

Council 4 AFSCME Testimony – March 8, 2010

SB 267, An Act Implementing the Recommendations of the Program Review and Investigations Committee Concerning the Role and Purpose of the Connecticut Resources Recovery Authority

Good afternoon Chairman Mushinsky, Chairman Kissel and members of the Program Review and Investigations Committee. My name is Brian Anderson. I am the lobbyist for Council 4 AFSCME, a union of 35,000 public and private employee members.

I am here to testify in regards to **SB 267, An Act Implementing the Recommendations of the Program Review and Investigations Committee Concerning the Role and Purpose of the Connecticut Resources Recovery Authority**. It is very advisable to study the role and need for CRRA. It is also advisable to study the way this state agency has operated.

I am introducing parts, and have the whole, of PRI's September 23, 2008 public hearing transcript. Tom Kirk, the president and person at the top of CRRA's overall operation testified explicitly that he opposes privatization at the Mid-Connecticut Project at that PRI hearing. He said repeatedly at the hearing that he opposes the privatization of this facility, including saying "With private control, a supply-constrained market will allow Connecticut capacity to be used for other states' waste, leaving Connecticut consumers dependent upon and paying more to ship their waste to environmentally less desirable landfills hundreds of miles to the west."

In a case of taking an action directly opposite to what he told the legislature, Mr. Kirk put out two RFQs on September 14, 2009 that solicit parties to privatize the operation and management of the Mid-Connecticut Project. The Mid-Connecticut Project is currently run under the supervision of CRRA and MDC government employees. These employees don't serve the profit motive, but the public safety motive. Just over a year ago the CRRA let two of the four resource recovery facilities, that it was supposed to control, slip into private ownership. The CRRA continues to try very aggressively to break a contract that it has with the Metropolitan District Commission to operate the Mid-Connecticut Project so that it can fully privatize out the facility's operation. CRRA has spent over \$1 million in ratepayer funds to break the MDC contract in order to facilitate this operational privatization. It has privatized out part of the Mid-CT Project's operation already – and with disastrous results. CRRA chose the Covanta corporation to run the boiler operation at the Mid-CT Project. Since Covanta has been on the job the boilers have been operated very poorly or been shut down for long periods of time. This has cost the ratepayers money.

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Now, due to CRRA's action or inaction, two private corporations with troubled histories run most of Connecticut's resources recovery infrastructure. One is Covanta. This corporation is involved in the management and operation of four of Connecticut's six resource recovery facilities. The other is the Wheelabrator Corporation, whose parent company is Waste Management, Inc. It runs the other two facilities. Both of these corporations have bad financial histories. Covanta went bankrupt in 2002. The Virginia-Pilot newspaper reported in 2006 that one "well-known financial advisor this year labeled the company a bad risk." In 2001, the Chicago Tribune reported that Waste Management, Inc. "agreed to pay \$457 million to settle a class action lawsuit that alleged it violated federal securities laws." Both of these corporations have been cited numerous times for pollution. Both have records of not listening to citizen and government complaints when asked to stop polluting.

Privatizing the Mid-CT Project will be bad for rate payers and the state's citizens – who CRRA is supposed to serve and protect. This begs if there is any accountability at all at the CRRA, or is there a feeling that because they claim "quasi-public" status, although they are clearly an instrumentality of the state, that they can do anything they wish. It also seems that Governor Rell pays little attention to that agency. A recent Courant article by Jon Lender, reporting on the lack of response to major theft of CRRA ratepayer equipment by management, follows a pattern.

Another example of CRRA's ethically challenged operation is their refusal to answer even simple questions from the public. Our unions asked for information relating to actions that CRRA has taken that are carefully shielded in their meeting minutes – which we believe violate state law on agency transparency. I provide a copy of our request and their answer refusing to give information that is supposed to be open to the public. Another request that we have made is for the salary, perks, benefits, expenses and contract that Mr. Kirk enjoys. Again, CRRA has refused to give us this. We asked for this after Mr. Kirk called for our truck drivers and machine operators, who work under very hazardous and unhealthy conditions, to give up a 3% COLA that was part of a three year MDC contract. It only seems fair that we should see what his COLA is for the same period, yet he has refused to give us this. Perhaps this committee would have more luck at getting an answer to such a request.

Such shaded and shoddy operation, coupled with a growing lack of faith in CRRA displayed by over 40 Connecticut municipalities, and the privatization of most of their agency function may well beg the question of should CRRA continue to exist. I would be happy to answer any questions.

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most interest.

SEN. MEYER: Our next witness is President Tom Kirk, followed by Mayor Viens, followed by Mayor Currey.

TOM KIRK: Senator Meyer, Representative Wasserman, Members of the Committee, thank you. My name is Tom Kirk. I'm President of the Connecticut Resources Recovery Authority. I appreciate the opportunity to address you today.

First, before my prepared remarks, I did want to address a question you had earlier, Mr. Chair, regarding single-stream recycling.

The pilot program in Bristol, as you know, has been a wonderful success, about 900 homes. A similar program, 5,000 homes in Hartford, has been ongoing since May. We're seeing similar double-digit returns, very, very encouraging.

And perhaps most importantly, the CRRA has just recently opened in September the first single-stream, publicly owned, single-stream recycling facility here on Murphy Road in Hartford.

We're already taking about five towns' single-stream recycling in. We're seeing, it's a little early to put numbers on it, but very encouraging results, what we expect and always have expected, double-digit increases in recycling, which pays dividends a number of ways.

CRRA does not charge a tipping fee for recycling, so we save there. We save the \$72 it would have cost to dispose of it in a trash to energy plant.

But we also paid a \$10 rebate to the towns. We've just recently distributed \$750,000 to a number of towns across Connecticut.

And further, to Representative Mushinsky, I know she's not here at the moment, her question about Pay to Throw and whether or not that's something that should be encouraged.

I would offer this, that the best recycling rate in Connecticut belongs to Coventry. We gave them the largest per capita check at \$10 per ton. And the reason for that is, I think no surprise, Coventry uses Pay to Throw.

You purchase bags at the town hall, fill them up, and then they'll get picked up by the city hauler.

So it is something to consider I think if we're interested, as we should be, in increasing our recycling rates and decreasing the reliance on disposal. Thank you for that.

I do want to get right to our point. Connecticut is in a unique position. As a result of the solid waste disposal agreements entered into nearly 20 years ago, there will be a dramatic shift in public ownership to private ownership.

As a result, substantial trash disposal pricing power over, and access to, an essential public health and environmental protection service will be under the control of the private sector.

That in and of itself is not necessarily detrimental, but it is no doubt a change that is occurring.

Connecticut has decided many years ago that it will never have a surplus of disposal capacity. The statutory requirement for certification of need for disposal capacity, along with very substantial public barriers to development, yield a situation where Connecticut is a supply-constrained state, meaning that there is not sufficient capacity installed in the state to handle all of our needs.

We export about 400,000 tons per year of MSW and over a million tons a year of C&D waste. And both of those numbers are expected to grow substantially in the next decades.

With public control or public ownership of capacity, this capacity situation can be managed and has been managed over 20 years to the best interests of the towns and the citizens.

However, as a waste to energy disposal facility is transferred to private ownership, this now unregulated, unconstrained supply situation may yield some undesirable impacts.

Private owners of the formerly public trash to energy facilities will be operating in an unregulated market constrained arena in full control of their capacity.

They'll be able to charge the highest price per ton allowed by the supply-constrained market and be able to move waste in and out of Connecticut without regard to other impacts or state policy goals.

Even today, then limited private ownership that we have results in very inefficient transportation of waste across the state, from the far west Newtown area to Lisbon.

And while they're driving across the state, they're waving at four or five different trash to energy plants that they've passed, not an efficient way to transport our garbage, not an efficient way to deal with our garbage.

With private control, a supply-constrained market will allow Connecticut capacity to be used for other states' waste, leaving Connecticut consumers dependent upon and paying more to ship their waste to environmentally less desirable landfills hundreds of miles to the west.

The state has a priority for waste, and last on that list is land filling. If we get pushed out of the plants here in Connecticut, our only recourse is to ship it west to western landfills.

While we don't propose a specific resolution for these issues, two options [Gap in testimony. Changing from Tape 1A to Tape 1B.]

--energy systems and their tipping fees much the way a utility regulates phone fees, electric fees, gas fees, etc.

As the briefing document states, two of CRRA's Resource Recovery Projects, Bridgeport and Wallingford, are in the process of determining their respective future contract structure and solid disposal fees. Both of their contracts end shortly.

The Bridgeport Waste to Energy Plant will become privately owned by the current facility operator, Wheelabrator, starting in January 1, 2009.

CRRA has completed an agreement on behalf of 12 of the present 18 project towns to continue delivering waste to that project under a 5½-year agreement with 5-year extension options.

And that's fine, but unfortunately, disposal prices that the towns will be paying are substantially higher than they would have been had the facility stayed publicly owned.

Regarding the Wallingford project, CRRA is working with and on behalf of the five towns to either extend the contract with the present plant operator Covanta or to purchase the

plant to keep the Resource Recovery Facility under public control.

The current municipal agreements and operating agreements are in place until June of 2010. The outcome of those negotiations will likely be known at the end of this calendar year.

The Mid-Conn facility, the state's largest facility, is and will remain publicly owned, and that's good news. It will stay a publicly owned domain even beyond the 2012 termination date of the city MSAs.

It will stay publicly owned and publicly controlled, and that is the largest plant in the state.

The southeast facility will revert to public ownership at the end of its contracts. And of course, we've heard about the Bristol and the Lisbon plants.

CRRA's mission as a public agency is to work for and in the best interest of Connecticut's citizens and municipalities.

Public ownership of these facilities, I think, is clearly in the public interest, particularly given some of the alternatives that we're stuck with in a capacity-strained market. Thanks for this opportunity. I'd be happy to answer any questions you may have.

SEN. MEYER: Members have any questions? Yes, Senator Kissel.

SEN. KISSEL: Nice to meet you, Sir. Thank you for all that CRRA does. I think you got pretty much all of my towns in north central Connecticut. How did we end up in this mish-mash?

Again, not being an expert on the background history, how is it that some of these resource recovery facilities, at the end of this stretch of time, become public entities, and some of them end up in the hands of private entities?

And nothing against these private entities themselves, but it looks to me, and it sounds to me that you're in agreement, that that puts the public in a tough spot because those municipalities that have to go now to private entities are paying a premium, as far as disposal of their waste, that they would not otherwise have to do if those entities remain public. How did we get to this patchwork

quilt?

TOM KIRK: Well, it's a good question. And to answer it best, I think we have to put ourselves back 20 years when these projects were contemplated.

At the time, there was no recycling. The Bottle Bill Law was a litter law, not a recycling bill. There were dozens of dumps, open dumps essentially that were called landfills, across the state.

The CRRA was created to help encourage towns to get away from dumping and towards regionalized waste to energy plants. And even then, the difficulties that were encountered were significant.

Getting the towns and regions to participate is difficult in a state like Connecticut [inaudible] but most importantly, I guess the atmosphere, the landscape was different.

We now have situations where, for good public policy reasons, contracts were signed that end up providing the beneficial ownership to the operator at the end of the project.

That was not a mistake by the folks that put the contracts together. There were important tax considerations that were necessary to be considered, and there were risk considerations.

The Bridgeport project in particular wanted no part of a project that would put them at financial risk if the project failed.

The project developer, Wheelabrator, came in, said, we will build this project. We'll build it right, and we'll take the risk of making your garbage go away.

But for that, at the end of the project, we want this tip fee, and we will own the project at the end, 20 years ago, a very reasonable expectation and a reasonable contract.

What's different now is the technology risk is understood. The price of alternatives is very high because we essentially have closed down all of our landfills and now have to ship it out West.

And there is a feeling, whether or not it's legitimate,

that after paying these very high tipping fees for 20 years, there's an expectation that there should be some equity by the towns in these plants.

The documents don't necessarily provide for that, but they are believed to be our plants and capacity that should be reserved and available at a reasonable price for the citizens of Connecticut.

SEN. KISSEL: And just how do you perceive your role and the role of your organization in trying to get us into the next decade in pretty good financial stead regarding the towns you service?

And B, do you think that we have to, would you think that we need to try to facilitate things like low-interest loans to municipalities to try to purchase these? I'm guessing they're going to be super expensive.

Or do you think that we could maybe reign it in a little bit through some sort of reasonable regulation like we do with, I think you had suggested other utilities, whether they're electric, gas, telephone company, all of those things? What is your advice to us?

TOM KIRK: I think there's a number of items on the menu that the Legislature could look at, and you mentioned a couple of them.

CRRA's purpose, and the other regional authorities' purposes, goal here I think is to provide the towns with options.

The staff had mentioned that no one is compelled to work with CRRA. No one is compelled to work with any of the regional authorities. And that's by design and absolutely appropriate.

If the CRRA or another regional authority can provide a better option to the towns, and that option is available, then the town can avail itself of that option.

I think that's what CRRA should continue to do. We will continue to own the Mid-Conn project. It will stay publicly owned, and that means it will be a service provided at cost, not at market, which is not an unreasonable expectation for a private owner, to get market price.

Because it's owned by the public, it will be provided a

service at cost. To the extent other capacities also owned by the public and provided at cost, that has a very powerful effect on the market.

It essentially serves as a ceiling on the market so that competitors, whether they're burning it in a privately owned facility into energy or hauling it out of state, has to deal with the competitive pressure of having a publicly owned facility operating at \$65 per ton and therefore can't charge the \$80 it takes to, that they'd like to take to satisfy their shareholders.

So I think providing options to the town is the most important thing we can do. As to what the Legislature can do, there are a number of things, items on the menu.

Low-interest loans may be appropriate. CRRA has bonding authority. Other agencies, other authorities also have bonding authority.

The purchase of the plants in some cases, for instance in the case of the Wallingford plant, is a contractual process delineated quite clearly in the contracts.

So we will pay an appraised price. Shorthand, it is what a willing buyer will pay a willing seller. So it will be a fair price.

It may be very expensive, but it will be a fair price, and it will only make sense to the extent that the public can operate that facility and still provide the service at or below market.

So it may be that loans may be appropriate and necessary. But frankly, I think it's more likely to be a bonding issue that CRRA can handle and has the authority to do, or individual authorities or groups of towns can handle.

SEN. KISSEL: Thank you very much.

REP. WASSERMAN: Representative Sharkey.

REP. SHARKEY: Thank you, Madam Chair. I'm interested in your testimony because as I look through the testimony of others who plan to be here today, there does seem to be a real divergence of opinion about the level of regulation that we should consider as a Legislature.

It seems to me that there's evidence from the testimony of

others who will speak today that when New Jersey, for example, went to a regulated tip fee statewide, that actually tipping fees are now over \$100 a ton in New Jersey, as opposed to the \$70 to \$80 range that most towns in Connecticut currently have.

And I guess my question is is it fair to say that the tension between some privately owned facilities and some publicly owned facilities is a good thing necessarily and that the publicly owned facilities help to keep a market, as you testified?

It has a big impact on the market because if they're operating more or less at cost, then it causes the privately owned facilities to follow suit potentially. Is that a fair statement?

Or is, you know, that there's a good tension that's going on between the publicly and privately owned facilities?

TOM KIRK: Yes. I think that's absolutely a fair statement. It would be most effective if we were not in a supply-constrained area.

For instance, the Wallingford facility, the Mid-Conn facility, all of CRRA's facilities are fully subscribed, meaning we have no extra room.

There are times during the season, winter months, when we have some room and can take other towns in. But we could not sign up a town today, saying, can you handle my garbage 365 days a year, because we don't have room.

If there were surplus capacity available, your comment would be very appropriate and very true because it would absolutely, the public ownership presence would act as a ceiling on prices.

Unfortunately, because we are supply constrained, because there are nearly half a million tons being exported out on trucks every year, most of the plants are filled.

And the market price evolves quite naturally to the cost of, to whatever it would be to fill up a truck at a transfer station and haul it to Ohio.

So that \$80, \$85 price is what it takes to get rid of a ton of garbage, and that is the market price which a private owner should be and is entitled to in operating his

facility.

REP. SHARKEY: Well, there did seem to be some, at least the reports seem to suggest that there is some capacity that's still, that is available in some of our plants.

I know Wallingford is at capacity, and a couple of the others were. But there also did seem to be some additional capacity in some of the others. So I don't know what impact that has.

But let me, I guess the other question is if we as a state, should we as a state be considering the idea of, even if we have a combination of public and private, of limiting those, even the privately owned facilities, to providing for Connecticut communities first before they can take on, say, out-of-state trash coming here?

Is it the case that some of the facilities are accepting trash from out of state, or would that happen if they went to private ownership, because they could get a better, people in New Jersey would pay more potentially, or pay less to come to Connecticut to get their trash disposed of than to stay in New Jersey? Would that, would an interstate competition occur?

TOM KIRK: I think yes, it can, and it's probably more likely to occur on an occasional basis with more private ownership.

But the most profitable ton that a private owner can process is the ton next door because that person can pay \$80, the market rate, to deliver the ton next door to the plant.

If that, if the competitor, the landfill in Ohio, wants that ton, he has to pay to haul it to Ohio, and he'll end up collecting \$15 or \$30 maybe in tipping fee at the end.

So the most profitable ton for any operator are local tons. So it's a natural desire of privately owned operators to fill up their plants with the local tons because their margin is highest there.

That doesn't mean that they won't, from time to time, need to go out of state to fill up their plant in the winter months when there's less garbage or that there are other larger company concerns about a plant they have in Massachusetts fails or whatever.

REP. SHARKEY: Can I interrupt just for a second so I can understand this? The tipping fees the towns are paying are what they pay to not only tip the fee, but in those fees, they also, I mean, I'm just going from my own experience in municipal government.

We pay a hauler to take it to the Wallingford plant, so there's a cost associated with that. And then there's a tipping fee that we pay to the plant for it to be incinerated and recycled.

So when you say that it's more cost efficient for the operator of the facility to get tons locally, I'm not sure I follow that because the operators are not paying for the delivery, are they?

TOM KIRK: Well, the operator of the facility charges a tipping fee. And he may have a, he may hang a shingle and say it's \$75 a ton.

But if he needs another 500 tons this week, he will send a salesman to Massachusetts and say \$30 a ton, and I'll hire, I'll drive it down to that plant. So his margin is much greater for the local tons.

And that's appropriate. That's why we build them, or try to build them, in geographically diverse areas so that we don't have to endure the expense of hauling the stuff to the plant. So yes, the most profitable ton for any owner, public or private, the most beneficial ton is--

REP. SHARKEY: Because they're not offering subsidies to draw it from out of state or longer distances.

TOM KIRK: Exactly. The tipping fees in Ohio might be as low as less than \$20 per ton. The tipping fee in New Jersey, at \$100 per ton, is likely not just a tipping fee.

I had omitted from my remarks a sentence about be careful, disposal fees may or may not include the cost of transportation, loading, transfer station operation, recycling processing, future liability protection, as well as the actual disposal trash.

It is very, very treacherous to compare a \$100 tipping fee in New Jersey with a \$60 tipping fee in Wallingford. That is, that's not apples and oranges. That's bicycles and tanks.

REP. SHARKEY: Okay, thanks. And just again, on the economics of this, if they were to, let's take the Wallingford plant as an example.

Currently, there are five towns that are contracted, and that essentially provides them, the Wallingford plant, it puts the Wallingford plant at capacity when all five towns are bringing their MSW. Is that accurate?

TOM KIRK: Yes.

REP. SHARKEY: Okay. So if that went either private or ownership by the towns themselves, which are the options that are being considered, right?

TOM KIRK: Actually, the ownership by the CRRA with the towns providing the garbage.

REP. SHARKEY: Okay. Is there anything to prevent the Wallingford plant, say, from being able to accept waste from other towns? Or is it restricted?

I know it's size restricted, but is there any other restriction that would prevent it from taking trash from other towns, other than those five?

TOM KIRK: No, it could take trash from any town anywhere, but there is an economic desire to take the closest town because if they were to go to the City of New Haven and say, I need \$75 a ton, New Haven will say, well, I can get \$75 a ton anywhere.

And they would have to subsidize the transport. So yes, as a privately owned facility, they could take garbage from anywhere, but they're heavily incented to take it locally.

REP. SHARKEY: And when you say it's supply limited, what does that mean exactly?

TOM KIRK: We have capacity for X-number million of tons here in the state, and we're about 400,000 or 500,000 tons short.

About 400,000 tons leaves the state on trucks every year. So ideally, if we were perfectly situated, with capacity matching demand, we would have another 400,000-ton-per-year plant.

We don't have that. We count on outside states to handle

our surplus. That's not necessarily a bad thing.

But I would be hesitant to recommend counting on outside states for much more than that because the time may come when Ohio and Pennsylvania say, you know what, enough. We don't want any more garbage from Connecticut.

REP. SHARKEY: And if that's the case and capacity is reached, then the cost of tipping will go up for the average municipality.

TOM KIRK: The cost of tipping in a privately owned plant can't go above market. It will go up to whatever it--

REP. SHARKEY: Right, but the market will rise.

TOM KIRK: The market will rise, yes.

REP. SHARKEY: And that will encourage recycling.

TOM KIRK: Historically, it has not encouraged it as much as you'd like. You know, this is garbage to everyone here, but it's our bread and butter, and we live this stuff.

But at the end of the day, the cost to the homeowner, the difference between a \$60 tipping fee and an \$80 tip fee is loose change. It's very, very little.

The motivation for recycling has been, and it probably will continue to be, doing the right thing for the environment and not throwing away our resources.

With the understanding that when we go to a pay-to-throw program, as we do in Coventry, we, no surprise, find that the highest per capital recycling rate is in towns with pay to throw because you have to go to Town Hall and buy a bag for \$5 or it won't get picked up.

So yes, higher tipping fees will likely increase recycling. The biggest increase we will see in recycling will be from CRRA single-stream initiative, which is probably going to have double-digit increases in the towns that we serve, and other big initiatives, much more so than increasing out tipping fees.

REP. SHARKEY: Okay. I may disagree with you on that because I know, you know, a \$10 decrease in the per-ton tipping fee in a town like Camden results in hundreds of thousands of dollars of savings per year.

TOM KIRK: To the town, absolutely.

REP. SHARKEY: To the town, and therefore property taxes are--

TOM KIRK: It's a huge impact to the towns. I don't want to, I apologize if I'm misstating that. The town leaders we deal with are very, very focused on this because it is, after you subtract the school board, it is the one very substantial manageable piece of their budget, and they are very, very interested in keeping that low.

I guess what I should say, what I want to say is that to the typical subscription service member, I live in Newtown and have a subscription service that costs me \$90 a quarter.

When tipping fees go up, I will get a price increase, but it will be very modest, a few dollars a quarter, to represent that \$5 or \$10 per-ton increase. And that's the point I want to make.

And that's not going to make me recycle more. What makes me recycle more is I want to do the right thing for the right reason and some day hopefully get to a smaller can and throw out less.

REP. SHARKEY: Thank you.

SEN. MEYER: Thank you, Tom. Let me remind the Members that we have about 16 more witnesses. Senator Prague, did you have a question further before we let Tom go?

SEN. PRAGUE: I would just like to ask him, I know this is not a hearing on Franklin, so I'm not going to bring that up. But I am, at this point, but I'm very curious as to what all of these plants do do with their ash.

What are you going to do with that mountain of ash in Hartford? The other plants must also have ash after they get through burning all the garbage. What do they do with it?

TOM KIRK: The ash left over from a trash energy plant is between about 5% and 8% by volume, so it's a very small amount. So for every 100 trucks that go into the plant with garbage, about 5 or 8 trucks exit with ash.

And that has to be dealt with. In Connecticut, as in most

of the rest of the country, it's managed in landfills. Here, we use the Putnam Landfill for the Bridgeport facility.

We ship, Bristol is shipped out of state to New York. CRRA uses the Hartford Landfill and will until about next month some time when it will be filled.

At that point, it will be covered, according to very strict DEP criteria, and returned for beneficial reuse to the community. It's owned by the city.

But fundamentally, that's an important question. We as a state have committed to trash to energy because it is, after reducing and recycling, it is the best way to deal with our waste.

It is much preferable to an MSW landfill. But we do need a place to put the ash. We don't need a big landfill because it's 1/20th of the original volume, but we do need a place if we're going to turn our garbage into renewable energy at our trash plants.

That need won't go away regardless of whether the plants are publicly owned or privately owned. We'll still need a place for this ash after the Hartford Landfill closes.

SEN. PRAGUE: And besides putting your ash into landfills, isn't there a technology available that you could pursue to make something useful and maybe profitable out of this ash?

TOM KIRK: Yes. And of course, we've discussed this in prior hearings with Senator Meyer as well. Unfortunately, and we would love, frankly, to be able to pursue that.

It's not presently permissible by the DEP to reuse our ash for a number of reasons that were mentioned earlier.

The technology is not the problem. The technology is there. There are states that do permit it.

But I should not that even in the states where it's permitted, it's generally not utilized because it's more cost effective to landfill.

That said, a publicly owned facility may find other reasons and benefits to beneficial reuse of the ash. Right now, DEP will not permit it.

The CRRA, way before my time, spent a lot of money trying to do that here in Hartford, could not get a permit, and it's not at the top of our list now, based on our discussions with the DEP. We don't think they are right to be changing their mind about it.

SEN. PRAGUE: So there's nothing else you can do, I'm surmising from what you said, that at this point, there's nothing else you can do with the ash, except to landfill it?

TOM KIRK: Yes. We can landfill it in other states. That is an option. And if the Franklin site is found to be not desirable as a landfill site, or the Legislature decides not to allow us to develop it there, then we would deposit our ash out of state.

SEN. PRAGUE: Or Putnam. Doesn't Putnam have--

TOM KIRK: Putnam has about ten years left, yes.

SEN. PRAGUE: Okay.

TOM KIRK: And at substantially higher cost. It's about \$10 per ton difference between publicly owned ash landfill and a privately owned ash landfill, wherever it is, because we talked about if your landfill is far away, you collect less money at the gate, and you spend it on driving it up there.

But the public versus private ownership issue adds about \$10 per ton for the garbage when it comes to ash landfill ownership.

SEN. PRAGUE: And I just have one more question, Mr. Chairman, if that's okay. Has there ever been any attempt to negotiate a better price with this private landfill owned by Wheelabrator out in Putnam?

TOM KIRK: Yes, yes. And we did get a better price for the next three years, but it's still substantially more than it would be if we owned our own private landfill. It's still market price.

SEN. PRAGUE: Well, Mr. Kirk, I'm sure our paths will cross again in the future, but I do thank you for your answers today.

TOM KIRK: Thanks for the warning, Senator.

SEN. MEYER: Guard yourself.

TOM KIRK: Thank you.

SEN. MEYER: Thank you, Mr. President. In accordance with our procedures, now an hour and 15 minutes since we started, and we're now going to be alternating the public witnesses with the public officials.

And the next witness is Bill Gilnack of AFSCME. And with our public members, hi, Mr. Gilnack, our practice is to keep your remarks to three minutes would be good, please, thank you.

BILL GILNACK: Good afternoon, Chairman Meyer, Chairman Wasserman, and Members of the Legislative Program Review and Investigations Committee.

My name is Billy Gilnack. I'm the treasurer of Local 184, AFSCME Council 4. I'm a little nervous. Our union represents the bulk of the workers at the Mid-Connecticut Project.

I'm here today to comment on Program Review's study of the privatization of resource recovery facilities owned by Connecticut Resource Recovery Authority.

Council 4 believes that privatizing resource recovery facilities similar to any other vital piece of public infrastructure will be harmful to the public in the long run.

Our country has seen many privatization experiments that have involved selling off public highways, drinking water reservoirs and plants, railroad lines, and other parts of the public infrastructure.

Almost every one of these privatizations has turned out to be a losing proposition for the public.

As municipal landfills around our state continue to close because they have reached capacity, resource recovery facilities will become ever more valuable.

By keeping these facilities in public hands, the state will have some ability to control the cost to the public of the basic, costs to the public of the basic necessity of getting rid of or recycling solid waste.

If these facilities are privately controlled, there will be very little ability for the government to stop owners from seeking the highest possible profit and gouging the public.

If the public decides that CO2 emissions need to be reduced, public ownership of resource recovery facilities is vital.

The public will then be able to dictate the policy of what is separated out of such facilities and what is burned.

In private ownership, strict adherence to burning is more likely. It is cheaper on the whole to continue to burn waste than to go through the more expensive process of separating out reusable waste.

There will be a profit incentive for private resource recovery facilities to lobby against government attempts to pass laws to increase recycling and cut down on burning.

News reports show that organized crime infiltration, as we talked about earlier today, into the solid waste disposal continues.

Even though there have been recent arrests and convictions in our state and neighboring states, the infiltration by organized crime into solid waste has a long and seemingly endless history.

Selling off publicly owned resource recovery facilities certainly opens the risk that such facilities could be susceptible to organized crime infiltration.

Where organized crime is involved in solid waste disposal, the public cost goes up, as evidenced by a *New York Times* article that we include with our submitted testimony.

We hope that the Committee will look into the matters that we raise. We will be happy to provide any information that you request regarding our testimony, and I'd be happy to answer any of your questions that the Committee may have.

SEN. MEYER: Mr. Gilnack, what's the basis of your information that Mid-Connecticut is going to go private? Can Mr. Gilnack answer that, Brian, or is, or do you have the information?

BILL GILNACK: Brian has got the information.

SEN. MEYER: Okay. We're going to get to you. You're going to be a, you're on the witness list. You can't answer that?

BILL GILNACK: I can't answer that, no.

SEN. MEYER: Okay. Any other questions? Yes, Senator Kissel.

SEN. KISSEL: Thank you very much, Mr. Chairman. And knowing that we have a lot of people, I'm just going to make this brief.

God willing I get reelected, the whole interest of this Committee, from my perspective, is not to privatize, but I'm more concerned about the ones that are destined to be privatized maybe having some kind of public oversight.

So as far as I'm concerned, what you folks are up to in your membership, and there's no reason to be nervous coming and testifying in front of us, I think all the testimony we've heard all day today, including the results of the report, bolster your arguments.

And the best value for the public are the publicly owned resource recovery authorities. And so to the extent we can keep those precious resources, I think we'll all be better off.

I'm just speaking for me, but your words are not falling on deaf ears. I think many of us are probably in agreement.

BILL GILNACK: Thank you.

SEN. MEYER: Any other questions? Thanks, Mr. Gilnack. Our next witness is Mayor Robert Veins, followed by Brian Anderson, followed by Mayor Currey

SEN. MEYER: Our next witness is Brian Anderson, followed by Mayor Currey, followed by Dr. Mark Mitchell.

And, Brian, I'd appreciate it if you would address the question I asked because you, the prior asked person didn't, kept talking about the fact that Mid-Connecticut was going to go private, and I just wondered what the basis for that was.

BRIAN ANDERSON: Would you like me to give my testimony first or answer the question first?

SEN. MEYER: I think because his testimony has been so recent, would you mind answering that question first?

BRIAN ANDERSON: Yes. We had been very much under the impression that CRRA would like to privatize these facilities. That is our assumption.

That's based on, I would say, the strenuous manner that CRRA has tried to break its contract. It runs until 2012, but the Metropolitan District Commission, the government entity, to run the Mid-Connecticut project.

Also, I have to admit, I guess this fits a little under the category of actions speak louder than words. I know of CRRA to be a very aggressive agency when they want something.

Hence, in their attempt to break that contract with MDC, I think they've spent well over a million dollars in public money tussling with another public agency to get out of a legitimate contract that ends in 2012.

This matter was brought to arbitration. Both sides, MDC and CRRA, agreed on an arbitrator. The arbitrator found out that the contract was being honored in performance by MDC and that CRRA should back off.

Yet, they did not honor that arbitration and took things to court. So if they oppose privatization, it's the first I've heard of it. And I guess it's been rather muffled opposition to it.

Why, the CRRA has a very capable lobbyist up here. They've got a big public relations operation. This is the first I've heard that they oppose privatization of any of these facilities.

This is September 23rd. The first facility transfers

ownership January 1st of 2009 up in Bristol. I mean, where have they been?

SEN. MEYER: Why don't you go back to your testimony, thank you.

BRIAN ANDERSON: Okay. Well, I'm a representative for AFSCME Council 4, a union of 35,000 public employees in Connecticut. As you've heard Mr. Gilnack speak, we represent the workers at the Mid-Connecticut Project.

And we're particularly concerned at Council 4. The two private corporations with troubled histories operate almost Connecticut's entire resource recovery infrastructure.

The only thing that could be worse than them operating these facilities, managing the operation, is if they were either [inaudible] get control through long term leases.

One is the Covanta Energy Corporation. This corporation is involved in the management and operation of six, four of Connecticut's six resource recovery facilities.

The other is the Wheelabrator Corporation, whose parent company is Waste Management, Inc., that runs the state's other two resource facilities.

Both of these corporations have bad financial histories. Covanta went bankrupt in 2002. The *Virginia-Pilot Newspaper* reported in 2006 that one well-known financial advisor this year labeled the company at bad risk.

The *Chicago Tribune* reported that in 2001, Waste Management, Inc., agreed to pay \$457 million to settle a class-action lawsuit that allegedly violated federal security laws by misleading investors about its finances in order to bolster its stock price.

The *Los Angeles Times* reported in 2005 that the Securities and Exchange Commission fined Waste Management over \$30 million for accounting fraud.

Both of these corporations have been cited on numerous occasions for pollution. Both have records of not listening to citizen and government complaints when asked to curb pollution.

I've included numerous news articles for all of you detailing this, not just saying it but showing it.

And a question begged by the involvement of these corporations with resource recovery facilities is what has been the role of the CRRA?

It seems to me it's been missing in action. I'm just amazed that this issue of the change of hands of these facilities hasn't been brought up.

I haven't seen one piece of legislation. Every year, CRRA proposes legislation up here. I haven't seen one piece of legislation suggesting the state bond and buy these facilities.

I haven't seen one piece of legislation suggesting regulation of these facilities. The sort of bills I see, CRRA put in our, you know, bills to enhance the recycling museum they run. I'm just, I'm stunned at Mr. Kirk's testimony, and I'd be happy to answer any questions.

SEN. MEYER: Senator Kissel.

SEN. KISSEL: Thank you very much, Chairman Meyer. Well, Mr. Anderson, thank you for coming and testifying.

BRIAN ANDERSON: Pleasure.

SEN. KISSEL: I know you're sort of, clearly, your testimony is that you're shocked. But on the upside, my recollection of Mr. Kirk's testimony, just about half hour, 45 minutes ago, was he said, you know, these municipal organizations, these regional organizations can be given bonding authority, that CRRA has bonding authority, and that, from what I gathered, from what I heard, as of today, he testified that they were opposed to privatization.

And whether that will actually work to stop what's destined to take place, apparently, January 1st, but at least, I mean, setting aside the, sort of the surprise that you feel, at least on the upside, it does appear that they are onboard with your position at this point in time.

And that's part of why I think a lot of us wanted to try to get our arms around this issue.

To be honest, sort of knew it was out there, but when we decided to do this scope of this investigation, to be honest, I didn't even know it was online to start occurring January 1st, 2009.

We just knew there was stuff in the wind and the Legislature should be aware of it. And so that's why we're doing what we're doing. Maybe we helped precipitate all of this.

BRIAN ANDERSON: I'm glad 97 days away from the date of that first turnover to private industry, the Bristol authority, that Mr. Kirk is speaking before you on this issue. It just begs the question, where's the state's watchdog been?

UNIDENTIFIED SPEAKER: [inaudible - microphone not on]

BRIAN ANDERSON: Thank you.

SEN. MEYER: Senator Fonfara?

SEN. FONFARA: Thank you, Mr. Chairman. Brian, I think there may be a little bit of confusion for us up here in that the question about whether CRRA wants to privatize or not, I don't think that they're seeking to sell off the Mid-Connecticut facility.

It won't be owned privately when the bonds are paid up. It will maintain as a public facility.

What you're speaking to is the operations of the facility and whether that's publicly managed or not. Am I right in saying that?

BRIAN ANDERSON: Well, Senator, again, I refer back to actions speak louder than words. We've seen in unprecedented attempts, particularly by Republican administrations, to sell off the government's infrastructure, both on a federal and a state level.

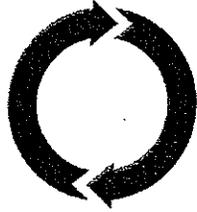
Now there has been an agreement, a long-term agreement, between the MDC, which provides the workers to operate the Mid-Connecticut project and CRRA. It's one that's kept rates low for the CRRA ratepayers.

There was such aggressive action to get government out of this and to get it in the hands of Covanta, who I said has a very checker record.

Please follow up on the things I've brought. If you do a Google search on this company, you'll be amazed at what you'll find in about the first two minutes of searching.

I'm under the impression that the privatization road has

CRRA RFQ to Privatize Operation of
Mid-CT Project.
Submitted by Council 4 AFSCME



CONNECTICUT
RESOURCES
RECOVERY
AUTHORITY

**REQUEST FOR QUALIFICATIONS
FOR
OPERATION AND MAINTENANCE OF THE
MID-CONNECTICUT RESOURCES RECOVERY
FACILITY**

(RFQ Number 10-OP-002)

**STATEMENT OF QUALIFICATIONS DUE DATE:
NOVEMBER 4, 2009**

***SERVICES OVERVIEW AND QUALIFICATIONS
SUBMITTAL REQUIREMENTS***

**CONNECTICUT RESOURCES RECOVERY AUTHORITY
100 CONSTITUTION PLAZA
HARTFORD, CONNECTICUT 06103**

DATED: SEPTEMBER 14, 2009

1. INTRODUCTION

The Connecticut Resources Recovery Authority ("CRRA") is issuing this Request for Qualifications ("RFQ") to obtain Statements of Qualifications from entities interested in operating and maintaining CRRA's Mid-Connecticut Resources Recovery Facility ("Facility") located in the South Meadows area of Hartford, Connecticut. By mid-November 2012, or sooner, the bonds for the Facility will be retired, the municipal service agreements that supported the bonds will have expired and the contracts with the current operators of the Facility will have terminated.

Through this solicitation, CRRA will evaluate an interested entity's qualifications in relation to two separate and distinct business models being evaluated by CRRA as described below. CRRA intends to implement the model which will provide the best value to the Connecticut municipalities that CRRA will serve. In determining which model will provide the best value, CRRA will depend on the bids submitted by entities in response to a request for bids that will be subsequent to this RFQ.

* 1.1 Business Model 1 – O&M of the Facility via a Management Agreement

Under Model 1, CRRA will have direct responsibility for overall management of the Facility. Planning, personnel, materials, and other items needed to operate and maintain the Facility on a daily basis will be provided by Contractor. It is estimated Contractor will need to provide between 115 and 130 employees (exclusive of sub-contract labor) to properly operate and maintain the Facility on a day-to-day basis. Contractor will be reimbursed on a cost plus fixed fee basis.

* 1.2 Business Model 2 – O&M of the Facility via an Executive Agreement

Under Model 2, Contractor will be solely responsible for the operation and maintenance of the Facility, including expenditures for capital projects. Under this business arrangement CRRA will reserve for its use an as yet unspecified maximum amount of tons (at a rate to be negotiated) at the Facility with the remainder available for use by the Contractor. The Contractor will receive the tip fees, electric revenues and any other revenues generated by the facility.

2. OVERVIEW OF CRRA AND THE MID-CONNECTICUT RESOURCES RECOVERY FACILITY

2.1 Connecticut Resources Recovery Authority

CRRA is a quasi-public entity, a body politic and corporate, created pursuant to Connecticut General Statutes Chapter 446e, Section 22a-261, as a public instrumentality and political subdivision of the State of Connecticut (the "State"). CRRA has the responsibility for implementing solid waste disposal and recycling programs throughout the State in accordance with the State Solid Waste Management Plan, and is authorized to issue and sell bonds and notes to accomplish this purpose and to enter into contractual arrangements with the private sector where such arrangements will best accomplish CRRA's purposes. CRRA oversees a statewide



December 11, 2009

Connecticut Resources Recovery Authority
100 Constitution Plaza, 6th Floor
Hartford, CT 06103-7722

Re: Connecticut Resources Recovery Authority
Board Meeting of January 29, 2009

Gentlepersons:

The Board of Directors of CRRA conducted a meeting on January 29, 2009 and passed the following resolution:

“RESOLUTION REGARDING THE MDC CLAIM FOR PAYMENT OF ESTIMATED POST-PROJECT COSTS.”

Chairman Pace requested a motion to approve the above-captioned item. Vice Chairman O’Brien made the following motion:

RESOLVED: That the President is hereby directed to proceed as discussed in Executive Session.

The motion was seconded by Director Miron.

The motion previously made and seconded was approved unanimously by roll call.

Please provide all notes, memoranda or other recorded materials concerning the matters discussed in Executive Session and thereby included in the public resolution.

We look forward to your prompt and timely compliance with our request.

Very truly yours,

Sal Luciano
Executive Director
Council 4 AFSCME, AFL-CIO

SL/mcb

cc: Brian Anderson

- Executive Director
Sal Luciano
Local 2663
State of CT - DCF
- President
Thomas Ledoux
Local 2930
Town of Newington
- Secretary
Clarke King
Local 1716
City of Hartford
- Vice-Presidents
Linda Armstrong, Local 355
State of CT - Administrative/Clerical
- Mark Blumenthal, Local 566
Hartford Board of Education
- Christine Bourne, Local 466
City of Middletown
- Carol Carney, Local 269
State of CT - Dept. of Labor
- Steven Cantan, Local 1565
State of CT - Corrections
- Tony Duarte, Local 749
State of CT - Judicial
- James DiMonaco, Local 2836
State University Administrator
- Joseph Manes, Local 1579
City of Torrington
- Berinda May, Local 114
State of CT - Social Services
- Anna Montalvo, Local 1622
City of Bridgeport
- Roberta Price, Local 610
State of CT - Administrative/Clerical
- Ray Soney, Local 387
State of CT - Corrections
- Thomas Stough, Local 991
Town of Manchester
- Thomas Verderame III, Local 3144
New Haven Supervisors
- Claudine Wilkins-Chambers, Local 3429
New Haven Paraprofessionals
- Edward Zimnoch, Local 1303
CT Municipals





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FAX (860) 757-7740

VIA USPS FIRST CLASS MAIL AND FACSIMILE

December 16, 2009

Mr. Sal Luciano
Executive Director
Council 4, AFSCME, AFL-CIO
444 East Main Street
New Britain, CT 06051

RE: FOIA Request Dated December 11, 2009

Dear Mr. Luciano:

I am writing in response to your request pursuant to the Connecticut Freedom of Information Act for "all notes, memoranda or other recorded materials concerning the matters discussed in Executive Session..." at CRRA's January 29, 2009 Board meeting.

The Authority has no public records responsive to your request.

Please note that records pertaining to strategy with respect to pending claims or litigation and communications privileged by the attorney-client relationship are exempt from disclosure pursuant to Section 1-210(b) of the Connecticut General Statutes.

Very truly yours,

A handwritten signature in black ink, appearing to read "S. Rice".

Stephannie Rice
Document Control Specialist

Brian Anderson

Subject: Emailing: CRRA Didn't Notice An Earth Mover Was Missing -- CTnow.htm

ctnow.com/news/connecticut/hc-missing-bobcat-0214.artfeb14,0,7358628.column

CTnow

GOVERNMENT WATCH

CRRA Didn't Notice An Earth Mover Was Missing

Jon Lender

Government Watch

February 14, 2010

Pens and paper clips have a way of departing from offices in employees' pockets, by mistake or otherwise, and nobody's too surprised. But when earth-moving machinery worth \$45,000 disappears, that's a different matter. A police matter.

That's what happened recently at the state's trash disposal and recycling agency, called the Connecticut Resources Recovery Authority — which operates recycling and garbage-disposal facilities in Hartford such as the big trash-to-energy generating plant in the southern part of the city near the Connecticut River.

What disappeared was a nearly new \$29,000 Bobcat S205 Skid-Steer loader, purchased in May 2009 by the CRRA — along with related equipment: an \$8,100 backhoe attachment, a \$3,200 auger drive unit, and a \$4,700 pallet fork attachment.

It was taken last October to Massachusetts, advertised on craigslist, and then sold to a New Hampshire landscaper for \$34,000. Now a \$96,000-a-year CRRA operations engineer official, Richard Kowalski, has been accused of stealing it and is charged with first-degree larceny. Kowalski, who was fired on Nov. 6, is free on a \$75,000 cash bond and scheduled to appear Tuesday at Superior Court in Hartford.

His attorney, Michael Georgetti, said Friday he can't comment other than to say his client will plead not guilty on Tuesday.

CRRA officials have made no public mention of the episode. This is the first news report about it; The Courant last week obtained the five-page affidavit submitted by Hartford police to obtain the warrant for the arrest of Kowalski, 29, of Wilbraham, Mass. He turned himself in to Hartford detectives on Feb. 3, and police noted it with a brief entry on the daily arrest log.

While the alleged crime and its unraveling are an intriguing saga, there's another element to all of this: It makes you wonder how they keep track of things down at the CRRA.

The trash agency only found out about the missing equipment after the New Hampshire landscaper who

bought it gave its serial number to a Bobcat company representative — in hopes that the company would help him with some financing on the cash purchase he'd just made. The company traced the serial number, realized it had been sold only six months earlier to the CRRA, and contacted the agency.

The CRRA's president, Thomas Kirk, got the call on Oct. 26 from a Bobcat company representative, who "found it odd that CRRA would purchase and then sell a brand-new Skid Steer and its attachment to a third party in such a short time period," according to the police arrest-warrant affidavit. Kirk reported the matter to police, and they began the investigation that led to the return of the Bobcat and the arrest of Kowalski, who had worked there 17 months.

Here's how it all happened, according to the police affidavit:

On Oct. 16, an employee of Imperial Landscape Design in Derry, N.H., was looking through craigslist and saw an ad for a Bobcat "with only 9.2 hours of usage." Imperial's owner, Alain Boutot, had been talking to a Bobcat sales representative about buying a used one anyway, and the craigslist ad looked like a good prospect. That same day, Boutot called the phone number listed in the ad — which turned out to be Kowalski's mobile phone, the affidavit said — and spoke to "a Rich who answered the phone."

Boutot and his employee drove for more than an hour to Wilbraham that same day to look at the Bobcat in Kowalski's driveway. They quickly agreed on a price of \$34,000. Kowalski told him he "needed a few days to gather the paperwork," the affidavit said.

Boutot left, bought a trailer to pick up the Bobcat, and returned on Oct. 20. They picked up all the equipment except the fork attachments at Kowalski's house, then went to get those at Kowalski's father's home a few miles away, the affidavit said. Boutot gave him a cashier's check, and the two men signed a typed bill of sale, the affidavit said.

"Several days later Boutot received a call from Rich, who was begging him to sell back the Bobcat ... along with all its attachments," the affidavit said. "Rich explained he had sold it too early [and] was supposed to have waited a full year before selling the machines, per a contract. ... Boutot reluctantly agreed to resell Rich the machines. The next day Rich arrived at Boutot's business [in New Hampshire], returned his money, picked up all the items he had sold him and drove away."

Around Oct. 29, the affidavit said, a detective called Kowalski at the same number that Boutot did, and asked about the missing equipment. Kowalski, "while not admitting to taking and selling the ... articles, did state that he knew the whereabouts of the missing articles," the affidavit said.

Later that day, Kowalski told police the equipment was in a warehouse on the trash agency's property at 211 Murphy Road in Hartford, where the CRRA visitors center and recycling facility are located, the affidavit said. Police found it there. CRRA officials told police, however, that the warehouse had been searched previously by employees including the agency's \$145,000-a-year director of operations, Michael Tracey, and the equipment hadn't been there then.

Tracey resigned effective Feb. 1, CRRA spokesman Paul Nonnenmaecher said. Nonnenmaecher called it "a personnel matter" and declined further comment. Tracey couldn't be reached Friday.

Trash agency officials have shown police documents "which they suspect showed a link between Kowalski and other missing pieces of equipment at CRRA," the affidavit said, and that is the subject of a separate investigation.

Boutot said in a telephone interview Friday that, in selling the equipment, Kowalski told him he had

bought it from the company he worked for. Boutot said the police had interviewed him and told him he was lucky he'd sold it back to Kowalski because if he'd still been in possession of it, they would have confiscated it and he would have been out \$34,000.

Nonnenmacher, the CRRA spokesman, said Bobcats are used to move garbage around in the intake area of the Hartford trash-to-energy plant, in an area operated by the Metropolitan District Commission under a contract with the CRRA. He said the MDC runs the Bobcats and is supposed to keep track of them.

But the MDC produced invoices Friday from the Bobcat firm showing that three machines bought by the CRRA last year were delivered to the area it operates at the Hartford trash-to-energy plant, at 300 Maxim Road in Hartford. The MDC still has those three machines in its custody, said MDC counsel R. Bartley Halloran. The Bobcat in question was a fourth one — not one of the three the MDC has been using, Halloran said.

Halloran produced an invoice showing that the fourth Bobcat — with the same serial number mentioned in the affidavit for the arrest warrant — had been delivered to 211 Murphy Road, the CRRA property that includes the visitors center and recycling facility. That property is separate from the trash-to-energy plant on Maxim Road about a quarter-mile away. "We never had possession of it, or an invoice for it," Halloran said "It has nothing to do with our operation, or our system of keeping track of things, which is working just fine. ... There's no question about that."

Jon Lender is a reporter on The Courant's investigative desk, with a focus on government and politics. Contact him at jlender@courant.com, 860-241-6524, or c/o The Hartford Courant, 285 Broad St., Hartford, CT 06115.

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