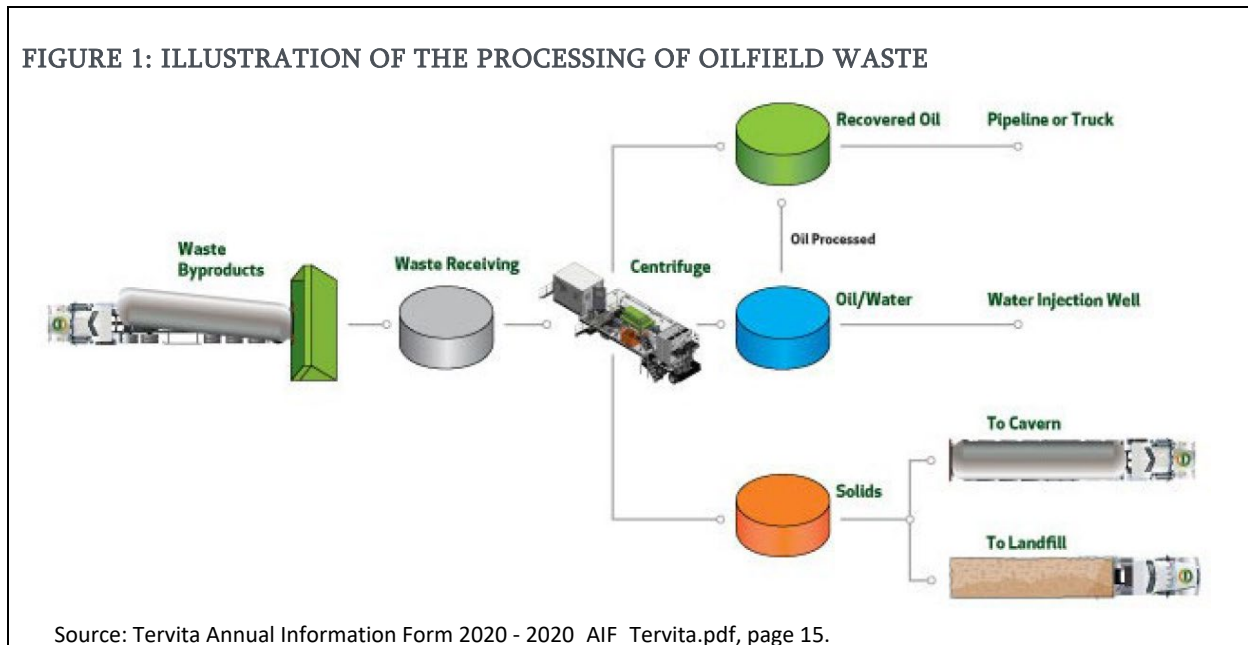
¹⁴ Secure Annual Information Form 2020 - 2020_AIF_Secure.pdf, pages 7, 9 and 10; Tervita Annual Information Form 2020 - 2020_AIF_Tervita.pdf, pages 12-21; See also, "Oil and Gas Industry: A

33. The Canadian midstream infrastructure industry includes several types of service providers including full-service providers, smaller providers focusing on particular segments, and oil and gas producers with internal self-supply capabilities. Midstream infrastructure companies operate through a variety of facilities and infrastructure including pipelines, storage terminals, oil batteries, engineered landfills, and integrated full-services terminals (“FST”).¹⁵
34. Oilfield waste is generated during drilling, completion, production and remediation operations. An FST is an above ground facility that separates either liquid or solid (sludge) oilfield waste into recoverable oil, solids and wastewater as follows:
- a. Sludge waste is separated into solids and liquids using one or more of a combination of shakers, centrifuges, filtration and gravity compression. The solids are disposed of into either landfills or caverns.
 - b. Liquids (either received directly or extracted from sludge waste) are separated into recoverable oil and wastewater using one or more of a combination of chemicals, tankage and mechanical separation.
 - c. The recovered oil is sent via either pipelines or trucks to oil companies for further processing.
 - d. The waste water is disposed of in a standalone water disposal (SWD) well.

Research Guide – Midstream: Transportation,” Library of Congress, available at: <https://guides.loc.gov/oil-and-gas-industry/midstream>; “Oil and Gas Industry Overview,” Petroleum Services Association of Canada (PSAC), available at <https://www.pfac.ca/business/oil-and-gas-industry-overview/>.

¹⁵ Secure Annual Information Form 2020 - 2020_AIF_Secure.pdf, pages 19 to 24; Tervita Annual Information Form 2020 - 2020_AIF_Tervita.pdf, pages 12-21; FSTs are also referred to as Treatment, Recovery and Disposal (“TRD”) facilities. A TRD / FST facility is an above ground facility that separates waste into solids, wastewater, and recovered oil through specialized waste management solutions which are compliant with environmental laws and standards. It can also gather liquids for processing and disposal or transportation to pipeline, including emulsion, water and clean oil. (Source: 2020_AIF_Tervita.pdf, page 14)

35. The above is summarized in Figure 1 from the Tervita 2020 Annual Information Form.



VII.B. The Parties to the Transaction

VII.B.1. SECURE

36. SECURE Energy Services Inc. is a public company based in Calgary, Alberta and provides services to upstream oil and natural gas companies in Western Canada and certain regions in the U.S. SECURE provides its services through a network of midstream processing and storage facilities, crude oil and water pipelines, and crude by rail terminals.¹⁶ It broadly organizes operations under two business segments: (i) Midstream Infrastructure; and (ii) Environmental and Fluid Management.¹⁷ I describe each business segment below.

37. Midstream Infrastructure: SECURE owns and operates Midstream Infrastructure facilities in Western Canada, North Dakota and Oklahoma. As of December 31, 2020, SECURE's Midstream

¹⁶ Secure Annual Information Form 2020 - 2020_AIF_Secure.pdf, page 7.

¹⁷ Secure Annual Information Form 2020 - 2020_AIF_Secure.pdf, pages 24-27.

Infrastructure solutions were provided through a network of 56 facilities, with 40 facilities located in Alberta, Canada. Of the remaining 16 facilities, 10 are located elsewhere in Western Canada,¹⁸ and six are located in the U.S. (five in North Dakota and one in Oklahoma).¹⁹

38. The Midstream Infrastructure services that SECURE provides include: processing, storing, shipping and marketing of crude oil and diluents; processing of waste; and water treatment and disposal.²⁰ SECURE also transports oil and water through pipelines direct to SECURE facilities. Processing services are primarily performed at FSTs and include waste processing and crude oil emulsion treating. SECURE's FSTs that are connected to export oil pipelines provide customers with an access point to process and/or treat their crude oil for shipment to market. Crude oil that does not meet pipeline specifications is processed through a crude oil emulsion treater. Clean crude oil and treated crude oil may be aggregated and stored on site temporarily until the volumes are ready to be shipped through gathering, transmission or feeder pipelines. Disposal services include produced and waste water disposal services through a network of disposal wells.²¹
39. For the years ended December 31, 2020 and 2019, the Midstream Infrastructure segment represented 43 percent and 50 percent of the total consolidated revenue (excluding oil purchase and resale) of SECURE.²²

¹⁸ Of these Canadian facilities, three are located in British Columbia, six in Saskatchewan, and one in Manitoba.

¹⁹ Secure Annual Information Form 2020 - 2020_AIF_Secure.pdf, page 7.

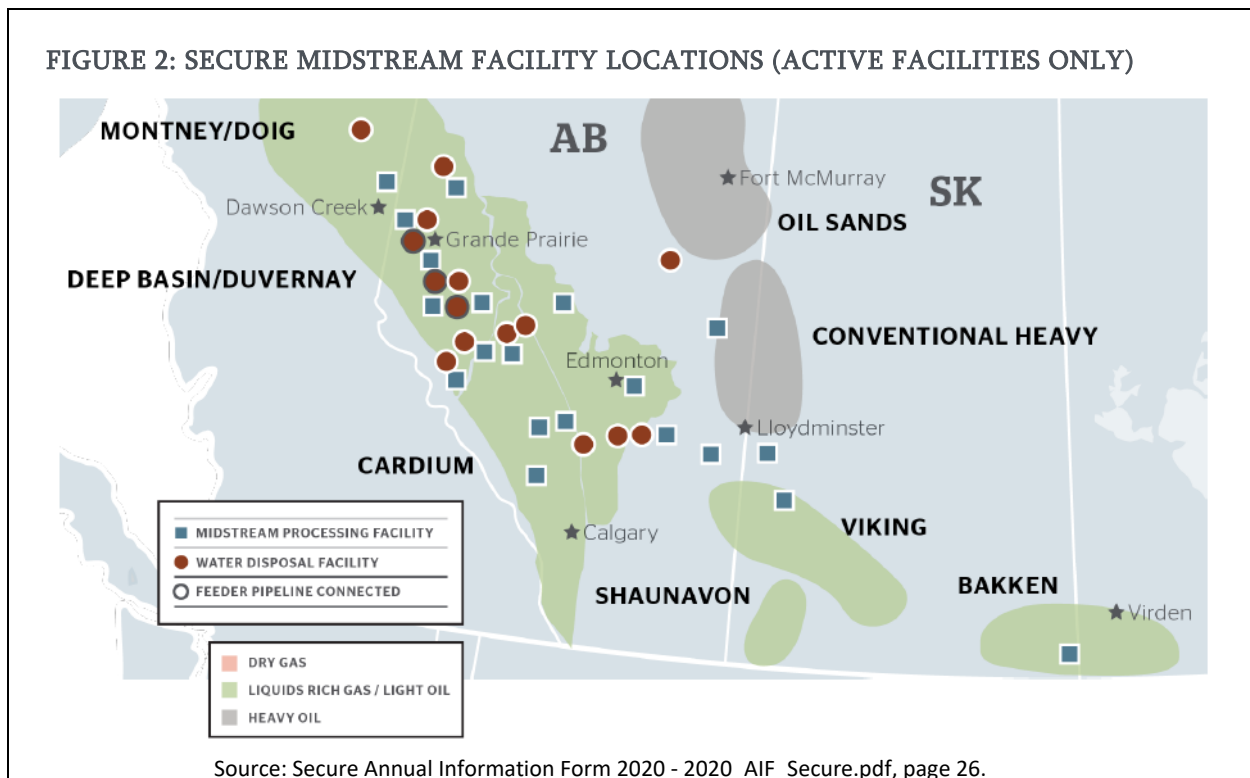
²⁰ Secure Annual Information Form 2020 - 2020_AIF_Secure.pdf, page 7.

²¹ Secure Management's Discussion & Analysis Report Q4 2020 - secure-energy-q4-2020-mda.pdf, page 17.

²² Secure Annual Information Form 2020 - 2020_AIF_Secure.pdf, page 7.

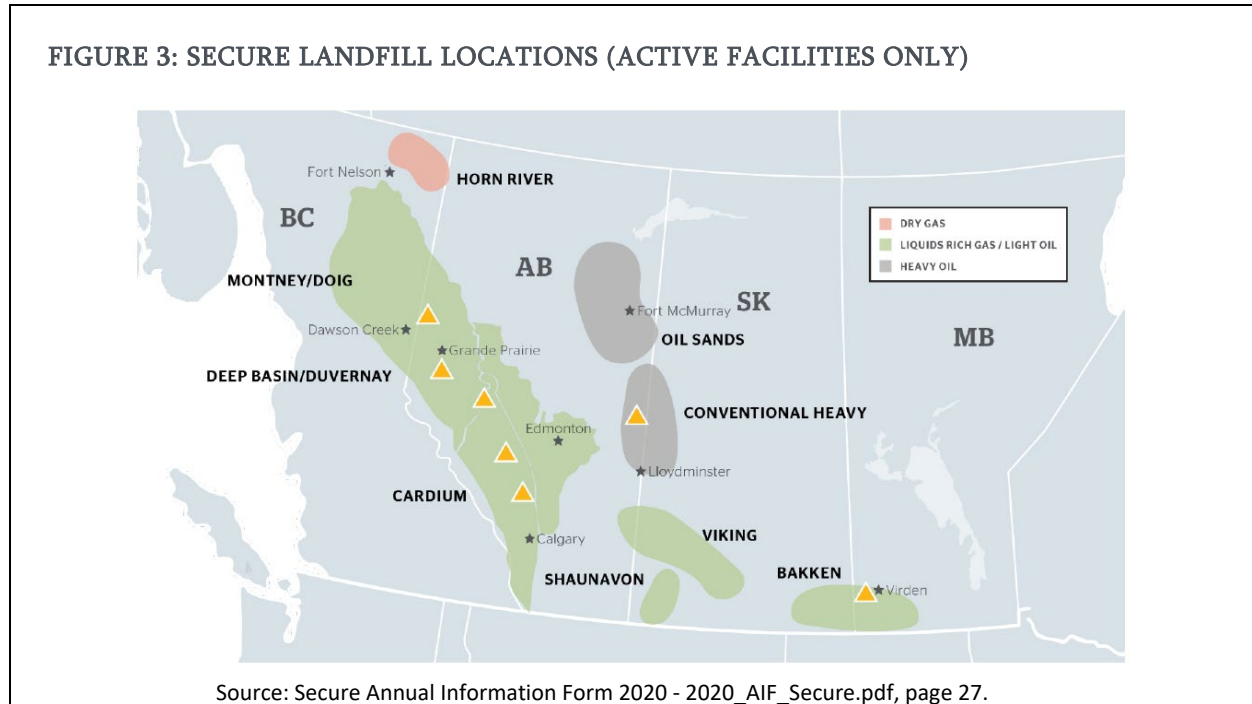
40. Environmental and Fluid Management: SECURE provides services relating to landfill disposal, on-site abandonment, reclamation management, drilling completion, and production fluid operations management for oil and gas producers located in Western Canada. It also provides comprehensive environmental management solutions to a diverse customer base.²³

41. The location of SECURE’s Midstream Infrastructure facilities in western Canada are illustrated below in Figure 2. Midstream processing facilities include full service terminals (FSTs), stand-alone water disposal facilities (SWDs), and commercial & transportation facilities (C&Ts) including feeder pipeline systems.



²³ Secure Management’s Discussion & Analysis Report Q4 2020 - secure-energy-q4-2020-mda.pdf, pages 20-21; Secure Annual Information Form 2020 - 2020_AIF_Secure.pdf, page 9.

42. SECURE owns and operates six landfills in Alberta, Canada, and one landfill in North Dakota. It also manages the operations of a landfill located in Manitoba.²⁴
43. Figure 3 outlines the locations of SECURE's seven landfills owned or operated in Canada.



44. For the years ended December 31, 2020 and 2019, the Environmental and Fluid Management segment represented 57 percent and 50 percent, respectively, of the total consolidated revenue (excluding oil purchase and resale) of SECURE.²⁵

²⁴ Secure Annual Information Form 2020 - 2020_AIF_Secure.pdf, page 23.

²⁵ Secure Annual Information Form 2020 - 2020_AIF_Secure.pdf, page 9.

VII.B.2. The Former Operations of Tervita

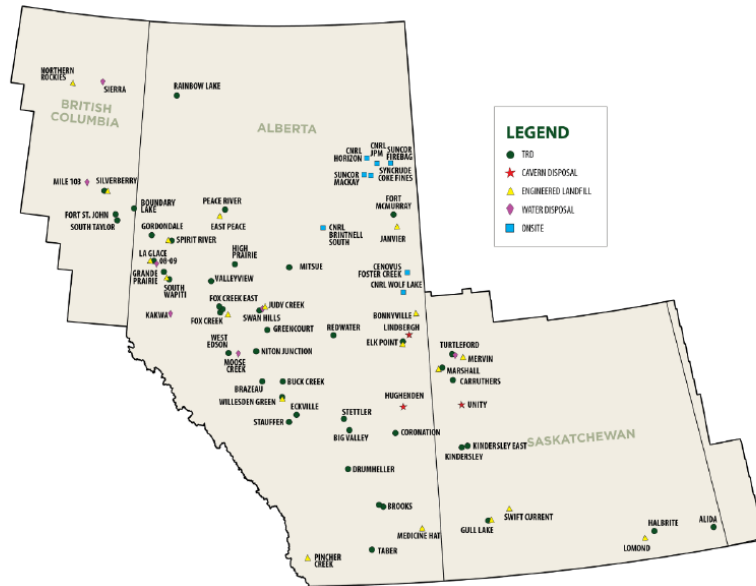
45. Prior to the Transaction, Tervita was a public company headquartered in Alberta, Canada which provided waste management services and environmental solutions to customers in the energy, mining and industrial sectors.²⁶ Tervita's operations were broadly organized into two segments: (i) Energy Services, and (ii) Industrial Services. I describe each of these segments below.
46. Energy Services focused on the upstream and midstream segment of the oil and gas industry. Services under the Energy Services segment include: energy marketing (i.e., blending of oil processed and gathered through Tervita's treatment, recovery and disposal (TRD) facilities to enhance the value of the resulting product); treating, recovering, and disposing of fluids, oilfield waste and solids at Tervita's TRD facilities (including disposal wells and cavern disposal facilities); and disposal of solid oilfield waste at engineered landfills.²⁷
47. Tervita provided Energy Services through a network of 44 TRD facilities, three cavern disposal facilities and eight stand-alone water disposal facilities and eight onsite facilities. Tervita also owned and operated 22 engineered landfills.²⁸
48. Figure 4 outlines the locations of Tervita's Energy Services facilities.

²⁶ Tervita Annual Information Form 2020 - 2020_AIF_Tervita.pdf, pages 13-20.

²⁷ Tervita Annual Information Form 2020 - 2020_AIF_Tervita.pdf, pages 12-13.

²⁸ Tervita Corporation Investor Presentation - march-2021-investor-presentation.pdf, page 28.

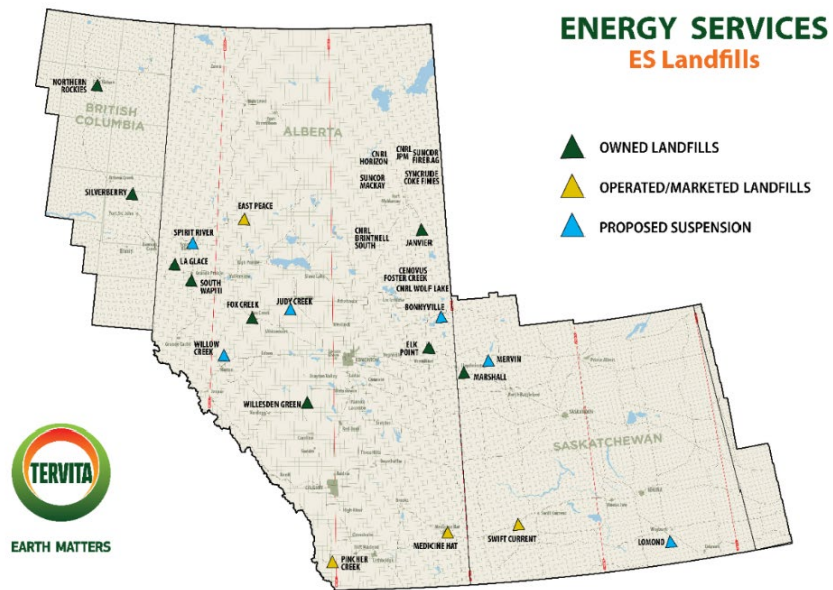
FIGURE 4: TERVITA ENERGY SERVICES FACILITY LOCATIONS (ACTIVE FACILITIES ONLY)



Source: TerVita Annual Information Form 2020 - 2020_AIF_Tervita.pdf, page 14.

49. Figure 5 outlines the locations of TerVita’s landfills owned or operated in Canada distinguishing by the proposed status of each, absent the Transaction.

FIGURE 5: TERVITA LANDFILL LOCATIONS (ACTIVE FACILITIES ONLY)



Source: 2020 Q4 Landfill Strategy.pdf, page 4.

50. The Energy Services segment accounted for approximately 60 percent of Tervita's revenue (excluding energy marketing) for the year ended December 31, 2020.²⁹
51. Industrial Services included environmental services (including site remediation, facility decommissioning, and waste management); waste transportation, classification, tracking and disposal services; metals recycling and rail services; and water and onsite services (i.e., water treatment and management services for major infrastructure projects).³⁰
52. These services were provided through a network of five metals recycling facilities, nine bioremediation facilities, three transfer stations, and one naturally occurring radioactive materials facility.³¹
53. The Industrial Services segment accounted for approximately 40 percent of Tervita's revenue for the year ended December 31, 2020.³²

VII.B.3. The Transaction

54. Effective July 2, 2021, SECURE and Tervita completed a court-approved plan of arrangement pursuant to which SECURE acquired all of the issued and outstanding common shares of Tervita. Holders of Tervita Shares received 1.2757 common shares of SECURE for every Tervita Share held. As a result, Tervita became a wholly-owned subsidiary of SECURE.³³ Immediately after the closing of the Transaction on July 2, 2021, SECURE and its wholly owned subsidiary Tervita were

²⁹ Tervita Annual Information Form 2020 - 2020_AIF_Tervita.pdf, page 13.

³⁰ Tervita Annual Information Form 2020 - 2020_AIF_Tervita.pdf, page 13.

³¹ Tervita Corporation Investor Presentation - March-2021-investor-presentation.pdf, page 28.

³² Tervita Annual Information Form 2020 - 2020_AIF_Tervita.pdf, page 13.

³³ Secure Business Acquisition Report, Form 51-102F4, section 2.1.

amalgamated pursuant to a short form amalgamation and a Certificate of Amalgamation was issued by the Registrar of Corporations for the Province of Alberta in accordance with the *Business Corporations Act (Alberta)*. Upon the amalgamation, SECURE and Tervita ceased to exist as separate legal entities and continued as one corporate entity.³⁴

55. In connection with the closing, SECURE entered into an \$800 million three-year credit facility with nine financial institutions and Chartered Banks which was used to replace and repay SECURE's existing first and second lien credit facilities and Tervita's first lien credit facility.³⁵

VIII. Definitions

56. For purposes of my conclusion, I have considered Productive Efficiencies generated by the Transaction to reflect the likely reduction in the resource costs incurred by SECURE, following the Transaction, as compared to the aggregate resource costs that SECURE and Tervita would have incurred separately absent the Transaction but with no reduction in output. Similarly, for purposes of my conclusion as to the Productive Efficiencies lost under a Hypothetical Divestiture Order, I have considered the likely increase in the aggregate resource costs incurred by SECURE and a prospective purchaser, following the implementation of the hypothetical Divestiture Order, as

³⁴ Affidavit of Dave Engel, paragraph 16.

³⁵ Secure Business Acquisition Report, Form 51-102F4, section 2.3.

compared to the resource costs that SECURE would have incurred absent the Hypothetical Divestiture Order.^{36 37}

57. Specifically, I have included only those Efficiencies which:

- a. are likely and arise uniquely out of the Transaction (i.e., would not likely have been attained “but for” the Transaction); and
- b. are expected to accrue to the Canadian economy.

58. In computing the Efficiencies over 10 years, I have reduced the amounts on account of:

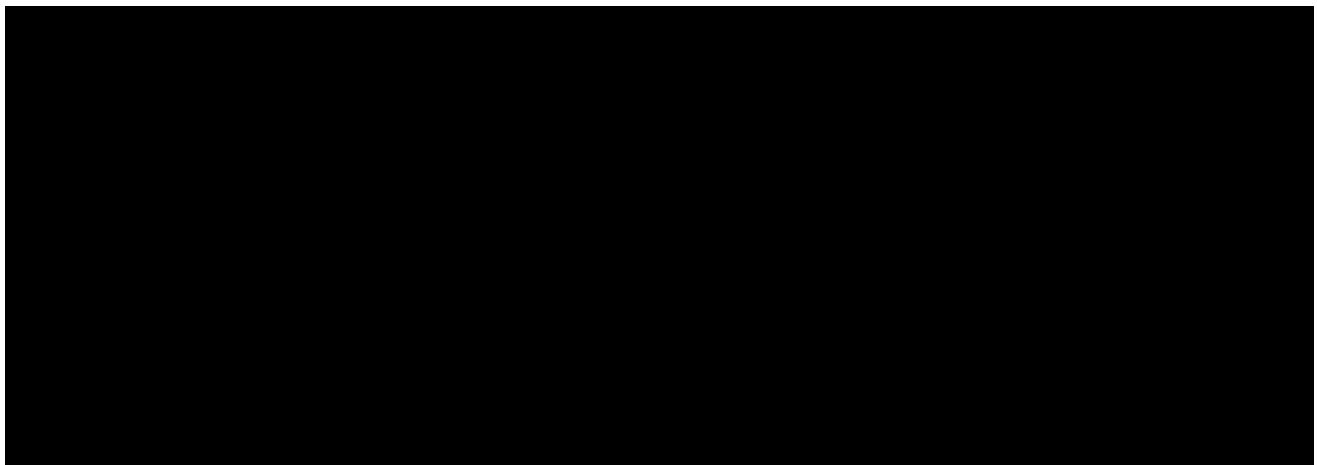
- a. the costs that must be incurred to achieve the Efficiencies; and
- b. the time required to achieve the Efficiencies.

³⁶ In establishing this definition, I have considered:

- Competition Bureau Canada, “Merger Enforcement Guidelines,” October 2011, [https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/vwapj/cb-meg-2011-e.pdf/\\$FILE/cb-meg-2011-e.pdf](https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/vwapj/cb-meg-2011-e.pdf/$FILE/cb-meg-2011-e.pdf).
- *Canada (Director of Investigation & Research) v. Hillside Holdings (Canada) Ltd.*, 1992 (CanLII) 2092 (CT), 41 C.P.R. (3d) 289 (Comp. Trib.) (“Hillside”).
- *Canada (Director of Investigation & Research) v. Canadian Pacific Ltd.*, 1997 73 C.P.R. (3d) 573 (Comp. Trib.) (“Canadian Pacific”).
- *Canada (Commissioner of Competition) v. Superior Propane Inc.*, 2000 CACT 15 (CanLII), 2000 Comp. Trib. 15, 7 C.P.R. (4th) 385 (“Superior Propane I”); *Canada (Commissioner of Competition) v. Superior Propane Inc.*, 2001 FCA 104, [2001] 3 F.C. 185 (“Superior Propane II”); *Canada (The Commissioner of Competition) v. Superior Propane Inc.*, 2002 CACT 16 (CanLII), 2002 Comp. Trib. 16, 18 C.P.R. (4th) 417 (“Superior Propane III”), aff’d 2003 FCA 53, [2003] 3 F.C. 529 (“Superior Propane IV”).
- *The Commissioner of Competition v. CCS Corporation et al.*, 2012 Comp. Trib. 14 (“Tervita Tribunal”); *Tervita Corporation v. Commissioner of Competition*, 2013 FCA 28 (CanLII) (“Tervita FCA”); *Tervita Corp. v. Canada (Commissioner of Competition)*, 2015 SCC 3 (CanLII), [2015] 1 SCR 161 (“Tervita SCC”).

³⁷ Productive Efficiencies can also be viewed as the increase in output that is achieved utilizing the same resource inputs but I have not adopted this approach because there are no expectations that the Transaction will enable expanded economic output but rather meet the existing industry demand more efficiently.

59. For greater certainty, in computing the Efficiencies, I have not included the following:
- a. cost savings that would likely be attained absent the Transaction;
 - b. gains that would represent a redistribution of income;
 - c. gains that would accrue outside of Canada;
 - d. savings that would result from a reduction of output;
 - e. any efficiencies solely arising from delays in the implementation of an order;³⁸ and
 - f. reductions on account of income taxes (i.e., the estimates are pre-tax).
60. I note that SECURE and Tervita had undertaken substantial cost-cutting measures in recent years in response to the global oil downturn and, more recently, the COVID-19 pandemic.³⁹ I understand



³⁸ Referred to as order implementation efficiencies and representing those efficiencies that would be achieved more quickly than a purchaser of the divestiture assets because of delays attributable to the Commissioner seeking and obtaining the order from the Tribunal and the implementation of such order.

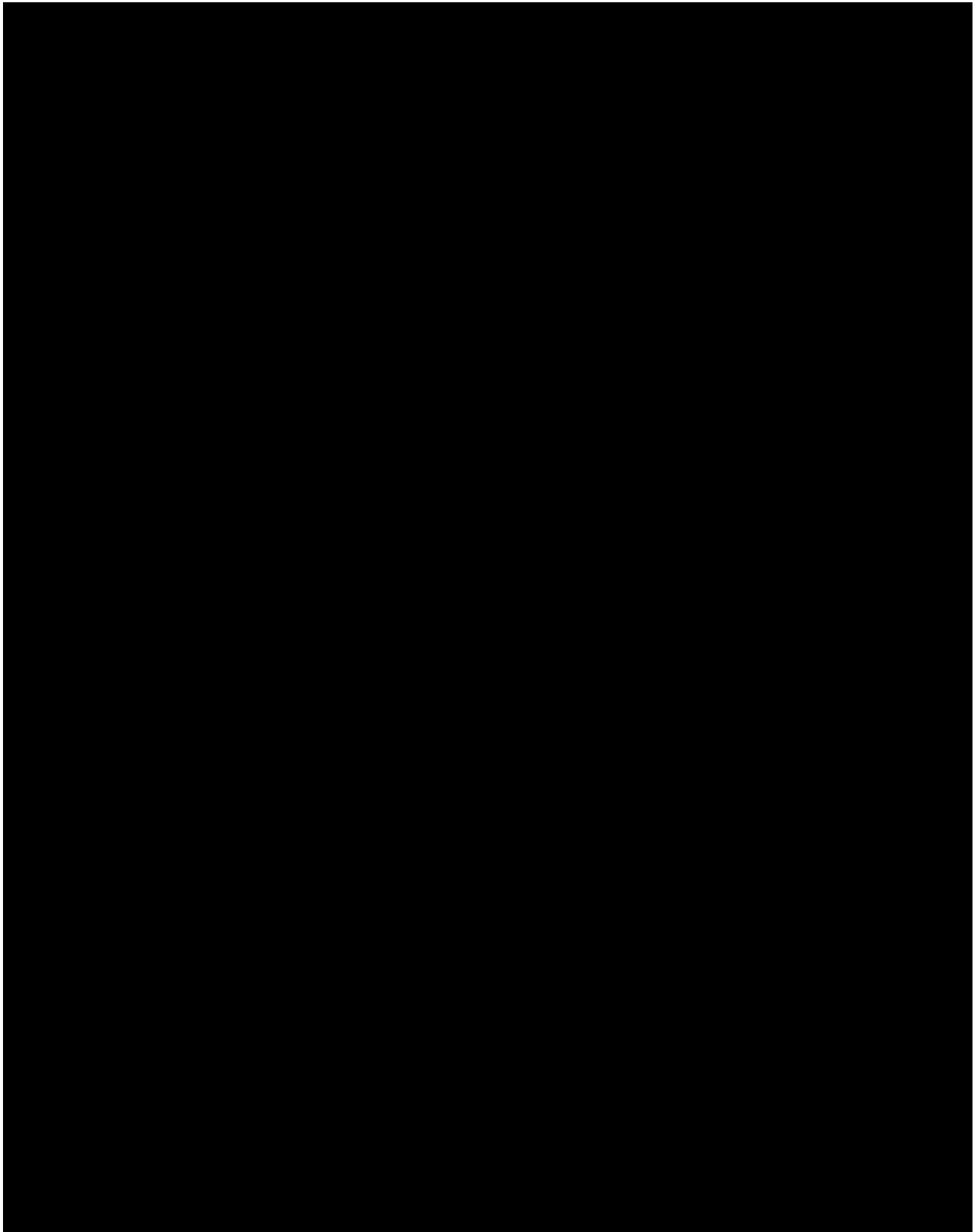
³⁹ Affidavit of Dave Engel, paragraph 17.

IX. SECURE's Intended Integration Plan

61. The determination of Productive Efficiencies likely to arise from the Transaction relies on the intentions of SECURE's management as to the integration plan likely to be implemented.
62. It is SECURE management's responsibility to determine the operational integration plan that they intend to undertake. While I have discussed the aspects of the integration that are relevant to my report with management and have undertaken detailed analyses to understand the plan and assess the reasonableness of that integration plan, including to assess the likelihood of it being undertaken and whether any equivalent action would likely have occurred absent the Transaction, I have assumed that the integration plan provided by management of SECURE reflects their intentions as of the date of this report.

IX.A. Intended Integration Plan – FSTs and SWDs

63. With respect to the FST and SWD operating facilities, the actual, and expected, integration plan is set out in Appendix F and summarized in Table 4 below.



64. In Table 4, colour coding is used to identify facilities in columns [B] and [H] as follows:
- a. Unshaded facilities indicates those facilities that are not listed in Appendix C as being on either Hypothetical Divestiture Order 1 or 2 lists of facilities to be divested;
 - b. Blue shading indicates those facilities that are listed in Appendix C as being on both Hypothetical Divestiture Order 1 and 2 of the facilities to be divested;
 - c. Green shading indicates those facilities that are listed in Appendix C as being on Hypothetical Divestiture Order 1 but not on Hypothetical Divestiture Order 2;
 - d. Brown shading indicates those facilities that are listed in Appendix C as being on Hypothetical Divestiture Order 2 of the facilities to be divested but not on Hypothetical Divestiture Order 1; and
 - e. Red shading indicates those facilities that are to be closed, but would have closed absent the Transaction.

IX.A.1. Nature of Integration Activities

65. The integration activities indicated in Table 4 are listed as either “Full”, “Unman” / “Unmanned”, or specific to a certain activity, e.g. “Waste”, “Oil” or “Water”.
66. For purposes of understanding the integration activities, it is easiest to consider the SWD/FST activities as a series as follows:
- a. Customer receipts
 - i. For liquids, these occur at risers that are located at either an SWD or FST. This involves a customer connecting their truck to the facility and pumping the liquid out. This activity does not require SECURE to have personnel onsite in which case the activity is considered to be “unmanned” provided the risers are pipeline connected to the related processing

facility or liquid waste disposal pump. Accordingly, a riser can be “manned operational”, “unmanned operational” (if pipeline connected) or closed.

ii. For solids that are deposited at an FST for waste processing, SECURE has personnel on site and so this activity cannot be “unmanned”. Accordingly, if operational, receipt of solids at an FST must be fully staffed.


b. Processing – this applies to either treatment or waste processing and requires staffing. Accordingly, if operational, treatment or waste processing at an FST must be fully staffed.

c. Pumping out – this applies to both water (at a water disposal site) and oil (at a LACT).⁴⁰ As for liquid receipts, this activity does not require SECURE to have personnel onsite in which case the activity is considered to be “unmanned” provided the pumps are pipeline connected to the related processing facility or water receiving risers. Accordingly, a free standing SWD and an oil facility (LACT) can be “manned operational”, “unmanned operational” (if pipeline connected) or closed.

67. Accordingly, the integration of previously fully operational facilities as indicated in Table 4 comprise the conversion of facilities to be unmanned (referred to as “Unman” in Table 4), the full closure of all previous services provided by a facility (referred to as “Full” in Table 4), and the closure of only some of the previous services provided by a facility (referred to as a partial closure) in which case the services being closed are listed.

68. When a facility is indicated as being closed, either fully or partially, this can take different forms relating to the permanency of the closure. For simplicity, I sometimes use the terms “closed” or “closure” when in fact this is nuanced and must be considered on an individual facility basis.

⁴⁰ The capacity of the pump used to transfer the oil to the pipeline is the measure of oil capacity. This pump is referred to as a Lease Automated Custody Transfer (LACT).



decisions on how to cease operations at a facility have implications for the closure costs, the cost savings from the rationalization (including avoided or delayed capex or maintenance costs), ongoing costs for closed facilities, and the time required to restart the facility in the future.⁴¹

69. When a facility halts operations for routine maintenance or due to a change in market conditions, the facility is said to be “shut-in.” SECURE has two categories of facility shut-ins: (1) warm shut-ins and (2) cold shut-ins. In both categories, the operator maintains all required permits and capital assets, and minimal capital and time is required to bring the facility back online depending on the extent of the shut-in. Specifically, a warm shut-in allows for a facility to restart operations very quickly, generally within a week and requires fairly minimal investment (e.g., purging lines/tanks). A cold shut-in takes two to six weeks to restart and may require rotating equipment and undertaking inspections. A cold shut-in is more intensive with additional steps to stop operation of all equipment and protect the integrity of assets, but also comes with greater cost benefits in the form of lower operating cost and risks of damage to equipment as compared to a warm shut-in.⁴²
70. In contrast to a shut-in, when management anticipate that a facility is no longer needed on a permanent basis, the facility must be dismantled according to a regulated process of abandonment, reclamation and remediation and includes the loss of regulatory approval to operate the facility. The cost of this is referred to as an “asset retirement obligation” or “ARO.”⁴³

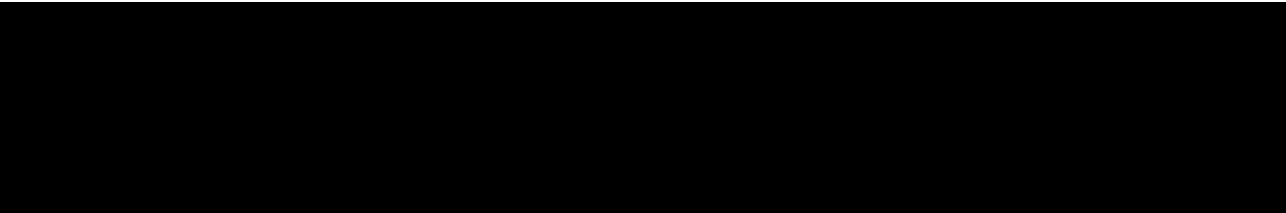
⁴¹ Affidavit of Keith Blundell, paragraphs 17 to 28.

⁴² Affidavit of Keith Blundell, paragraphs 17 to 28.

⁴³ Affidavit of Keith Blundell, paragraph 28.



IX.A.2. My Assessment of the Likelihood of Closures

72. With respect to the forward looking expected integration of the operating facilities, I have assessed the likelihood of what SECURE's management intends to do as of the date of this report. The first aspect of my assessment is described in detail in Appendix F. In my review I have undertaken the following steps for each geographic region:
- a. I have summarized the services provided by each of the facilities and the historic volumes processed by each facility of each service;
 - b. I have summarized the intended integration plan for each service in each geographic region and the intended infrastructure construction to implement those plans; and
 - c. I have analyzed the absorption capacity that will likely exist for each service in each geographic region taking into account, where applicable, the expansion in capacity that will occur as a result of the infrastructure spend that management has indicated they intend to do.
73. I have then compared that forecast absorption capacity to the historic volumes processed for each service in that region and have compared my findings to those of SECURE management and reviewed their assessment of the future demand for each service in that region.
-
- 

74. My conclusions are set out in the “Conclusion” sub-section of each section of Appendix F.
75. In summary, reflecting the infrastructure spend that management has indicated they intend to do, as set out in Appendix F and summarized in Schedule 3.1.4, there will be sufficient capacity in the remaining facilities to absorb the likely future volumes.

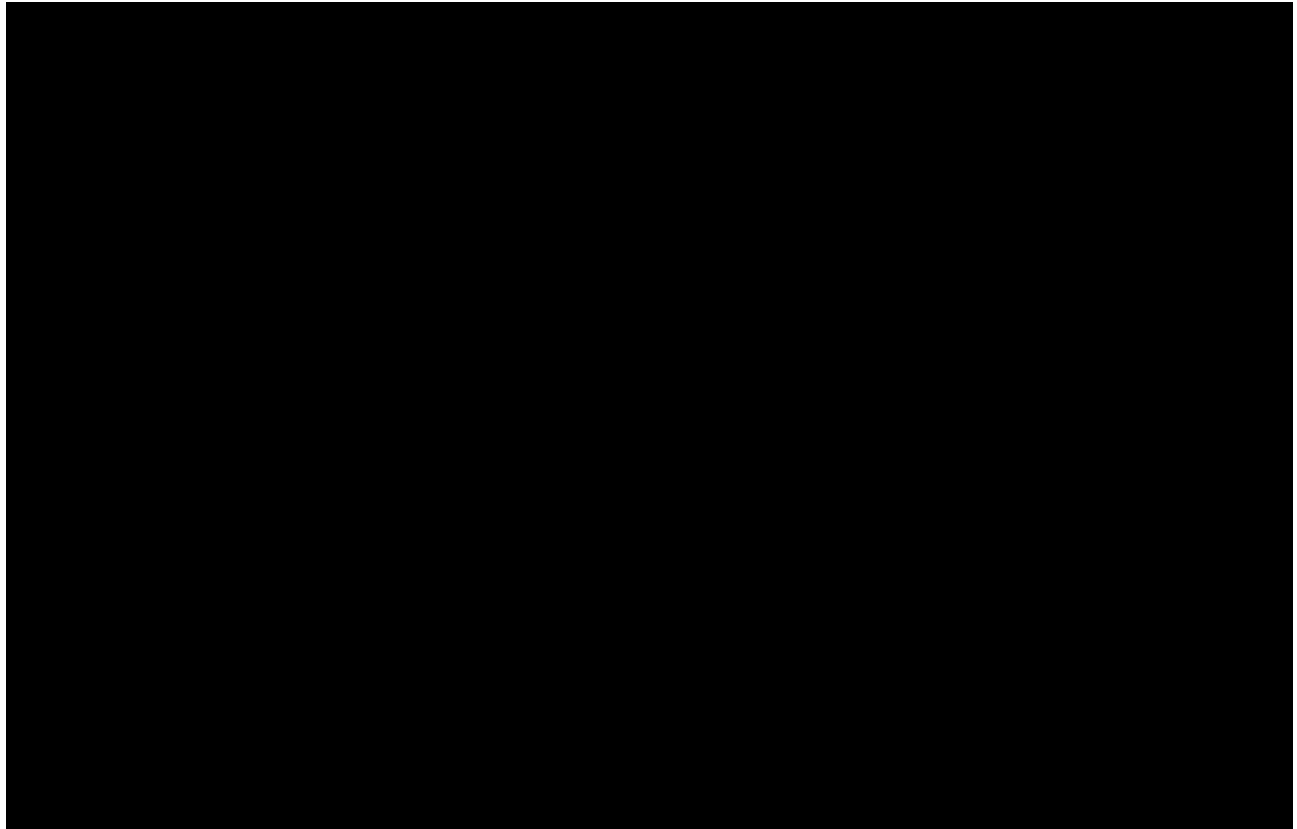
IX.A.2.a. Return on Investment Analysis

76. I have also analyzed the return on investment that will be achieved at each of the facility clusters where infrastructure spending (either in the form of interconnecting pipelines or capacity expansion) is being incurred, net, where applicable, of any avoided capital expenditures that would be required at closing facilities. My analysis in this regard is set out on Schedule 2.
77. In summary, in all cases, the return on investment exceeds any reasonable return thresholds. Note that, in my calculations, I have only considered benefits to SECURE that are Productive Efficiencies. Specifically, I have not included other synergistic benefits such as:
- a. Additional butane blending uplift synergies;
 - b. Qualitative benefits to customers;⁴⁵ and
 - c. Business risk mitigation benefits to SECURE from having redundant backup capacity in close geographic proximity to operating facilities.
78. Accordingly, in my opinion, SECURE management have the economic incentive to undertake the integration activities indicated in Appendix F.

⁴⁵ See, for example, Section III.N.3 in Appendix F and other factors discussed in Section X.E.

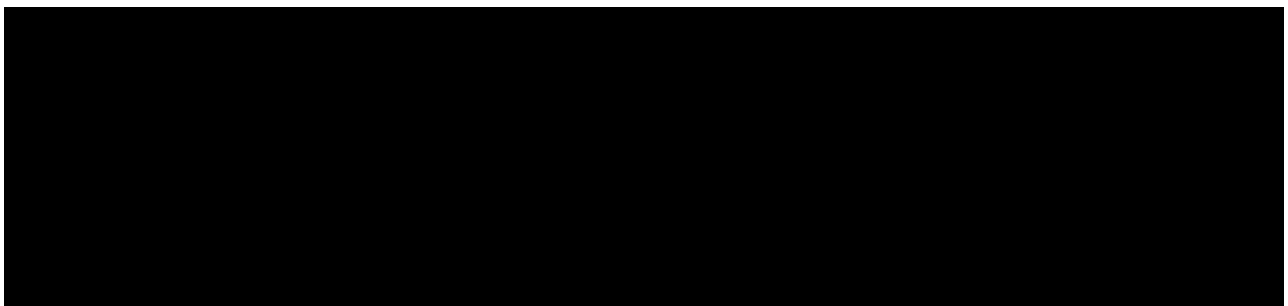
IX.B. Intended Integration Plan – Landfills

79. With respect to the landfill facilities, the actual, or expected, integration plan is set out in Appendix F and summarized in Table 5 below.⁴⁶



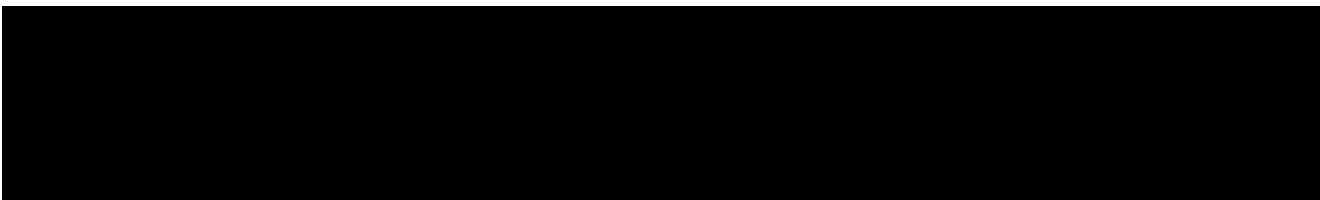
IX.B.1. My Assessment of the Landfill Closures

80. Unlike the FST/SWD facilities, the likelihood of the closures of the landfills are not contingent on facility capacities as, other than the weighbridge, landfills have no capacity constraints. Rather, my



assessment of the landfill closures is done with respect to when the landfill closures are likely to occur.

81. A landfill has two significant capital expenditure items:
 - a. Initial construction – this is undertaken for the site as a whole and includes non-recurring costs such as site water management and the construction of either a leachate pond (Tervita sites tended to have leachate ponds) or a leachate storage tank (SECURE sites tended to have storage tanks); and
 - b. Cell construction and capping – a landfill ultimately comprises multiple cells but these are constructed as needed. The size of a cell can vary and the optimal size depends on numerous offsetting factors. In particular, large cells tend to cost less per unit of volume but while the cell is operational, it acts as a large capture area for rainfall and snowmelt which flows through the fill that has been deposited and is captured by the seal at the bottom of the cell. This liquid (called leachate) has to be pumped out and transferred to an SWD and this cost is one of the most significant ongoing operating costs of a landfill. Once the cell is full, it is covered (referred to as capping) after which leachate costs are substantially reduced. Consequently, smaller cells are filled more quickly which reduces leachate costs as the cells are capped sooner.
82. Given the “sunk cost” nature of the cell construction, a landfill will be kept operational until the current operating cell is full.

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84. My analysis of the projected closing dates for each of the landfills is set out at Schedule 3.2.5.
85. Reflecting the above timing of the closure of the facilities, I have then quantified the Productive Efficiencies likely to arise as a result of this integration plan as indicated in the following sections. Where possible I have verified all quantitative inputs but, where my analysis is forward looking, there are necessarily certain items for which I have relied upon the representations of management of SECURE. For example, decisions to close facilities, as well as the timing thereof, depend on expected future customer volumes. In situations such as these, I have described the assumption, assessed its reasonableness relative to historic volumes, and ensured that it has been consistently applied with and without the Transaction (or with and without the Hypothetical Divestiture Orders, as applicable).

IX.C. My consideration of the Johnston Report

86. I have reviewed the Johnston Report, in which Mr. Johnston was asked to provide his opinion on the levels of oil production in the Western Canadian Sedimentary Basin (“WCSB”) in the next 2-3 years, 5 years, and 10 years.⁴⁷ Mr. Johnston concludes that “it is highly unlikely that WCSB oil production will peak before 2030”⁴⁸ and that “[t]here is broad agreement amongst the assessed Forecasts from the CER, AER and CAPP that production will continue to gradually increase through the end of 2030”⁴⁹ and “[i]ndeed, given the relatively low prices assumed by the Forecasts even in

⁴⁷ Johnston Report, paragraph 1.

⁴⁸ Johnston Report, paragraph 3.

⁴⁹ Johnston Report, paragraph 4.

their base case outlooks, in my opinion there is a higher probability that oil production in the WCSB exceeds rather than undershoots the average of the base case forecasts under consideration.”⁵⁰

87. I am not an expert in the future market growth in the WCSB. However, based on my review of the Affidavit of Mr. Dave Engel, my review of publicly available information, and my detailed analysis of the integration plans enabled by the Transaction, I do not consider the conclusions in the Johnston Report to affect the intended integration plans for the following reasons:

- a. The WCSB can largely be divided up into heavy oil (generally the oil sands) and conventional oil with approximately 77% of production being heavy oil;⁵¹
- b. The oil sands account for approximately two-thirds of Canadian oil production;⁵²
- c. Most of the growth in WCSB output is expected in heavy oil i.e. the oil sands;^{53, 54}
- d. Prior to the Transaction, SECURE had few assets that serve heavy oil, i.e. the oil sands⁵⁵ and, accordingly, the facility integration activities do not occur in this area;⁵⁶
- e. Conventional oil projections should be considered separately for each region as some regions are tapped out and some regions are expecting growth;⁵⁷

⁵⁰ Johnston Report, paragraph 4.

⁵¹ Affidavit of Dave Engel, paragraph 11

⁵² Reuters, “As world scrambles for oil, Canadian producers reluctant to spend on growth”, March 2, 2022, <https://www.reuters.com/business/energy/world-scrambles-oil-canadian-producers-reluctant-spend-growth-2022-03-03/>

⁵³ Affidavit of Dave Engel, paragraph 11.

⁵⁴ National Energy Board, “Western Canadian Crude Oil Supply, Markets, and Pipeline Capacity”, pg. 5, December 2018. <https://www.cer-rec.gc.ca/en/data-analysis/energy-commodities/crude-oil-petroleum-products/report/2018-western-canadian-crude/2018wstrncndncrd-eng.pdf>.

⁵⁵ Affidavit of Dave Engel, paragraph 12. See also Figures 2 and 3.

⁵⁶ See Appendix F.

⁵⁷ Affidavit of Dave Engel, paragraph 12. See also Appendix F.

f.

g.

IX.D. Conclusion

88. Reflecting the above, with respect to both the FST/SWD integration plans and the landfill integration plans, I conclude that SECURE management are likely to undertake the integration activities set out herein
89. Reflecting the above, I have quantified the Productive Efficiencies likely to arise as a result of the anticipated integration plan as indicated in the sections below. Where possible I have verified all quantitative inputs but, where my analysis is forward looking, there are necessarily certain items for which I have relied upon the representations of management of SECURE. For example, decisions to close facilities, as well as the timing thereof, depend on expected future customer volumes. In situations such as these, I have described the assumption, assessed its reasonableness relative to historic volumes, and ensured that it has been consistently applied with and without the Transaction (or with and without the Hypothetical Divestiture Orders, as applicable).

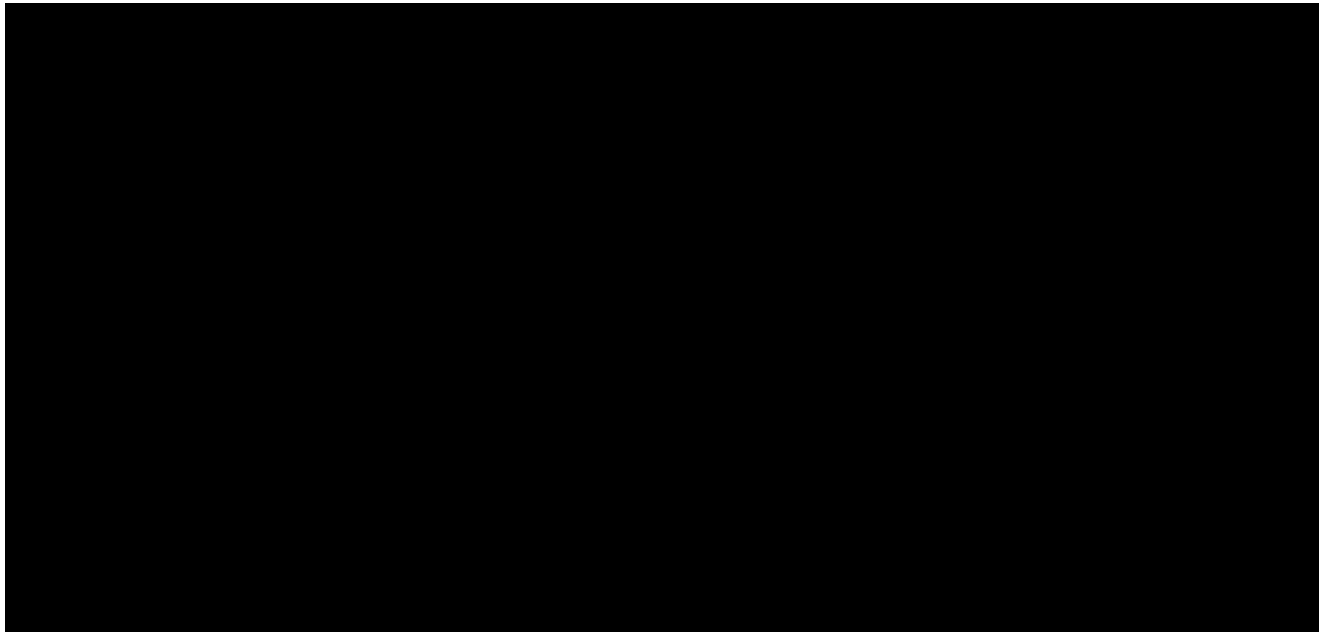
⁵⁸ See Appendix F.

⁵⁹ See Appendix F.

X. Efficiencies from the Transaction

90. Counsel has requested my opinion as to the Productive Efficiencies arising from the Transaction.

91. Based on the scope of my review, and subject to the assumptions, restrictions and limitations noted herein, in my opinion the Productive Efficiencies arising from the Transaction is as set out in Schedule 1 and summarized in Table 6, below.



92. The components of the Productive Efficiencies that arise from the Transaction are as follows:

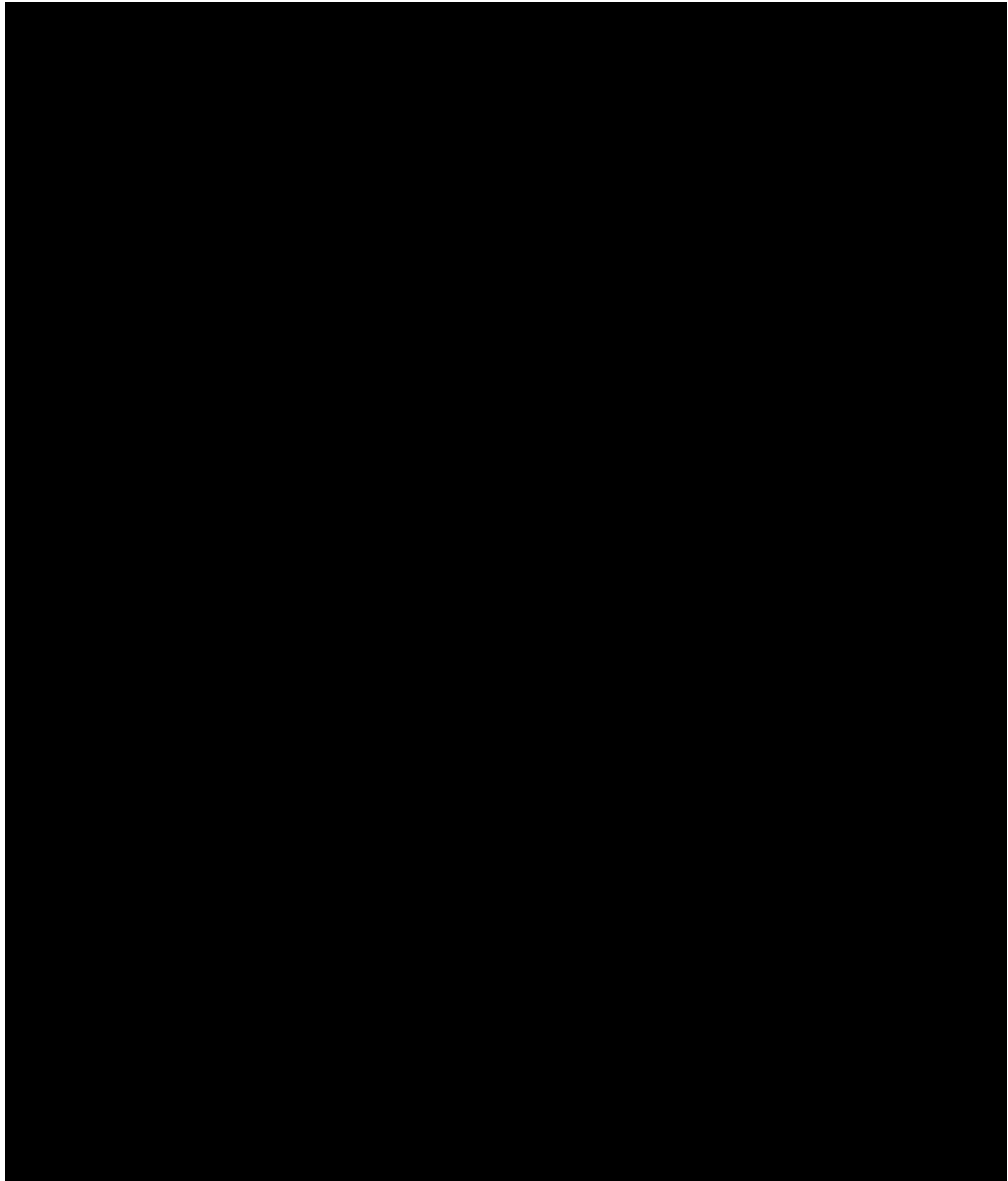
- a. Facility rationalization cost savings:
 - i. Full Service Terminals (FSTs) and standalone water disposal (SWDs); and
 - ii. Landfills;
- b. Geographic based operating cost savings; and
- c. Corporate cost savings.

93. I discuss my calculation of the amount of net Productive Efficiencies in each of the above categories below.

X.A. FST and SWD Facility Rationalization

94. SECURE and Tervita both operated networks of full-service midstream infrastructure facilities in Western Canada.⁶⁰ SECURE refers to these as Full Service Terminals (FSTs) and Tervita referred to them as treatment, recovery and disposal (TRD) facilities. In this report, I will use the term FST. Integral to the operation of an FST is a water disposal facility. In some cases, the water disposal is located on the same site as the FST and, in others, it is a free standing location (and SWD) but generally in close geographic proximity to the FST.
95. The fact that both companies operated facilities providing the same services in overlapping geographic markets enables management of the merged company to integrate facilities where sufficient capacity exists to provide the same services to customers while avoiding the fixed costs associated with the facility ceasing to operate, thereby resulting in Efficiencies. In the absence of the Transaction, these Productive Efficiencies would not be achieved.
96. The FST integration plans are summarized in Section IX and described in detail in Appendix F and summarized in Table 4, above, which is repeated in Table 7 below.

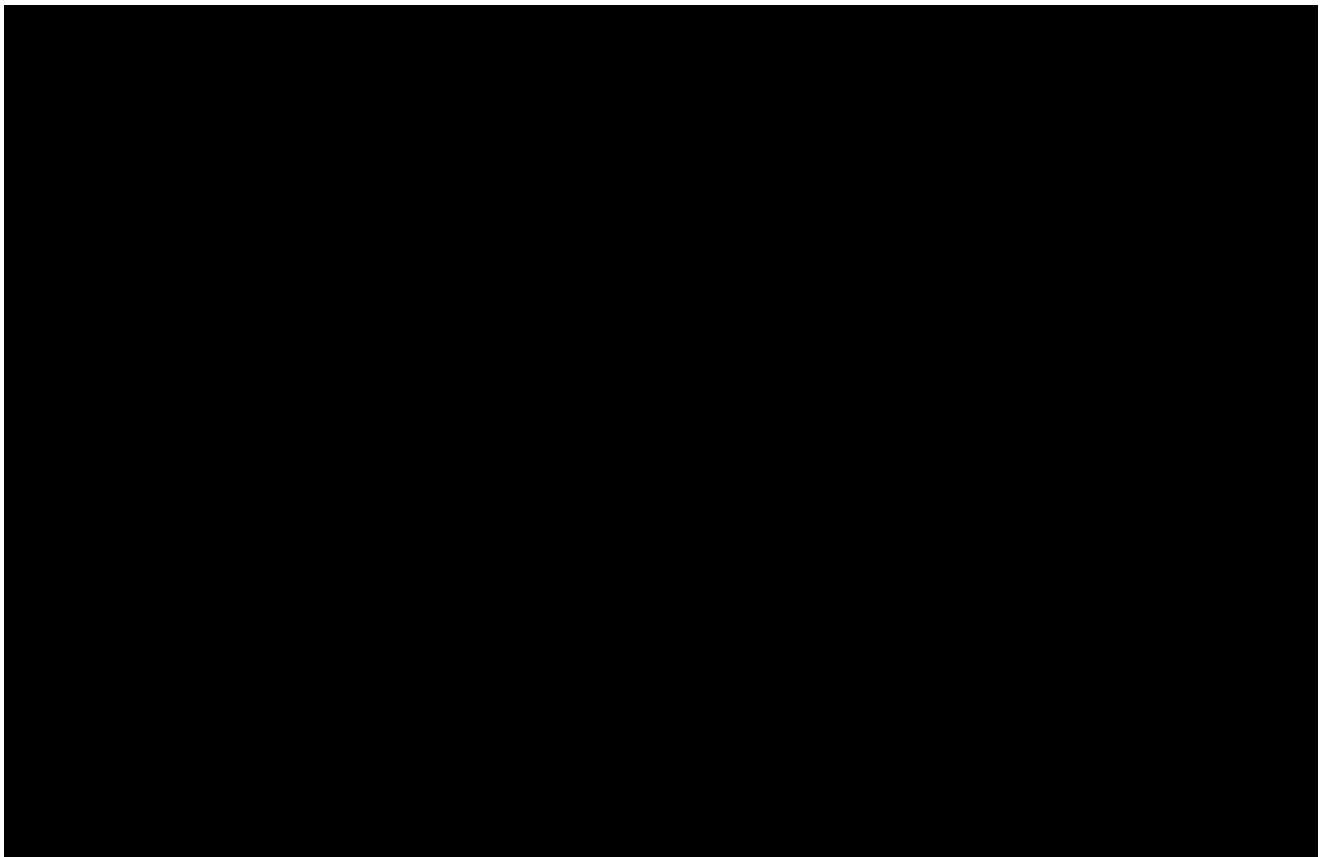
⁶⁰ Landfills are discussed in the next section.



97. The FST integration plans arising from the Transaction will likely result in the following categories of Productive Efficiencies:

- a. Labour cost savings;
- b. Operating cost savings;
- c. Incremental customer transport costs; and
- d. Avoided capital expenditures.

98. Table 8 below summarizes the run rate Efficiencies and 10 year discounted Efficiencies for total Productive Efficiencies under the above categories from FST and SWD facility rationalization.



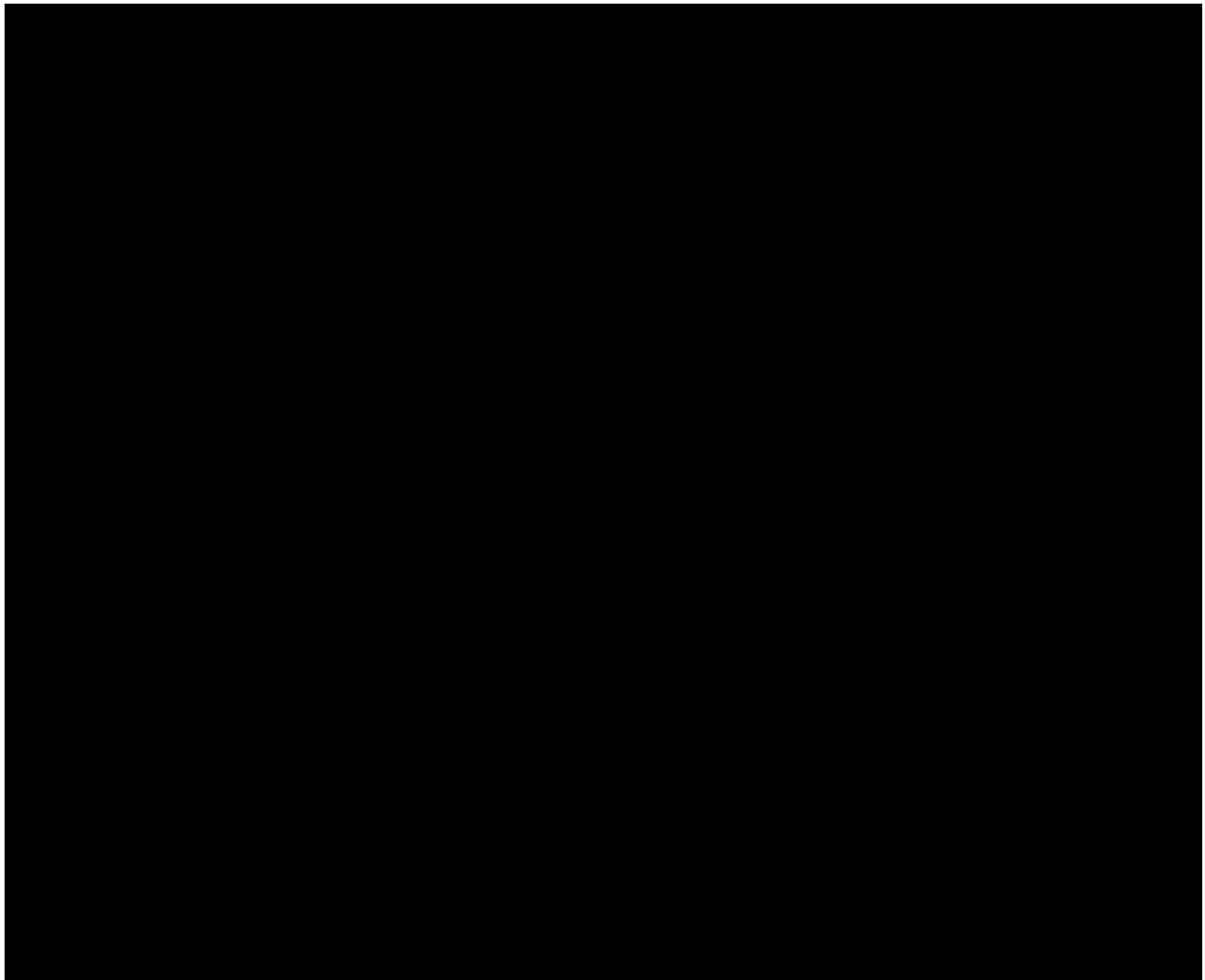
99. The computation of the Efficiencies for each of the categories described above is discussed further in the sections below.

X.A.1. Labour Cost Savings

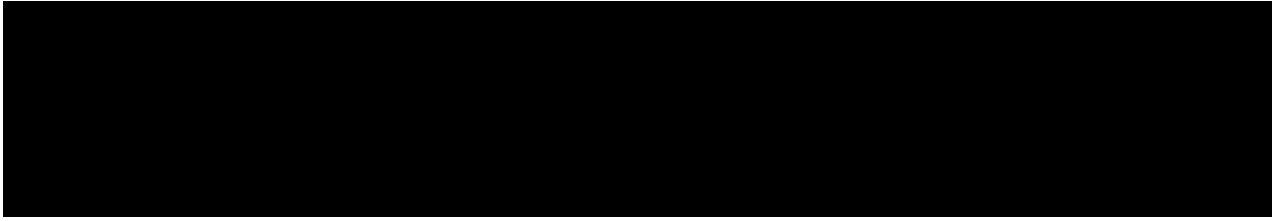
100. For the FST and SWD facilities that have already closed as of February 28, 2022, I have analyzed the actual headcount reduction that occurred as a result of the facility closures and the costs and timing of those headcount reductions. These headcount reductions comprise both:

- a. Reductions at the facilities being closed; and
- b. Transfers from the facilities that have been closed to fill positions at continuing facilities that would otherwise have been filled.

101. Table 9 below summarizes the labour cost savings that occurred at, or relating to, the FST and SWD facilities that had already been closed as of February 28, 2022:

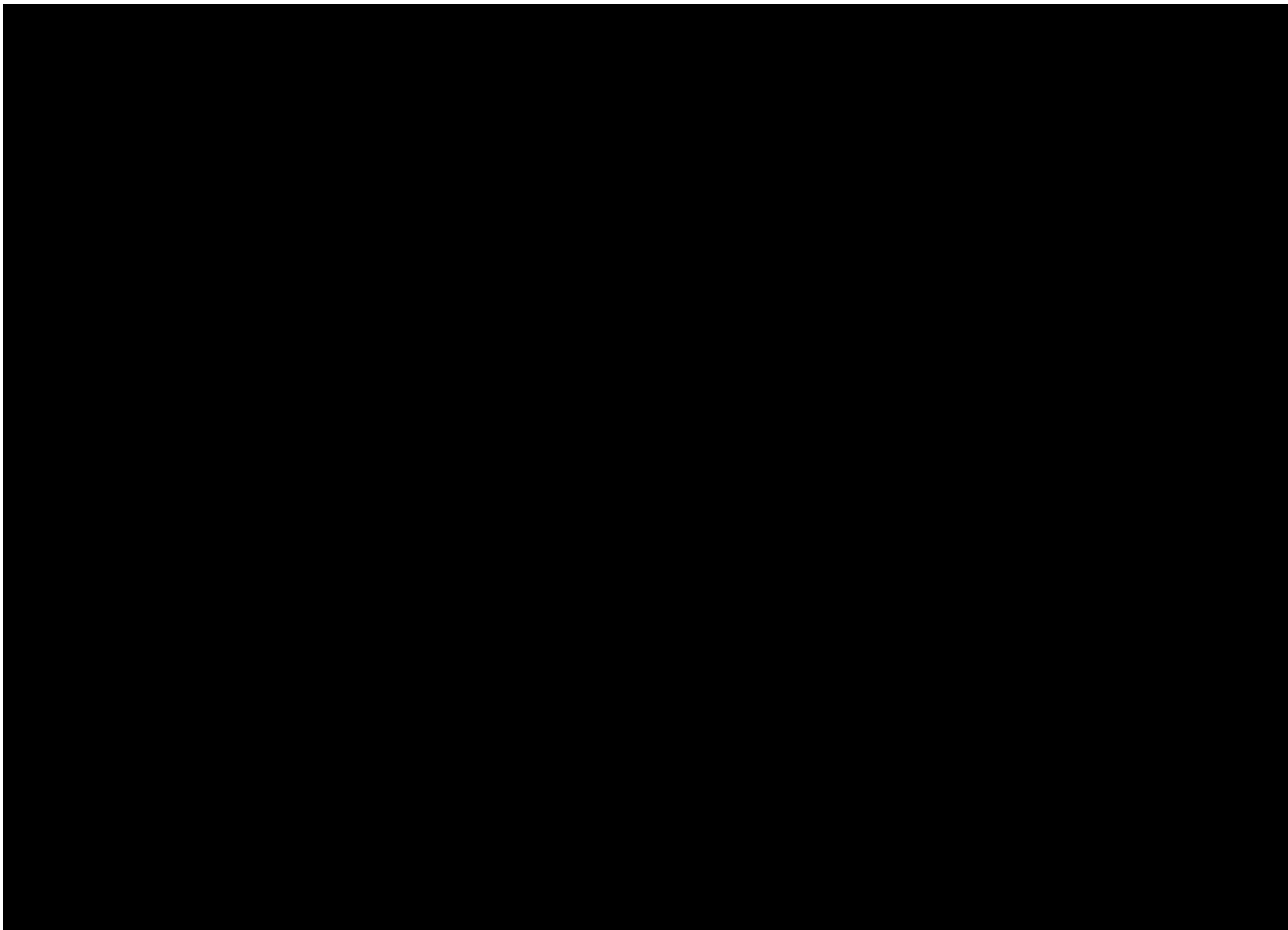


102. As set out in Table 9 above, the run rate labour cost savings that were achieved at these facilities was



103. Note that, in Table 9 above, as in all tables other than those calculated using the Tribunal Order Date Approach, Year 1 refers to the 12 months following closing of the Transaction.

104. I have also analyzed how these actual labour cost savings compared to the actual labour cost that existed at each of the closing facilities. Table 10 below summarizes the annual run rate labour cost savings at the FST and SWD facilities that had already been closed as of February 28, 2022:



105. As set out in Table 10 above, for the facilities that have closed, the dollar value of reduced labour as a result of actual headcount reductions reflects, on average, [REDACTED]

[REDACTED]

106. Accordingly, for the FST and SWD facilities that, as of February 28, 2022, are still to close, as set out in Section IX and Appendix F, I have:

a. Estimated, based on the actual observed results above, the labour savings [REDACTED]

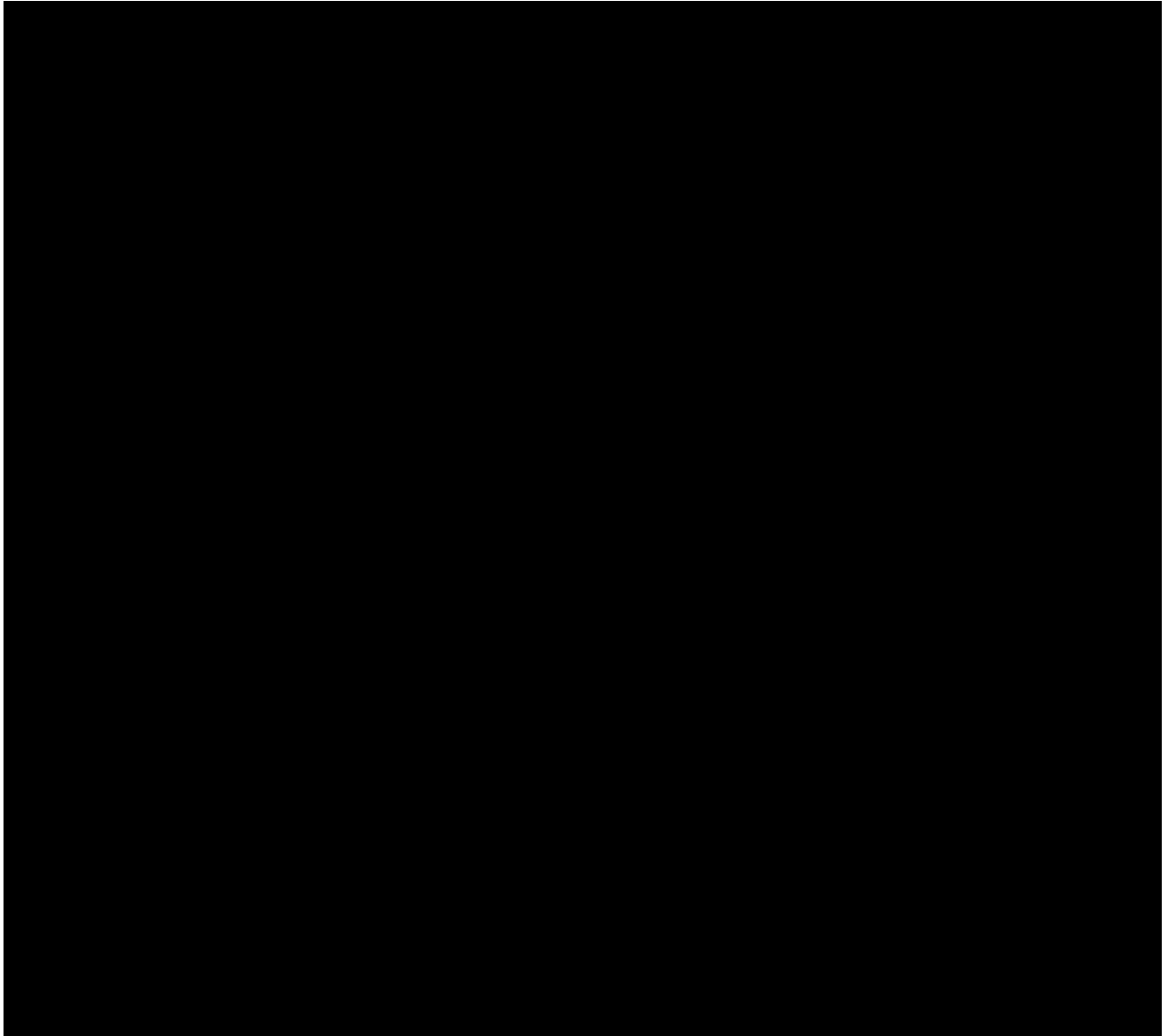
[REDACTED]

b. Assumed, based on the actual observed results above, that the labour would be terminated, on average, on the projected date of last product receipt; and

c. Assumed, based on the actual observed average of all facility related terminations to date (i.e. not just relating to terminations at closed facilities), that the average termination payout [REDACTED]

[REDACTED]

107. Table 11 below summarizes the results of the above calculations of run rate labour cost savings at the FST and SWD facilities that were not yet closed as of February 28, 2022:



108. The aggregate labour savings from the facilities that have been closed as of February 28, 2022 (which is set out in Schedule 3.1.1(a) and summarized in Table 10 above) and the facilities that are still to be closed as of February 28, 2022 (which is set out in Schedule 3.1.1(b) and summarized in Table 11 above) are combined in Schedule 3.1.1.

109. The labour cost savings are then included under each relevant facility and geographic grouping in Schedule 3.1.
110. In the event of a Hypothetical Divestiture Order, the above savings at a divested facility would be lost and the terminated personnel would need to be replaced.

X.A.2. Non-Labour Cost Savings

111. I have analyzed all non-labour cost categories across all FST and SWD facilities in order to identify cost categories that are fixed as compared to those that vary with volumes. However, note that in no case is it anticipated or have I assumed that volumes will change. Accordingly, there are no Productive Efficiencies as a result of a change in output.

X.A.2.a. SWDs

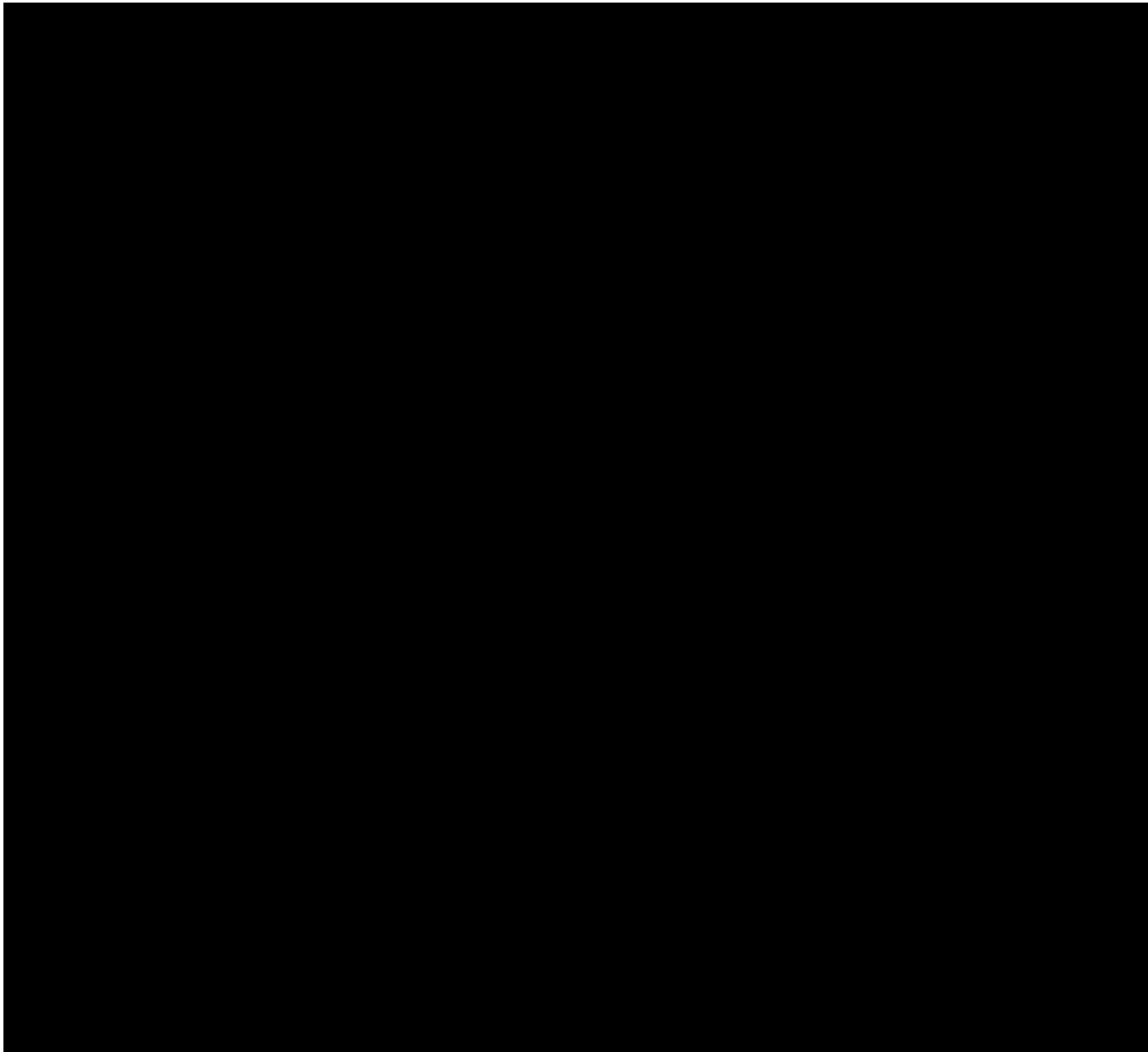
112. Specifically, I have undertaken the following steps to identify the fixed costs associated with SWD facilities:
- a. I have identified all facilities, within SECURE's integration plan, that only provide SWD services, that is, water disposal services. There were three former Tervita facilities and eight former SECURE facilities which are SWDs or provide only water disposal services;⁶³
 - b. For these facilities, I obtained monthly income statements for the period January 2019 to October 2021 for Tervita and, for the period of January 2020⁶⁴ to October 2021 for SECURE. These income statements included all costs by category for each facility;

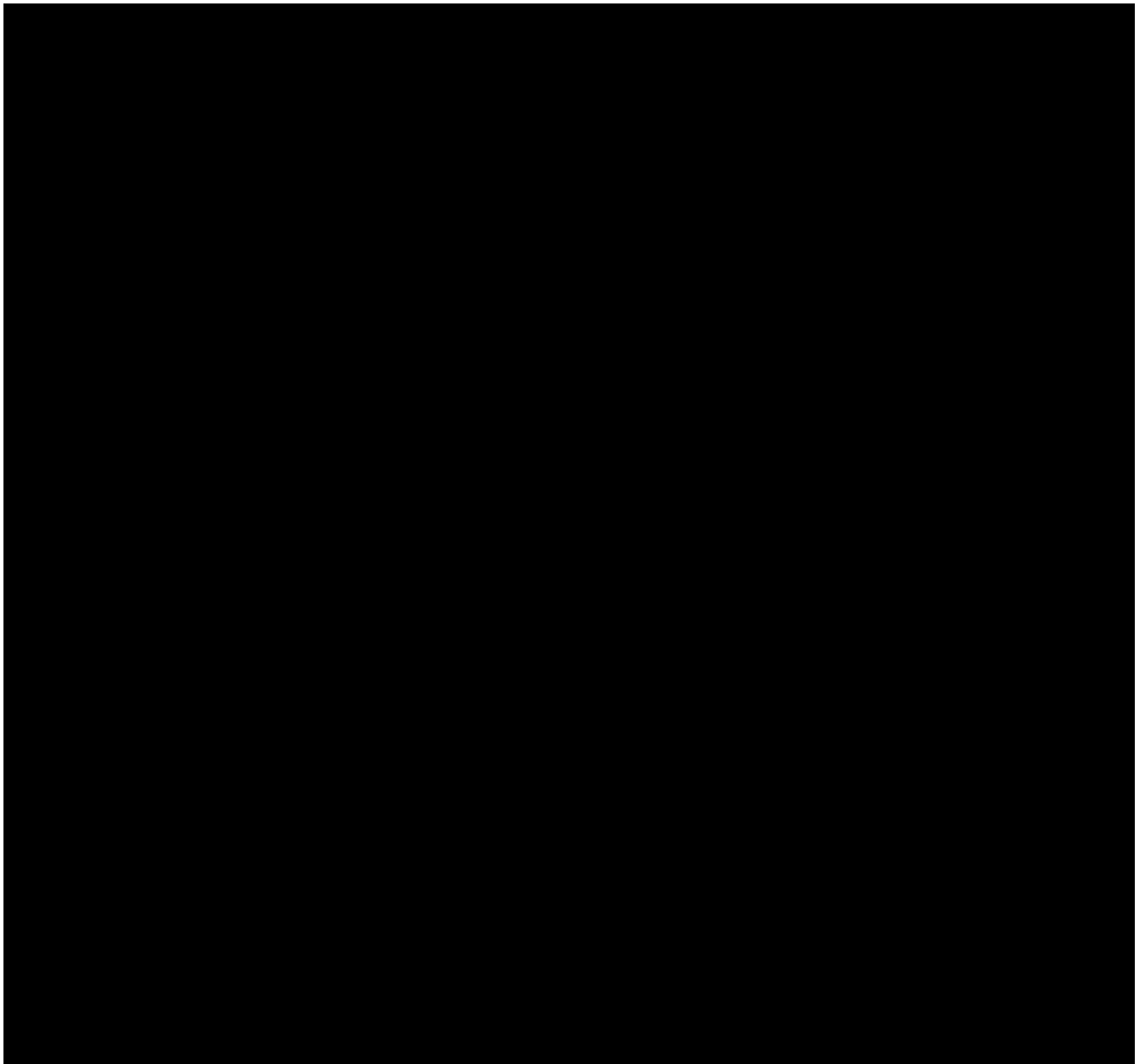
⁶³ Tervita facilities included, Moose Creek SWD, Swan Hills SWD and Mile 103 SWD. SECURE facilities included, Nosehill FST, Kaybob SWD, Eccles SWD, Rycroft FSR, Kaybob South SWD, Emerson SWD, Silverdale SWD, and Wild River SWD.

⁶⁴ I have not updated my analysis to incorporate the 2019 period for SECURE as I do not believe that this will have any impact on my conclusions.

- c. For these facilities, I also obtained monthly processed water volumes in cubic metres (m³); and
- d. I then ran a correlation analysis between the monthly water volumes and the monthly expenses for each cost category for the periods indicated above for which I had financial information. Through this analysis, I identified those cost line items which indicated a significant correlation with volumes. For the correlation analysis of the former SECURE facilities, see Schedules G5.1, G5.2, G5.3, G5.4, G5.5, G5.6, G5.7 and G5.8. For the correlation analysis of the former Tervita facilities, see Schedules G6.1, G6.2 and G6.3.

113. Reflecting the above, and taking into account the nature of the expense, and SECURE management's indication of which line items vary with volumes,⁶⁵ I selected a fixed component percentage for each line item as set out in Table 12 (for former SECURE facilities) and Table 13 (for former Tervita facilities). I have also indicated the average percentage of total costs that are represented by each expense line item.





114. I note the following specific items as indicated in Table 12 and Table 13 above:

- a. Labour and employee benefits are indicated as “excluded” from this list as these expense line items were addressed in the previous section;
- b. Where an expense line item is indicated as “nature of cost” then, irrespective of the correlation, I have selected 100% fixed or 100% variable based on the nature of the cost;
- c. Where an item is indicated as “correlation”, I have selected a fixed percentage taking into account the correlations of both the former Tervita and former SECURE facilities. For example,

for utilities, which represent [REDACTED]

- d. For repairs and maintenance, while the majority of the expense is variable in nature, the timing of when the expense is incurred cannot be reliably measured by means of a correlation analysis as maintenance frequently occurs in slower months or, in fact, the occurrence of maintenance could result in a low volume month if a facility were shut down for that maintenance. Accordingly, for this category, I have relied on a line by line analysis of individual cost items undertaken by management of SECURE which concluded that, on average, [REDACTED]
- e. Where an item is indicated as “excluded” (i.e. property taxes, bad debt expense, donations and royalties) I have excluded these expense line items as any saving in these items would not qualify as Productive Efficiencies. I have also excluded insurance on the basis that, even though the facility will no longer be operational, this cost will continue to be incurred for the closed facility.

115. For further details of facility wise average correlation, see Schedules G4.2 and G4.3.

116. For detailed workings see Appendix G. All underlying schedules are attached at Exhibit 1.

X.A.2.b. FSTs

117. I was not able to undertake the identical analysis for FST facilities as there are no FST facilities that do not incorporate the operating costs associated with the related SWD facility. To address this, I

identified all facilities, within SECURE's integration plan, that handle volumes relating to two product lines only. Specifically, I looked at facilities which handle waste volumes and water volumes.

For these facilities:

- a. I obtained monthly income statements for the period January 2019 to October 2021 for Tervita and, for the period of January 2020 to October 2021 for SECURE. These income statements included all costs by category for each facility;
- b. Out of the total costs of the FST facilities, I made the following adjustments:
 - i. Subtracted the variable cost of the SWD services by multiplying the average cost per 1000 m³ for variable line items by the actual water volumes for each FST. The variable cost per 1000 m³ was calculated based on the average volumes and average monthly costs of the facilities analysed in X.A.2.a. For details refer to Schedule G4.1.1 and G4.1.2; and
 - ii. Subtracted 50% of the average monthly fixed costs for an SWD operation on the assumption that the fixed costs would be common to both water and waste operations of an FST facility.⁶⁶ This fixed cost was calculated based on the average monthly costs of the facilities analysis in X.A.2.a. For details refer to Schedule G4.1.1 and G4.1.2.

After making the above adjustments for SWD operations, I assume the remaining costs as a proxy for the costs relating to the waste operations or FST operations of each facility.

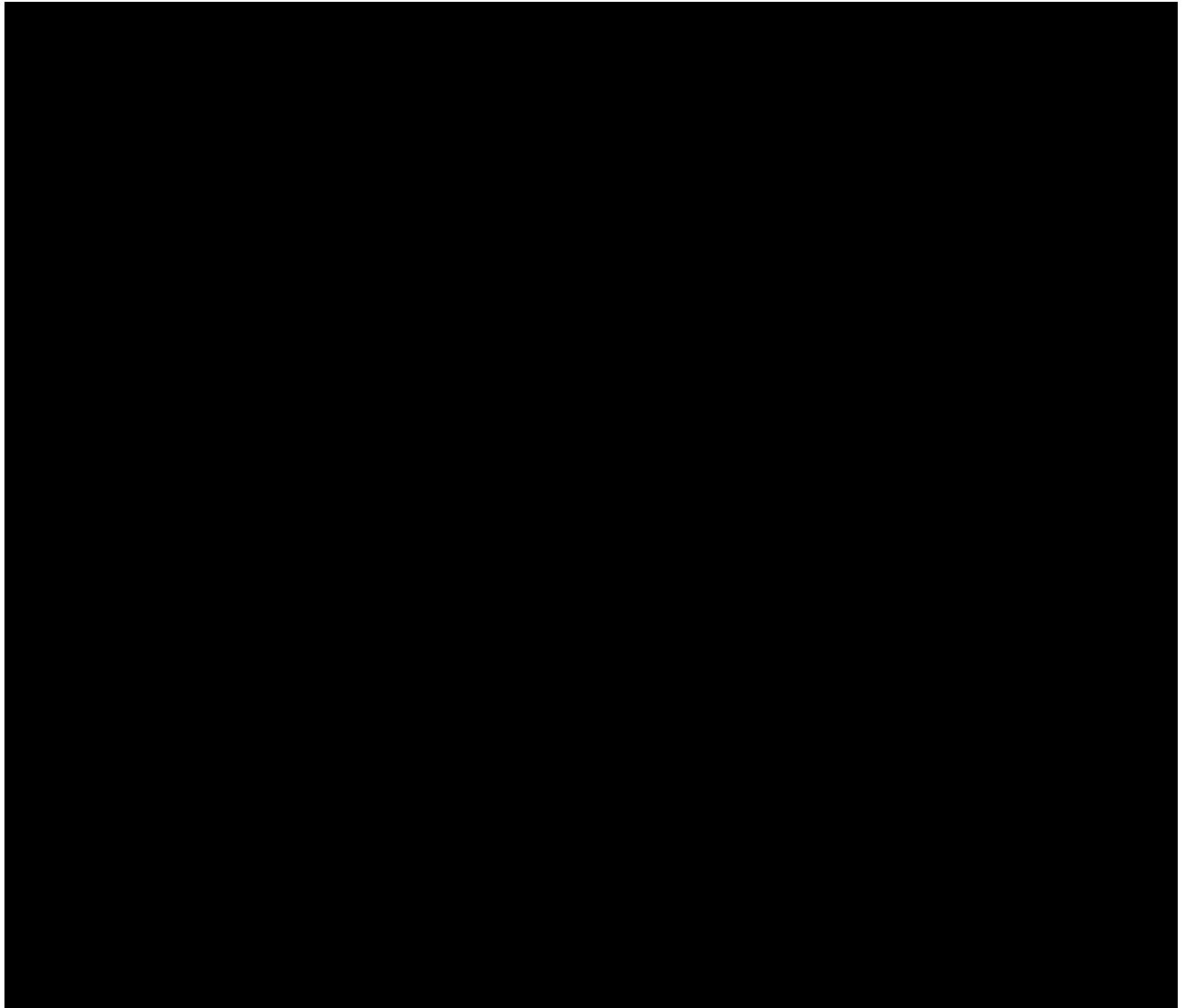
- c. I then obtained waste and waster disposal volumes for the FST facilities for the same period and ran a correlation analysis between the waste disposal volumes and each cost category (after deducting the water component as described above). As for the SWD analysis, I used the period

⁶⁶ This is because many of the fixed costs that are incurred at an SWD are common to water disposal and the operation of other services at an FST, e.g. office heating and so, to deduct the entirety of what was incurred at an SWD from the operating costs at an FST would understate the costs at an FST for the other services.

January 2019 to October 2021 for the former Tervita facilities, and the period of January 2020 to October 2021 for the former SECURE facilities. Through this analysis, I identified which cost line items varied with volumes. For the correlation analysis of former SECURE's FST facilities, see Schedules G2.1, G2.2, G2.3, G2.4 and G2.5. For the correlation analysis of former Tervita FST facilities, see Schedules G3.1, G3.2, G3.3.

118. Reflecting the above, and taking into account the nature of the expense, and SECURE management's indication of what varies with volumes, I selected a fixed component percentage for each line item.
119. Conclusion for each SECURE line item is set out in Table 14 below. Conclusion for each Tervita line item is set out in Table 15 below.

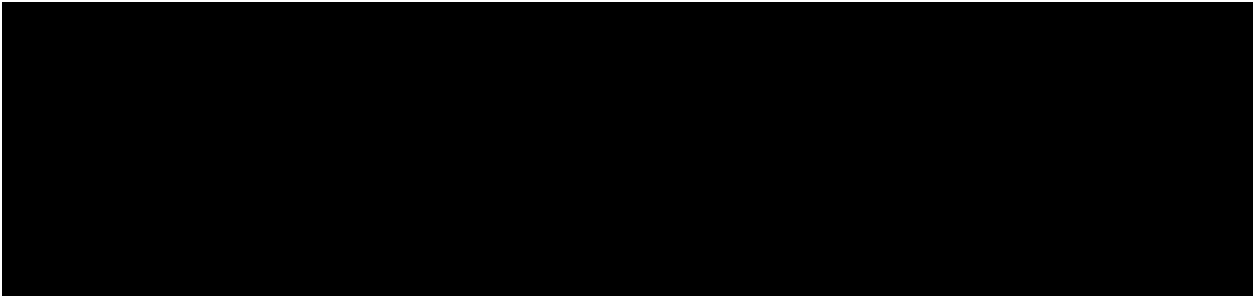




120. For a detailed discussion of the basis used for each item, see the terminology as described above in paragraph 114.

121. For further details of facility wise average correlation, see Schedules G1.1 and G1.2. For detailed workings see Appendix G. All underlying schedules are attached at Exhibit 1.

122.



123. In the case of such unmanned facilities, as the operations continue in all respects other than that the facility no longer has staff onsite, I have assumed that only the following non-labour operating costs will be 100% saved:
- a. Travel, Meals and Entertainments;
 - b. IT Expenses;
 - c. Office Expenses;
 - d. Projection Investigation and Development; and
 - e. Other G&A Expenses.

X.A.2.c. Summary of calculations

124. To compute the fixed costs savings at each of the closing facilities, I multiply the above calculated fixed component of each cost line item by the dollar amount of each line item. To calculate the dollar amount for each line item, I use the period of last twelve months (“LTM”) ended June 30, 2021.⁶⁷ I rely on the LTM as of June 30, 2021 for two reasons:
- a. The period is unaffected by integration activities that took place after closing of the Transaction in July 2021; and
 - b. The period excludes the March 2020 to April 2020 period which, in some cases, may have been impacted by the initial effect of Covid-19.
125. To compute the non-labour fixed cost savings at facilities which are partially closing, I multiply the total fixed costs of the facility with the revenue contribution of the closing product line(s). For example, if Facility A is partially closing has fixed costs of \$100,000, and is closing on the waste side,

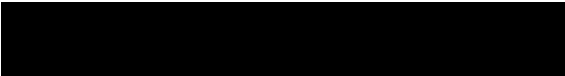
⁶⁷ LTM costs calculated as, costs for the year ended December 31, 2020, plus costs for the six months ended June 30, 2021, less costs for the six months ended June 30, 2020.

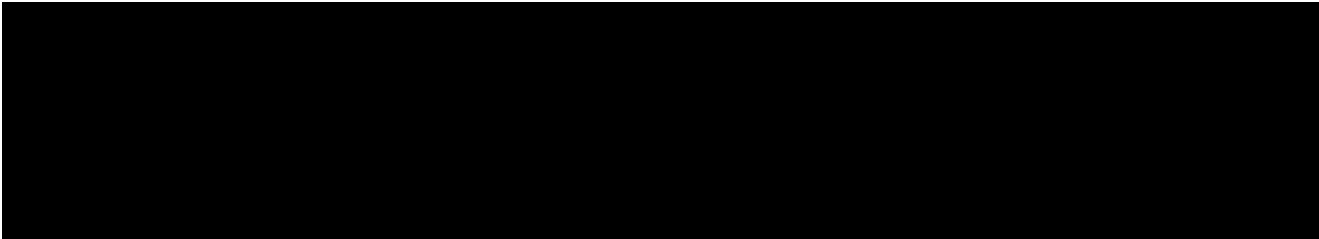
which contributes 35% of total revenue of the facility, then I only include \$35,000 as savings (\$100,000 * 35%).

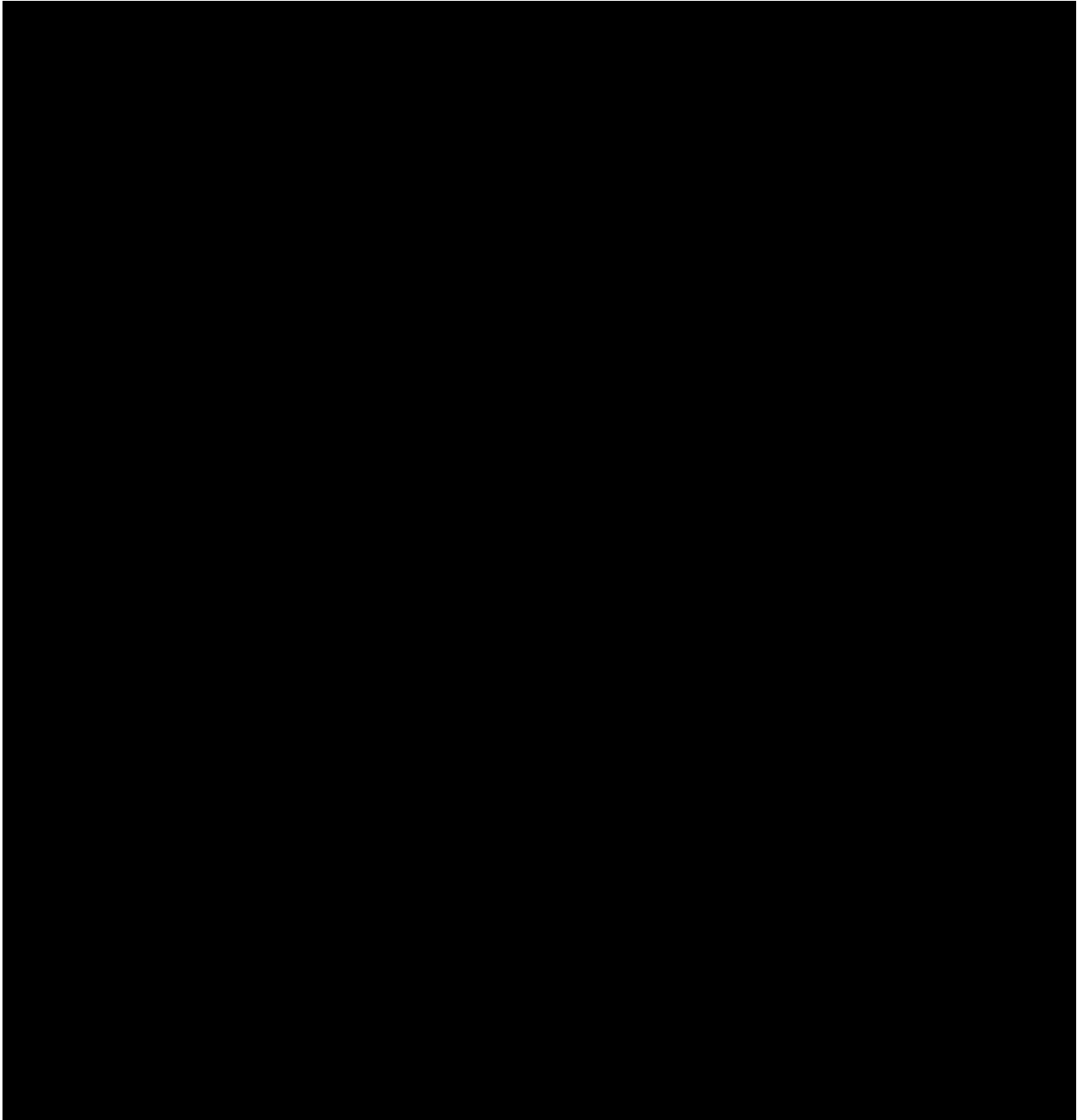
126. The details of non-labour fixed costs savings are set out as follows:

- a. For Tervita's SWD facilities, see Schedule 3.1.2(a);
- b. For Tervita's FST facilities, see Schedule 3.1.2(b);
- c. For SECURE's SWD facilities, see Schedule 3.1.2(c); and
- d. For SECURE's FST facilities, see Schedule 3.1.2(d).

127. For all facilities to be closed as a result of the Transaction, including both those that have already closed and those that are forecast to be closed, I have summarized the annual non-labour fixed cost savings, reflecting the actual, and forecast, facility closure dates at Schedule 3.1.2.

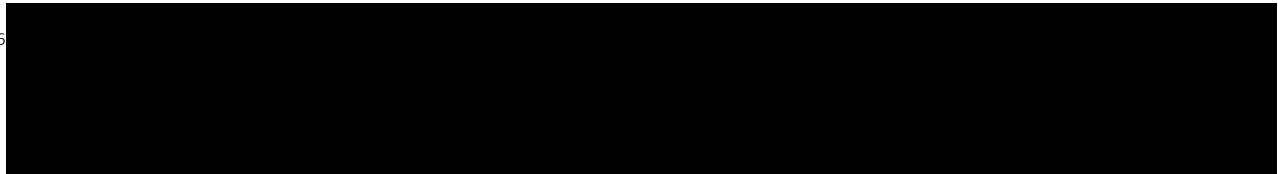
128. A facility "closure date" is the last date when customer volumes are received at the facility. I have, conservatively, assumed that the facility ceases to incur non-labour fixed costs 15 days after that date, allowing time for the cold shut down of the facility. 





129

130. The costs of achieving these closures are labour costs which are reflected in the timing of when the labour cost savings commence which is determined based on facilities that have already closed.



While SECURE management consider this a cold shut down cost, the cost is already embedded in the labour costs and no incremental cost is deducted.

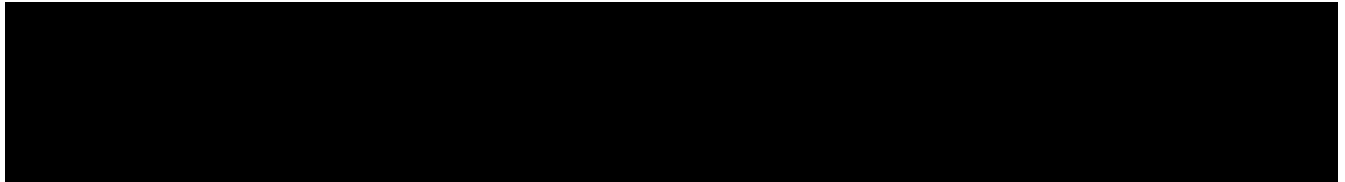
131. The aggregate labour savings from the facilities that have been closed as of February 28, 2022 (which is set out in Schedule 3.1.1(a) and summarized in Table 10 above) and the facilities that are still to be closed as of February 28, 2022 (which is set out in Schedule 3.1.1(b) and summarized in Table 11 above) are combined in Schedule 3.1.1.
132. The labour cost savings are then included under each relevant facility and geographic grouping in Schedule 3.1.

X.A.3. Incremental customer transport costs

133. As customers typically incur the costs of transporting product, any increase in customer transport costs as a result of facility closure will represent a “negative Efficiency” and has been reflected as such. In this section I describe how these incremental transportation costs are estimated and incorporated as negative Efficiencies in my analysis.
134. Dr. Renee Duplantis, also of The Brattle Group, has calculated, based on the planned facility closures, (1) the distance that product is currently transported from customer locations to SECURE and Tervita facilities and (2) the distance that the product will be transported once the facility is closed, assuming that the customer selects the closest alternate party facility. This analysis is conducted based on customer shipment data for 2020.
135. See Schedule 3.1.3(a) for more detail.
136. The data that Dr. Duplantis’ calculations are based on indicate that, in some cases, customers do not currently deliver product to the nearest location. For the purposes of computing the

incremental driving distance, only those transactions where the analysis indicates that the customers will be transporting product further than they are currently transporting it. In other words, to be conservative, if a facility closure results in a customer diverting to a facility closer to the customer, I have not included this as a Productive Efficiency from the Transaction.

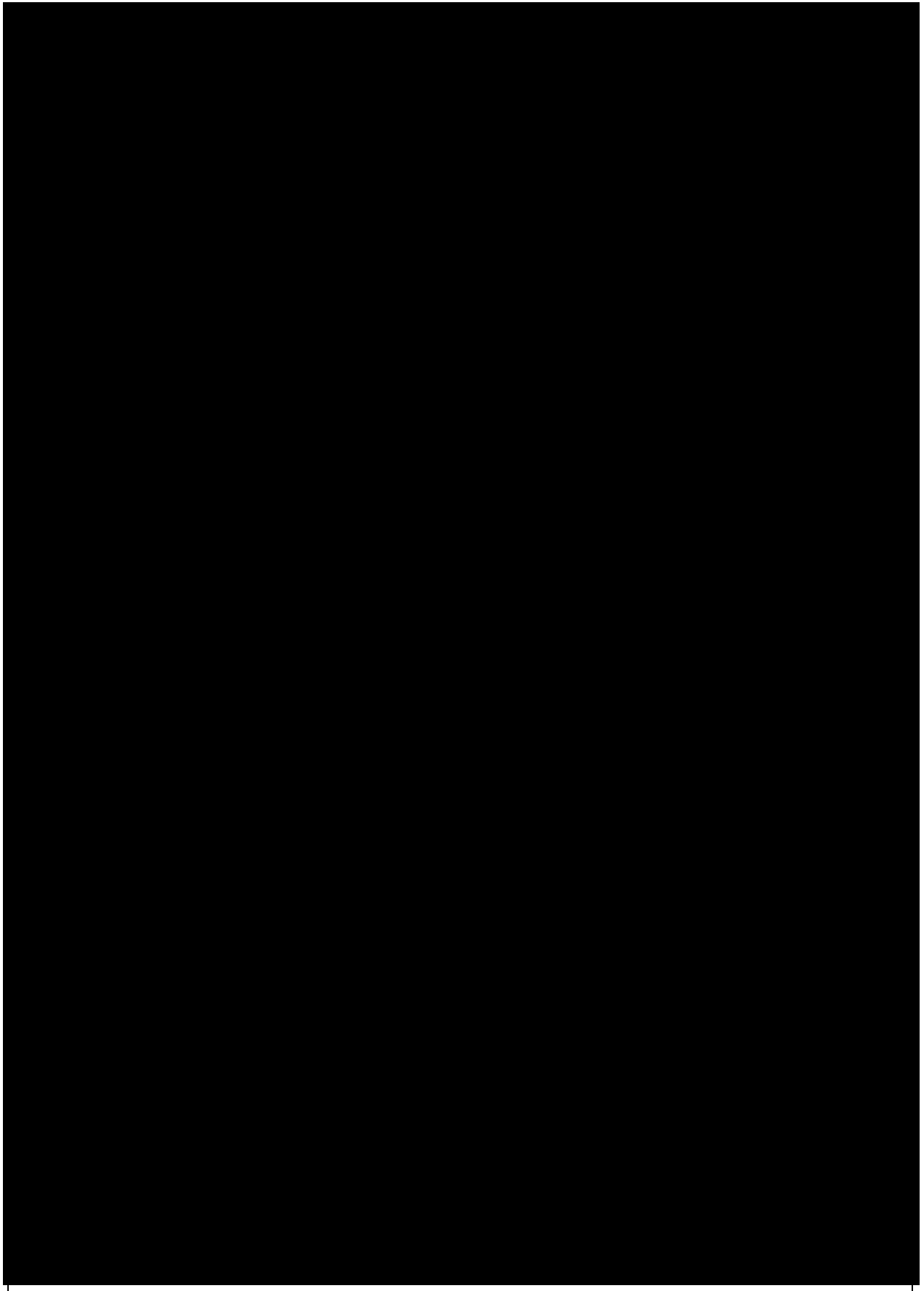
137. Dr. Duplantis' calculations reflect the additional cost calculated under two methods: additional distance and additional time. While a customer would likely choose the lesser incremental cost, be that either distance or time, to be conservative I have taken the average of the two for each



138. The conclusions as to these negative Productive Efficiencies are likely to be conservative as third party facilities have been excluded from the analysis. To the extent that waste will be diverted to third party facilities because they are close to the customer facilities, the incremental customer driver costs (negative Efficiency) will be lower than the amounts set out herein as the incremental driving distances will be lower than those set out herein.

X.A.4. Avoided capital expenditures

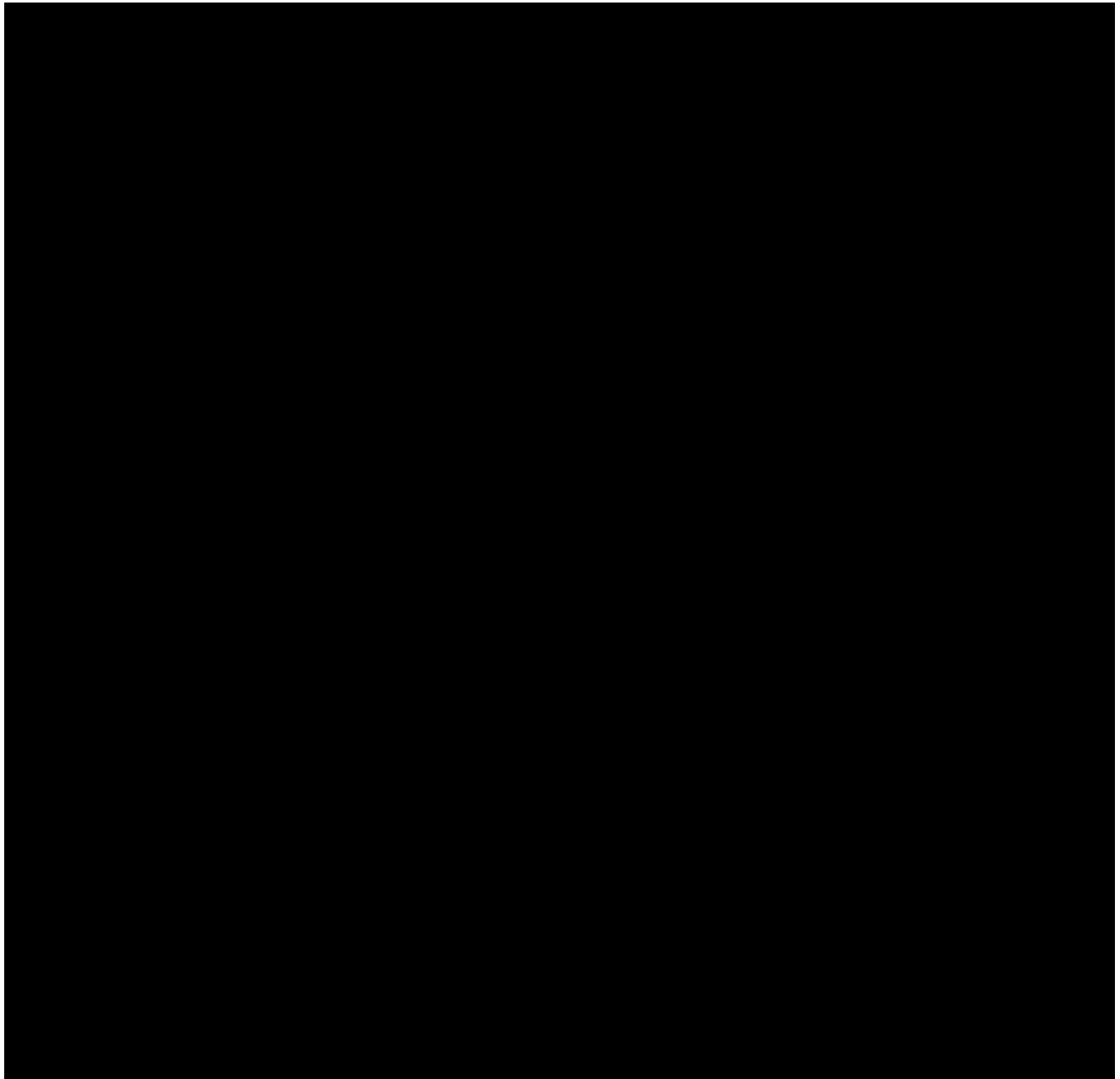
139. Certain closing facilities would have required one-time capital expenditures that are avoided as a result of the closure of those facilities. These one time saves are described in detail in Appendix F, set out in columns [D], [E] and [F] on Schedule 3.1.4 and summarized in Table 17 below.



140. For a full description of all items see Appendix F.
141. The avoided capital expenditures are included as one time savings on Schedule 3.1 for each of the integration groupings.

X.A.5. One Time Costs

142. In order to enable the continuing facilities to fully absorb the volumes of the closing facilities, SECURE will need to incur certain one-time costs at the continuing facilities. Such costs are generally in the nature of capital expenditures that increase the capacity of the continuing facilities or interconnects two or more facilities through pipelines. In Table 18 below I list the one-time costs required at certain continuing facilities within SECURE's integration plan. See Schedule 3.1.4 and Appendix F for details.



143. For a full description of all items see Appendix F.

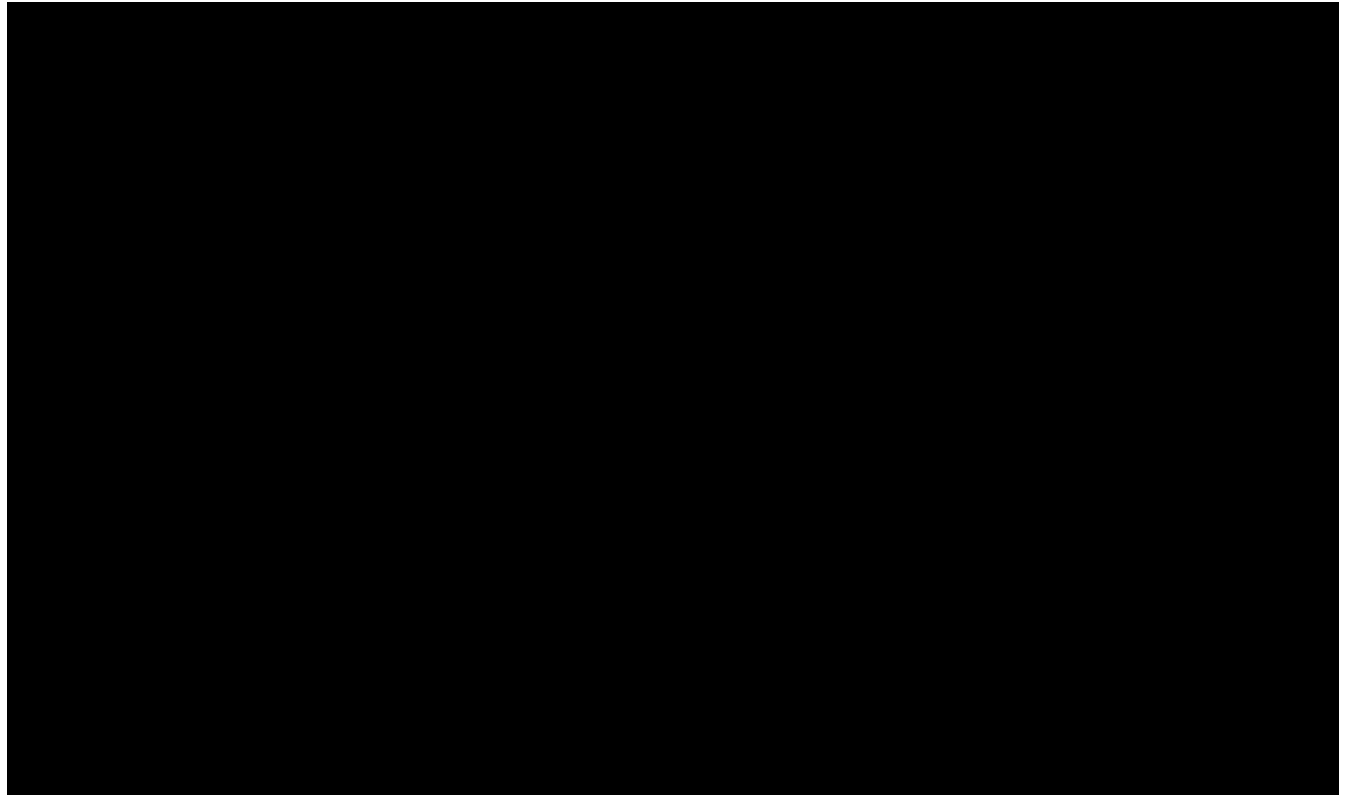
144. The one time costs are included on Schedule 3.1 for each of the integration groupings.

X.B. Landfill Facility Rationalization

145. The fact that both companies operated facilities providing the same services in overlapping geographic markets enables management of the merged company to integrate facilities where

sufficient capacity exists to provide the same services to customers while avoiding the fixed costs associated with the facility ceasing to operate, thereby resulting in Productive Efficiencies.

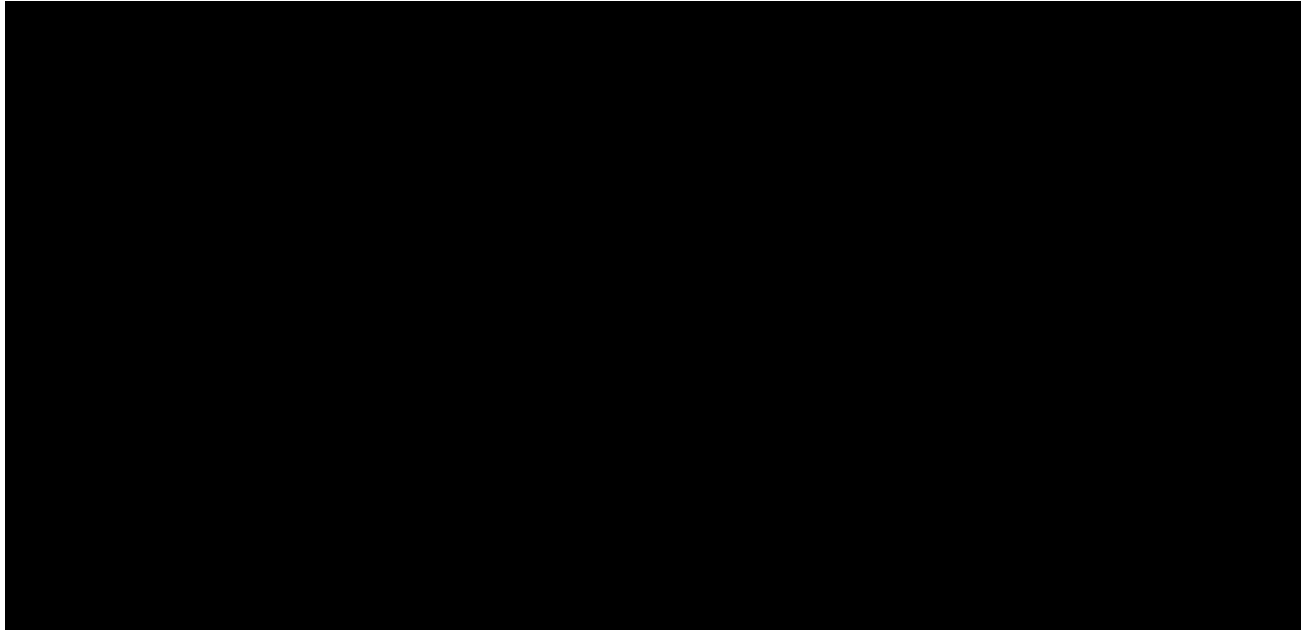
146. The landfill integration plans are summarized in Section IX and summarized in Table 5, above, which is repeated in Table 19 below.



147. The landfill integration plans arising from the Transaction will likely result in the following categories of Productive Efficiencies:⁶⁹
- a. Fixed labour and non-labour cost savings; and
 - b. Net landfill cell construction and capping cost savings.

⁶⁹ Both the FST/SWD and landfill integration plans will likely result in incremental customer transport costs. These are addressed in a separate section.

148. Table 20 below summarizes the run rate Efficiencies and 10 year discounted Efficiencies for each of the above categories.



149. The computation of the Efficiencies for each of the categories described above is discussed further in the sections below.

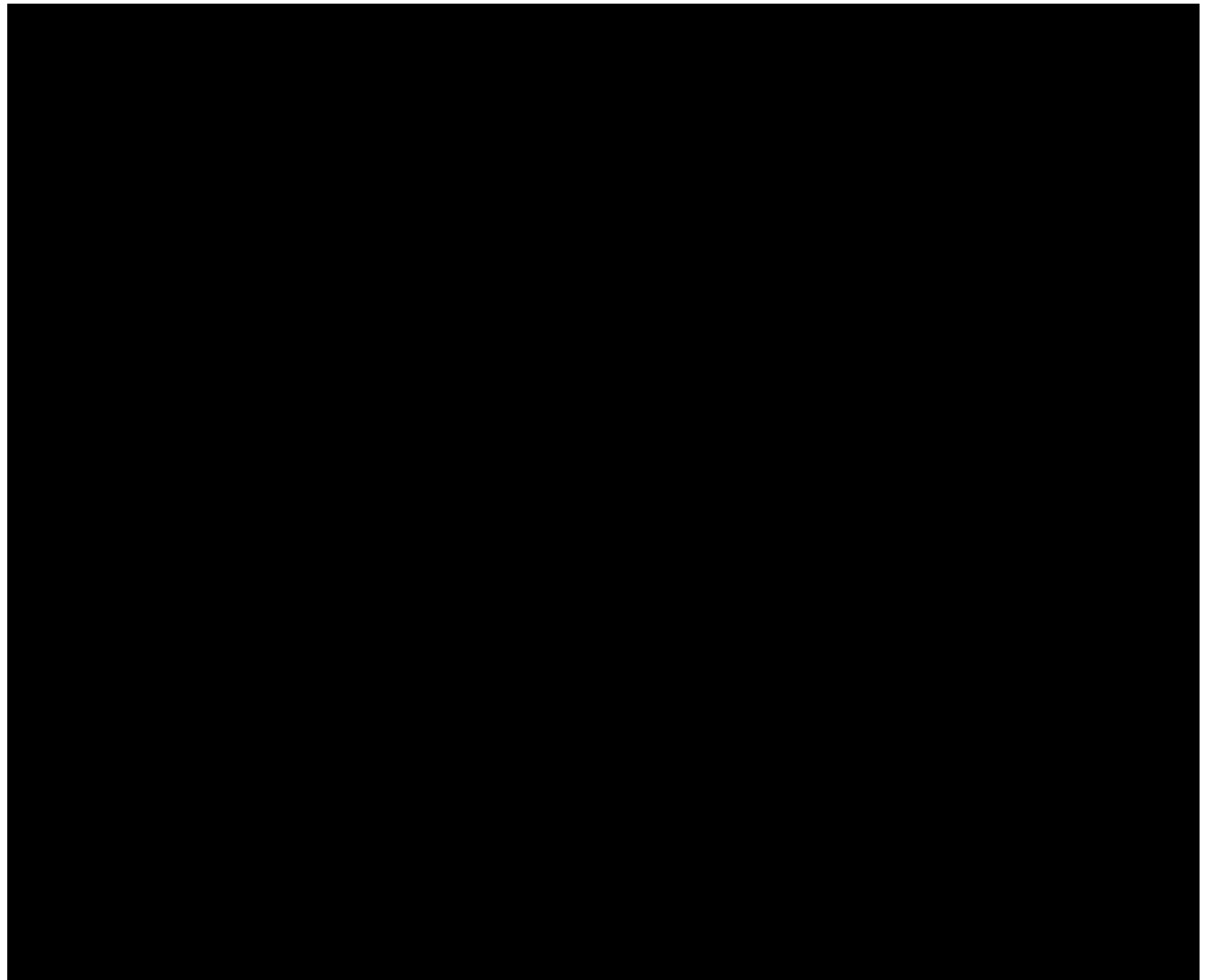
***X.B.1.* Fixed Labour and Non-Labour Cost Savings**

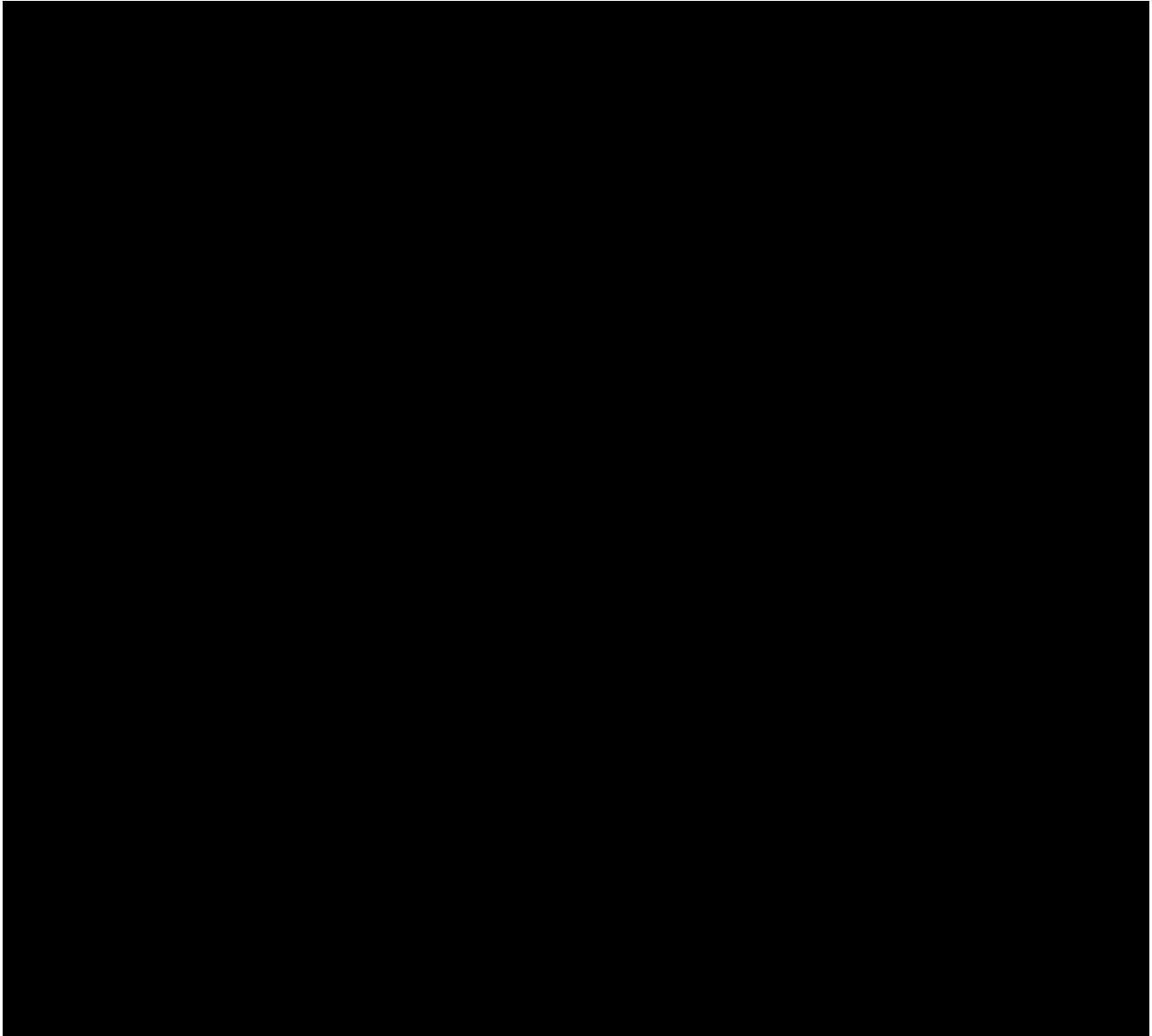
150. I have analyzed all labour and non-labour cost categories across all landfill facilities in order to identify cost categories that are fixed as compared to those that vary with volumes. However, note that in no case is it anticipated or have I assumed that volumes will change. Accordingly, there are no Productive Efficiencies as a result of a change in output.

151. Specifically, I have undertaken the following steps to identify the fixed costs associated with landfill facilities:

- a. I obtained monthly income statements for the period January 2019 to October 2021 for former Tervita landfills and, for the period of January 2020 to October 2021 for the former SECURE landfills. These income statements included all costs by category for each landfill facility;

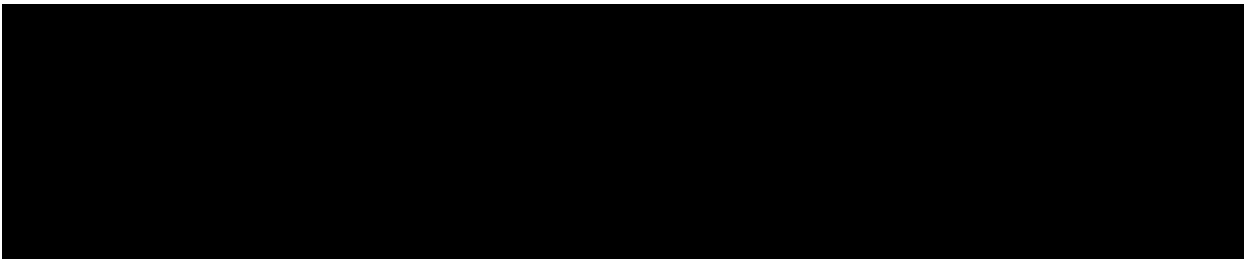
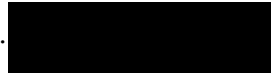
- b. For these landfill facilities, I also obtained monthly waste volumes in tons / tonnes;
 - c. I then ran a correlation analysis between the monthly waste volumes and the monthly expenses for each cost category for the periods indicated above for which I had financial information. Through this analysis, I identified those cost line items that indicated a significant correlation with volumes. For the correlation analysis of former SECURE landfill facilities, see Schedules I3, I4, I5, I6, and I7. For the correlation analysis of former Tervita landfill facilities, see Schedules I8, I9, I10, I11, I12, and I13.
152. Reflecting the above, and taking into account the nature of the expense, and SECURE management's indication of what varies with volumes, I selected a fixed component percentage for each line item as set out in Table 21 (for former SECURE landfill facilities) and Table 22 (former Tervita landfill facilities). I have also indicated the average percentage of total costs that are represented by each expense line item.



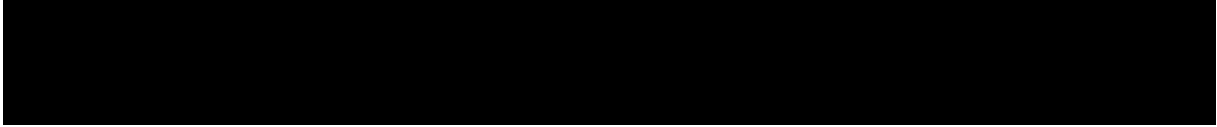


153. I note the following specific items as indicated in Table 21 and Table 22 above:

- a. Disposal fees / charges relate to disposal of leachate produced at a landfill site.



⁷⁰ Affidavit of Keith Blundell, paragraph 46.



b. For a detailed discussion of the basis used for each other item, see the terminology as described above in paragraph 114.

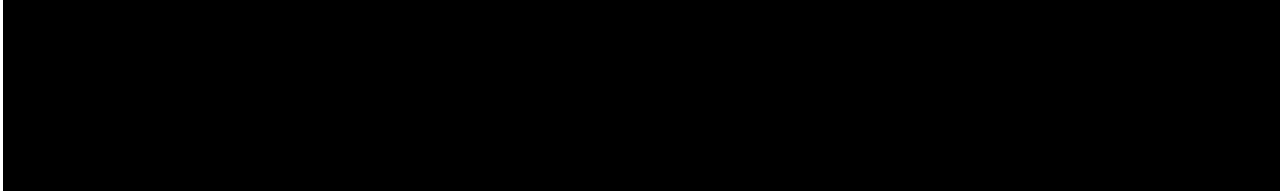
154. For further details of average correlation for each facility, see Schedules I1 and I2.

155. For detailed workings see Appendix I. All underlying schedules are attached at Exhibit 1.

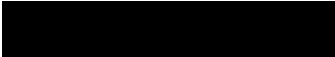

156. To compute the fixed costs savings at each of the closing landfill facilities, I multiply the above calculated fixed component of each cost line item by the dollar amount of each line item. To calculate the dollar amount for each line item, I use the period of LTM ended June 30, 2021. For details of Tervita's landfill facility savings, see Schedule 3.2.1. For details of SECURE's landfill facility savings, see Schedule 3.2.2. For the first year of savings I, conservatively, assume that the savings of the fixed costs at each facility commence 60 days after the date of last receipt of volumes. I say this is conservative because the capping of the facilities is all done by third parties.

157. For all facilities to be closed as a result of the Transaction, including both those that have already closed and those that are forecast to be closed, I have summarized the annual savings, reflecting the actual, and forecast, facility closure dates at Schedule 3.2, the total of which is summarized in Table 20, above.

158. The analysis for all landfill facilities is prepared on the same basis as described above, other than in



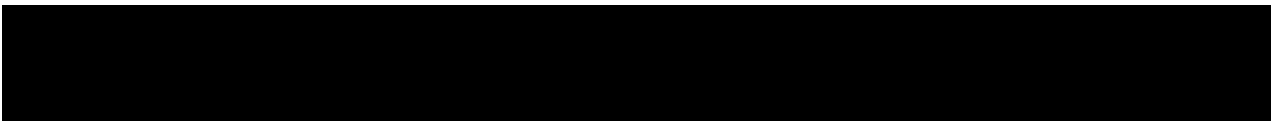


159. In the event of Hypothetical Divestiture Order 1, all of the Productive Efficiencies other than those  will be lost as the other integrations include facilities that are included in this Hypothetical Divestiture Order 1. In the event of Hypothetical Divestiture Order 2, the Productive Efficiencies from the closure of the  be lost.

160. As for FST/SWD closures, as customers typically incur the costs of transporting product, any increase in customer transport costs as a result of facility closure will represent a “negative Efficiency” and has been reflected as such. The calculation of these for the landfills are computed using the same methodology described above in Section X.A.3 and are summarized in Schedule 3.2.3 for each facility.

161. Note, however that, while the closures of the landfills are only projected to occur as indicated in Schedule 3.2.4, SECURE is actively diverting customers to these closing facilities to accelerate the closures. Accordingly, I have assumed that the incremental customer transport costs following the closure are a reasonable proxy for the incremental customer transport costs prior to the closure to the continuing facility and have therefore included this “negative Efficiency” from the date of the Transaction rather than from the date of closing of each facility.


162. Further, as a result of this diversion, these facilities will be closed sooner with the Transaction than would otherwise have occurred and, therefore, customers will be affected sooner.



X.B.2. Net Landfill Cell Construction Cost Savings and Capping Costs

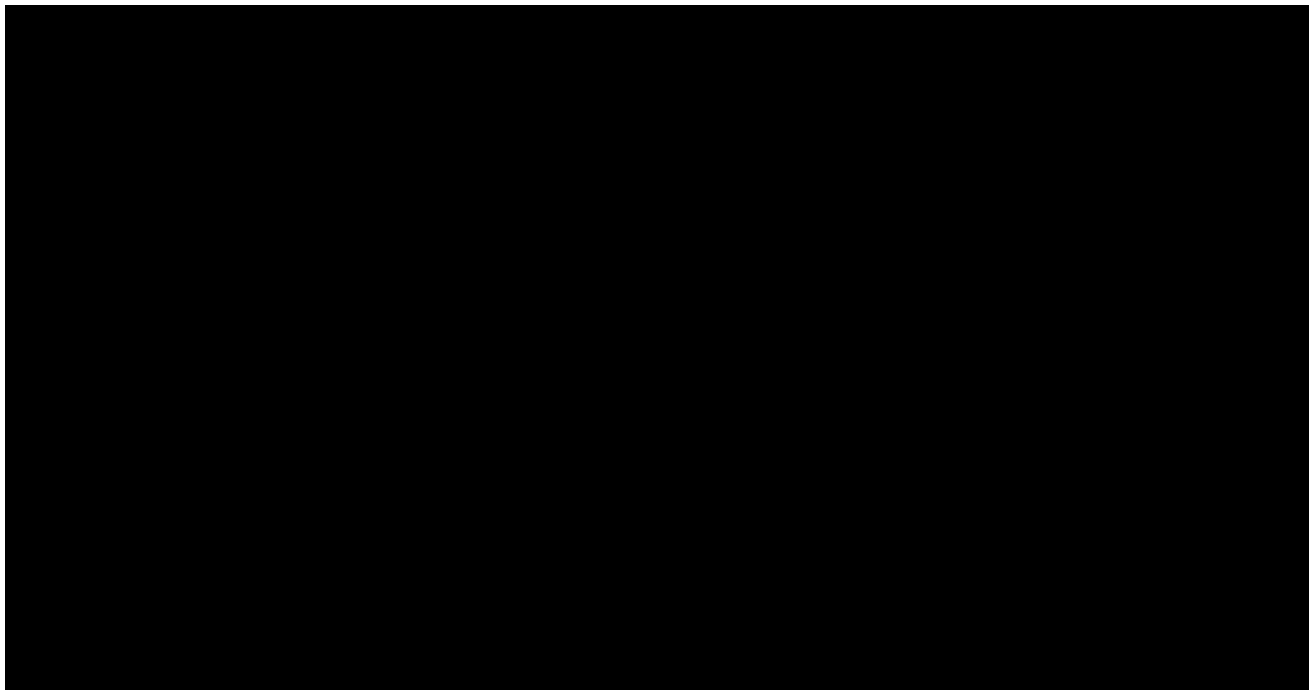
163. Landfill cells deplete over time as they are filled with waste. In anticipation of such depletion, particularly as existing cells approach full capacity, a landfill operator must incur capital expenditures to build new cells to accommodate further waste. As described in Appendix F, when a cell is full, it is “capped.” This process involves placing a cover over contaminated material in a full cell so as to prevent water from getting into the cell and generating leachate. A landfill cell can be capped without any implications for the operations of the rest of the facility. A temporary cap is essentially a large artificial cover and promotes no uptake of precipitation as no vegetation can grow. A permanent cap does promote precipitation by means of vegetation and control runoff, must meet certain permeability requirements, and allows the operator to reduce closure liability as a permanent cap is typically the first step in a complete closure.
164. I have, conservatively, not included any Productive Efficiencies on account of cell construction and capping cost savings for the following reasons:
- a. For the facilities that are being closed, the cell capping is occurring earlier than would otherwise have occurred as a result of diverting waste to the closing facilities from the continuing facilities to enable an earlier closing than would otherwise have occurred;
 - b. For the facilities that are being closed, a replacement cell that would otherwise have been constructed is now being avoided. Similarly, at this facility, all future capping and cell construction costs are being avoided; and
 - c. For the continuing facilities, replacement cells will be required more frequently given that the volumes that were previously going to two facilities are now going to one facility.
165. The net effect of the above three factors is that expenditures on account of capping and new cell construction will, in aggregate, occur later than would otherwise have occurred, but the difference

is only a timing difference. Accordingly, the effect of looking solely at a 10-year period may appear to indicate capital cost savings that I do not believe are appropriately included. This is because these costs are, in the fullness of time, more appropriately considered variable costs in that they vary with the volume of waste received, even though the timing of the expenditures do not occur evenly over the period.

166. However, for the continuing facility, given that more volume is being received the facility is also able to construct larger cells. 

if more waste is being received, the cells required for a three year period would be larger.

167. I have analyzed the historic trend of the size of landfill cell construction vs the cost per tonne as set out in Table 23, below.



168. As Table 23 indicates, the construction of larger cells is likely to result in a reduction in the cost per tonne of capacity construction. Again, however, as I am only looking at a 10-year period, the

⁷¹ Affidavit of Keith Blundell, paragraph 47.

apparent savings will be distorted by whether a cell happens to be constructed in or outside the 10 year period. Accordingly, as indicated, to be conservative, I have not considered any Productive Efficiencies relating to landfill cell construction and capping.

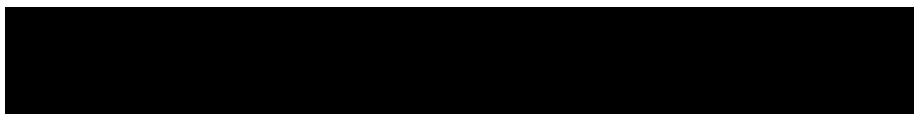
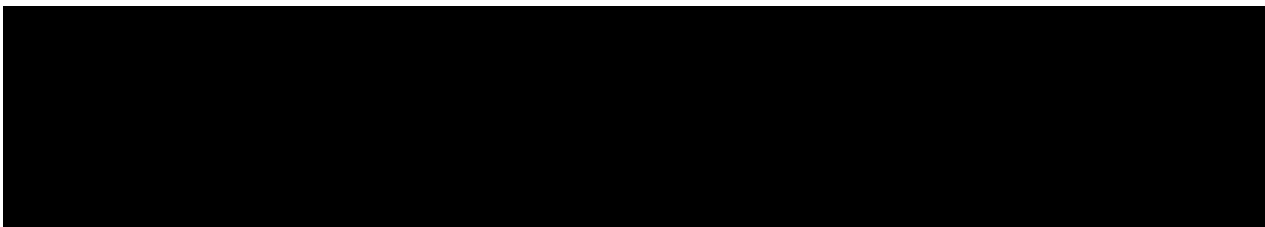
X.C. Geographic based operating cost savings

169. In addition to the facility rationalization savings discussed above, SECURE has and will achieve operating cost Efficiencies from the consolidation of the parties' respective operations in certain geographies. The integration arising in this area from the Transaction will likely result in the following categories of Efficiencies:

- a. Pipeline access savings for landfills;
- b. Field lease and office operating cost savings;
- c. Field and environmental services headcount savings; and
- d. Intercompany transport cost savings.

X.C.1. Pipeline Access Savings for Landfills

170.



171. In this regard SECURE expects to incur an upfront capital expenditure to

[REDACTED]

172. See Schedule 3.3.1 for more details.

173. This Productive Efficiency will be lost in both Hypothetical Divestiture Orders

[REDACTED]

X.C.2. Field Lease Cost Savings

174. SECURE no longer requires certain of its own and Tervita’s field offices following the Transaction.

[REDACTED]

17

[REDACTED]

176. See Schedule 3.3.2 for more details.

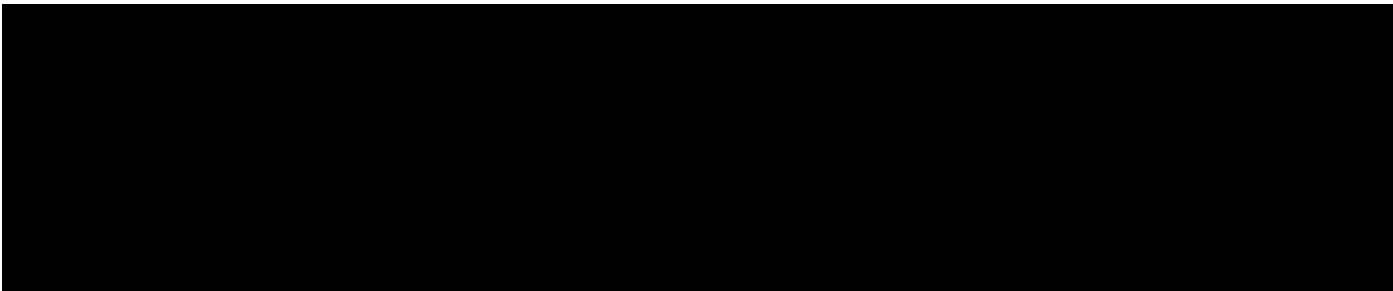
⁷³ Affidavit of Keith Blundell, paragraph 110.

⁷⁴ Based on the costs for the twelve months ended June 30, 2021.

⁷⁵ Affidavit of Keith Blundell, paragraph 5.

177. This Productive Efficiency is assumed to be lost in both Hypothetical Divestiture Orders as a competitively acceptable purchaser of the facilities is unlikely to have sufficient field office capacity to support the addition of the number of facilities that would be divested without the addition of at least one field office. See Schedule 3.3, row [2].

X.C.3. Field Headcount Savings



179. The names of the people that have been terminated following closure of the Transaction are set out on Schedule 3.3.3 and the full details of their roles, compensation, termination dates and termination costs are set out on Schedule 6.2 at rows [123] to [136].

180. Of the [REDACTED] positions, it is anticipated that [REDACTED] of the positions would be required by a prospective purchaser of the facilities that I have been instructed to assume the Commissioner is seeking to divest. These positions are summarized in column [M] of Schedule 6.2 and comprise:⁷⁶

a. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

⁷⁶ Affidavit of Keith Blundell, paragraph 125.

181. These positions are not necessary at SECURE, which already has the capacity to perform these functions with existing personnel, but are unlikely to exist in a prospective competitively acceptable purchaser which, by definition, won't have overlapping operations in this geographic area.⁷⁷

182. Accordingly, the Productive Efficiencies which would be lost in the event of a Hypothetical Divestiture Order are as set out on Schedule 3.3.3 and the net present value of these lost Productive Efficiencies is calculated in Note 1 at Schedule 3.3.

X.C.4. Field Terminations Unrelated to Facility Closures

183. In addition to field headcount savings of positions that are not associated with a single facility, certain positions are associated with one facility but that person does provide services to other facilities where no single facility has need for a full time person.

184. [REDACTED]

185. Of the facilities listed, [REDACTED]
[REDACTED]
[REDACTED] Accordingly, under these respective Hypothetical

⁷⁷ For further discussion on likely purchasers, see Section XI.A.

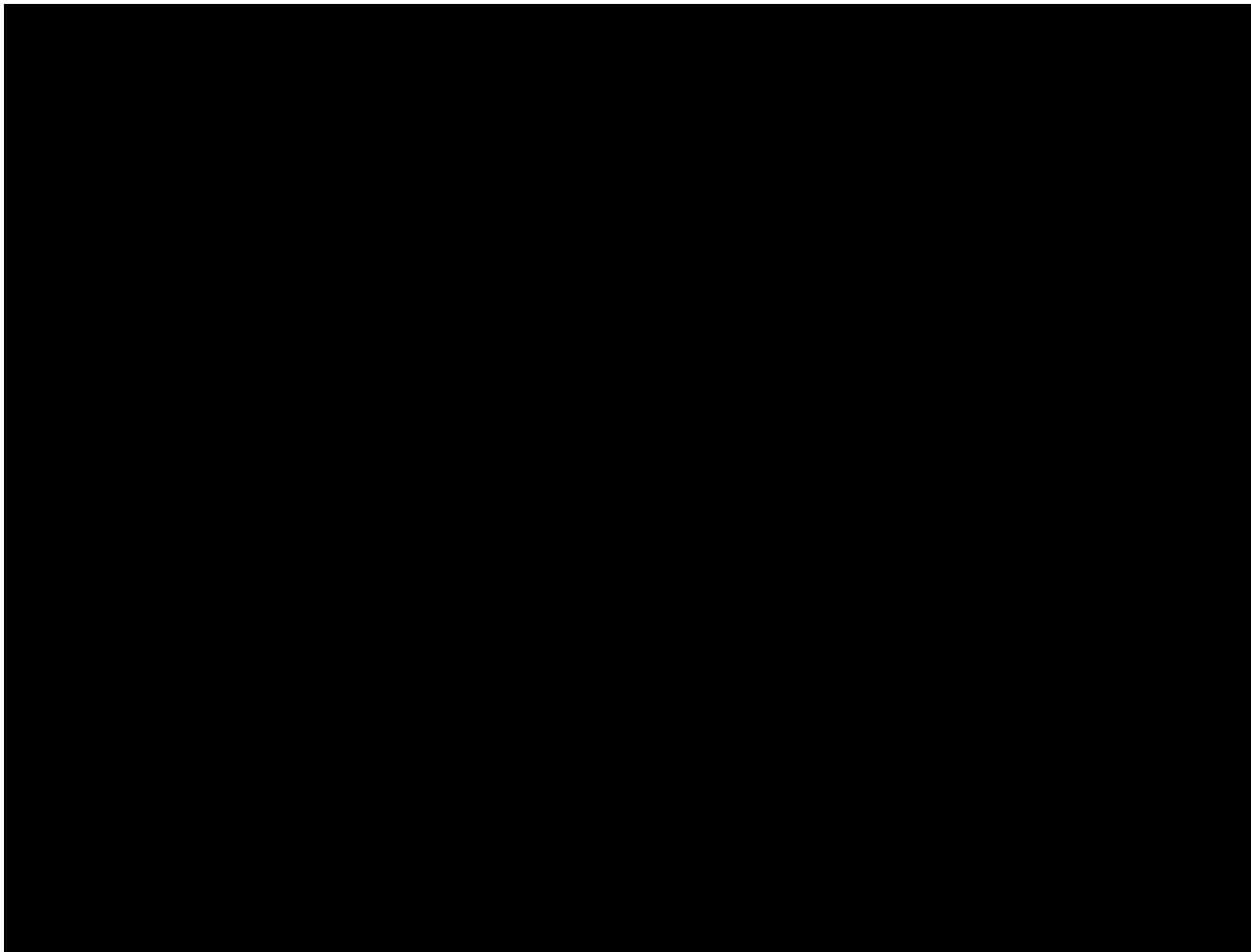
⁷⁸ [REDACTED]

Divestiture Orders, the Productive Efficiencies relating to employees terminated at these facilities would be lost. These are indicated in Note 2 of Schedule 3.3.

X.C.5. Internal Transport Savings

186. SECURE and Tervita both truck volume across various product categories within their respective facility networks. With the integrated facility network of the two parties, accounting for planned facility closures, SECURE will achieve transport savings by using Tervita facilities that were not previously within its network when it is efficient to do so and vice versa.

187. [REDACTED]



188. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

189. It is not possible to reliably quantify these savings as they don't all accrue to SECURE and so the information is not readily available to quantify them. This is because, in many cases, the customers

7 [REDACTED]

will receive the benefit of the transport savings. However, the entirety of the saving would accrue to the Canadian economy and reflect Productive Efficiencies.

190. Accordingly, I have, conservatively, not included any amount in my conclusion of Productive Efficiencies on account of Internal Transport Savings.

X.D. Corporate cost savings

191. SECURE and Tervita both operated corporate offices with all associated labour and non-labour costs. As a result of the Transaction, SECURE has and will achieve operating cost Efficiencies from the consolidation of the parties' respective corporate offices. I have separately considered labour and non-labour Productive Efficiencies as set out below.

X.D.1. Corporate Labour Costs

192. SECURE has, for securities disclosure purposes, been identifying all headcount reductions that have occurred as a result of the Transaction.⁸⁰ [REDACTED]

[REDACTED]

[REDACTED]

193. [REDACTED]

[REDACTED]

[REDACTED]

⁸⁰ Affidavit of Keith Blundell, paragraph 13.

⁸¹ [REDACTED]

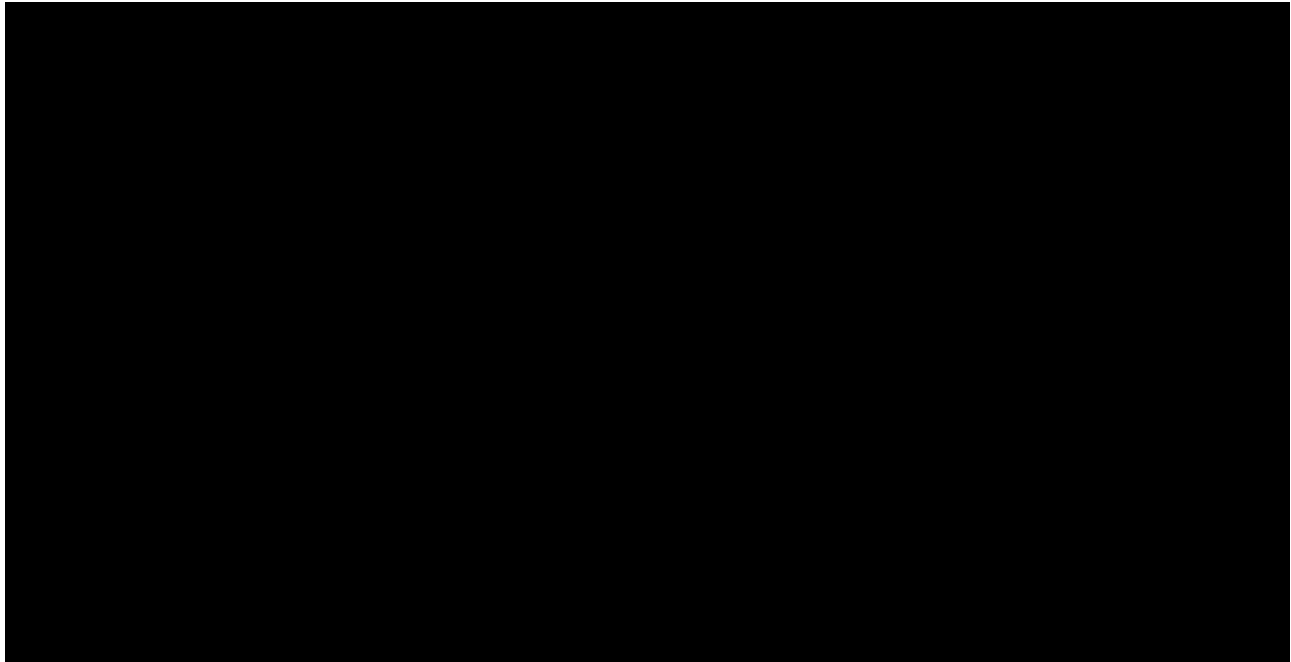
194. The employees are categorized by function and the total annual run rate savings and 10 year discounted Productive Efficiencies for each function are as set out in Schedule 3.4.1 and summarized in Table 25 below. [REDACTED]

[REDACTED]

195. [REDACTED]

196. These savings are set out in Schedule 6.4⁸² and summarized in Table 26 below.

82 [REDACTED]



197. The Productive Efficiencies relating to corporate labour saving are summarized on Schedule 3.4.1.

X.D.2. Corporate Non-Labour Costs

198. SECURE has, for securities disclosure purposes, been identifying all non-headcount related savings that have been achieved as a result of the Transaction.⁸³

199. The complete list of categories of savings that were identified by SECURE management is set out at Schedule 3.4.2. The analysis by SECURE management identifies the savings that have been achieved on a monthly basis as well as the run rate savings. I have incorporated the monthly savings to determine the savings in year 1 and the run rate savings to reflect the savings for each year thereafter.

⁸³ Affidavit of Keith Blundell, paragraph 13.

200. I have analyzed the nature of each of the savings and have excluded the entirety of any item for any of the following reasons:

a. The savings is on account of a reduction in the services purchased [REDACTED]
[REDACTED]
[REDACTED]

b. The savings reflect a pecuniary cost saving in that, while SECURE has achieved a synergy saving, there is no economic benefit to the Canadian economy (e.g. [REDACTED]
[REDACTED]
[REDACTED]

c. The savings are on account of the internalization of a cost previously outsourced (e.g. [REDACTED]
[REDACTED]
[REDACTED] This adjustment is likely conservative as the savings are on account of both the elimination of duplicate services and the internalization of margin previously paid to third parties; and

d. The savings was on account of saving of items relating to the Transaction (e.g. [REDACTED]
[REDACTED].

201. With respect to the former Head Office lease that Tervita had in the Palliser Building in Calgary:

a. [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]

202. The corporate non-labour Productive Efficiencies are set out on Schedule 3.4.2 and the total included in Schedule 3.4.

X.E. Other Qualitative Benefits

203. SECURE has other plans arising from the Transaction to increase Productive Efficiencies that I have not accounted for in my conclusions. These plans are set out in the Affidavit of Dave Engel⁸⁴ and summarized below:

- a. [REDACTED]

84 [REDACTED]

85 [REDACTED]

- b. [REDACTED] SECURE will be able to more efficiently manage what it refers to as “swing volumes.” In the event capacity is limited at a facility or wait times are higher, SECURE can direct the customer to travel to an alternative nearby facility with lower wait times or more capacity and, with the benefit of more facilities as a result of the Transaction, SECURE will be able to direct customers to the optimal facility of the merged firm;
- c. S [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- d. SECURE and Tervita each had relative best practices at their facilities and with the Transaction have been able to share these best practices and improve operational efficiency in different areas;
- e. SECURE will achieve economies of scale benefits from increased volumes at remaining facilities. See, for example, Section X.B.2 above; and
- f. With multiple facilities SECURE will be able to optimize its capital spending plan.

XI. Efficiencies Lost In The Event of A Hypothetical Divestiture Order

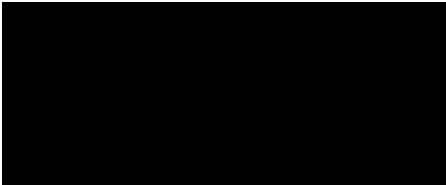
204. As noted in paragraph 9 above, Counsel has requested me to provide my opinions as to the Productive Efficiencies lost under both Hypothetical Divestiture Orders as at each of:
- a. The date of closing of the Transaction (the “Date of Closing Approach” as previously defined);
and

- b. The assumed date of the Tribunal Order (the “Tribunal Order Date Approach” as previously defined).

205. I provide my conclusions with respect to each of the above items below.

XI.A. Date of Closing Approach

206. Based on the scope of my review, and subject to the assumptions, restrictions and limitations noted herein, in my opinion the Productive Efficiencies arising from the Transaction and that would be lost under each of Hypothetical Divestiture Orders, calculated using the Date of Closing Approach is as set out in Schedule 1 and summarized in Table 27, below.

<i>CA\$ 000's</i>	Run Rate Efficiencies	10 Year Discounted Net Present Value
Efficiencies Lost from Hypothetical Divestiture Order Option 1		
Efficiencies Lost from Hypothetical Divestiture Order Option 2		
Source: Schedule 1		

207. To avoid duplication, I have calculated the Productive Efficiencies that would be lost under each Hypothetical Divestiture Order, under the Date of Closing Approach, as part of my calculations of the Productive Efficiencies arising from the Transaction in Schedule 3.⁸⁶
208. Specifically, as set out in Table 7 and Table 19, above, I have colour coded which facility is included in each, or both, Hypothetical Divestiture Order using the Date of Closing Approach. Then, within each section, I have considered whether each individual Productive Efficiency line item would be lost in the event of either, or both, Hypothetical Divestiture Order. Specifically, in Schedule 3, there is a summary, in columns [M] and [N] of the 10 year net present value of the Productive Efficiencies lost under each of the Divestiture Orders. Each category of these lost Productive Efficiencies is discussed below.

FST/SWD facility rationalization

209. In Schedule 3.1, which sets out the Productive Efficiencies relating to FST/SWD facility rationalization, I have incorporated the impacts, as set out on Table 7, of each individual facility included in a Hypothetical Divestiture Order, as well as the integration costs relating to each cluster of facilities. Where there is an impact, this is noted in columns [M] and [N] and the cash flows are the same for these items as set out in columns [A] to [J].

⁸⁶ My ability to do this under the Date of Closing Approach but not the Tribunal Order Date Approach is because the 10 year period for the Date of Closing Approach, reflecting both the delay and costs of achieving the Productive Efficiencies, exactly matches what is considered the in the Efficiencies from the Transaction. As the Tribunal Order Date Approach considers a different 10 year period, I have, by necessity, done those calculations separately.

Landfill facility rationalization

210. In Schedule 3.2, which sets out the Productive Efficiencies relating to landfill rationalizations, I have incorporated the impacts, as set out on Table 19, of each individual landfill included in a Hypothetical Divestiture Order. [REDACTED]

Where there is an impact, this is noted in columns [M] and [N] and the cash flows are the same for these items as set out in columns [A] to [J];

Geographic based operating cost savings

211. In Schedule 3.3, which sets out the Productive Efficiencies relating to general geographic overlap:

- a. [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

c. [REDACTED]

d. [REDACTED]

Corporate cost savings

212. The conclusion as to what corporate Productive Efficiencies will be lost in the event of the Hypothetical Divestiture Orders depends on the nature of a hypothetical purchaser.

213. Specifically, no corporate infrastructure Productive Efficiencies will be lost in the event of the Hypothetical Divestiture Order if in-market purchasers⁸⁷ exist for all of the individual assets to be divested that:
- a. Are likely to be competitively acceptable i.e. do not operate in any of the markets at issue such that the purchase would not resolve the alleged anti-competitive concerns of the Commissioner; and
 - b. Have the financial strength to take on the ARO obligations for the facility that it is acquiring; and
 - c. Is purchasing facilities that are either financial viable on a standalone basis to justify the purchaser becoming responsible for the ARO liability OR the facilities are sold in “packages” whereby the profit from one facility would be sufficient to incentivise the purchase to take on the ARO liability of other facilities, provided that the “package” of facilities all meet the “competitively acceptable” criteria indicated above; and
 - d. Are, in fact, likely to be willing to make the purchase; and
 - e. Have all of the necessary back office infrastructure to support the addition, individually or collectively, of all of the facilities listed in Appendix C.
214. At the other extreme, if the above criteria are not all met for each of the facilities to be divested such that the optimal preservation of competition is by a sale of all of the facilities to a new market entrant (referred to as a “financial buyer”) that has no corporate infrastructure, then a

⁸⁷ I use the term “in-market” to refer to a purchaser that already operates in the industry of providing midstream services to oil and gas companies.

complete set of infrastructure is required and a significant portion of the corporate infrastructure Productive Efficiencies will be lost in the event of a Hypothetical Divestiture Order.

215. An “intermediate” position exists where it is most likely that one or more strategic purchasers exist that are willing and able to purchase the facilities but, because of being competitively acceptable purchasers, do not have all of the necessary field infrastructure in the relevant areas and require some additional corporate infrastructure to support the number of additional locations.
216. I have analyzed the following companies that I believe could be willing purchasers.⁸⁸

Company	Existing Relevant Geography	Existing Services	Recent Acquisitions	Comments
Aqua Terra Water Management, L.P.	Alberta, British Columbia and Saskatchewan	10 SWDs in Western Canada	Not since 2015 (5 acquisitions in last 10 years)	Private Equity Backed
Catapult Environmental Inc.	Alberta and British Columbia	4 SWDs in Western Canada	No past acquisitions	Private Equity Backed
Clean Harbors, Inc.	Alberta and British Columbia	1 landfill, 3 waste disposals service, and 1 SWD in Western Canada	6 acquisitions in the past 10 years	US Listed Company
Green Impact Partners, Inc.	Alberta and Saskatchewan	5 SWDs in Alberta, 1 industrial waste disposal in Saskatchewan	No past acquisition	Canadian listed company, spun out of Wolverine
Medicine River Oil Recyclers Ltd.	Alberta	1 facility in Alberta (with FST and SWD operations)	No past acquisitions	NA
Pure Environmental Waste Management Ltd.	Alberta	1 waste management facility in Fort Kent	No past acquisitions	1 facility under construction near Fort McMurray.

⁸⁸ See Appendix J.

Company	Existing Relevant Geography	Existing Services	Recent Acquisitions	Comments
Wolverine Energy and Infrastructure, Inc.	NA	NA	NA	Exited midstream operations via sale to GIP in 2021

217. Based on my review, I have concluded that this “intermediate” position is the most likely.

Specifically, in my opinion:

- a. It is likely that a strategic purchaser exists for the SWD facilities.
- b. However, it is not clear that a single purchaser exists for the balance of the landfills and FST facilities. It is possible that facilities may be sold piecemeal to individual purchasers but this has the effect of (i) losing the benefit of the network of landfills and FSTs (for the disposal of waste from FSTs), landfills and SWDs (for the disposal of leachate from landfills) and FSTs and SWDs (for the disposal of water from FSTs if the FST does not have its own water disposal).

c. Further, as indicated in Schedule J1, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

218. Accordingly, I believe it is most likely that a divestiture of at least the FST facilities, which comprise the majority of the assets subject to a Hypothetical Divestiture Order, would be to a financial purchaser or a strategic purchaser that effectively has limited existing presence in the geographic market in which the assets subject to a Hypothetical Divestiture Order reside.

219. To be conservative, for purposes of my conclusions as to the corporate infrastructure required by a prospective purchaser, I have assumed that such a purchaser would be a hypothetical strategic purchaser, with some existing infrastructure but not in the Western Canadian market such that that

the addition of the facilities subject to a Hypothetical Divestiture Order would require the addition of some significant infrastructure. [REDACTED]

- [REDACTED]
220. Reflecting the above, I have summarized, in columns [N] and [O], for rows [1] to [122] of Schedule 6.2, the headcount that a potential purchaser or purchasers would, in aggregate, require to support the acquisition of the assets listed in Appendix C as set out in the Affidavit of Mr. Keith Blundell.⁸⁹
221. Similarly, in columns [P] and [Q] of Schedule 3.4.2, I have identified the incremental non-labour costs that I believe potential purchasers would, in aggregate, require to support the acquisition of the assets listed in Appendix C.
222. The net present value of these Productive Efficiencies that would be lost in the event of a Hypothetical Divestiture Order is summarized on Schedule 3.4.

Incremental savings at SECURE in the event of a Hypothetical Divestiture Order

223. In the event of a Hypothetical Divestiture Order, as a result of having fewer facilities, SECURE would likely require fewer corporate operations people as set out in the Affidavit of Mr. Keith Blundell.⁹⁰ SECURE management have estimated the additional savings to be as follows:

a. Landfill – [REDACTED]

[REDACTED]

[REDACTED]

⁸⁹ Affidavit of Keith Blundell, paragraphs 122 to 124.

⁹⁰ Affidavit of Keith Blundell, paragraph 126.

b. SWDs – [REDACTED]
[REDACTED]

c. FSTs – [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

224. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

225. Note, for certainty, that the above analysis serves to offset the Productive Efficiencies lost in the event of a Hypothetical Divestiture Order as a result of headcount being required by a prospective purchaser.

XI.B. Tribunal Order Date Approach

226. Based on the scope of my review, and subject to the assumptions, restrictions and limitations noted herein, in my opinion the Productive Efficiencies arising from the Transaction and that would be lost under each Hypothetical Divestiture Order, calculated using the Tribunal Order Date Approach is as set out in Schedule 1 and summarized in Table 28, below.

<i>CA\$ 000's</i>	Run Rate Efficiencies	10 Year Discounted Net Present Value
Efficiencies Lost from Hypothetical Divestiture Order Option 1	[REDACTED]	
Efficiencies Lost from Hypothetical Divestiture Order Option 2		
Source: Schedule 1		

227. The Tribunal Order Date Approach considers the prospective Productive Efficiencies that would be lost from the assumed date of a Tribunal Order⁹¹ and, in my opinion, better reflects the real economic impact. This is because any reduction on account of delay or implementation costs incurred to that point will have already occurred and those deductions are appropriately considered “sunk” costs at that point.

⁹¹ Which I have been instructed to assume would occur on July 1, 2023.

228. For purposes of my conclusions as to the Productive Efficiencies lost in this approach, I have been instructed to assume that the Tribunal would require that the divestiture occur within 6 months of the date of the Order. I further assume that:
- a. A purchaser (and presumably the Competition Tribunal) would require that, at the time of the divestiture, the divested assets should be in full operation so as to be able to supply customers and compete with SECURE; and
 - b. The purchaser will require operational due diligence on the facilities prior to completing its acquisition and therefore the facilities will need to have been made operational well before the required divestiture date.
229. The effect of the above is that, immediately after Tribunal ruling, SECURE management will need to commence hiring and incur costs relating to that hiring, training, and re-start costs.
230. Accordingly, to reflect the above, I have made the assumption that run rates costs for the 6 month period commencing the date of the Tribunal ruling until the date of the sale are a proxy for all the hiring, training, restart and operating costs in that period. This may be a conservative assumption.
231. Taking the above into account, and reflecting each category of Productive Efficiencies that is lost under each Hypothetical Divestiture Order:
- a. The Productive Efficiencies lost under Hypothetical Divestiture Order 1 are set out on Schedule 4. That schedule shows each line by line aspect of the Productive Efficiencies from the Transaction and specifies which are lost under this Hypothetical Divestiture Order. The figures are identical to those reflected in Schedule 3 except that the period commences on July 2023 rather than on the Transaction close date of July 2021, i.e. the

first two years following the closure of the Transaction (which reflect all the costs and ramp up in that period) are excluded and an additional two years are added on the end; and

- b. The Productive Efficiencies lost under Hypothetical Divestiture Order 2 are set out on Schedule 5. This is prepared on the same basis as Schedule 4 but reflect the different facilities included in each Hypothetical Divestiture Order.

XII.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

234.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

94 [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

243. [REDACTED]

[REDACTED] 98

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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-
- [REDACTED]
 - [REDACTED]
 - [REDACTED]

247.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- b. [REDACTED]

[REDACTED]

XIII. The costs considered by Dr. Miller

- 251. Counsel has also asked me to describe whether all fixed cost categories applicable to SECURE’s facility operations are included as Productive Efficiencies and, if not:
 - a. which cost categories are not considered that would appropriately be incorporated into the overall lifetime profitability of a facility; and

¹⁰¹ Affidavit of Keith Blundell, paragraph 81.

b. whether Dr. Miller's calculations of profit consider these categories.

252. In summary, my response is that no, Productive Efficiencies look only at categories of costs (irrespective of fixed or variable) that would be *avoided or reduced* if a facility is to be closed as a result of a transaction. Generally, avoided costs are fixed costs because for the purpose of my analysis of Productive Efficiencies, variable costs continue to be incurred at remaining facilities, albeit at a lower rate per unit in certain circumstances.

253. By contrast, there are frequently other costs for a facility that are relevant when assessing the "lifetime" profitability of a facility. These are, however, relevant when they are evaluating whether to construct a new facility in that all costs are incremental on a prospective basis at this stage and therefore relevant to the "lifetime" profit of a facility.

254. The following illustrates how this applies to this industry, using a landfill as an example. Assume that:

- a. the initial survey and construction of a landfill costs \$1,000.
- b. Thereafter, every 3 years, the prior cell is capped at a cost of \$200 and a new cell is constructed at a cost of \$300.
- c. The landfill has a total operating life of 12 years. In the last year the final cell is capped at a cost of \$100 and the facility remediation continues for the next 10 years, at a total cost over the 10 years of \$2,000, but a net present value of \$1,500 as at the date of closure.
- d. During the facilities operating life, it generates revenues of \$500 every year and incurs \$50 of variable operating costs and \$75 of fixed operating costs.

255. Reflecting the above, the cash flows over the life of this facility are as set out in Table 31 below:

CA\$'s	Row	Year												Lifetime Total	
		0	1	2	3	4	5	6	7	8	9	10	11		12
Revenues	[1]		500	500	500	500	500	500	500	500	500	500	500	500	6,000
"Variable" costs	[2]		(50)	(50)	(50)	(50)	(50)	(50)	(50)	(50)	(50)	(50)	(50)	(50)	(600)
Contribution margin	[3]		450	450	450	450	450	450	450	450	450	450	450	450	5,400
"Fixed" costs															
Annual operating costs	[4]		(75)	(75)	(75)	(75)	(75)	(75)	(75)	(75)	(75)	(75)	(75)	(75)	(900)
Construction	[5]	(1,000)													(1,000)
Capping	[6]				(200)		(200)			(200)				(200)	(800)
New cell	[7]				(300)		(300)			(300)					(900)
Remediation	[8]												(1,500)		(1,500)
Net cash flows	[9]	(1,000)	375	375	(125)	375	375	(125)	375	375	(125)	375	375	(1,325)	300
Internal rate of return	[10]	16%													

256. In the above hypothetical example, the profit from the facility over its entire life is \$300 and it provides an internal rate of return of 16% on a pre-tax basis.¹⁰²

257. As the above example illustrates, the following categories of costs can be incurred, all categories of which apply in the landfill example and certain also apply in respect of TRDs and WDs:¹⁰³

- a. Upfront capital costs – these are incurred up front and, because they are sunk costs for any facility once it is operational, a closure of that facility would not result in a saving of those costs. Accordingly, I have not considered these costs in my analysis of Productive Efficiencies. They are, however, evident on the income statement for each facility in the form of depreciation or depletion expense.¹⁰⁴ Those identified as depletion expense would likely be variable costs (i.e.,

¹⁰² The Internal Rate of Return (IRR) is the discount rate that makes the net present value of a project zero. In other words, it is the compound annual rate of return that is expected to be earned on a project.

¹⁰³ Affidavit of Dave Engel, paragraph 95.

¹⁰⁴ While the table above depicts the cash flows associated with a hypothetical landfill, the income statements show expenses using accounting principles. Where a capital cost is incurred before the

the rate of depletion increases as volume increases) and any identified as depreciation would generally be considered fixed costs. Dr. Miller has not considered this cost category in his profit calculations.

- b. Periodic capital costs – in the above example these are in the form of periodic capping and new cell construction costs. As the timing of these costs is affected by the volume that goes into the facility, I have not considered these costs in my analysis of Productive Efficiencies because they are, in substance, variable costs, to the extent that they are categorized as depletion (per above). Dr. Miller has not considered this cost category in his profit calculations.
- c. Operating fixed costs – these costs take the form of fixed costs of operating a facility that would be avoided if the facility was closed. I have incorporated these costs in my analysis of Productive Efficiencies.
- d. End of life capital costs – in the above example these are in the form of the cost of end of life remediation. These costs are a combination of sunk costs (once a facility has received waste the ARO obligation is triggered and therefore the cost is sunk insofar as the obligation has arisen as a result of a past event) and variable costs (as more waste is received the ARO obligation increases). Accordingly, for both reasons, I have not considered these costs in my analysis of Productive Efficiencies. These expenses are not recorded on the income statement

benefit of that asset is realized, the cost is capitalized on the balance sheet as an asset. This cost is then expensed on the income statement over the life of the asset in the form of a depreciation or depletion expense.

For example, if an asset has an upfront cost of \$100 and is used evenly over a 5 year period, the company would record a depreciation expense of \$20 in each of the five years.

Alternatively, if the asset has an upfront cost of \$100 and can be used to process 100 tonnes of waste, the cost would be depreciated as the waste is processed. For example, if the company received 15, 20, 40, 10 and 15 tonnes in each of the 5 years, the company would record a depreciation expense of \$15, \$20, \$40, \$10 and \$15 in each of the 5 years, respectively.

for each facility but, rather, are calculated and accrued¹⁰⁵ centrally, although they are calculated on a facility by facility basis and updated regularly.¹⁰⁶ I would consider as variable the proportion of ARO liability that accrues year over year as more waste is received. Dr. Miller has not considered this cost category in his profit calculations.

258. While the table above depicts the net cash flows in each year of the facility, the aggregate net cash flows over the life of the facility equate to the net profits generated. The difference between profits and cash flows are simply a difference in timing as to when each occurs. The aggregate of profits and cash flows over the life of the facility is the same.

XIV. Restrictions and Limitations

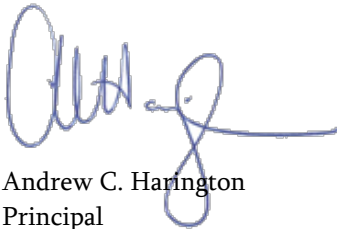
259. This report is not intended for general circulation or publication nor is it to be reproduced or used for any purpose other than that outlined above without my written permission in each specific instance. The Brattle Group does not assume any responsibility or liability for losses occasioned to you or any other party as a result of the circulation, publication, reproduction, or use of this report contrary to the provisions in this paragraph.

¹⁰⁵ As with depreciation, the table above depicts the cash flows associated with a hypothetical landfill, while the income statements show expenses using accounting principles. Where a capital cost would be incurred at the end of life, the company estimates the share of the eventual cost that is attributable to each unit of waste received and records that amount as an expense. This is referred to as an accrual which is intended in record an expense in each year such that, by the time the facility is closed, a sufficient liability has been recorded on the balance sheet to ensure that the company has the ability to fund the remediation.

¹⁰⁶ See Tervita Legacy Site ARO request - IR 20220306.xlsx.

260. I reserve the right (but will be under no obligation) to review and/or revise any and all assumptions and/or calculations included or referred to in this report and, if considered necessary, to revise any calculations in light of any information which becomes known to us after the date of this report.
261. This report was prepared for SECURE Energy Services Inc., in accordance with The Brattle Group's engagement terms, and is intended to be read and used as a whole and not in parts.
262. There are no third party beneficiaries with respect to this report, and The Brattle Group does not accept any liability to any third party in respect of the contents of this report or any actions taken or decisions made as a consequence of the information set forth herein.

Yours truly,

A handwritten signature in blue ink, appearing to read "Andrew C. Harrington", with a long horizontal flourish extending to the right.

Andrew C. Harrington
Principal
The Brattle Group

REDACTED

82 pages

Appendix A

Curriculum Vitae of Andrew C. Harington CPA, CA, CFA, CBV

I am a Principal in the Toronto office of The Brattle Group, a financial and economic consulting firm headquartered in Boston that answers complex economic, regulatory, and financial questions for corporations, law firms, and governments around the world. I have provided business and intellectual property valuation and mergers and acquisition advisory services for over 25 years and specialize in:

- Financial aspects of Canadian competition law
- The quantification of loss in commercial litigation and international arbitration disputes
- The quantification of loss and accounting of profits in intellectual property disputes
- The valuation of intellectual property and commercial businesses

I have been qualified as an expert in the valuation of intellectual property and commercial businesses and the quantification of loss and accounting of profits in intellectual property and commercial litigation damages in both the Federal Court of Canada and the Ontario Superior Court of Justice and as an expert in in the quantification of efficiencies by the Competition Tribunal of Canada. I have also given evidence before the International Court of Arbitration of the ICC as well as in domestic arbitrations and mediations. I have been recognized in Who's Who Legal as a Global Leader - Experts in Financial Advisory and Valuation – Quantum of Damages.

BUSINESS EXPERIENCE

2016 to date	Principal, The Brattle Group
2010 – 2016	Managing Director, Duff & Phelps
2000 – 2010	Partner, Cole & Partners, Toronto
1993 – 2000	Manager, Transaction Advisory Services, Audit and Consulting, Andersen

PROFESSIONAL MEMBERSHIPS

I am a member of the Canadian Institute of Chartered Accountants, CFA Institute, Toronto CFA Society, the Licensing Executives Society, the Intellectual Property Institute of Canada, the Toronto Intellectual Property Group and the Canadian Institute of Chartered Business Valuators

EDUCATIONAL QUALIFICATIONS

2005	Chartered Business Valuator
2002	Chartered Financial Analyst
1998	Chartered Accountant (Canada)
1995	Chartered Accountant (South Africa)
1992	Post Graduate Diploma in Accounting (University of Cape Town)
1992	Bachelor of Commerce (Honours) Financial Accounting (University of Cape Town)
1991	Bachelor of Commerce (University of Cape Town)

SELECTED EXPERIENCE

For over 25 years, I have been providing financial litigation consulting, financial advisory and business and intellectual property valuation services in numerous industries. Selected experience includes¹:

In connection with the Canadian Competition Act:

Section 96 Efficiencies

1. I provided expert testimony in front of the Competition Tribunal as to the section 96 efficiencies that would be lost in the event of an order sought by the Commissioner in connection with the following transactions:
 - i. The acquisition by Tervita Corporation (formerly CCS Corporation) of Complete Environmental Inc. on behalf of the Commissioner of Competition (CT-2011-002) (2013 FCA 28) (2015 SCC 3)
 - ii. The acquisition by Parrish & Heimbecker, Limited of certain grain elevators and related assets from Louis Dreyfus Company Canada ULC on behalf of the Commissioner of Competition
2. I was retained by the acquirer, target, or both parties, and authored an expert report on the quantum of section 96 efficiencies likely to arise from the following proposed transactions:
 - i. The acquisition by Rogers Communications Inc. of Shaw Communications Inc.
 - ii. The acquisition by SECURE Energy Services Inc. of Tervita Corporation
 - iii. The acquisition by Kissner Group Holdings LP of Morton Salt and Windsor Salt from K+S AG
 - iv. The acquisition by St Mary's Cement Inc., a subsidiary of Votorantim Cimentos SA of McInnis Cement
 - v. The acquisition by Parmalat Canada Inc. of the natural cheese business of Kraft Heinz Canada ULC
 - vi. The affiliation agreement between TimberWest Forest Corporation and Island Timberlands Limited Partnership
 - vii. The acquisition by La Coop fédérée's of the retail crop inputs business of Cargill in Ontario
 - viii. The acquisition by Tervita Corporation of Newalta Corporation

¹ Note that the listed experience does not include active or past engagements where my involvement was not in the public domain or is not known by other parties involved and/or for which authorization to disclose my involvement has not been provided by clients

- ix. The acquisition by Superior Plus, LP. of the Retail Propane operations of Gibsons Energy ULC (Canwest) (See <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04307.html>)
 - x. The acquisition by Cintas Corporation of G&K Services
 - xi. The merger of Agrium Inc. and Potash Corporation of Saskatchewan Inc. (See <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04305.html>)
 - xii. The acquisition by BCE of Manitoba Telecom Services Inc. (MTS)
 - xiii. The acquisition by Superior Plus Corp. of Canexus Corporation (See <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04111.html>)
 - xiv. The merger of Suncor Energy Inc. and Petro-Canada
 - xv. The acquisition by American Iron & Metal Company Inc.'s of SNF Inc.
 - xvi. The acquisition by Yellow Pages Group Inc. of Canadian Phone Directories Holdings Inc (Canpages)
 - xvii. The acquisition by West Fraser Timber Co. Ltd of Weldwood of Canada Limited
3. I was retained by Commissioner of Competition to review the submissions of the parties and advise as to the quantum of section 96 efficiencies likely to arise from the following proposed transactions:
- i. The acquisition by Canadian National Railway Company of H&R Transport Ltd. (<https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04527.html>)
 - ii. A transaction in the newspaper industry
 - iii. A transaction in the airline sector
 - iv. A transaction in the lumber industry
 - v. A transaction in the sporting goods industry
 - vi. A transaction in the home services industry
4. I was retained by or on behalf of one or both of the parties to estimate the section 96 efficiencies likely to arise from proposed transactions or agreements in the following industries:²
- i. The environmental services industry

² These engagements range in the deal process from assisting counsel in providing legal advice in a pre-transaction regulatory risk assessment to assisting in responding to reviews by the Commissioner of Competition.

- ii. The medical supplies industry
- iii. The consumer products industry
- iv. The oil pipeline industry
- v. The food industry
- vi. The medical services industry
- vii. The funeral home industry
- viii. The insurance industry
- ix. The trustee services industry
- x. The oil and gas sector in Ontario
- xi. The oil and gas sector in Atlantic Canada
- xii. The national car rental industry
- xiii. The chemicals industry
- xiv. The transportation industry
- xv. The airline industry
- xvi. The forestry industry
- xvii. The airline industry
- xviii. The heavy equipment industry
- xix. The transportation services industry
- xx. The television media industry
- xxi. The propane industry
- xxii. The fisheries sector
- xxiii. A public stock exchange
- xxiv. The oil and gas pipeline industry
- xxv. The aircraft services industry
- xxvi. The transport industry

These engagements did not result in a report either because (i) the transaction did not proceed, (ii) the Commissioner completed its review without requiring a remedy, or (iii) the efficiencies that I identified from the proposed transaction were not sufficient to justify the preparation of a report.

- xxvii. The outdoor recreation retail industry
- xxviii. The home services industry
- xxix. The construction industry
- xxx. The newspaper industry
- xxxi. The airline industry
- xxxii. The paint and coatings industry
- xxxiii. The pharmaceutical information sector
- xxxiv. The telecommunications industry
- xxxv. The forestry sector

Likelihood of Failure

5. I authored an expert report as to whether, absent the acquisition of Total Metal Recovery (TMR) Inc. by American Iron & Metal Company Inc., the business of TMR was likely to fail (<https://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/04528.html>)
6. I was retained by Commissioner of Competition to advise in connection with transactions in the following industries in which the parties were alleging that the target entity was likely to fail:
 - i. In the newspaper industry in Ontario
 - ii. In the airline sector
 - iii. in connection with the acquisition by Sobeys of the food and gas retail and wholesale operations of Co-op Atlantic
 - iv. In the newspaper industry in British Columbia

Section 100/104 Applications

7. I provided expert testimony as to the irreparable harm that would be suffered by the Canadian economy and the parties as a result of an order being sought by the Commissioner of Competition pursuant to Section 104 in connection with the acquisition by SECURE Services Inc. of Tervita Corporation (*Canada (Commissioner of Competition) v Secure Energy Services Inc*, 2021 Comp Trib 7)

8. I authored an expert report as to whether the closing of the following transactions would, subject to proposed orders if applicable, affect the ability of the Competition Tribunal to, if necessary, issue a remedial order:
 - i. The acquisition by American Iron & Metal Company Inc. of Total Metal Recovery (TMR) Inc.
 - ii. In the media industry
 - iii. In the paint and coatings industry
9. I assisted with the preparation of a preliminary expert report and an expert affidavit in connection with alleged irreparable harm arising from a proposed hold-separate agreement in the acquisition by Labatt Brewing Company Limited of Lakeport Brewing Income Fund

Likelihood of Entry

10. I was retained by the parties to prepare a report as to likelihood of entry in connection with an allegation of a significant prevention of competition likely to arise from the proposed acquisition of Maple Leaf Sports & Entertainment Ltd. by Rogers Communications and Bell Canada

Predatory pricing

11. In connection with allegations of predatory pricing:
 - i. I authored an expert report on behalf of Swoop Inc. and WestJet Airlines Ltd.
 - ii. I conducted analysis on behalf of the intervener in an investigation in the airline sector
 - iii. I reviewed the submissions of the parties on behalf of the Commissioner of Competition in an investigation in the airline sector

Other

12. I have been retained by counsel in several cases to assist them in providing legal advice to potential acquirers as to whether a proposed transaction exceeds the transaction notification thresholds under the Competition Act or Investment Canada requirements
13. I have consulted on financial aspects of assessing the quantitative appropriateness of administrative monetary penalties in the context of alleged unlawful multi-party agreements
14. I was retained by Commissioner of Competition to advise in connection with alleged misleading advertising in the car rental industry

15. I consulted on financial aspects of assessing business incentives in response to allegations of unlawful multi-party agreements
16. I assisted with the preparation of an expert report for the Commissioner of Competition responding to a plan proposed by merging parties after findings of an anti-competitive merger in *The Commissioner of Competition v. United Grain Growers Limited*
17. I assisted with forensic investigations in connection with allegations of price fixing under the Competition Act on behalf of an intervenor in the hospital sector

Intellectual property litigation:

18. Authored expert reports and testified on behalf of Apotex Inc. in connection with its claim against Eli Lilly and Company for commercial damages pursuant to section 8 of the Patent Medicine (Notice of Compliance) Regulations (CV-11-420115).
19. Authored expert reports and testified on behalf of The Gillette Company, Duracell Canada Inc. and Procter & Gamble Inc. in response to claims by Energizer Brands, LLC and Energizer Canada Inc. for lost profit damages or an accounting of profits arising from the alleged wrongful phrases used by Duracell on certain products (T-1591-15).
20. Authored expert reports and testified on behalf of Rovi Guides, Inc. in the liability phase as to the ability to quantify BCE and Telus' profits in connection with its claims against BCE Inc. et al and Telus Communications Company et al arising from alleged patent infringement.
21. Authored expert reports and testified on behalf of Rovi Guides, Inc. as to the quantum of Videotron's profits in connection with its claim against Videotron Ltd for an accounting of profits arising from alleged patent infringement (under each of the incremental profits principle and the full costs methodology).
22. Authored an expert report on behalf of Robert Teti and ITET Corporation in connection with its claim against Mueller Water Products Inc.
23. Authored expert reports on behalf of Spin Master Ltd. in connection with its claim against Mattel Canada Inc. for an accounting of Mattel's profits for alleged patent infringement (2019 FC 385).
24. Authored and cross examined on an expert affidavit on behalf of Evolution Technologies Inc. as to the financial impact on the appellant's business arising from the trial judgment in connection with its application for a stay of the Federal Courts finding that Evolution infringed the patent of Human Care Canada Inc. (2019 FCA 11).
25. Retained as an expert by a branded pharmaceutical company in connection with an alleged patent infringement in the pharmaceutical sector.

26. Authored expert reports on behalf of Apotex Inc. in connection with its claim against Pfizer Canada Inc. for commercial damages pursuant to section 8 of the Patent Medicine (Notice of Compliance) Regulations (T-1064-13).
27. Authored expert reports on behalf of Mylan Pharmaceuticals ULC in connection with its claim against Takeda Canada Inc. for commercial damages pursuant to section 8 of the Patent Medicine (Notice of Compliance) Regulations (T-85-16).
28. Retained as an expert by defendant in connection with damages and an accounting of profits for alleged patent infringement in the oil & gas sector.
29. Retained as an expert by a generic pharmaceutical company in connection with commercial damages pursuant to section 8 of the Patent Medicine (Notice of Compliance) Regulations
30. Authored expert reports on behalf of Apotex Inc. in connection with its claim against Abbott Laboratories, Limited, Takeda Pharmaceuticals Company Limited and Takeda Pharmaceuticals Americas, Inc. for commercial damages pursuant to section 8 of the Patent Medicine (Notice of Compliance) Regulations and responding reports in connection with counterclaims by Abbott Laboratories Limited et al for an accounting of profits and reasonable royalty damages (CV-09-391938).
31. Retained as an expert by defendant in connection with damages and an accounting of profits for alleged trademark infringement in the telecommunications sector.
32. Retained as an expert by a branded pharmaceutical company in connection with an alleged patent infringement in the pharmaceutical sector.
33. Retained as an expert by defendant in connection with alleged patent infringement in connection with the oil and gas fracking sector.
34. Authored expert affidavit on behalf of a plaintiff in the medical marijuana industry in connection with alleged irreparable harm arising from alleged trade-mark infringement and breach of fiduciary duty in the context of an injunction application.
35. Authored and cross-examined on two expert affidavits responding to allegations of irreparable harm in an injunction application by Sleep Country Canada Inc. in context of alleged trademark infringement by Sears Canada Ltd. in the retail sector (2017 FC 148).
36. Authored expert reports and testified before the Federal Court of Canada on behalf of AFD Petroleum Ltd as to damages, an accounting of profits, and reasonable royalty being sought by Frac Shack Inc for alleged patent infringement in the oil and gas sector (2017 FC 104).

37. Authored an expert affidavit on behalf of the defendants, Aird & McBurney LP et al, in connection with alleged irreparable harm in the context of an injunction application being sought by Sim & McBurney.
38. Authored and cross examined on a responding expert affidavit on behalf of Apotex Inc. in the context of a motion for a bifurcation order being sought by Alcon Canada Inc. in an intellectual property case alleging patent infringement (2016 FC 898).
39. Authored a responding expert affidavit in the context of a motion for further production of documents in an intellectual property case alleging patent infringement.
40. Authored an expert report on behalf of Apotex Inc. in connection with its claim against Pfizer Inc. for commercial damages pursuant to section 8 of the Patent Medicine (Notice of Compliance) Regulations and authored an expert report on behalf of Apotex responding to the quantification of alleged patent infringement damages suffered by Pfizer Inc. (T-1736-10)
41. Authored and cross-examined on affidavit on behalf of Apotex Inc. in connection with a motion sought by Pfizer Canada Inc. for proposed pleading amendments. (T-1736-10)
42. Authored expert reports and testified before the Federal Court of Canada on behalf of Arctic Cat, Inc. as to damages being sought by Bombardier Recreational Products Inc. for alleged patent infringement (2017 FC 207)
43. Authored expert reports and testified before the Ontario Superior Court of Justice on behalf of Exact Furniture Limited as to damages and profits being sought by Video Furniture International Inc. for alleged wrongful use of confidential information (2015 ONSC 3399)
44. Retained as an expert to quantify damages in connection with allegations of patent infringement in the pipeline infrastructure sector
45. Authored expert reports and testified before the Federal Court on behalf of Apotex Inc. as to damages being sought by Eli Lilly and Company for patent infringement (2014 FC 1254)
46. Assisted with the preparation of primary and responding expert reports, depositions and trial testimony in the Delaware Court in connection with valuation of intellectual property rights and allocation of sales proceeds following the bankruptcy of Nortel
47. Authored an expert report on behalf of Apotex Inc. in connection with its claim against Glaxosmithkline Inc. for commercial damages pursuant to section 8 of the Patent Medicine (Notice of Compliance) Regulations. (T-714-08)
48. Authored expert reports and testified on behalf of Apotex Inc. in connection with its claim against Takeda Canada Inc. for commercial damages pursuant to section 8 of the Patent Medicine (Notice of Compliance) Regulations. (2013 FC 1237)

49. Authored and cross-examined on an expert affidavit responding to allegations of irreparable harm in an injunction application by AstraZeneca Canada Inc. in the context of alleged patent infringement by Apotex Inc in the pharmaceutical sector (T-1668-10)
50. Authored expert report on behalf of the plaintiff quantifying alleged damages pursuant to Section 8 of the Patent Medicine (Notice of Compliance) Regulations
51. Authored and cross-examined on expert affidavit responding to allegations of irreparable harm in an injunction application by Target Corp. in context of alleged trademark infringement by Fairweather Ltd. in the retail sector (T-1902-10)
52. Retained to provide financial litigation assistance on behalf of a large multinational aerospace manufacturer in response to alleged misuse of confidential information
53. Co-authored draft expert report on behalf of branded pharmaceutical company in connection with alleged patent infringement by another branded pharmaceutical company
54. Authored, and in some cases cross-examined on, affidavits in connection with motions for proposed pleading amendments , bifurcation, further production of information, motion to strike and other matters in the context of litigation where my involvement is not in the public domain.

Intellectual property valuation and transfer pricing:

55. Authored valuation reports in connection with the cross-border transfer of businesses and all forms of intellectual property in the context of global business restructuring of multi-national businesses in various sectors, including:
 - commercial financing
 - consumer staples manufacturing
 - electrical distribution technology
 - locomotive engine manufacturing
 - military technology
56. Authored report on behalf of a company in the oil sector in connection with an anticipated valuation challenge by Canada Revenue Agency.
57. Provided consulting services to a company in the oil and gas sector as to reasonable royalty rates for cross licensing intellectual property

58. Provided assistance with the preparation of an expert report in connection with litigation between Canada Revenue Agency and R. Daren Baxter relating to a valuation of software and algorithms underlying S&P commodity future trading structure.
59. Provided assistance with the preparation of an expert report in connection with litigation between Canada Revenue Agency and GE Capital Canada Inc. relating to the valuation of an inter-corporate guarantee.
60. Authored reports as to royalty rates for cross border licensing of intellectual property between non-arms length parties within multi-national enterprises for purposes of section 247 of the *Income Tax Act* and compliance with OECD.
61. Authored transfer pricing studies for income tax purposes in connection with cross border pricing of transactions between non-arms length parties within multi-national enterprises in the high tech sector for purposes of section 247 of the *Income Tax Act* and compliance with OECD.
62. Authored in excess of 100 reports valuing various forms of intellectual property, including patents, brands, trade-marks, know-how, customer relationships and goodwill for companies in a variety of sectors including: actuarial services, directory publishing , employer services, financial planning software , food products , mining , oil and gas, real estate services, residential and commercial door manufacturing, software services, spa manufacturing and technology manufacturing.

Commercial and securities litigation and international arbitration:

63. Authored expert report on behalf of Blaney McMurtry LLP in connection with commercial damages alleged by KE Residences Inc. and King Edward Realty Inc.
64. Authored expert report on behalf of BCF LLP and Taylor McCaffrey LLP in connection with commercial damages alleged by Standard Nutrition (Canada) Co.
65. Authored an expert report and testified as to the flows of funds and regulatory disclosures of GFA World and various relevant charities associated with Believers Eastern Church in connection with the proposed class action filed against GFA World
66. Authored expert report and testified at arbitration on behalf of the estate of a former shareholder in connection with alleged breach of contract in the investment services products industry
67. Authored expert report on behalf of Blaney McMurtry LLP in connection with commercial damages alleged by Flip Face, Inc.
68. Authored expert report in connection with valuation issues arising from with convertible debenture financing undertaken by Newterra Group Ltd.

69. Authored affidavit on behalf of Horizon Pharma in connection with a review of the pricing of PROCYSBI® by the Patented Medicine Prices Review Board
70. Assisted counsel on financial matters on behalf of Vice-Admiral Mark Norman in connection with litigation against Her Majesty the Queen in Right of Canada
71. Authored responding expert affidavit on behalf of MDG Newmarket Inc, d/b/a Ontario Energy Group in connection with a proceeding under the Class Proceedings Act – 1850/16CP.
72. Provided testimony before the International Court of Arbitration of the International Chamber of Commerce on behalf of Origin & Co., Ltd (Republic of Korea) as to damages being sought by JFI Global Purchasing, Ltd (Barbados) for an alleged breach of contract (ICC Case No: 21763/CYK)
73. Co-authored an expert report on behalf of Atomic Energy of Canada Ltd quantifying financial loss relating to a construction insurance claim in the nuclear reactor sector
74. Authored a limited critique report in the quantification of alleged damages suffered by plaintiffs in the context of a claim by a property developer against a prospective tenant for wrongful inducement.
75. Provided valuation consulting services in the context of litigation between a master and sub-franchisor in the leisure products sector.
76. Assisted in the preparation of an expert report prepared for arbitration on behalf of Ontario Lottery and Gaming Corp. in connection with litigation by the Ontario First Nations Limited Partnership
77. Authored a responding expert report in the quantification of alleged damages suffered by plaintiffs in the context of a class action against investment advisors.
78. Co-authored expert reports on behalf of Atomic Energy of Canada Ltd in response to a claim by Nordion Inc. for alleged commercial damages for termination of a contract to construct two isotope production reactors, including alleged commercial damages alleged suffered as well as quantifying other financial aspects of the parties' positions (<https://ipolitics.ca/2012/09/10/nordion-shares-plummet-after-arbitrators-side-with-aecl/>; <http://www.world-nuclear-news.org/Articles/Settlement-deal-over-MAPLE-cancellation>)
79. Authored expert report on behalf of the plaintiff quantifying alleged damages suffered in connection with litigation relating to alleged wrongful dismissal in the investment management sector
80. Authored expert report on behalf of plaintiff on the economic benefits created by a hydro generation plant in connection with litigation in the power generation sector
81. Authored expert report on behalf of the defendant quantifying alleged damages suffered as a result of the termination of a commercial contract in the forestry sector

82. Authored expert reports quantifying alleged damages suffered by two plaintiffs in connection with litigation relating to alleged wrongful dismissal in the investment management sector
83. Authored expert report on behalf of the plaintiff quantifying alleged damages suffered as a result of the termination of a commercial contract in the music and software wholesaling sector
84. Co-authored an expert report on behalf of the defendant on alleged damages suffered as a result of a construction delay claim in the power generation sector
85. Co-authored expert report with Andrew Freedman on behalf of the municipal defendant on alleged damages suffered as a result of alleged unlawful acts inducing contract in the financial sector
86. Co-authored expert report with Andrew Freedman on behalf of the municipal plaintiff on alleged damages suffered as a result of alleged unlawful acts inducing contract in the financial sector

Bankruptcy and restructuring related litigation:

87. Authored expert report analyzing flows of funds and regulatory disclosures of GFA World and various relevant charities associated with Believers Eastern Church in connection with the proposed class action filed against GFA World while under creditor protection
88. Assisted in the preparation of an expert report on the fair market value of the intellectual property assets of J. Crew Group in connection with litigation between Eaton Vance Management, holders of secured debt of J. Crew Group and J. Crew arising from the restructuring of the ownership of IP assets of the company for purposes of raising new debt
89. Assisted with the preparation of primary and responding expert reports, depositions and trial testimony in the Delaware Court in connection with valuation of intellectual property rights and allocation of sales proceeds following the bankruptcy of Nortel
90. Assisted in advising a stakeholder in connection with the restructuring of the specialty television channels of Canwest Media in connection with a dispute with Goldman Sachs
91. Authored expert report and testified at arbitration on the quantum of cost savings obtained in the bankruptcy and subsequent restructuring of Air Canada
92. Operational assessment and restructuring of Venator Group (now Footlocker)

Valuation of commercial interests:

93. Authored numerous reports in connection with of the valuation of companies operating in various sectors, including:
- analytical laboratory services
 - directory publishing
 - portfolio valuation of private equity portfolio, primarily hotels
 - portfolio valuation of private equity technology portfolio
 - portfolio valuation of private equity diversified portfolio (five years)
 - energy marketing services
94. Authored or co-authored fairness opinions in connection with transactions in various sectors, including (note that these items are also included in Transaction Advisory):
- internalization of management contracts in the real estate sector
 - directory services
 - oil and gas management services
 - financial services
 - investment management
 - real estate software
95. Authored or co-authored reports responding to fairness opinions in connection with transaction in various sectors, including (note that these items are also included in Transaction Advisory):
- paper and pulp manufacturing
 - retail department stores

Business consulting engagements:

96. Preparation of a report to the Board of Directors in the brewing industry opining as to whether the terms of a commercial contract had been complied with
97. Business consulting projects (incorporating business viability analyses) in connection with, amongst others:
- operational efficiency review and restructuring of a retail department store chain
 - operational assessment and restructuring of Venator Group (now Footlocker)
 - restructuring of an airline
 - start-up of mid-stream gas refinery
98. Business viability analysis:
- the feasibility of a start-up charter airline
 - feasibility and restructuring of a plastics manufacturer
 - the feasibility of an apparel manufacturer
 - i. optician practice
 - ii. operational efficiency review and restructuring of a retail department store chain
 - iii. wholesale distributor
99. Advisory services to the Ontario Ministry of Health and Long-Term Care in connection with the design and implementation of a reporting / monitoring system to achieve the objectives of Bill 102 - An Act to amend the Drug Interchangeability and Dispensing Fee Act and the Ontario Drug Benefit Act

Transaction advisory:

100. Provision of M&A acquisition advisory services, due diligence and post-merger integration in a variety of business sectors, including:
- apparel manufacturer
 - apparel retailing
 - animated television and feature film

- collectibles retailing
 - commercial and educational video
 - construction equipment
 - construction supplies
 - equipment financing
 - health services
 - hospitality – hotel
 - hospitality – restaurant
 - jewelry manufacturing and retailing
 - laser measurement services
 - oil and gas midstream and downstream
 - printing services
 - real estate appraisal and related services
 - windshield manufacturing
101. Preparation of post-transaction root cause analysis of failure to achieve synergy targets in the context of a valuation
102. Authored or co-authored fairness opinions in connection with transactions in various sectors, including (note that these items are also included in Valuation of Commercial Interests):
- internalization of management contracts in the real estate sector
 - directory services
 - oil and gas management services
 - financial services
 - investment management
 - real estate software

103. Authored or co-authored reports responding to fairness opinions in connection with transaction in various sectors, including (note that these items are also included in Valuation of Commercial Interests):
- paper and pulp manufacturing
 - retail department stores

ARTICLES, PRESENTATIONS AND OTHER PUBLICATIONS

I have authored numerous publications as well as articles for professional journals and have spoken at professional and academic conferences. Publications and representative presentations include:

Publications

1. Contributing author of *Brand Value Special Task Force Report – February 2020* published by INTA, International Trademark Association
2. Lead author of *Calculating Monetary Remedies in Intellectual Property Cases in Canada – a Reference Book of Principles and Case Law – 2018 Edition*
3. Co-author of chapter on Monetary Relief – Quantum in the looseleaf publication *Intellectual Property Disputes: Resolutions and Remedies* edited by Ronald E. Dimock and published by Carswell in 2012, addressing both damages and accounting of profits
4. Co-author of two monographs “Damages Calculations in Intellectual Property Cases in Canada” and “Accounting of Profits Calculations in Intellectual Property Cases in Canada” published in 2012
5. Author of article entitled “Enhancing Synergy Realisation” published by Financier Worldwide in 2006
6. Co-author of monograph “Sharing Synergies” published in 2003

Lectures and presentations

7. November 2021 University of Toronto Faculty of Law Global Professional Master of Laws guest lecturer on business, valuation, income tax and litigation aspects of intellectual property
8. October 2021 York University Osgoode Hall Law School guest lecturer with Dr. Renée Duplantis on sections 92, 93 and 96 of the *Competition Act*
9. March 2021 Canadian Bar Association Panel Discussion on the Section 96 Efficiencies Defense with John MacGregor and Nadia Soboleva, moderated by David Dueck
10. November 2020 University of Toronto Faculty of Law Global Professional Master of Laws guest lecturer on business, valuation, income tax and litigation aspects of intellectual property
11. November 2020 Ryerson University guest lecturer on business and litigation aspects of intellectual property
12. October 2020 York University Osgoode Hall Law School guest lecturer with Dr. Renée Duplantis on sections 92, 93 and 96 of the *Competition Act*

13. November 2019 University of Toronto Faculty of Law Global Professional Master of Laws guest lecturer on business, valuation, income tax and litigation aspects of intellectual property
14. March 2019 Ryerson University guest lecturer on business and litigation aspects of intellectual property
15. November 2018 University of Toronto Faculty of Law Global Professional Master of Laws guest lecturer on business, valuation, income tax and litigation aspects of intellectual property
16. November 2017 University of Toronto Faculty of Law Global Professional Master of Laws guest lecturer on business, valuation, income tax and litigation aspects of intellectual property
17. March 2017 Ryerson University guest lecturer on business and litigation aspects of intellectual property
18. February 2017 University of Toronto Faculty of Law Global Professional Master of Laws guest lecturer on business, valuation, income tax and litigation aspects of intellectual property
19. November 2016 Canadian Bar Association International Committee Panel Discussion on Dis-Synergies? Analyzing Efficiencies in Cross-Border Mergers with Trevor McKay, Andrew Lacy and Margaret Sanderson, moderated by Navin Joneja
20. June 2016 IPIC Webinar on Patent Case Law Review - Remedies with Trent Horne
21. March 2016 Ryerson University guest lecturer on business and litigation aspects of intellectual property
22. February 2016 University of Toronto Faculty of Law Global Professional Master of Laws guest lecturer on business, valuation, income tax and litigation aspects of intellectual property
23. January 2016 Canadian Bar Association Panel Discussion on the Section 96 Efficiencies Defense with Neil Campbell and Margaret Sanderson, moderated by Richard Annan
24. December 2015 Ontario Bar Association Panel Discussion on Intellectual Property Remedies – What Do You Need to Know? with Andrew Shaughnessy and Sangeetha Punniyamoorthy, moderated by Cameron Weir
25. October 2015 International Trademark Association (INTA) guest roundtable speaker on the valuation of brands
26. February 2015 University of Toronto Faculty of Law Global Professional Master of Laws guest lecturer on business, valuation, income tax and litigation aspects of intellectual property
27. November 2014 and January 2015 Competition Bureau guest lecturer on financial analysis in the context of competition reviews

28. June 2014 Licensing Executives Society, Toronto Chapter, titled Crossing the Border: The Intersection of Taxation and IP with Brandon Siegal, McCarthy Tétrault on business, valuation, income tax and litigation aspects of intellectual property
29. March 2014 Osgoode Hall Law School, York University guest lecturer on Administration of Civil Justice: Issues in Assessment of Litigation and Regulatory Risk
30. February 2014 University of Toronto Faculty of Law Global Professional Master of Laws guest lecturer on business, valuation, income tax and litigation aspects of intellectual property
31. May 2013 Acumen Financial Conference (on valuation of intellectual property)
32. March 2013 Federated Press 3rd Advanced Valuation Course (on valuation of intellectual property)
33. February 2013 University of Toronto Faculty of Law Global Professional Master of Laws guest lecturer on business, valuation, income tax and litigation aspects of intellectual property
34. October 2012 Intellectual Property Institute of Canada's 86th Annual Meeting in Vancouver (panel on The Basic Principles for Calculating Patent Damages)
35. May 2012 Tax Executive Institute's 46th Annual Canadian Tax Conference in Gatineau (panel on Tax and Valuation Issues in Restructuring Global Business Operations)
36. October 2011 Tax Executive Institute's 66th Annual Conference in San Francisco (panel on Tax and Valuation Issues in Restructuring Global Business Operations)
37. October 2011 Canadian Institute of Chartered Accountants Annual Investigative and Forensic Accounting Conference in Montreal (panel on Intellectual Property update)
38. October 2011 Canadian Institute's 10th Annual Forum on Pharma Patents (panel on Damages in Patent Infringement and Section 8 Cases)
39. December 2010 Federated Press 11th M&A Valuation for CFO's (workshop on applied valuations)
40. December 2009 Federated Press 8th M&A Valuation for CFO's (on applied valuations)
41. December 2009 Acumen Financial Conference (on valuation of intellectual property)
42. December 2009 Canadian Institute Conference (on the valuation of intellectual property in a commercialization context)
43. June 2009 Federated Press 6th Valuation and the Tax Practice Course (on the valuation of business interests for tax purposes)
44. May 2009 Federated Press 2nd Advanced Valuation Course (on valuation of intellectual property)
45. December 2008 Federated Press 7th M&A Valuation for CFOs (on applied valuations)

46. October 2008 CA-IFA Investigative and Forensic Accounting Conference (on patented medicines (notice of compliance) regulation under Section 8)
47. June 2008 Federated Press 6th Canada-US Financial Reporting & Accounting Course (on valuation of intellectual property)
48. May 2008 Federated Press Advanced Valuation Course (on valuation of intellectual property)

Appendix B

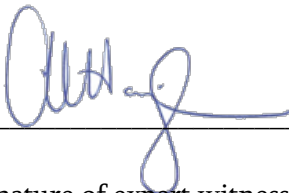
Acknowledgement of Expert Witness

I, Andrew C. Harington, acknowledge that I will comply with the Competition Tribunal’s code of conduct for expert witnesses which is described below:

1. An expert witness who provides a report for use as evidence has a duty to assist the Tribunal impartially on matters relevant to his or her area of expertise.
2. This duty overrides any duty to a party to the proceeding, including the person retaining the expert witness. An expert is to be independent and objective. An expert is not an advocate for a party.

March 25, 2022

}. (Date)



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