

**Final Report**

**WASTE MANAGEMENT,  
INC.**



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## ATTACHMENTS

- A. **News/Sun Sentinel articles:  
"The Titans of Trash"**
- B. **Ventura County Sheriff's Department Report**
- C. **Civil Complaint:  
State of Wisconsin v. Acme Disposal, et al.**
- D. **Criminal Information and Settlement Agreement:  
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I.

**INTRODUCTION**

In late 1990, Waste Management, Inc., filed for a major use permit seeking to develop a privately owned and operated landfill site to be located at Gregory Canyon in San Diego North County. For this project to proceed, the San Diego County Board of Supervisors needed to approve a number of permit and zoning change applications presented by Waste Management, Inc. On November 21, 1990, prior to such approval, the Board passed a resolution requesting that the District Attorney conduct an investigation of Waste Management, Inc. In a memorandum to this office, dated December 10, 1990, Supervisor Susan Golding listed the following specific concerns regarding Waste Management, Inc.:

**Allegations of price-fixing and other anti-trust violations**

**Allegations of criminal conduct**

**Allegations of environmental contamination and illegal dumping of toxic and hazardous materials**

**Allegations of inadequate liability insurance held by WMI on their municipal and hazardous waste operations**

**Allegations of organized crime connections**

Initially, we anticipated the full cooperation of Waste Management, Inc., which would have included the company granting waivers of confidentiality and defamation

liability. We considered these conditions essential for a full and complete investigation, since it would have included unlimited access to company records. However, the company refused to grant these waivers.

Our investigation has consisted of acquiring information from a number of sources including the public media, the public records of various governmental bodies, prior investigations conducted by both public and private organizations and the reports and records of other law enforcement agencies.

In 1987, the News Sun-Sentinel of South Florida published the results of an investigation conducted by a team of reporters who examined the nationwide operations of Waste Management, Inc., and Browning-Ferris Industries, Inc. [A copy of that report is included as Attachment A.]

Waste Management, Inc., is currently involved in efforts to open a privately operated landfill in Ventura County near Ojai. A member of the Ventura County Board of Supervisors, Maggie Erickson-Kildee, requested that the Ventura County Sheriff's Department conduct a background investigation of the company and its activities. On September 20, 1991, the Ventura County Sheriff's Department issued their report. The Ventura report includes a survey of environmental and anti-trust violations committed by the company. The fines and settlements related to these violations total approximately \$52.3 million. [A copy of the report is included as Attachment B.]

Our investigation also included an inquiry into the activities of Waste Management, Inc., in San Diego County. District Attorney investigators interviewed a number of witnesses who had either past or present associations with Waste

Management, Inc., to determine if the company or its associates had committed criminal violations of law while engaging in local political or business activities.

A synopsis of our investigation and initial conclusions was presented in an interim report to the San Diego County Board of Supervisors in August 1991. At that time our investigation was still underway, so the Interim Report was presented confidentially. This Final Report is a public document and contains all the data which appeared in the Interim Report as well as additional material developed from the investigation from August 1991 to the present.

## II.

### COMPANY HISTORY

In 1968, Waste Management, Inc., was formed by the combination of three smaller companies. Those companies were Ace Scavenger Service and Acme Disposal Company of Chicago, and Southern Sanitation Service of Fort Lauderdale, Florida. Ace Scavenger Service was owned and operated by Dean and Elizabeth Huizenga Buntrock. Southern Sanitation Service was owned by Mrs. Buntrock's cousin, Wayne Huizenga. The main principal of the third company, Acme Disposal, was Lawrence Beck. Dean Buntrock, Huizenga and Beck became the principal officers of the corporation with Mr. Buntrock as chairman of the board and president.

The company is incorporated under the laws of the State of Delaware and its headquarters are located in Oak Brook, Illinois (a suburb of Chicago). The company went public in 1971 and since that time has exhibited an aggressive and rapid rate of growth. The primary method of expansion has been acquiring and assimilating smaller waste hauling companies. Once having acquired a smaller company as a subsidiary, it was the general practice to maintain the management of that company in place. A number of these subsidiaries have continued to do business under their original business titles. An example of the rate of growth of the company can be seen in its corporate acquisitions from 1980 through 1986. During that period, the company acquired over 350 businesses involving the transfer of over \$250,000,000

and 5.5 million shares of stock. Waste Management, Inc., is currently the largest waste disposal firm in the world, with operations throughout the United States, Europe, Asia, Latin America and the Middle East. The company's operations include municipal and rural trash cartage, hazardous waste cartage, the operation of waste landfills, hazardous waste incineration and municipal recycling programs. In 1990, its revenues exceeded \$6.03 billion, with earnings of \$684.8 million.

In addition to the proposed Gregory Canyon landfill project, Waste Management has a considerable presence in San Diego County which include the following companies: Waste Management of San Diego, Waste Management of North County, Universal Refuse Removal of El Cajon, Independent Waste of Fallbrook, and Oceanside Disposal.



### III.

#### ENVIRONMENTAL PROBLEMS

Since its establishment, Waste Management, Inc., and its subsidiaries have been defendants in a significant number of legal actions involving environmental violations. Most of these alleged violations arose from operations involved with the storage and incineration of hazardous wastes. The fines and assessments levied as a result of these environmental law violations have totaled millions of dollars. For instance, the combined fines and civil settlements levied in cases involving Waste Management sites located at Vickery, Ohio, and Emelle, Alabama, have amounted to over \$30 million. This figure does not include the amount of money spent by Waste Management in defending itself.

Greenpeace has estimated that since 1980 the company has paid over \$43 million in fines, penalties and out-of-court settlements related to alleged violations of environmental laws at its dump sites. At least forty-five Waste Management owned or operated waste sites have been found to be out of compliance with Federal or State environmental regulations, and at least five sites have been ordered closed by regulatory agencies.

Greenpeace has also reported that between 1980 and 1983 over 547 citations and orders related to pollution violations were issued against Waste Management.

Between 1984 and 1987 the number of citations and orders were estimated to have increased to 632.

A 1989 United States Securities and Exchange Commission (SEC) report related that Waste Management had admitted that it was under United States Environmental Protection Agency (EPA) investigation in eighty-nine Superfund cases. Its subsidiary, Chemical Waste Management, was involved in twenty-five Superfund investigations. To what degree these investigations may affect the company's ability to financially underwrite future environmental damages is unknown, but the ability to acquire liability insurance could be impacted. Citizen's Clearinghouse For Hazardous Wastes, Inc., has reported that the terms of its major policy require the company to indemnify its insurer for any losses. The effect is more akin to an open letter of credit than an insurance policy.

In its 1990 report to stockholders, Waste Management, Inc., stated that if "the company continues to be unsuccessful in obtaining risk transfer Environmental Impairment Liability Insurance coverage, the company's net income could be adversely affected."

The insurability status of Waste Management, Inc., presents a problem since it is not clear whether a governmental authority can effectively insulate itself from financial responsibility by approving privatization of waste disposal operations. If a governmental entity acquires subsequent ownership of a landfill, perhaps even a minor interest, it may also acquire liability for environmental damages occurring at the site. In Pennsylvania v. Union Gas Company (1989) 109 S.Ct.2273, the United States

Supreme Court determined that the states retain responsibility for pollution costs at disposal sites acquired from private entities, even if the property interest is merely an easement. Since environmental damage may not be discovered for many years after a facility has been shut down and the operator's withdrawal, the potential for future governmental liability bears serious consideration. Although lower courts have ruled that the granting of permits to private enterprise to operate waste dumps does not confer liability on the government, this issue has yet to be addressed by the Supreme Court. In the event that a private party falls victim to the pollution of a bankrupt permittee's wrongdoing, the Court may rule that public policy mandates that a governmental body must assume a de facto underwriter's position when granting a permit for the enterprise.

It is difficult, if not impossible, to compare Waste Management's environmental record with that of the industry or its competitors. Given the fact that it is nearly twice the size of its nearest competitor, and in many instances enjoys a virtual monopoly of certain aspects of the hazardous waste disposal market, the figures simply do not lend themselves to meaningful comparison.

#### IV.

### SIGNIFICANT ENVIRONMENTAL CASES

What follows is a discussion of some of the more significant environmental cases revealed during the investigation. Many of the cases took a number of years to resolve while some remain active cases. The cases are listed as examples only and represent only a portion of the environmental law violations charged against the company.

#### Alabama:

Chemical Waste Management (a 70-percent owned subsidiary of Waste Management, Inc.) is a company handling hazardous waste disposal nationwide. The company operates the largest hazardous waste landfill in the United States, which is located in Sumter County, Emelle, Alabama.

In January 1984, the EPA charged Waste Management with thirty-eight counts of improper disposal of highly toxic polychlorinated biphenyl (PCB) chemicals. Later that year, traces of PCB were found in a drainage ditch and swamp located outside the landfill. Well test samples indicated there had been chemical migration from the landfill into local water supplies. Six months later, laboratory tests indicated that dioxin, a highly toxic chemical, was present in the site at unacceptable levels. At the end of 1984, the EPA entered into a consent decree with Waste Management which

included fines of \$600,000 for improper handling and storage of PCB. During April 1985, a fire at the Emelle site required the evacuation of all personnel from the area. Later that year, a pipe failure caused over a quarter of a million gallons of liquid waste to flow onto adjacent properties. In 1987, the landfill emitted a chemical cloud which caused headaches and eye irritations to the adjoining residents.

Waste Management, Inc., has been awarded several major cleanup contracts under federal Superfund legislation, including those from the Department of Defense. In 1983, the company certified to the Pentagon that all hazardous DDT military waste entrusted to it had been incinerated; when, in fact, an undetermined amount of the DDT waste had been mixed with 250,000 gallons of other toxic chemicals at the Emelle, Alabama, disposal site.

**California:**

Chemical Waste Management operates a chemical and hazardous waste dump at Kettleman Hills, California. In 1985, the EPA and Waste Management agreed to a consent decree involving fines of \$4 million stemming from the mishandling of hazardous waste, including PCB.

Since March 1988, a number of problems have occurred at the Kettleman Hills landfill. The integrity of the hazardous waste site was breached when a landslide surged forward and downslope, tearing out part of the liner system and displacing waste deposited at the site. In July 1989, Chemical Waste filed a lawsuit against Encom Associates of San Jose, charging that the accident was caused by design

failure. Encom designed the facility's plans and specifications, including depth, degree of slope, waste capacity and operational requirements. An independent investigation of the accident concluded that the slide was caused by incorrect fill configuration. In reply to this allegation, Encom's president, Thorley Briggs, stated the company did not accept any liability for the accident or admit any negligence or guilt and added, "This is a very complicated technical issue and frankly no one is quite sure what happened." While the accident caused no injuries or environmental damage, the EPA has ordered Chemical Waste to suspend operations, excavate more than one million cubic yards of waste, and repair the liner system before operations can resume. Encom Associates agreed to a \$5 million settlement with Chemical Waste Management, Inc. Grundle Lining Systems, Inc., of Houston, Texas (manufacturer and installer of the liner) agreed to pay Chemical Waste an undisclosed amount.

The California Department of Health Services imposed a fine of \$363,000 against Chemical Waste Management, Inc., for violations in the manner in which it operated its Kettleman Hills facility. The fine was imposed for eleven administrative and operational violations in the operation of its hazardous waste landfill. During 1988, the company was assessed a fine of \$80,000 in connection with a fire at the landfill.

During 1984, the EPA fined Chemical Waste Management \$2.5 million for a total of 130 violations at the Kettleman Hills landfill. Among other incidents, the EPA charged the company had allowed leaks from the landfill to contaminate local water supplies.

A lawsuit has been filed against Chemical Waste Management, Inc., alleging civil rights violations in its attempts to install and operate a toxic waste incinerator at its Kettleman Hills facility. The suit alleges Chemical Waste Management made a pattern of singling out poor, minority-populated communities as incinerator sites.

During March 1989, the San Jose Mercury News reported that the Kirby Canyon Sanitary Landfill (operated by Waste Management in Santa Clara County) was leaking toxic substances which posed a threat to the ground water assets of the County. Waste Management's initial response was to deny that any toxins were leaking beyond the site of the landfill. For the next year, the Regional Water Quality Control Board sought Waste Management's cooperation in identifying the source of the leakage and to take steps to rectify it. During July 1990, Waste Management was advised that at least part of the leakage was attributable to a six-inch leachate line which had ruptured and was leaking its contents into the surrounding earth. Although the pipeline ultimately was repaired, the environmental damage caused by the leakage has yet to be determined. Contrary to Waste Management's assertions, it is clear that the toxins have leaked beyond the boundary of the Waste Management landfill site.

**Illinois:**

During 1983, Chemical Waste Management was subject to a \$2.2 million suit filed by the Illinois Attorney General for violations of environmental laws at its CID Landfill located at Calumet City, Illinois.

The EPA fined Waste Management, Inc., \$37,250 in penalties for environmental violations at the hazardous waste dump located near Joliet, Illinois. The EPA cited Waste Management for failure to provide the agency with adequate information on ground water monitoring and waste treatment activities at the site. An EPA statement said Waste Management has "violated Federal Resource Conservation and Recovery Act regulations regarding the management of hazardous waste."

The EPA proposed a \$22,800 fine against SCA Chemical Services, Inc. (a subsidiary of Waste Management, Inc.). The EPA charged in its complaint that SCA Chemical Services failed to follow regulations to undertake a more aggressive monitoring program to learn the type and amount of chemicals located at its facility in Chicago. SCA Chemical Services was alleged to have operated a toxic waste incinerator without having checked for ground water contamination after indications of chemical seepage. Under regulations of the Federal Resources Conservation and Recovery Act, SCA Chemical Services was required to check monitoring wells for seepage from four ponds located at the site. Samples taken from the wells in July 1986 showed contamination.

The Illinois Environmental Protection Agency filed a suit to temporarily shut down the SCA Chemical Services, Inc.'s, southeast Chicago, toxic waste incinerator for environmental control irregularities. It was alleged that air monitoring devices at SCA were disconnected at least four times during 1986 and 1987 and that chemical waste containing toxic PCB was fed into the incinerator at rates 30 percent higher than allowed under state and federal permits.



Chemical Waste Management, Inc., (the parent company of Trade Waste Incineration, located in Sauget, Illinois) agreed to pay a \$250,000 penalty to the State of Illinois and make payment of \$30,000 to Illinois' hazardous waste fund instead of fighting a suit alleging that the company was in violation of the Illinois Environmental Protection Act. Trade Waste was acquired by Chemical Waste Management, Inc., in 1983. It has four incinerators used to destroy industrial and institutional hazardous waste. It was alleged that the company failed to properly monitor its incineration process and that as a result hazardous wastes were emitted into the air. In addition to paying the fines, the disposal company agreed to make improvements in its operating procedures.

Chemical Waste Management's incinerator No. 4, located at Sauget, failed test burns conducted during 1990. The unit was issued a permit in 1988 by the Illinois Environmental Protection Agency on the condition that such test burns occur prior to its full operation. Due to these failures of the facility to pass the test burns, the company faced significant delays in obtaining applications for two hazardous waste incinerators to be located in Niagara County, New York.

Mayor William Ottilye of Geneva, Illinois, asked the Geneva City Attorney to investigate the possibility of filing a complaint with the Illinois Environmental Protection Agency against the Settler's Hill disposal facility (operated by Waste Management, Inc.). The residents had complained, over a period of months, about the odors emanating from the disposal site. Those complaints resulted in a shut down of the operation for a short time during 1990 and officials of Waste Management, Inc.,

vowed to address the problem. A company spokeswoman stated that the firm had temporarily closed the facility it operated near Grayslake because of complaints about the odor, but stated the company would be seeking a Lake County permit to resume operations as a compost facility.

According to the January 19, 1990, issue of the Belleview News Democrat, a spokesman for the Illinois Environmental Protection Agency had stated that a chemical cloud released at Trade West Incineration, Inc., could have endangered people if it had floated over a populated area. The cloud was organic acid created from a chemical reaction in a machine used to blend waste products before they are burned. The company claimed the cloud was harmless; however, 70 employees were evacuated from the site. The company faces a maximum fine of \$10,000 for the release of the chemical into the environment.

Under a settlement announced by the EPA, Chemical Waste Management will pay a record \$3.75 million fine for pollution violations at its hazardous waste incinerator located on the south side of Chicago. The EPA called it the largest administrative penalty ever imposed on a single facility in EPA history. The fine stems from agency investigations of a whistle-blower's charges that during 1987 employees disconnected air pollution monitors while overloading the incinerator with highly toxic PCB. The EPA originally proposed a \$4.47 million fine for the monitor tampering last year, and Chemical Waste Management chose to appeal. Under the settlement, the company will drop its appeal and pay the reduced fine, but does not have to admit any wrongdoing at the plant.

**Kansas:**

During 1982, the Kansas Department of Environmental Health shut down the Waste Management disposal site at Furley, Kansas, (near Wichita) when toxic chemicals were found to have leaked into ground water.

**New York:**

In 1988, Chemical Waste Management was facing up to \$1.3 million in EPA fines for failing to comply with PCB handling regulations. The EPA said that the company was in violation for not testing every truckload of PCB tainted sludge that came into the Porter, New York, disposal facility from February to June 1985. A fine of \$25,000 a day for 48 days during the four month period was being assessed. The company also faced fines of \$85,000 for a series of separate, lesser violations during 1985 and 1986. Those violations also arose as a result of failure to comply with federal regulations for handling PCB.

Chemical Waste Management was fined \$1.32 million by the EPA for violations in its operation of a PCB Detoxification Unit at its Model City toxic waste disposal plant in Niagara County. Daniel Kraft, Chief of the EPA's Toxic Substances Section, said that the \$1.32 million fine stemmed from Chemical Waste Management's 1985 purchase of a mobile unit from Accurex Waste Technologies designed to dechlorinate the PCB. Kraft stated that when Chemical Waste Management applied to have the unit transferred from Accurex to Chemical Waste Management, they did not notify the officials that the unit had undergone "major modification." Initially, the EPA proposed

a fine of \$890,000; however, on June 18, 1990, the penalty was raised to \$1.32 million, after determining that the unit had been in use for a longer time than first reported.

During 1991, the communities of Lewiston, Porter, and Niagara County, New York, filed suit to intervene in a lawsuit between National Solid Waste Association and Chemical Waste Management, Inc., regarding the disposal of hazardous waste at Chemical Waste Management's No. 12 landfill in Porter. The communities and other environmental groups were opposed to the disposal of hazardous waste imported from other jurisdictions for disposal at a landfill they claimed was suffering from leaks and problems with its leak detection system.

Chemical Waste Management faces fines of \$7 million by the EPA stemming from charges that it was involved in improperly disposing of PCB contaminated sludge at its Model City plant in Niagara County, New York. The EPA complaint alleges that General Motors shipped 31,000 tons of the contaminated sludge between February 1, 1984, through August 15, 1987. Of that total, 10,000 tons went to Chemical Waste Management for disposal of which 2,500 tons were shipped to Chemical Waste Management's facility in Emelle, Alabama. General Motors and Cecos International were also charged in the complaint.

**Ohio:**

Chemical Waste Management's site at Vickery, Ohio, has given rise to a number of actions brought by the EPA and the Ohio Attorney General's Office. During 1983, the EPA charged the company with numerous violations of permits related to the handling of hazardous waste. The charges included selling home heating oil contaminated with PCB and dioxin. During 1984, the Ohio Attorney General's Office and Chemical Waste Management entered into a stipulated settlement whereby the company agreed to pay fines and assessments amounting to \$10 million. During 1985, the EPA brought actions against Chemical Waste Management alleging violations of the Toxic Substances Control Act and the Resources Conservation Recovery Act and sought fines in the amount of \$6.8 million. However, later that year, Chemical Waste Management agreed to pay a penalty of \$2.5 million to settle the suits. Since 1985, Chemical Waste Management has been cited for a number of other violations occurring at the Vickery site. The most recent violation arising in 1988 involves fines that may total as much as \$2 million.

**Oregon:**

Chemical Waste Management operates a hazardous waste disposal site at Arlington, Oregon. During 1985, the company was fined \$360,000 by the EPA for failing to keep proper records of what types of waste were received at the dump. The settlement also involved a \$250,000 donation by the company to the Oregon Environmental Fund.

**Texas:**

Chemical Waste Management operated a chemical waste dump at Port Arthur, Texas. During 1985, the State of Texas imposed a \$1 million fine for operations which included violations for an improper collection system and inadequate ground water monitoring.

**Wisconsin:**

During 1986, the Wisconsin Attorney General filed suit against Waste Management, Inc., and Waste Management of Wisconsin alleging that the companies failed to comply with rules and regulations for the operation of their landfill known as Omega Hills North. The complaint alleged that nearby ground water had been contaminated by hazardous materials leaking from the landfill and that the company had a deficient ground water monitoring program. In April 1989, Waste Management, Inc., and its subsidiary entered into a stipulated judgment with Wisconsin wherein they agreed to pay fines in the amount of \$800,000. This was the largest fine payment ever made in an environmental lawsuit in the State of Wisconsin.

**Mexico:**

Chemical Waste Management, Inc., owns a \$20 million incineration plant, Tratamientos Industriales Tijuana Internacional, S.A., located approximately five miles south of the international boundary on the Pacific coast near Tijuana. Despite company assurances to the contrary, local and national environmental groups have

expressed concern over the manner in which the plant may be operated and the threat that it poses to the environment.

**Canada:**

Waste Management, Inc., lost a \$28 million recycling contract in Vancouver due to its record of convictions.

## V.

### ORGANIZED CRIME CONNECTIONS

Historically, the refuse industry has been reputed to be infiltrated by members of organized crime. In many instances, this is a well-deserved reputation. The waste cartage business in certain areas of the country, primarily the northeastern seaboard, continues to be known as an industry with strong ties to traditional organized crime families. Where organized crime is involved in the hauling industry it is common to find a "property rights" system at work wherein customers are considered the "property" of the hauling company. Thus, there is no competition and the companies are free to set high service fees without concern that customers will be lost to competitors. Where organized criminals are involved in waste storage or landfill operations, fee skimming and money laundering are commonly applied schemes. In many instances, the disposal companies associated with organized crime have been fairly blatant in their disregard for state and federal environmental regulations. However, such unlawful business practices have not been limited to organized crime operated businesses.

The definition of "organized crime" is generally assumed to be merely another term for the Mafia, or traditional organized crime families. However, now the term "organized crime" may be applied to many criminal enterprises with divergent



interests. Any enterprise which is organized to circumvent the law for profit may properly be described as "organized crime."

In early 1960, Dean Buntrock (one of the founding members of Waste Management, Inc.) was charged with unfair business practices along with eleven other individuals. Most noteworthy are allegations that those charged had used threats of physical harm and intimidation against their competitors. The allegations in the complaint describe behavior and methods most typically associated with organized crime operations. Among the eleven individuals named in the lawsuit were relatives of John Mandella (a former head of the Librizzi-Mandella organized crime family of Milwaukee, Wisconsin).

Prior to the formation of Waste Management, Inc., Dean Buntrock operated Ace Scavenger Company. In 1962, the Wisconsin Attorney General filed suit in Milwaukee Circuit Court against eleven trash hauling companies, including Ace Scavenger. The companies were charged with engaging in a "conspiracy to restrain trade, to willingly injure the business of others, to hinder others from performing lawful acts, and an attempt to monopolize the rubbish collection, waste removal or disposal business in and around Milwaukee County." The owners of the companies, including Buntrock, were charged with "threatening physical harm to the owners of competing firms. . .and their families and destruction or damage to their property and equipment, or threaten to haul all their accounts for nothing" if they competed against the accused firms. The Milwaukee Circuit Court issued an injunction against the firms which remained in effect for eight years. During 1970, the action was dismissed after

the company owned by Buntrock and a number of the other accused firms became subsidiaries of the newly formed Waste Management, Inc. [See Attachment C.]

Ace Scavenger was a member of the Chicago Refuse Corporation, a trade association of trash haulers. During 1971, the Chicago Refuse Corporation was sued for price fixing and harassing competitors for the prior six years. The lawsuit was settled when Chicago Refuse Corporation paid \$50,000 as part of a consent decree, a clause of which indicated that the settlement did not involve an admission or denial of guilt.

During 1980, Waste Management, Inc., and SCA Services, Inc., were jointly charged with price fixing and restraint of trade in a federal anti-trust case in Georgia.

In 1984, Waste Management, Inc., proposed a tender offer for the acquisition of SCA Services, Inc. At that time, SCA Services, Inc., was the third largest waste handling firm in the nation with 1983 revenues of approximately \$391 million.

In September 1984, the United States Department of Justice announced the filing of a civil anti-trust suit, challenging the proposed acquisition, and a consent decree which resolved the alleged anti-trust violations. Under the terms of the consent decree, Waste Management, Inc., would promptly divest itself of about 40 percent of SCA Services, Inc., revenue-producing operations to a third company, Genstar Corporation of Canada.

SCA Services Inc., was the target of numerous Justice Department investigations into its alleged ties with organized crime figures. The president of SCA Services Inc., Thomas C. Viola, was described by federal law enforcement officials to

a congressional subcommittee investigating the rubbish industry as being "a business associate of organized crime." Viola had operated one of the largest trash hauling firms in northern New Jersey since 1952 until he sold it to SCA Services Inc., in 1972. In 1959, he was indicted in New Jersey in two cases involving bid rigging in connection with the rubbish industry; however, following the disappearance of a prosecution witness, Viola was found not guilty. The other case was dismissed.

During 1980, Peter Iommetti, owner of a New Jersey waste company, was observed and photographed at a meeting held with a high ranking organized crime figure and Ernest Palmeri, the business agent for the Teamster's local that helped organized crime elements enforce turf rights in the New Jersey rubbish industry. During 1972, Iommetti and his brother sold their solid waste company to SCA Services, Inc., however, they continued as managers.

During 1972, Ralph Mastrangelo, owner of a rubbish firm, was involved in extortion with August Vergaletto. According to law enforcement intelligence sources, Vergaletto was closely associated with the acting boss of the De Cavalcante organized crime family in New Jersey. In 1973, Mastrangelo sold his rubbish company to SCA Services, Inc., but remained in the business as an officer of SCA Services, Inc. During 1976, a New Jersey rubbish operator, Alfred Di Nardi, was murdered. Di Nardi had been underbidding SCA companies. After Di Nardi's death, a "peace meeting" was held in East Harlem, New York, by Mafia figures and the rubbish representatives. They decided that SCA Services, Inc., should get back some of the territories taken by Di Nardi. In one instance, SCA Services, Inc., was the sole bidder for some of Di

Nardi's old contracts, despite attempts by the user of the service to solicit eight other bidders.

During 1978, Gabriel San Felice (another New Jersey rubbish operator) was murdered. He had been contesting the rubbish "property rights" of Crescent Roselle, owner of a subsidiary of SCA Services, Inc. On December 22, 1980, Roselle was murdered and a congressional witness testified that Roselle might have failed to abide by the East Harlem agreements. During 1980 and 1981, a congressional subcommittee heard testimony from federally protected witnesses and law enforcement officials who charged that the New Jersey rubbish industry was essentially controlled by the Gambino and Genovese organized crime families, as well as the New Jersey Teamster's Union Local.

In 1972, Waste Management, Inc., acquired Universal By-products located in Los Angeles. This acquisition included the subsidiary known as Universal Refuse Removal Company of El Cajon, California. The owner of Universal By-products was Louie Visco. Visco had been the target of organized crime investigations for some period of time prior to 1972. He gained considerable notoriety in 1955 when Los Angeles Mayor Norris Poulson labeled him the "San Fernando Valley Rubbish Czar." A State Assembly subcommittee investigating the rubbish industry in Los Angeles was presented taped conversations in which Visco claimed to control the Los Angeles City Council, Board of Supervisors and the State Legislature. At the time of the merger, Visco owned 22 percent of Universal Refuse Removal. He was reported to have received \$1.7 million in Waste Management stock and options equal to 5.39 percent

of the outstanding stock. During 1981, J. Steven Bergeson, General Counsel of Waste Management, contended that Visco had divested himself of all stock he had acquired as a result of the merger. It is unknown what role or influence Visco has had in Waste Management, Inc., subsequent to 1981.

**VI.**  
**PUBLIC CORRUPTION**

The waste hauling and disposal industry is one subjected to constant regulation and review by public agencies, including operations, franchises and contracts. The waste industry has a fairly significant history of public corruption, although it is generally quite difficult to detect and prove violations of the law. Nevertheless, officials of Waste Management, Inc., subsidiaries have been the targets of corruption investigations and in some instances have been convicted of criminal offenses. In nearly all cases, company management has denied prior knowledge of the offender's conduct or official company involvement.

The SEC conducted an investigation into the operations of Waste Management in Florida regarding allegations that unlawful political contributions were being made. They alleged that Waste Management was skimming dump fees and using the proceeds to create an illegal "slush fund" to be used for political contributions. During 1976, Waste Management agreed to cease making "unlawful political contributions."

During 1983, three of five Hillsborough County commissioners were indicted and ultimately convicted on charges of attempting to extort \$75,000 from a developer. Harvey Sharp (an operations manager in the employ of Waste Management, Inc.) testified under a grant of immunity that he had offered bribes and gratuities to the county commissioners as a means of influencing their votes on

matters pertaining to waste hauling contracts. Sharp later stated that his activities were unknown to Waste Management corporate leadership.

In 1984, Florida State Representative Jack Tobin and four other individuals were indicted on bribery and unlawful compensation charges by a Broward County grand jury investigating alleged corruption in Margate city government. One of those indicted, Hal Stocket, was an official of Waste Management, Inc., which at the time dominated Broward County's waste management disposal industry. Among the allegations investigated was the award of a five-year garbage collection contract to Waste Management in spite of the fact that a competitive bid had been made which was \$884,640 less than the bid by Waste Management. Apparently no convictions emanated from this prosecution.

During 1985, John Forack (the general manager of HOD Disposal, a Waste Management, Inc., subsidiary in Illinois) was indicted and charged with mail fraud and Racketeer Influenced and Corrupt Organizations (RICO) forfeiture charges. It was alleged that he had bribed the mayor of Fox Lake, Illinois, and another public official in order to obtain a waste hauling contract. Forack was convicted after a jury trial, sentenced to jail and fined \$25,000. Waste Management officials maintained that Forack acted on his own and without corporate knowledge. Forack testified that he had paid the bribe money with his own funds, but expected he would be reimbursed by Waste Management officials.

During 1987, Raymond Akers, Jr., (a lobbyist and marketing representative for Waste Management, Inc.) was indicted along with Chicago Alderman Clifford Kelley.

The United States Justice Department sought the indictments at the conclusion of an investigation entitled, "Operation Incubator." They alleged that Akers had bribed Kelley in order to acquire an option to buy land for a waste transfer facility. Prior to trial, both Akers and Kelley pled guilty. Waste Management claimed that Akers acted on his own and not in the interest of the company.

On October 6, 1988, the superintendent and the director of the Department of Sanitation of New Orleans, Louisiana, reported that two municipal employees conducting an investigation of alleged over-charging of the city by American Waste, a Waste Management subsidiary, were threatened by employees of the company. The allegations were investigated by the Department of Justice, but no criminal indictments were issued.

During October 1988, Commissioner Garry McIntyre, of Clay County, Florida, was indicted for allegedly taking unauthorized payments from Waste Management, Inc. The prosecution alleged that McIntyre had applied for a job with Waste Management, Inc., at the same time that he was chairman of the Waste Disposal Committee with the Clay County commission. Charges against McIntyre were ultimately dropped.



## **VII.**

### **ANTI-TRUST AND UNFAIR BUSINESS PRACTICES**

Over the years, Waste Management, Inc., and its subsidiaries have been the targets of numerous investigations related to anti-trust activities. The company, its subsidiaries and employees have faced anti-trust lawsuits and government investigations in 17 states. Waste Management and its subsidiaries have paid millions of dollars in fines and other settlements for price fixing, bid rigging and other alleged illegal means of discouraging competition and establishing monopolies.

There appears to be a fairly consistent pattern of attempts by Waste Management, Inc., to dominate the market by acquiring smaller, independent operators, or forcing them out of the market by using predatory pricing methods. Given the size and resources available to the company, few, if any, of its competitors are capable of resisting its efforts to control local markets.

Following is a discussion of some of the more significant cases involving Waste Management, Inc., including three cases involving the company's activities in Southern California, two of which are directly related to its operations in San Diego County.

**Arizona:**

During July 1976, the Attorney General of the State of Arizona filed a complaint against Universal Waste Control of Phoenix (a subsidiary of Waste Management, Inc.) and its general manager, Joseph Klimoski, alleging that in 1973, Universal Waste Control began to acquire other local trash hauling companies and in so doing gained a substantial amount of the business in and around Phoenix. The Attorney General alleged that Universal Waste Control engaged in predatory practices to exclude competitors and that they also solicited agreements from competitors not to compete with Universal Waste Control. The suit was settled with the company agreeing not to violate anti-trust laws and to pay a \$15,000 fine. Klimoski was fined \$2,500.

During October 1976, Universal Waste Control was named in a federal civil anti-trust action filed by two competitors in Phoenix charging that the company had violated anti-trust laws by conspiring to fix prices since 1971.

During December 1981, a class action lawsuit was filed by the same two companies in Maricopa County Superior Court, Phoenix, Arizona, against Waste Management, Inc., Universal Waste Control and two other haulers. The complaint alleged violations of anti-trust laws and was ultimately settled with Waste Management, Inc., and Universal Waste Control agreeing to jointly pay \$80,000 of the \$110,000 settlement.

**California:**

In June 1987, the Los Angeles District Attorney filed a criminal anti-trust action against Waste Management of California (a subsidiary of Waste Management, Inc.) and Western Waste Industries of Gardena and Angeles Houston, Inc., (a Los Angeles garbage hauling firm). The firms, along with five employees, were charged with operating an illegal cartel which divided up customers among themselves, eliminating competition and inflating prices to artificially high levels. Wiley A. Scott, Jr., the operations manager of the Waste Management subsidiary, and Clifford R. Chamblee, the general manager for the Gardena, California, operations, pleaded no contest to criminal charges. Waste Management agreed to pay a \$1 million fine to settle what prosecutors later dubbed, "The largest criminal anti-trust case in California history."

On December 28, 1989, an information was filed against Dewey's Rubbish Service (a subsidiary of Waste Management, Inc.). The company was charged with engaging in customer allocation and price fixing in Orange County, California. On February 13, 1990, the company entered a plea of guilty and was fined \$1 million. [See Attachment D.]

On February 13, 1990, Waste Management of California, Inc. (doing business as Daily Disposal Service) pled guilty to one count of a criminal violation of the Sherman Anti-trust Act in connection with a conspiracy to allocate customers and fix prices of commercial and industrial trash hauling services in San Diego County beginning in 1983 and continuing thereafter through 1984. The company agreed to pay a fine in the amount of \$500,000 in settlement of the case. [See Attachment E.]

In November 1990, Waste Management, Inc., agreed to pay \$19.5 million to settle a class action civil anti-trust lawsuit charging price fixing for container refuse service. The lawsuit alleged that Waste Management, Inc., and Browning Ferris Industries, Inc., of Houston, (the nation's two largest waste haulers) had engaged in a nationwide conspiracy to violate anti-trust laws. San Diego County was named as one of the jurisdictions affected by the anti-trust activities of the companies. [See Attachment F.]

In September 1991, an investigation by the San Jose Police Department resulted in the execution of a search warrant upon the offices of Waste Management of Santa Clara County (a subsidiary of Waste Management, Inc.). The investigation revealed that Waste Management trucks were making collections outside the contract area for the City of San Jose, but were dumping the trash collected at the Newby Island landfill site claiming that it was collected within the franchise area. The City of San Jose's contract with BFI Inc., operator of the landfill, provided a rate nearly half of the regular "gate rate" for non-franchise area trash haulers. Thus, Waste Management of Santa Clara County was paying only half what it should have been for dump fees, while at the same time using up volume allocations reserved for the City of San Jose under its contract. [A copy of the affidavit for the search warrant is included as Attachment G.]

**Florida:**

During 1986, the manager of United Sanitation Services (a Florida subsidiary of Waste Management) was fined \$10,500 and sentenced to two years probation in an anti-trust action alleging price fixing and customer allocation.

On January 15, 1988, Waste Management, Inc., pled no contest in federal court to charges involving anti-trust activity occurring in Dade and Broward counties, Florida. The company was fined \$1 million.

In February 1988, United Sanitation Services of Florida (a subsidiary of Waste Management, Inc.) settled a long-running anti-trust case brought against it by the Florida Attorney General. The cases involved allegations of illegal customer allocation schemes headed by United Sanitation. The two civil anti-trust cases were settled for a total of \$725,000 in fines paid by Waste Management. In November 1987, Waste Management filed a plea of nolo contendere in federal court in Fort Lauderdale, Florida, to criminal charges based on the same anti-trust activity occurring in south Florida.

During 1990, Mid American Waste sued Waste Management, Inc., in Jacksonville, Florida, under Florida's new "Bad Boy Law" to enjoin Waste Management from being granted a \$34 million city disposal contract since they fall within the jurisdiction of the "Bad Boy" legislation. The legislation forbids government entities in Florida from doing business with companies which have been convicted of felonies. Mid American also filed an additional lawsuit claiming that Waste Management, Inc., undercut Mid American's bid by charging prices lower than they charge other Florida cities.

**Georgia:**

During May 1980, Georgia Waste Systems (a subsidiary of Waste Management, Inc.), SCA Services, Inc., and two other solid waste disposal companies and their respective managers, were indicted by a federal grand jury in Atlanta, Georgia, for conspiring to fix prices and allocate customers during the years 1974 through 1979. The action was dismissed before trial based on a challenge to the grand jury's selection process.

During 1983, Georgia Waste Systems was found guilty of conspiring to fix prices in an anti-trust suit and was ultimately fined \$350,000. The general manager of the subsidiary was also found guilty and sentenced to a jail term which was suspended on condition of successful completion of probation.

**Illinois:**

During 1971, an Illinois anti-trust action resulted in fines totaling \$50,000 and consent decrees involving three Waste Management subsidiaries and a number of other Chicago area companies.

**New York:**

During 1986, Bestway Disposal (a subsidiary of Waste Management, Inc., located in Henrietta, New York) was charged with anti-trust violations and with engaging in an agreement to allocate customers. During 1988, the company entered a plea of nolo contendere and was fined \$250,000.

**Ohio:**

In October of 1987, Waste Management, Inc., and Browning Ferris, Inc., of Houston, Texas, pled guilty to criminal felony charges involving price fixing and customer allocations in Toledo, Ohio. Each was fined \$1 million.

**Pennsylvania:**

On October 7, 1991, the Wall Street Journal reported that Waste Management, Inc., had been fined \$4.1 million for exceeding volume limits allowed under permits granted for a 470-acre dump in Erie, Pennsylvania. The fine was assessed because Waste Management dumped 38,319 tons in excess of the allowed amount between April 24, 1990, and July 4, 1990. The article reported that Waste Management's dump managers are paid bonuses based, in part, on profit. Since costs for landfill operations are mostly fixed, additional volume over permit levels is almost entirely profit.

**Washington:**

In 1990, Bayside Disposal (a subsidiary of Waste Management, Inc., serving Seattle, Washington) was charged with failing to pay nearly \$400,000 in utility taxes to the city. The practice of failing to pay the utility taxes began prior to the acquisition of Bayside Disposal by Waste Management, but apparently continued for at least three years after that time. Other haulers in the area claimed that they had lost out on contracts with Seattle because they included the costs of paying the taxes in their contract bids, while apparently Waste Management did not.



## VIII.

### WASTE MANAGEMENT, INC., AND SAN DIEGO COUNTY

As previously mentioned in this report, Waste Management, Inc., has a number of ongoing business operations in San Diego County. As part of this investigation an examination of the company's local activities was undertaken. The investigation included inquiries into the company's acquisition of property in Gregory Canyon, its relationships with local politicians and its methods of operation in the political arena.

#### Gregory Canyon:

Waste Management, Inc., is seeking to develop a privately owned waste landfill in North San Diego County. The site now known as Gregory Canyon is located near Pala off of Highway 76. The area is primarily agricultural and previously consisted of a number of separately owned parcels. Some of the property was acquired by a partnership formed by Hal Jensen and David Lowry, who subsequently entered into a partnership with Waste Management, Inc., which acquired the remaining properties.

At the time of the acquisition of the properties, Lowry (a North County businessman and land developer) was the Chairman of the Fallbrook Community Planning Group. Our examination of the circumstances and timing of his efforts to acquire property in the Gregory Canyon area indicates a possible conflict of interest may have occurred.

On March 17, 1988, a community meeting took place in Fallbrook to discuss potential landfill sites in North County, including a site located off Aspen Road which was partially located within the boundaries of the Fallbrook Community Planning Group.

On March 18, 1988, Lowry, in his position as chairman of the group, appointed a special subcommittee to make a report to the planning group on the proposed Aspen Road landfill site.

On April 7, 1988, at a special meeting of the Fallbrook Community Planning Group, the subcommittee's report was considered, which opposed selection of the Aspen Road site. The report was adopted by the planning group, which voted to recommend to the county that the Aspen Road site not be selected for development as a landfill. Lowry chaired this meeting and cast his vote against the Aspen Road site. At that meeting he announced that he intended to seek an alternative landfill site.

In response to allegations that Lowry had committed a conflict of interest in voting against the Aspen Road site, the Office of County Counsel was directed by the Board of Supervisors to conduct an inquiry. In a letter dated July 3, 1989, County Counsel reported its findings to the Board of Supervisors. The letter contained the following conclusions:

At the time of the Planning Group recommendation on April 7, 1988, on the Aspen Road site, Mr. Lowry had taken some preliminary steps to locate an alternative site, but he had acquired no property interest in the land fill site now being proposed by him. The decision on the Aspen Road site, while it tended to provide better chances for

selection for alternative sites, did not make it reasonably foreseeable that Mr. Lowry's alternative site would be selected by the County, especially since on April 7, 1988, Mr. Lowry had no property interest in the site. Under these circumstances, we conclude that it was not reasonably foreseeable that the Fallbrook Community Planning Group's decision in regard to the Aspen Road site would have a material financial effect on Mr. Lowry or his development aspiration and that he did not violate applicable conflict of interest prohibitions by participating in the planning group decision.

In reaching this conclusion, County Counsel considered statements provided by Lowry about the timing of his involvement in seeking an alternate landfill site. Lowry maintained that he had no involvement in looking for landfill sites, or acquiring options to any property, prior to the Fallbrook Planning Group taking a position on the Aspen Road site. He later changed his statement, saying that he started looking for an alternative site prior to April 7, 1988. However, he apparently did not reveal the full extent of his activities. Our investigation revealed additional facts which were apparently not known to County Counsel prior to its rendering its opinion on July 3, 1989.

According to John Mitchell (previous owner of Century 21/Transworld Properties of Valley Center), between late February and early March of 1988, he was approached by Hal Jensen about the possibility of acquiring property in the Gregory Canyon area. Jensen, the owner of Palomar Grading and Paving Company and a member of the Valley Center Planning Group, requested that Mitchell determine who the owners of the various parcels were with a view toward attempting to purchase the properties. Mitchell related that as part of the agreement to acquire the properties for

Jensen, he was to use the services of Jensen's younger brother, David Jensen. At this time, David Jensen was awaiting the results of the California real estate agents examination. He passed the examination and was licensed as a real estate agent on April 7, 1988.

Mitchell states that after determining the identities of the property owners from tax assessor rolls, he began making contacts with parcel owners on behalf of Hal Jensen. His first contact was with Joseph Lucio, which Mitchell believes occurred prior to April 1, 1988. Lucio operated a dairy on land he owned in the Gregory Canyon area. Mitchell recalls that he had one or two contacts with Lucio before an offer to purchase the property was tendered. Mitchell said that when he returned to his office with the initial offer he was met by Hal Jensen and David Lowry. It was only at this time, according to Mitchell, that he was made aware that Jensen and Lowry were working together on the project.

Joseph Lucio stated that his first contacts about selling his property were with Mitchell and David Jensen. However, he stated that all his subsequent dealings were with Lowry directly. The actual purchase contract for the property was dated April 13, 1988, and was presented to him by Lowry.

James Guthrie (another property owner) related that he was initially contacted by Mitchell and David Jensen regarding the purchase of his property. The land purchase contract for his property was dated April 8, 1988. The listed purchaser was Palomar Grading and Paving, Inc.

Hal Jensen was interviewed regarding his involvement in the Gregory Canyon properties. He stated that he and Lowry were motivated to look for a potential landfill site by a comment made by Supervisor John MacDonald who said, "If you can find a better landfill [than those currently being considered], then find one." According to Jensen, in early 1988, he and Lowry flew in Jensen's private airplane over San Diego North County looking for potential landfill sites. They subsequently discovered a site near Rosemary Mountain that they felt presented possibilities. This site later became known as Gregory Canyon.

Glen Brown, of Law Environmental (a consulting service), stated that he had met with Jensen and Lowry on April 8, 1988, at Jensen's office. Brown was provided topography maps of the proposed landfill area and was asked to give his evaluation of the site based on the maps and his visit to the site. Brown said that it was his understanding that an engineering firm had already studied the site and had made estimates of its potential capacity.

Contrary to his assertions to County Counsel, it appears Lowry was intimately involved in a business venture with Hal Jensen to obtain a landfill site at Gregory Canyon weeks prior to the planning group's vote on April 7, 1988. Rather than merely "looking" for a possible alternative site, it appears that Lowry and Jensen were in the process of acquiring a site that had been already located. In voting against the Aspen Road site, Lowry essentially was insuring that there would be less competition against the site that he and Jensen were acquiring. County Counsel's opinion did not contemplate the true nature of Lowry's involvement. Thus, the opinion that Lowry did

not commit an act which constituted a conflict of interest, may well bear reconsideration, given the facts as they are now known.

Lowry's failure to disclose his conflict of interest appears not to be prosecutable under the Political Reform Act since its provisions do not apply to advisory groups. Since no contract emanated from the vote taken on April 7, 1988, there has been no violation of Government Code section 1090 or 1091. However, his actions may have been contrary to the provisions of Board of Supervisors Policy I-1 as it existed on April 1988. This policy provides that:

[N]o member of a planning or sponsor group shall make, participate in making or in any way attempt to use his or her position as a member of the group to influence a decision in which he or she knows or has reason to know that he or she has a financial interest.

Ultimately several of the parcels in the area of the site were acquired by the Jensen-Lowry partnership. They entered into a partnership/joint venture with Waste Management, Inc., to develop a privately held landfill operation to be located at Gregory Canyon. Lowry and representatives of Waste Management, Inc., have been actively engaged in lobbying members of the Board of Supervisors and others in county government for support of the Gregory Canyon project.

#### **Public Relations Campaign in San Diego:**

Waste Management, Inc., has undertaken a multi-faceted public relations campaign in San Diego in order to gain support for its Gregory Canyon landfill project. The company has retained the public relations firm of Stoorza, Ziegus & Metzger,

Inc., to represent its interests in San Diego and also uses in-house media experts to sway public opinion. This campaign has involved the use of traditional communications techniques, such as personally contacting public officials, disseminating informational brochures to the public and distributing press releases to the local media. However, Waste Management, Inc., appears to also have been involved with efforts to manipulate the local media by using intermediaries.

On February 9, 1992, an article appeared in the opinion section of the San Diego Union-Tribune entitled, "Lost amid county's garbage is a likely solution: privatization." The article, a copy of which is included in this report as Attachment H, was written by Lynn Scarlett, vice president of research of the Reason Foundation. The article is critical of the San Diego Board of Supervisors for adopting a policy against the privatization of landfills in the county and expounds the benefits of privatization.

We have acquired materials which suggest that Waste Management, Inc., may have provided funds to the Reason Foundation in exchange for a "research project," the findings of which would support the company's efforts to open a private landfill in the county. In a memorandum dated November 2, 1990, Rick Daniels, then special projects manager for Waste Management, Inc., advised company officers of a plan to fund such a study, using the San Diego Taxpayers Association as an intermediary. (See Attachment I.) This plan apparently was in response to a solicitation by Lynn Scarlett on behalf of the Reason Foundation in a letter dated October 22, 1990. In her letter, Ms. Scarlett indicates that a favorable report could be generated in exchange for a contribution of \$34,678 by Waste Management, Inc. Included with

the letter was a proposal indicating what would be provided in exchange for the contribution. The letter and proposal are included as Attachment J.

In an article dated November 30, 1990, the San Diego Tribune reported the plans of Waste Management, Inc., to fund the study by the Reason Foundation. A copy of this article is included as Attachment K. An opinion article by Scarlett, printed by the same publishing company 26 months later, did not mention ties between Waste Management, Inc., and the Reason Foundation. While on the surface Scarlett's article might appear to be a non-biased report, the correspondence between Waste Management, Inc., and the Reason Foundation suggests otherwise. This use of the media is an example of a method used by Waste Management, Inc., to gain public approval of its enterprises and bring pressure against public officials.

#### **Political Activities In San Diego:**

Waste Management, Inc., has been highly active in the political arena, both on a local and national level. These activities include making donations to political campaigns, hosting fund raisers and lobbying. Some past occurrences wherein company employees were prosecuted for unlawful political activities are discussed elsewhere in this report.

An example of the company's political activities can be seen in Marana, Arizona, where Waste Management, Inc., is presently attempting to win approval for the establishment and operation of a privately owned landfill. As part of its claimed "Good Neighbor Policy," the company promised to pave the streets of Adonis Mobile



Home Park and build a meeting hall for park residents if the \$20 million project is approved. Two of the mobile home park residents, Reverend Elwin Clifton, Jr., and Doug Mostyn, are members of the council that will decide if the landfill should be allowed.

In addition to the promised improvements to the mobile home park, in June 1991, Waste Management, Inc., made a \$7,000 donation to the Marana Regional Arts Council. Town Council Member Bill Schisler's wife is the statutory agent and chief fund raiser for the Arts Council. The donation was made just before a June 30, 1991, deadline for the Arts Council to raise \$10,000 or lose matching funds for a Town Hall arts project.

Waste Management, Inc., also proposed contributions to the Marana Health Center where the Mayor of Marana, Ora Mae Harn, is employed as a program director for community services.

Waste Management, Inc., has made similar contributions to civic programs promoted by public officials in San Diego. One program receiving a considerable donation from the company was headed by a member of the San Diego Board of Supervisors, the body currently considering the company's application to operate a private landfill in North County.

**Waste Management, Inc., and Sail San Diego:**

The 27th America's Cup Defense Committee, Inc., (doing business as Sail San Diego) is a California non-profit corporation which operated an organization known as the South Bay Syndicate. The Syndicate consisted of a coalition of South Bay cities, including Chula Vista, National City, Imperial Beach, Coronado, the County of San Diego, the Port of San Diego and the promoters of the 1991 Chula Vista Yacht Club challenge for the Little America's Cup.

The president of Sail San Diego was Supervisor Brian Bilbray. Sail San Diego was administered out of Supervisor Bilbray's office at the County Administration Center, primarily by Jeff Stafford, an administrative assistant to Supervisor Bilbray. Stafford divided his time between his duties as an administrative assistant and as coordinator of Sail San Diego/Little America's Cup. His salary was partially paid by the county and partially by Sail San Diego.

The primary mission of the South Bay Syndicate was to compete in the Little America's Cup Challenge that took place in Melbourne, Australia, in January 1991. Contributions were solicited from business, government and community organizations to fund the building of a boat, training of a crew and transportation to Australia for the competition.

A secondary mission of the Syndicate was to develop a series of community-oriented educational programs involving boat design and competitive sailing. Sail San Diego recently changed its name to the San Diego County Youth Sailing Foundation.

On October 21, 1989, NORCORP, Inc., was granted corporate status by the Secretary of State, State of California. David Lowry is the chief executive officer and Hal Jensen is the chief financial officer. Simultaneous to the creation of this corporation, a fictitious business statement for a company known as North San Diego County Development Company was filed. This is a partnership between NORCORP, Inc., and Waste Management of California, established to develop a private landfill at Gregory Canyon.

Lowry had been active in the America's Cup program and local sailing endeavors. Lowry arranged a meeting between David Ross and Rick Daniels of Waste Management, with Jeff Stafford and David McGuigen of Sport F/X, a sports promotional firm. The purpose of the meeting was to encourage Waste Management to contribute to Sail San Diego. According to Lowry, as a result of this first meeting, a second meeting was set up with Supervisor Bilbray at his office.

On March 22, 1990, a meeting took place in Supervisor Bilbray's office at the County Administration Center. The following individuals were present at the meeting:

Supervisor Brian Bilbray

John Woodard, chief of staff for Supervisor Bilbray

Jeff Stafford, administrative assistant to Bilbray

David Lowry, chairman of NORCORP, Inc.

David McGuigen, of Sport F/X

John DeTar, of Sport F/X

**Tom Blackman, Western regional vice president of**

**Waste Management of California**

**David Ross, project manager for**

**Waste Management of California**

When interviewed, David Ross stated that during this meeting a request was made for a donation by Waste Management to Sail San Diego. He recalled that David Lowry made most of the presentation on behalf of Sail San Diego, and that Supervisor Bilbray also participated. Ross stated that the privatization of landfills and the development of Gregory Canyon were also discussed at this meeting.

John DeTar and David McGuigen both stated that during the meeting a presentation was made to Waste Management officials about Sail San Diego. They specifically recall that a request for a \$50,000 contribution was made.

In interviews conducted as a part of this investigation, neither Supervisor Bilbray nor his staff could recall any details of this meeting, nor could they recall who was in attendance. Although his office calendar contains an entry for March 22, 1990, indicating a 2:00 p.m. meeting with Tom Blackman, Supervisor Bilbray stated, "The March 22 one, really just sort of draws a blank for me. That one I really can't tell you. I don't know, I could try and guess." Supervisor Bilbray was unable to recall a meeting in which a \$50,000 donation to Sail San Diego was requested. Supervisor Bilbray did recall, in detail, a series of meetings with Waste Management officials over a period of months, which occurred after March 22, 1990.

Rick Daniels (a special project manager for Waste Management) stated that he was advised that a donation in the amount of \$50,000 was agreed upon by company officials. Daniels stated that all contributions must be approved by corporate headquarters. He said that he prepared a Charitable Contribution Approval Request Form and sent it through company channels for approval. He said that the contribution was approved and authority was given to make the contribution.

On May 7, 1990, a check in the amount of \$50,000 was presented to Tom Money (the vice president of Sail San Diego) by John Lusignan (the local operations manager for Waste Management, Inc., of San Diego). Lusignan states that the contribution was a corporate transfer of funds from Waste Management, Inc., of America, Oakbrook, Illinois, to Waste Management, Inc., of San Diego.

Our investigators requested that Waste Management provide a copy of the Charitable Contribution Approval Request Form prepared by Rick Daniels. David Kelly (a regional counsel and vice president of Waste Management of California) forwarded a copy of the form described by Daniels. It described the purpose of the funds to be, "To support the America's Cup Organizing Committee for the Little America's Cup Race." The amount requested was \$50,000. The document provided for written approval by various managers and officers of the company, depending on the amount requested. In cases where the requested donation is in excess of \$2,500, the document indicates that the chairman or the president of the company must sign off. In this case, the document appears to have been signed by Phil Rooney, president of Waste Management of America.

Of some concern is the fact that the Approval Request Form is dated June 13, 1990, some five weeks after the check for \$50,000 was presented to Sail San Diego. Phil Rooney's signature is dated June 22, 1990.

David Kelly was re-contacted and asked why the document requesting approval for the donation was dated after the donation had already been made. Kelly was unable to clarify the situation. He said the actual approval possibly was made by telephone and that the written request was made later, merely for record keeping purposes.

Rick Daniels was also re-contacted. Daniels was asked if he had made the written request after the donation had actually been made. Daniels stated that he was sure he had made the written request shortly after the March 22 meeting in Supervisor Bilbray's office. Daniels said it would be contrary to company policy to give a donation, especially one of \$50,000, without prior written approval. Daniels was unable to explain why the document was dated so long after the donation was made.

In addition to the \$50,000 donation from Waste Management, Inc., Hal Jensen and David Lowry each contributed \$10,000 to Sail San Diego. However, Lowry's contribution was later returned to him, having been considered a "loan" to the organization.

An examination of the financial records of Sail San Diego by our investigators revealed that the donations by Waste Management, Inc., and Hal Jensen were made at times when the organization was in serious financial trouble. On May 14, 1990,

Sail San Diego had cash on hand in the amount of \$8,267.28. Its accounts payable at that time amounted to \$7,392. The organization was also incurring obligations for construction costs for the organization's catamaran that greatly exceeded its cash reserves. Waste Management's check in the amount of \$50,000 was deposited on May 15, 1990. It is clear that without this infusion of cash that Sail San Diego would probably have become insolvent.

On December 20, 1990, Sail San Diego had cash on hand in the amount of \$351.55 and accounts payable of \$23,654.81. Hal Jensen's donation of \$10,000 was received on December 27, 1990. Without this donation the organization would have been insolvent during a crucial period. Yacht races were scheduled to begin in Australia the following month.

In January 1991, Supervisor Bilbray attended the Little America's Cup race in Australia. By January 16, 1991, the cash reserves of Sail San Diego had dwindled to \$1,418.17. The most recent bank statements provided to our investigators indicate that on October 31, 1991, Sail San Diego had cash on hand of \$216.78. At this time the organization does not appear to be financially viable.

**El Cajon City Councilman Mark Lewis:**

In 1964 the City of El Cajon entered into an exclusive contract with Elmer's Disposal Service for trash collection citywide. The ten-year contract was assumed by Universal Refuse Disposal which purchased Elmer's Disposal Service in 1968.

Universal Refuse Disposal (a subsidiary of Waste Management, Inc.) has continued to have an exclusive franchise for refuse collection through the Spring of 1991.

On April 15, 1991, El Cajon City Councilman Mark Lewis submitted a memo to the city recommending that the city seek competitive bids for its refuse collection and provide Universal Refuse Disposal with a five-year notice of termination in accordance with the current contract. Councilman Lewis voiced concern over the lack of competition for the contract due to the longtime exclusive nature of the franchise. He also pointed out that the proposal by Universal Refuse for a recycling program was not in compliance with the requirements set forth in AB939.

On May 21, 1991, the El Cajon City Council held a public hearing regarding rubbish collection and recycling for the city. After public comment and debate on the issues the City Council voted to notify Universal Refuse Disposal that their franchise agreement with the city would be terminated effective July 1, 1996, and that prior to the termination date the franchise would be put out for competitive bid. Councilmen Lewis, Miller and Hansen voted for the measure and Councilmen Stockwell and Shoemaker voted against it.

Subsequent to the vote that evening, Councilman Lewis states he was confronted in the restroom at city hall by two individuals he recognized as past employees of Universal Refuse Disposal, and who were now employed by Waste Management, Inc. He knew one of the men as "Francisco." Councilman Lewis said that "Francisco" approached him and stated, "How come you don't like Universal no



more?" Lewis responded that he had no problem with Universal, but did not agree with its proposed recycling plan. He said "Francisco" then said, "You know, you might not have a job tomorrow."

Councilman Lewis is employed by the County of San Diego, Solid Waste Division. His supervisor, Bob Allen, reported that prior to the May council meeting he had heard employees of Waste Management, Inc., discussing a possible move to charge Lewis with conflict of interest because of his activities on the City Council and his employment with the county.

Allen stated that on May 13, 1991, he attended a conference at Lake Tahoe sponsored by the Government Refuse Collection Disposal Association. Allen recalled that as he was leaving dinner he ran into Nikki Clay (whom he knows is employed by Stoorza, Ziegus and Metzger, a San Diego public relations and consulting firm working for Waste Management, Inc.). Allen related that Clay asked him whether he knew that Mark Lewis was an El Cajon City Councilman. Allen stated that he told Clay that he was aware of that fact and had discussed the matter with Lewis in order that possible conflicts could be avoided. Allen reported that Clay told him Waste Management, Inc., "was talking seriously about pursuing a conflict of interest case against Mark Lewis." Allen noted that Clay attended the conference with Gaye Soroka (an employee of Waste Management of San Diego).

Francisco Maldonado (supervisor of Solid Waste Operations of Waste Management of San Diego) was interviewed about the incident occurring at the May 21, City Council meeting. Maldonado acknowledged that he attended the

meeting with other Waste Management employees to "show support for employees of Universal Refuse Disposal." Maldonado confirmed that he made the comment to Lewis, "Why don't you like Universal no more?" However, he denied making any threats or comments about Lewis' job. He said that he was in the company of Waste Management employee Joe Valenzuela when he spoke to Lewis.

Nikki Clay was advised of the statement attributed to her by Bob Allen. Clay said that she attended the conference at Lake Tahoe and that she knew Allen. However, Clay denied making any statement about bringing conflict of interest charges against Mark Lewis.

We believe that it is unlikely that the comments made to Bob Allen and Lewis by those in the employment of Waste Management, Inc., were merely coincidental. Furthermore, the circumstances and timing of these occurrences clearly support the implication that representatives of the company were attempting to intimidate Lewis.

Two other incidents involving Councilman Lewis appear to support the conclusion that Waste Management, Inc., has attempted to improperly influence and coerce him on issues affecting their operations in San Diego County. In a letter dated June 11, 1991, Gaye Soroka advised Lewis that, "pursuant to the California Political Reform Act," Waste Management was advising him that two lunches, paid for by Waste Management in April and May of 1991, had a combined "gift value" of \$18.50. Lewis expressed surprise that such a trivial "gift" would be brought to his attention, since the law only requires gifts of over \$50 to be reported. He was also

concerned that Soroka mailed the letter to his place of employment with the county, rather than to his councilman's address in El Cajon.

We asked Ms. Soroka why this letter was sent to Mark Lewis at his place of employment with the County of San Diego, as opposed to his office in the City of El Cajon. Soroka said that Lewis had requested all documentation to be sent to him at the County facility. However, Councilman Lewis denied that he had ever requested that Soroka send any correspondence to him at his place of employment.

When asked the purpose of the letter, Soroka stated that a directive had been received from Waste Management of California to make such advisements. However, she said that the only letter sent was the one to Mark Lewis and subsequently the directive was rescinded. Soroka was unable to explain why Lewis was the sole recipient of such a communication from Waste Management, Inc.

Lewis also reported that in a May 20, 1991, meeting with Gaye Soroka, she advised him that she had heard a rumor that he was thinking of running for the Board of Supervisors. Soroka commented that Waste Management would be very supportive of his candidacy if his views were in favor of the Gregory Canyon landfill project. Soroka is reported to have told Lewis that Waste Management would put on a fund raiser for him in Mission Valley. She is also reported to have told Lewis the company would provide him with contributions in the form of checks from individuals in the employ of Waste Management from Los Angeles and Orange County in amounts of \$250 or less in order to be in compliance with campaign contribution limitation statutes.

**IX.**  
**CONCLUSION**

Waste Management, Inc.'s, methods of doing business and history of civil and criminal violations has established a predictable pattern which has been fairly consistent over a significant number of years. The history of the company presents a combination of environmental and anti-trust violations and public corruption cases which must be viewed with considerable concern. Waste Management has been capable of absorbing enormous fines and other sanctions levied against it while still maintaining a high earnings ratio. We do not know whether these sanctions have had any punitive effect on the company or have merely been considered as additional operating expenses.

We have reviewed recent practices and problems and our concerns have not diminished. The company's recent business practices and violations do not appear to be different from the past. We have been unable to determine whether Waste Management's history, as reflected by this report, has been due to a failure of proper management, or has been the result of deliberate corporate policy. Whatever the case, the company's history requires extreme caution by the San Diego County Board of Supervisors or any other governmental entity contemplating any contractual or business relationship with Waste Management.

Our examination of the activities of Waste Management in San Diego County causes us additional concern. When viewed in the context of their established history

of business practices, it is clear that Waste Management engages in practices designed to gain undue influence over government officials.

One such practice was demonstrated by the treatment of Councilman Mark Lewis. First, a favor was offered; then, there appears to have been attempts at coercion to bring about Lewis's cooperation. Another such practice has been Waste Management's penchant for donating large sums of money, all with the appearance of altruistic or beneficent ends, to charitable entities or projects which are targeted for the greatest impact on persons exercising crucial approval authority over Waste Management business projects which are either proposed, pending or under review. This kind of practice appears to be Waste Management's primary reason for their \$50,000 contribution to the financially troubled Sail San Diego. These practices suggest an unseemly effort by Waste Management to manipulate local government for its own business ends. If unchecked, these practices, like other more direct forms of improper attempts to gain influence, may have a corrupting impact on local government and lead to decisions unsuitable to the best interests of the public.

In view of the obvious ramifications of Waste Management's contribution to Sail San Diego, we believe that Supervisor Brian Bilbray would be well advised to abstain from voting on current Waste Management projects pending before the San Diego County Board of Supervisors. Such action will avoid any further appearance of impropriety or conflict of interest.

**ATTACHMENT A**

**News/Sun Sentinel articles:**

**"The Titans of Trash"**

# The TITANS Of TRASH



**News/Sun-Sentinel**

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Waste Management Inc. and Browning-Ferris Industries Inc. have become the nation's garbage collectors.

In a throwaway society, cleaning up the mess is an important job. The two companies control almost half the private market for trash collection; they dispose of almost a third of the nation's chemical wastes, and they are the major players in the difficult and sensitive business of rehabilitating abandoned dumps and correcting other environmental mistakes.

Yet in recent years, while Waste Management and Browning-Ferris have become so large and sophisticated that the government's ability to police them has been jeopardized, the companies have been dogged by allegations of environmental violations, price-fixing, bribery and other wrongdoing.

During 1987, a team of News/Sun-Sentinel reporters conducted an exhaustive investigation of the companies, tracking them through the 22 states that include their largest markets. The five-part series we're reprinting here is the result of that investigation.

While much of our reporting concentrates on our home area in South Florida, we have every reason to believe the same sort of problems are occurring in communities all over the country.

We are pleased to share our findings with you.



Gene Cryer  
Editor

GC/drw



SUNDAY,  
DECEMBER 6, 1987

# THE TRASHING OF AMERICA



## THE TITANS OF TRASH

Big profits,  
big problems.

Nation's two top garbage haulers leave a legacy of pollution, soaring prices.

By FRED SCHULTE  
and ROBERT McCLURE  
Staff Writers

**T**he nation's two top garbage haulers have been fined millions of dollars for violating pollution laws, fixing prices and disposing of toxic waste illegally — while rebuffing regulators who try to halt the practices, a *News/Sun-Sentinel* investigation has found.

The yearlong review tracked the booming waste disposal trade of Waste Management Inc. and Browning-Ferris Industries across 22 states.

These titans of trash have taken control of nearly half the nation's private rubbish-removal market in two decades, collecting \$3.4 billion last year through hundreds of allied firms.

But the haulers are leaving a legacy of contaminated dump sites, soaring garbage collection bills — and nagging doubts about who will compensate pollution victims, records show.

The firms have been:

■ Cited more than 1,000 times for pollution violations at more than 50 landfills.



Staff photo/KEITH HADLEY

A worker seals toxic waste drums in Emelle, Ala.

■ Fined more than \$20 million since 1980 for acts such as illegal dumping, improper storage or spillage of waste.

■ Sued for billions of dollars for allegations ranging from cutthroat pricing to poisoning air and groundwater.

"I think the company's environmental record is excellent," asserts Hal Gerahowitz, a Waste Management senior vice president.

But he added: "This company is never going to be able to say there are no environmental issues."

Said BFI vice president Richard Oakley: "I don't know of any pollution problem we're not addressing."

Waste Management, based in Oak Brook, Ill., is the largest garbage hauler in South Florida and the nation.

Locally, it carts trash under a slew of names such as Southern Sanitation, whose rumbling trucks are perhaps best known for sporting playful slogans such as "Free Snow Removal."

Rigs bearing the white-on-blue BFI logo are less common here, though the Houston-headquartered firm has won a few local contracts, including part of Fort Lauderdale.

Nationwide, the firms control

about 47 percent of the trash and hazardous waste market, according to the research group Find/SVP. The estimate excludes cities that employ their own sanitation workers.

Revenues at Waste Management shot past the \$2 billion mark in 1986, while BFI rang in at \$1.6 billion this year. But both have chronic problems abiding by pollution laws, records show.

"This is the moral issue of the 1980s," said Wendell Paris, an activist who is fighting a Waste Management chemical landfill in Emelle, Ala.

■  
The dam burst for Waste Management in March 1983, when a series of lawsuits, government citations and news articles alleged the firm had illegally handled waste at seven landfills from Colorado to Alabama.

The charges stunned the firm, and forced the total value of its stock to drop about \$1 billion in two days, company records state.

Waste Management bounced back fast.

It replaced dump site managers, hired pollution-control experts and built a perception among many environmental regulators that the firm would abide by the law.

"The agency has cracked down in the last few years," said Tony Montrone, former head of a U.S. Environmental Protection Agency task force. "We don't see the blatant violations that used to be."

But Waste Management has been accused repeatedly since 1983 of violating pollution laws, records show.

Citations are rising for failure to protect groundwater. EPA has called such pollution the "most serious potential threat to human health and the environment posed by the disposal of hazardous waste."

A *News/Sun-Sentinel* survey of states in which the titans do most of their business found that Waste Management was issued 547 citations and orders between 1980 and 1983. Nineteen involved groundwater violations.

Since 1984, the number of citations and orders had risen to 632, while groundwater infractions more than quadrupled to 88, records show.

Groundwater protection laws require dump owners to dig wells and test whether trash dumping has caused pollutants to seep into underground water. Should that occur, officials can close a dump, or order a cleanup.

But regulators often haggle with dump owners for years over repeated violations of the laws, ranging from improper placement of wells to failure to report test results promptly.

For example, Illinois officials reported groundwater violations at Waste Management's Calumet City landfill near Chicago 18 times between 1983 and 1985, records show.

A landfill in Danville, Ind., was written up 31 times between March 1982 and March 1987, mostly for failing to keep rainwater from mixing with garbage and spreading pollutants.

And in Wheeler, Ind., the firm has been cited 22 times for similar violations since 1982.

Overall, Waste Management has been fined about \$19.9 million for environmental infractions since 1980, records show. Most of that came from \$12.5 million in fines for illegal disposal of chemicals and other infractions at one site in Vickery, Ohio.

"They're so wealthy that it's just a drop in the bucket," said Wilma Kardotzke, an area resident who is suing the firm.

Peter Vardy, a Waste Management vice president for environmental affairs, said regulators often single out his company because of its size.

"We're in the fishbowl more than any other company," said Vardy. "They [EPA] get their Brownie points for picking on us."

Allegations of environmental abuses aren't abating at BFI, either, records show.

BFI was cited 196 times between 1980 and 1983, 12 times for groundwater infractions. Since 1983, citations more than doubled to 464, while groundwater infractions tripled to 36.

For example, BFI was written up 38 times for improperly operating its Willow Springs, La., dump between 1980 and 1986.

Two BFI employees face felony charges for allegedly dumping polluted rainwater into a Williamsburg, Ohio, creek — upstream from the town's drinking water — in November 1984. Trial is set for next summer.

BFI spokesman Peter Block conceded that citations may be growing. He blamed the firm's expansion, noting that many polluted dump sites had been purchased by the company.

"We seem to be very good at buying these problems, rather than creating them," said Block. "Certainly the company's growth plays a big role in that."

Yet some of BFI's most-cited landfills have been run by the firm since the 1970s.

BFI's Livingston, La., dump, which the company purchased in 1978, has been accused of pollution-control violations 22 times since 1980. EPA filed suit against BFI in April seeking up to \$70 million in fines.

Pollution remains a threat at two BFI dumps in New Jersey nearly a decade after the state closed them.

Near BFI's South Brunswick Township landfill, a stream still ran brownish-orange in May 1980, two years after the dump closed. BFI was cited 11 times in the next two years, mostly for failing to contain polluted water.

At BFI's Monroe Township landfill, tainted water flowed into the yards of neighbors in 1978. The dump closed; BFI was forced to clean up under court order.

Still, the dump has been cited nine times since 1980. BFI has taken steps to contain pollution.

Nationwide, BFI has been assessed fines of about \$1.2 million since 1980, records reveal. The company rejected an offer to settle the \$70 million Louisiana suit for \$10 million.

"I really don't think that companies this large should be able to ig-

nore the law for the pursuit of economic gain," said Sharon Rogers, an anti-dump activist in Missouri.

Public records show that the trash titans have become highly adept at fending off enforcement challenges — some of which can cost the firms millions of dollars — from EPA and state regulators.

John Best, of the Arizona Department of Health Services, noted in a 1986 memorandum that nine of 16 Waste Management sites licensed to handle hazardous waste had been criticized by regulators.

The actions, Best wrote, "appear to result from a corporate penchant toward litigation, rather than cooperation" with regulators.

In August 1983, a consultant questioned how Waste Management had been permitted to operate four landfills in Pennsylvania despite a spate of environmental citations.

These incidents "further illustrate that Waste Management of Pennsylvania and its subsidiaries have a history of violating the environmental regulations," he wrote.

Officials concede they often are outflanked by the technical expertise the firms can muster, as well as the complexity of affixing blame for causing contamination.

"These companies often understand the regulations better than the regulators," said Steven W. Sisk, an EPA investigator.

■  
An orange fog drifted over a section of Orlando on March 6, 1984, when a Waste Management chemical truck ruptured and spewed out 3,200 gallons of an acid solution.

Thirteen people were injured, mostly with skin and respiratory irritations, and about 150 others were forced to evacuate.

Waste Management has reported 39 toxic waste spills to the Department of Transportation since 1980, records show.

One spill, in Waldo, Ohio, during January 1984, loosed 36,000 pounds of hazardous waste.

BFI has reported nine spills to the federal government between 1976 and 1984, records show. The firm also has been cited for at least 21 similar accidents in Louisiana and New York state since 1980.

State police in Louisiana ticketed BFI trucks three times in nine days during April 1986 for transporting leaky chemical drums and for bad brakes and other maintenance flaws.

Those tickets carried a \$2,500 fine. Louisiana troopers have cited Waste Management for 44 infrac-

tions in recent years, ranging from carting leaky waste drums to failing to carry a hauling permit.

While some of the chemical dumps are situated in thinly populated areas, concerns about their safety remain.

"The trucks pose dangers to our people going to work or to the school bus," said cattle rancher Gloria Davis, who shares a narrow dirt road with a Waste Management site near Arlington, Ore.

"Stuff just falls out of the trucks, and they litter," she said.

■

The rise of the trash titans is a throwaway society's Horatio Alger story.

Waste Management was formed in 1968 when Chicago garbage man Dean Buntrock joined forces with energetic Fort Lauderdale hauler H. Wayne Huizenga. Huizenga left the company in 1984. Buntrock remains its chairman.

Accountant Thomas Fatjo started BFI in 1967 with \$500 and a single truck, reportedly because he was fed up with poor trash pickup service in his Houston neighborhood. Fatjo left 10 years later, when BFI had more than \$200 million in sales.

Both firms zoomed through the 1970s, scooping up hundreds of smaller hauling firms and plunking down cash for scores of landfills, which earn millions of dollars annually in dumping fees.

BFI now owns or operates about 90 dumps; Waste Management has 102 sites. Waste Management is developing 41 new sites, company officials said.

Dump sites can quickly become costly liabilities.

Pollution forced Waste Management to close the Lyncott landfill in New Milford, Pa., in 1980, a month after its purchase.

Company officials, who failed to recognize the problems in advance, wound up paying at least \$6 million to restore the site.

"It was dumb," said Jack Schramm, a former EPA regional administrator now with Waste Management's Washington office. "We didn't get what we bargained for."

■

Property owners near Waste Management's Vickery, Ohio, chemical dump want \$800 million in damages, claiming the company caused a public nuisance.

"Your whole house smelled so bad you literally couldn't live there," said Wilma Kardotzke. "I was really

upset. Everybody was scared."

In another action, a group of Jacksonville residents is demanding \$463 million for claimed maladies ranging from kidney problems to cancer, court records state.

Waste Management paid \$2.5 million in July to settle a suit alleging property damage near Wilsonville, Ill.

With \$2 billion in assets, company officials insist they can weather environmental verdicts.

Critics aren't so sure, mostly because exposure to toxic waste is a largely new area of law.

It is clear that Waste Management is a defendant in lawsuits of this type in Canada and at least eight states, including Michigan, Colorado, Indiana and New Jersey.

The hauler also could be forced to pay clean up costs at a number of its sites, spokesman Donald Reddicliffe said.

"Because these matters are in early stages of resolution, it is premature to discuss details," he said in a statement.

BFI also could be saddled with a host of largely unforeseen liabilities, records show.

The company notified its insurer in 1985 of more than 50 potential pollution claims the company thinks could cost more than \$250,000 each to remedy, court records state.

And the insurance company sued BFI in August 1986, claiming it was not liable for some of those claims.

Now BFI and Waste Management, like many other businesses, can't find an insurance company willing to take on new risks.

"This has raised concerns about the availability of funds for pollution cleanup and victim compensation," the U.S. General Accounting Office reported in October.

■

When George Dougherty, a former BFI salesman, came to South Florida in 1980, he found that disposal prices were "extremely high," according to U.S. Department of Justice records.

Dougherty told prosecutors he could offer far lower rates than Waste Management and other haulers and still make a hefty profit.

But BFI's aggressive marketing was unusual in South Florida because many haulers refused to lure customers away from competitors, government lawyers charged. They alleged that haulers were fixing prices illegally.

In December 1986, Lewis R. Goodman, who managed a Miami subsidiary of Waste Management, was con-

victed of conspiring to fix prices. He was sentenced to three years' probation and fined \$200,000.

Claims of inflated prices have been lodged frequently against Waste Management and BFI — particularly when one of the firms owns much of the landfill space in an area.

Justice Department records show that rival haulers have complained repeatedly of whopping price hikes — in one case 300 percent in a single year — by both firms since the 1970s.

BFI and Waste Management agreed to plead guilty in October to a single felony count of price-fixing in Toledo, Ohio. Each firm agreed to pay a \$1 million fine, the maximum penalty, officials said.

Less than two weeks ago in Fort Lauderdale, Waste Management pleaded no contest to a similar charge. Sentencing is set for Jan. 15.

At least two dozen price-fixing lawsuits and criminal investigations that allege millions of dollars in excessive garbage billings are pending against the firms.

Despite the frequent run-ins with authorities, both firms insist they are performing a public service.

"We don't produce hazardous waste," said James Range, head of Waste Management's Washington office. "If we weren't here, you'd have to invent us."

# GROUNDS FOR DISPUTE

Waste Management and Browning Ferris Industries (BFI), the nation's dominant garbage disposal companies, have been cited more than 100 times since 1980 for violating water pollution regulations at landfills across the country, records show. A *News/Sun-Sentinel* investigation found that trash dumping at the sites can continue for years — and the firms can reap millions of dollars in profits — while regulators decide what steps to take. The haulers say their sites pose few health threats.

## WASTE MANAGEMENT

**FORT WAYNE, IND.:** Toxic waste at the Adams Center landfill had tainted groundwater by March 1984, six months before Waste Management purchased it, tests indicated. By July 1985, the state had cited the firm seven times for failing to control pollution. Still the problem didn't go away. In November 1985, EPA ordered a \$59,000 fine for failure to monitor pollution correctly. The owners negotiated until October 1986, when they paid \$30,000. In April 1987, EPA sent a task force to the site. Federal officials refused to disclose what those tests showed. A Waste Management official denied that the dump has a pollution problem.

**ELWOOD, Ill.:** Residents were sickened and some had to leave their homes to escape odors from the Environmental Sanitary Landfill in 1979, state officials charged. The firm paid a \$7,000 fine to settle the state's allegation that the odors were caused by six waste storage pits the firm put in without a permit. The dump was closed in 1984. But it was cited five times in 16 months for water monitoring problems, and EPA is seeking a \$37,250 fine. In 1986, the firm won a two-year court fight to expand and reopen the dump — over the objections of state regulators who argued the site is contaminating



Staff photo/KEITH HADLEY

Neighbors in Carlyss, La., blame polluted water for tumors in their cattle.

groundwater. The site remains closed, however, because the firm hasn't sought to resume dumping. A Waste Management official said the firm is assessing whether a pollution problem exists.

**BAKERSFIELD, Calif.:** Waste Management buried chemicals for almost a year before officials noticed that the dump had no wells to detect water pollution. It took the state nearly two years to get the firm to put in wells and run tests. When the tests showed contamination in April 1984, Waste Management blamed the landfill's former owners. The state issued an order to clean up the site in December 1984. But the firm decided to close the dump in May 1985, when it failed to get a county permit to expand. Today, state officials aren't sure whether the site is leaking. A Waste Management official denied that.

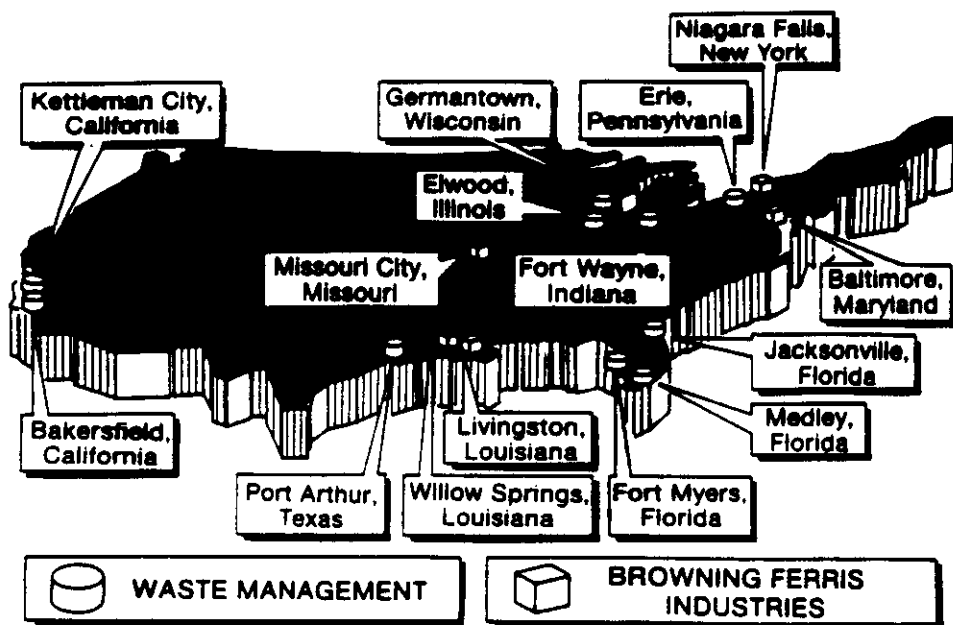
**KETTLEMAN CITY, Calif.:** Waste Management decided in November 1980 that no pollution detection wells were needed at this chemical dump. It took until April 1983 for regulators to challenge that view. The firm stuck to its position for another 15 months. In July 1984, the government ordered the firm to install wells — which promptly showed pollution. In November 1985, the firm agreed to pay a \$4 million fine, partly for failure to monitor ground water adequately. In July 1986, a task force confirmed the pollution problem. A clean-up

is being negotiated

**FORT MYERS:** State officials were sure water pollution wasn't a problem at the Gulf Coast Sanitary Landfill in June 1982 — even though lab reports indicated otherwise. That year, the owner admitted that several tests in the late 1970s had found contaminants. The problem was blamed on testing errors, however. In 1984 and 1985 traces of pollutants again were detected, and in early 1986 the cancer-linked metal cadmium was found in test water at nearly five times the legal limit. That prompted a warning letter to the owners. Earlier this year, the firm agreed to add two new monitor wells. A September 1987 study commissioned by Waste Management found that levels of two possible contaminants exceeded drinking water standards, but concluded that the dump "does not seem to pose a major threat."

**JACKSONVILLE:** Waste Management admitted in 1982 that some contaminants might escape in the future into groundwater below the Sunbeam Road landfill. Pollution was detected in several wells in March 1983, and several times since. The firm's explanations: lab error, miscalculation of water flow, equipment failure — and a vandal who allegedly poured pollutants down a well. The dump closed earlier this year. Waste Management plans to spend more than \$1 million to close the site and monitor for pollutants during the next 30 years.

**MEDLEY:** When Waste Management bought this landfill near Hialeah in Dade County in 1980, state officials hoped to end improper dumping. But problems continued. In February 1981, the firm was cited for dumping garbage into a lake at the site. A June 1984 study suggested contaminants were flowing underground. Two months later, the firm was cited for failing to prevent the escape of pollutants. A state report earlier this year branded the dump a threat to water supplies. Waste Management said that the site "has a minor impact on the environment," and "does not warrant hasty action."



**WILLOW SPRINGS, La.:** Farmers who live near toxic waste pits complained in 1978 that their water smelled like rotten eggs. It took state officials until November 1982, more than four years later, to confirm contamination existed. In May 1983, the state ordered the company to submit plans for a clean-up. Nine months later, state officials alleged that BFI failed to comply with the order. BFI sued and won permission to keep the dump open. State regulators again ordered the pits closed in 1984. But a second state agency allowed them to stay open. In September of this year, EPA threatened to shut the chemical waste pits unless BFI takes steps to protect groundwater. A BFI official confirmed that the site has been polluted since 1980, when clean-up first began. The clean-up is continuing, he said.

**MISSOURI CITY, Mo.:** Dioxins may be buried less than a mile from a river that supplies Kansas City's drinking water. State officials promised in September 1980 to dig up the waste and resolve the issue. But later they scrapped the plan to avoid spreading the dioxin or harming workmen. A BFI official said no dioxin has been found in groundwater near the site. Other state efforts to improve the landfill, which BFI leases, have dragged on for eight years. In December 1979, the EPA said groundwater monitoring was slipshod. After more than three years of technical disputes, BFI decided to close the dump. Today, a nearby spring used by farm animals has been contaminated, and regulators say the site poses a "serious health threat" to neighbors. A BFI official conceded that the dump has polluted water, but said the problem hasn't spread to drinking wells.

**LIVINGSTON, La.:** State officials said in June 1981 that pollution control wells at the CECOS dump near Interstate 10 were inadequate. Since then, CECOS has been cited for repeatedly violating pollution regulations. In 1984, state officials proposed a \$16,000 fine for tainting groundwater. When inspectors returned in early 1985, the pollution had spread deeper. In April 1987, EPA filed a lawsuit seeking more than \$70 million in penalties for several thousand pollution infractions. The suit, now pending, also charges that BFI employees allowed poisoned water to flow into a nearby bayou for nearly three years. A BFI official conceded that groundwater is polluted. He blamed the problem on a former dump owner.

**PORT ARTHUR, TEXAS:** Smelly, green water perked from a well during a December 1983 inspection. Lab tests in July and September 1984 showed groundwater was polluted. At first, the firm said the tests were in error. Then the company admitted pollution existed, but said it posed no threat. By mid-1985, tests showed worsening contamination. In July 1985, the firm settled a state lawsuit for \$1 million and a promise to clean part of the site, now closed. The firm has kept its word. But regulators said they believe other portions of the dump may be polluted. A Waste Management official said the firm is studying the situation.

**GERMANTOWN, Wis.:** At least 11,000 gallons of toxin-tainted water spilled onto the ground at the Omega Hills landfill in January 1983. The spills occurred despite 13 warnings to improve pollution control systems. Since the spills, the firm has spent \$16 million to ensure that no pollutants spread. But the state sued in April 1986, alleging that the firm failed to install adequate water monitors despite three years of prodding by regulators. The suit, now pending, called the dump a "continuing public nuisance."

**ERIE, Pa.:** Regulators were satisfied when Waste Management took steps in 1978 to control pollution at the Lakeview Landfill, less than a mile from drinking water supplying 25 families. The firm took further steps to protect groundwater in 1982. But in 1984, pollutants were detected in one of the drinking water wells. Both the firm and state officials denied the landfill caused the problem. Recently, however, signs of water pollution turned up at another section.

## BROWNING-FERRIS INDUSTRIES:

**NIAGARA FALLS, N.Y.:** BFI has been cited at least a dozen times since 1978 for failing to control pollution at this hazardous waste site operated by CECOS International, a BFI subsidiary. In 1984, EPA concluded ground water had been contaminated and told BFI to improve pollution monitoring. In 1985, BFI agreed to rebuild its monitoring system. But by early this year, it was clear that new system was improperly installed, regulators said. Officials fined the firm \$5,000 in January 1987, and \$35,000 more in March. A BFI official conceded the groundwater is polluted, but said seepage from an adjacent dump caused the problem.

**BALTIMORE, Md.:** BFI was cited nine times in five months for mishandling waste and failing to prevent pollution before closing the Solley Road dump in December 1982. That year, officials ruled



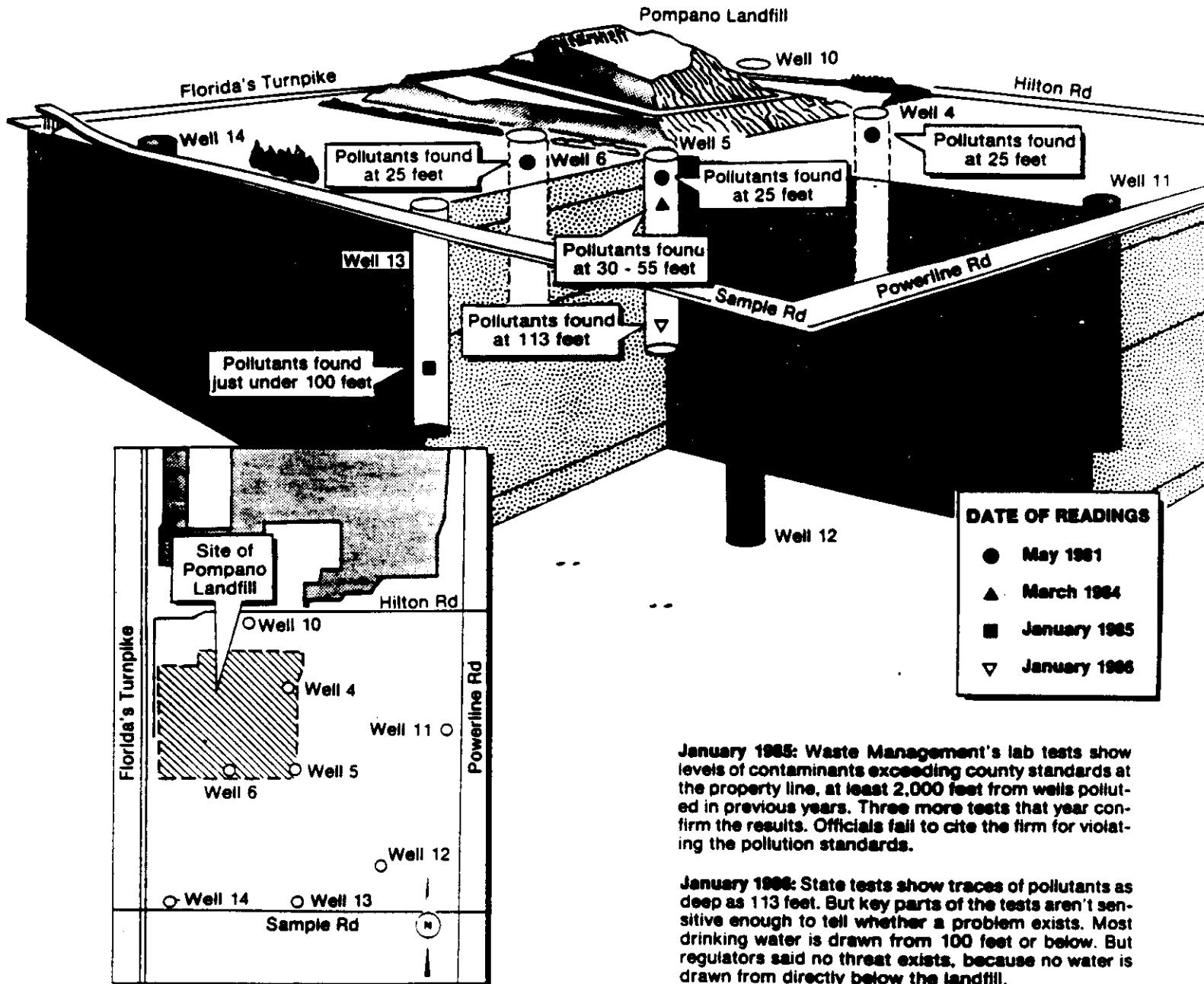
Staff photo/KEITH HADLEY

Tests of water in Port Arthur found pollution.

that BFI's water monitoring system was deficient. BFI agreed to install new wells, but neighbors fought the action. In April 1985, BFI agreed to "remove or stabilize" pollution. The clean-up was set to begin by January 1987, but didn't because of a number of technical issues.

## POMPANO LANDFILL TESTS

Regulators said in 1981 that trash dumping at Waste Management's landfill in Pompano Beach had tainted groundwater, records show. Since then, indications of pollution have been found deeper and farther from the dump's center. Waste Management denies that a health threat exists.



**May 1981:** County regulators discover pollutants 25 feet below the surface and order a study "as soon as possible." Five months later, the company starts the study. Completed in August 1982, the study suggests pollution has reached a lower depth. The firm agrees to further study and installation of new testing wells. Regulators are satisfied.

**March 1984:** Waste Management's study detects signs of pollution from 30 feet to 55 feet. No penalty is imposed because state law permits a landfill owner to taint water within a dump's boundaries.

**January 1985:** Waste Management's lab tests show levels of contaminants exceeding county standards at the property line, at least 2,000 feet from wells polluted in previous years. Three more tests that year confirm the results. Officials fail to cite the firm for violating the pollution standards.

**January 1986:** State tests show traces of pollutants as deep as 113 feet. But key parts of the tests aren't sensitive enough to tell whether a problem exists. Most drinking water is drawn from 100 feet or below. But regulators said no threat exists, because no water is drawn from directly below the landfill.

**April 1987:** A University of Florida draft study concludes that pollutants are coursing below the dump site at five feet per day. The dump site "will continue to be a threat to the contamination of groundwater," the study reports. A Waste Management official called the findings "unsubstantiated," and insisted pollution indicators could be naturally occurring.

**November 1987:** Regulators are expecting Waste Management to install an experimental device to arrest pollution. But regulators said they haven't considered any clean-up plan, and won't discuss any such plan, until after part of the dump closes by 1989. In other cities, these negotiations have dragged on for years.

# LAWS FAIL TO PREVENT POLLUTION AT DUMPSITES

By ROBERT McCLURE  
and FRED SCHULTE  
Staff Writers

**G**entry "Turk" Vincent scratched out a living farming Cajun country for 30 years before waste hauler Brown-ing-Ferris Industries moved in.

Ten years later, toxic chemicals turned up in his drinking water, records state.

"They ruined my well," Vincent said. "I got seven different poisons in my water."

BFI and Waste Management Inc., the nation's premier trash haulers, have been accused of polluting, or failing to take steps to detect pollution, of groundwater beneath at least 46 dump sites from Louisiana bayous to the outskirts of major cities.

Both firms insist their waste dumps are safe. But a *News/Sun-Sentinel* investigation found:

■ The haulers have been cited for violating water protection laws in dozens of cases.

■ Both firms have employed water-testing methods that may understate pollution levels.

■ Dumping at polluted sites has continued for years while regulators haggle with dump owners over cleanup plans.

"It is, in my opinion, a serious problem," said Tom Gallagher, director of the U.S. Environmental Protection Agency's National Enforcement Investigations Center in Denver.

But waste companies "are above the law, as far as environmental agencies are concerned," charged Louisiana civic activist Marvin Harger.

■  
Chickens dart back and forth across the dirt road beside Turk Vincent's shack near Willow Springs, La.

Vincent has lived among the towering pine trees since 1940. In 1972, BFI moved in and began storing wastes less than 800 feet from his well.

In 1982, a state-financed study confirmed that chemicals were "migrating" from the BFI site. The study showed that Vincent's well, four oth-

ers near the waste site and a nearby river had been fouled.

But the study stopped short of blaming BFI, the only waste company within 10 miles of Vincent's house.

Vincent and about 200 neighbors are suing BFI. The suit, which has dragged on for seven years, seeks damages for "obnoxious, repugnant, toxic, dangerous substances and nauseous odors" at the site.

"We've been at that so long," said Vincent, now in his 80s. "Sometimes I have hope and sometimes I give up."

Vincent's court fight shows the difficulty of proving waste dumps cause illness or injury — even when owners are cited repeatedly for violating pollution-control laws.

"You're asking for precise answers from a nebulous technology," said University of Florida professor Lamar Miller, a former EPA enforcement official.

BFI has denied the dump poses a health threat.

Yet the dump abutting Vincent's hog farm is one of at least 14 the firm owns, or has operated, that have a history of citations for violations of water pollution regulations or confirmed water pollution. Waste Management has at least 30 such sites, records show.

Both haulers claim exemplary environmental records. Yet dozens of serious violations by both firms range from failure to install monitoring wells at landfills to dodging enforcement efforts.

Donald K. Reddicliffe, a Waste Management spokesman, dismissed the citations as mainly "paperwork" violations of little importance.

"We're the best in the business," he said.

■  
In the complex swirl of water-testing regulations and standards, dispute is common.

Federal regulations require landfill owners to dig wells and test water for contamination. If lab tests detect pollutants, the government can order a cleanup.

But doubts about the reliability of lab results, and other technical disputes, have hampered enforcement of water pollution laws for more

than a decade, records show.

Four federal studies since 1972 have urged tighter lab standards, while a 1985 congressional review said failure to regulate testing was a "serious omission."

In 1985, EPA inspected Waste Management's hazardous waste dump near Niagara Falls, N.Y., and ordered the company to stop filtering some water samples before testing. EPA alleged that the process could remove some toxic substances, thus making pollution look less serious than it was.

Yet the company still is filtering at more than 100 landfills, company executives said. EPA failed to alert state regulators to the dispute.

■  
The *News/Sun-Sentinel* found that it took regulators an average of about two years after the discovery of groundwater contamination to order a cleanup at 10 waste sites run by BFI and Waste Management.

At eight other landfills, including the four Florida sites owned by Waste Management, little or no action has been taken an average of 4 1/4 years after indications of contamination first appeared.

John Baker, Waste Management's environmental manager, said the firm must be convinced of its liability for pollution damage before agreeing to a costly cleanup.

In any case, he said, the dumps pose no "imminent threat," because pollution spreads slowly.

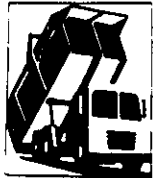
"There is usually plenty of time to respond," Baker said.

Richard Oakley, a BFI vice president for environmental matters, said the firm acts as quickly as it can, given the complexity of pollution investigations and the slow pace of regulatory agencies.

"We've had problems," Oakley said. "But I feel we have a responsible record. We have taken the lead in many cases rather than waiting."

MONDAY,  
DECEMBER 7, 1987

# INFLATED PRICES HELP PROFITS PILE UP



## THE TITANS OF TRASH

Big profits,  
big problems.

By RICK PIERCE  
and FRED SCHULTE  
Staff Writers

**E**very time Fred Weinberger's garbage bill goes up, he gets angry at Waste Management.

"They control the situation completely," said Weinberger, who heads a Margate citizens' group. "We're captives."

Waste Management dominates hauling in Broward and Palm Beach counties through a cluster of exclusive city contracts, some of which have not been bid in more than a decade, records show.

Despite protests from Weinberger and many others, garbage rates have nearly doubled in many local areas since 1980 — partly because of lax government controls and pricing tactics that inflate bills, a *News/Sun-Sentinel* investigation has found.

Records disclose that:

■ Waste Management and other haulers have carted off more than \$2.5 million in the last 10 years overcharges and other suspect billings.

■ Trash bills in Broward have been padded by use of a formula that overstates the volume of trash.

■ In Palm Beach County, haulers were awarded an unusual premium to boost their profit margins for several years, officials said.

■ Fee hikes have been far below average in the handful of local cities that have challenged fee formulas.

"I've seen my garbage bill shooting sky high," said Mary Craig, a civic activist who lives in southwest Broward. "All I know is more money is coming out of my pocket."

Waste Management officials declined to be interviewed concerning the company's local pricing structure.

The firm has cited rising costs, including strict pollution-control efforts, to justify fee hikes, however.

Florida is one of the giant hauler's three largest markets, company records state. The company controls about half the total private hauling market in Broward and Palm Beach counties.

Rates have soared in some areas.

Homeowners in Broward's unincorporated areas paid \$51 a year for trash pickup in 1980. They now pay \$149, almost triple that.

In parts of Palm Beach County, prices have nearly doubled in the last two years.

"I think it's stealing," said Oles Shersty, a security company owner who lives near Delray Beach. "These garbage companies make an awful lot of money."

The *News/Sun-Sentinel* found that Waste Management has been blamed for \$1 million in overcharges in Pompano Beach, and part of \$1 million in excess fees in unincorporated Broward.

Waste Management paid back part of the money in Pompano Beach, but the county has yet to seek a rebate.

Rate increases worth millions more have been granted to garbage haulers with little public debate.

And Waste Management and other haulers also have benefited from the use of questionable statistics, arcane fee systems and poor communication among local officials.

"Someone needs to be responsible for [regulating] garbage from the time it is set out on the curb until it goes to the landfill," said Ken Adams, vice chairman of the Palm Beach County Commission.

■

Archie Raskin and Hal Tanner did not believe every resident of their condo produced almost five pounds of garbage every day — the formula the hauler used for billing.

"Once we studied this thing, we thought something was wrong," said Raskin, a Sunrise resident.

Raskin and Tanner pulled a day's worth of garbage from the dumpster

and put it on a bathroom scale.

"We found it weighed a helluva lot less," Raskin said. "They have no right to rip us off," Tanner said.

The weight formula is the linchpin of Broward's system for computing garbage rate hikes paid by homeowners. Disposal prices are based on the assumption that every person produces 4.9 pounds of garbage daily.

Few officials questioned the formula when haulers began using it in 1980 to compute some rate hikes.

"We didn't know where the number came from," said Jim Elias, director of Broward County's Solid Waste Division.

Had officials tried to find out, they would have discovered that the 4.9 formula includes more than household trash.

The statistic is derived from a study the county paid for in 1976. The study states that the weight figure includes garbage thrown away by businesses, hospitals and construction sites, among others.

"What we were trying to do was show what was being generated by the entire community," said Harold H. Johnson, the study's author.

Johnson went to work for Waste Management in Broward a year after the study. But he said he did not know his findings had been used for setting garbage prices.

Asked whether use of the weight figure to compute a homeowner's bill would cause an overcharge, Johnson replied: "I suppose it could."

The haulers bill businesses separately for trash disposal.

California consultant Matthew Southworth agreed that the weight formula inflates bills. A study he undertook this April concluded that each Broward resident produces about three pounds a day in garbage.

"Everybody in the county is being screwed," said Joe Kranberg, who negotiates trash contracts for Pompano Beach. "The county is doing nothing to keep them in line."

Thomas Henderson, director of Broward's trash incineration pro-



gram, said he has long suspected the formula pads garbage disposal prices. But the matter has never been brought before the County Commission.

"It was not our responsibility," Henderson said. "We have more than enough to keep us busy."

County solid waste director Elias also has taken no action.

Yet the weight formula has led homeowners in Broward's unincorporated area to overpay their trash bills by an estimated \$652,680 since January 1982, according to County Commission Auditor Norman Thabit.

County officials "need to take a look at it and get their numbers adjusted," Thabit said.

Cooper City Public Works Director John Flint said city residents saved \$3,000 a month after officials reduced the weight figure.

Most cities have not challenged the formula, however.

Waste Management has used it to calculate rate increases in seven Broward cities since the early 1980s. Other haulers, including Browning-Ferris Industries, also use it.

Representatives of the trash firms, including Waste Management attorney Emerson Allsworth, defended the fee formula.

"The haulers have traditionally used figures supplied by the county," he said. "It's presumed reliable until it's changed."

Garbage haulers serving the 335,000 residents of Palm Beach County's unincorporated area collected a premium for several years.

The percent add-on came on top of annual price increases for inflation and higher costs.

"The haulers were screaming for that," said former county auditor Jack McGregor.

McGregor said the bonus was justified because he thought the trash companies were entitled to a "reasonable" profit.

"To add it on is not wrong," said McGregor, who was fired in January in an unrelated dispute.

The haulers got about \$500,000 extra from April 1985 to March 1987, according to current auditor Fred Jenkins. He said records do not exist to pinpoint the increase in earlier years.

But McGregor said the practice dates to at least 1984.

He said the add-on was "spelled out" to the County Commission and was known to other officials.

But County Commissioner Adams

called the premium "very inappropriate" and said he would investigate its use.

"It wouldn't be appropriate to bid [a contract] then increase the profit margin," he said.

Adams blamed the controversy on the lack of a single agency regulating garbage disposal.

"No one's responsible," he said. "No one's accountable."

Much of the rising cost of garbage pickup in Broward can be blamed on landfill costs.

When county officials opened their Davie landfill in the 1960s, they enforced a bond covenant to prevent competitors from charging a dumping fee lower than the county.

The dumping fee is the charge haulers pay to dump garbage. In most cities, haulers are permitted to "pass through" any increase in these fees to their customers.

Following the county's orders, Waste Management charged a dumping fee equal to the Davie dump when it took over a Pompano Beach landfill in 1970. Then and now, Pompano is the only other landfill in Broward.

Dumping prices remained fairly stable until the 1980s.

In January 1982, commissioners raised dumping fees at the Davie landfill from \$9 to \$12 a ton. About 1.6 million tons of garbage is dumped every year at the two landfills.

The county rate hike was intended to create a multimillion-dollar fund to pay for closing and monitoring pollution at the Davie dump for the next 20 years. The dump is expected to close at the end of the year.

Once again following the county's lead, Waste Management raised its dumping rates to meet the new county rate.

It proved to be a windfall for the company.

Waste Management took in 70 percent of the price increase — because its landfill is the resting place for that percentage of Broward's rubbish.

"Although we must support government, we do not have to . . . supply money to Waste Management, a huge private enterprise," Margate's Weinberger noted.

Broward County Commissioner Nicki Grossman agreed the fee hike "doesn't seem fair." But she claimed that county policy required Waste Management to raise its rates.

Since 1982, the county has tripled dump fees through a succession of rate hikes. As in previous years,

Waste Management followed suit and reaped large profits on the higher rates.

"We assumed we had to follow the county's rates," said Waste Management attorney Allsworth.

Whether Waste Management was entitled to automatic dump fee hikes beyond 1982 remains unclear, however.

The county bond covenants expired in 1982, which apparently ended the county's authority to set dumping fees.

Since then, Waste Management has used the county fee hikes as an "excuse" to raise its dumping fees, according to Larry Lymas-Johnson, an assistant county attorney.

Most cities have granted Waste Management rate hikes with little public debate.

The company now charges haulers, including several companies it owns, \$30 a ton to dump at the Pompano site — more than three times the rate six years ago. A few cities fought the hauler and rejected rate increases, records show.

In January 1985, James Brady, an attorney who represents the city of Lauderdale Lakes, accused Waste Management of a "misrepresentation," after the hauler said it was required to match the county's dumping rate. The fee increase was rejected.

"We were very serious about the situation," Brady said.

Waste Management has been accused before of taking undue advantage of government actions to justify jacking up rates at its landfills.

In 1981, a Waste Management subsidiary, United Sanitation Services, "used Dade County's increased dumping fee at the county landfill as an excuse to raise its prices to its customers — some by as much as 300 percent — even though United had its own landfill and did not use or pay for county services," U.S. Department of Justice records state.

Justice Department records also show that rival haulers complained often that Waste Management and BFI raised rates enormously during the 1970s in markets where they controlled landfills.

"The landfill is a profit center. It's not run at a loss or even a break-even point," said Bob Hely, BFI's local district manager.

Hely said he refused to bid on a contract in Parkland because the city refused to let BFI pass on dumping fee hikes to customers.

BFI has no control over those fees,

but is at the mercy of Waste Management and the county, until the Davie dump closes.

"There's an old saying in the business. 'Them that own the landfill control the system,'" said Tim Hunt, executive director of the Palm Beach County Solid Waste Authority.

"That's why the authority has taken a position that it will always operate the landfill."

Palm Beach County expects to fill existing landfill space by the end of 1989, but it has a new site under construction.

But Broward won't open a dump to replace the Davie site until mid-1988. The site is in southwest Broward near the Broward Correctional Institution.

Meanwhile, Waste Management attorney Allsworth said that the firm would like to have raised its dumping rates even higher.

Commented Commissioner Grossman: "It would be just pure greed for them to raise their prices."

Sol Press figured competition would cut the cost of garbage pick-up at the giant Wynmoor condo complex in Coconut Creek, where he sits on the community council.

But because the city was locked into an agreement with Waste Management, Press could not look elsewhere. When the city and Waste Management finally agreed to carve Wynmoor out of the agreement, Press bid the contract.

The result: an \$80,000 savings in three years.

Press said he met with Waste Management officials two or three times in an attempt to resolve the problems.

"I imagine they thought they had a monopoly here and nothing had to be

done," he said.

Waste Management does have a monopoly in about a dozen Broward cities and Jupiter and Delray Beach. It also controls part of the residential area in unincorporated Palm Beach County. Some cities have not bid trash contracts in years.

Officials in cities using Waste Management say the company has elicited few complaints. And they contend that the practice of giving haulers a monopoly winds up saving money for homeowners.

But critics charge that bidding contracts regularly would reduce hauling costs to homeowners.

"I think the contracts have run too long with the current haulers," said Don Faust, a civic activist who lives in south Broward. "These haulers are dictating to us what they are going to do."

# LAWS PROVIDE LITTLE DETERRENT TO PRICE FIXING

By FRED SCHULTE  
Staff Writer

**W**hen a Waste Management employee got off with 45 days in jail in 1983 for fixing trash-disposal prices in Atlanta, company workers in South Florida "celebrated," prosecutors said.

The light sentence led them to continue similar tactics here, the government charged in court papers.

Since 1983, two Waste Management employees have been convicted of price-fixing in Miami. Neither went to prison.

"There is a general reluctance to send white collar criminals to jail," said J. Robert Kramer III, an attorney with the U.S. Department of Justice in Washington.

Federal officials say price-fixing and other violations of antitrust laws by garbage haulers have cost consumers millions of dollars in recent years.

But a *News/Sun-Sentinel* investigation found that the government's 10-year effort to crack down on the abuses has been marred by lax enforcement, jurisdictional squabbles — and penalties so lenient that they provide little deterrent.

Records reveal:

■ Trash titans Waste Management and Browning-Ferris Industries have been the subject of dozens of price-fixing complaints, lawsuits and criminal actions as far back as the 1970s.

■ The firms have bought out hundreds of small hauling firms, but few of the mergers have been challenged.

■ Price-fixing violations rarely result in jail time, although officials argue that jail sentences are the only way to halt the tactics.

"Criminal fines amount to little more than a licensing fee," said Laurel Price, a New Jersey assistant attorney general. "The deterrent is not that great."

The haulers deny they violate antitrust laws, which are designed to

prevent monopolistic practices and the restraint of trade.

"The typical Waste Management division has never had that problem and never will," said company senior vice president Harold Gershowitz.

Yet, Waste Management of Florida pleaded no contest on Nov. 23 to a charge of violating federal anti-monopoly laws in Fort Lauderdale. The government had charged the firm with conspiring to allocate customers.

Waste Management and BFI agreed to plead guilty in October to a felony charge of price-fixing in Toledo, Ohio. They also agreed to pay fines of \$1 million, officials said.

Said BFI spokesman Peter Block: "There's no reason to consider what happened in Toledo will happen elsewhere."

Allegations of illegal pricing tactics have dogged both BFI and Waste Management since their earliest days, records show.

Whether a business practice violates antitrust laws often is a matter

of judgment.

Generally, it is illegal for a business to buy out competitors if to do so would substantially lessen competition.

It also is a crime for businesses to band together and decide what price to charge for a service, or to consult with each other before bidding for a contract.

Other violations include "predatory" pricing. In that scheme, a company charges a price below its cost in order to drive competitors out of business. Once that occurs, the company is free to jack up prices.

Trash haulers also have been accused of impeding competition by refusing to solicit each other's customers. This practice is referred to as "customer allocation."

■

In 1971, Waste Management subsidiaries were among the members of a Chicago trade association that paid \$50,000 to settle a lawsuit claiming price-fixing practices.

Three years later, a Waste Management subsidiary was fined \$4,000 after being convicted of bid-rigging in Wisconsin.

Since then, more than a dozen lawsuits alleging illegal pricing tactics have been filed against Waste Management and BFI.

The Justice Department also has confirmed that at least eight federal grand juries are investigating waste haulers.

Government scrutiny of the waste haulers dates back to the 1970s, mostly because of their attempts to acquire new businesses.

The Justice Department has filed at least two lawsuits against Waste Management since the 1970s, alleging that proposed mergers by the firm restricted competition.

In 1984, Waste Management purchased SCA Services, then the nation's third-largest trash company. The government sued and successfully prevented Waste Management from taking over SCA's operations in some cities.

Despite a few court challenges, the government has let Waste Management and BFI buy out hundreds of haulers throughout the 1970s.

"The [trash] companies have been on a voracious acquisition campaign for 10 years," reads a 1982 Justice Department study.

The pace continues. In 1985, for example, Waste Management of North America, the subsidiary that oversees garbage collection and disposal operations in the United States and Canada, bought 75 new business-

es. Another 137 acquisitions followed in 1986, records state.

Justice Department officials concede that they have been powerless to stop the acquisitions.

"Can the antitrust division challenge each merger that comes up?" asked Justice's Kramer. "We'd be doing nothing else."

Yet Justice Department records show that federal prosecutors received dozens of complaints from small haulers around the country. Most of them claimed that BFI or Waste Management was driving them out of business — and forcing prices up.

In other cases, state prosecutors complained to the Justice Department that they are unable to handle the highly complex cases, only to find that the federal government was not interested.

FBI records confirm that price-fixing investigations were undertaken in numerous cities in the wake of the Atlanta inquiry.

Federal prosecutors "believe that the activities at Atlanta were probably directed by corporate officials from the company headquarters," reads a Feb. 9, 1981, FBI memo.

Waste Management and BFI both denied that accusation, and no such charge has ever been filed against either company.

In April 1980, the Pittsburgh FBI office received complaints that BFI was engaged in "extremely aggressive sales tactics which appeared to involve price-fixing, predatory pricing, and attempts at monopolization," FBI documents state.

In May 1981, the FBI was notified that Justice Department officials had decided that prosecution "not be considered" because the case "lacked national impact," FBI records state.

The Los Angeles District Attorney's Office filed felony price-fixing charges against Waste Management in June. The case stemmed from allegations that federal prosecutors had declined to pursue, said senior investigator Richard Goldston.

"It was too small peanuts for them," said Goldston. He said he thought his office had a "strong case."

■

BFI manager James Baker was convicted of price-fixing in the same 1983 Atlanta case that involved Waste Management.

By the time he was sentenced, Baker was working for BFI in Baltimore — where the company was embroiled in another investigation of il-

legal pricing methods, FBI records state.

A complaint lodged by a competing hauler with the Federal Trade Commission in March 1982 alleged that the practices were continuing in Baltimore under Baker's tenure.

BFI spokesman Block said Baker was suspended from the firm without pay for six months following his conviction in Atlanta, and required to repay the firm for the cost of his legal defense. Baker now is a district manager in BFI's Maryland and Washington, D.C., area office, Block said.

Waste Management also has continued to employ managers convicted of violating monopoly statutes.

David Hoopengardner, manager of United Sanitation Services, a Waste Management subsidiary in Miami, was convicted in April 1986 of customer allocation and price-fixing. He was sentenced to two years' probation and fined \$10,500, records state.

In August 1986, Waste Management was allowed to transfer Hoopengardner to its subsidiary in Caracas, Venezuela, where he still works. Federal probation officials said Hoopengardner does not have to report to them unless he returns to the United States before next April.

The other Waste Management official convicted in South Florida was Lewis R. Goodman. He was sentenced to three years' probation and ordered to pay a \$200,000 fine, records state. Goodman no longer is associated with the firm.

"We've had several convictions down there and we'll continue to investigate," said John Orr, of the Justice Department's antitrust division in Atlanta.

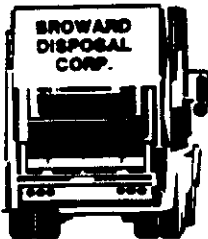
*Staff Writers Jean Marbella, Robert McClure and Rick Pierce contributed to this report.*

## CORPORATE TIES



In 1968, Chicago garbageman Dean L. Buntrock merged with Fort Lauderdale hauler H. Wayne Huizenga to form Waste Management, spawning a trash dynasty in South Florida and the nation. Through several companies it owns, Waste Management controls about half the private disposal market in Broward and Palm Beach counties, officials said.

■ **Southern Sanitation** is a Waste Management subsidiary. It is managed by Floyd Cherry, named as an unindicted co-conspirator in two federal price-fixing cases. Based in Pompano Beach, it picks up garbage in Fort Lauderdale, Lauderhill, Lighthouse Point and North Lauderdale.



■ **Broward Disposal Corp.**, a Waste Management subsidiary, picks up garbage in Davie, Lauderdale Lakes, Lauderhill, Lighthouse Point, North Lauderdale, Plantation, Pompano Beach and Sea Ranch Lakes. Edwin J. Johnson is the general manager; Floyd Cherry the manager.

■ **Ace Refuse Service**, a Waste Management subsidiary, is based in Pompano Beach and picks up garbage in Coconut Creek, Coral Springs and Margate. Edwin J. Johnson is the firm's general manager.



■ **Nichols Sanitation**, a Waste Management subsidiary, was purchased in 1972 from former Jupiter Mayor Robert Nichols. It picks up garbage in Jupiter, parts of unincorporated Palm Beach County and other areas.

■ **United Sanitation Services**, a Waste Management subsidiary, is Dade County's largest garbage hauler. Lewis Goodman, who ran the company until 1985, was convicted of price fixing in 1986. David Hoopengardner, the firm's former general manager, also was convicted. United, acquired by Waste Management in 1980, is now run by Michael Collier.



■ **Waste Resources**, a Waste Management subsidiary, picks up garbage in unincorporated areas of Palm Beach County, including the populous area east of State Road 7 between the Broward line and Northlake Boulevard.

■ **Waste Management of Palm Beach**, a Waste Management subsidiary, hauls trash in Delray Beach and from businesses in the unincorporated area between Boynton Beach Boulevard and Northlake Boulevard.



# MAKING A HAUL WITH TRASH

Waste Management and other South Florida trash haulers have pocketed millions of dollars in overcharges and other questionable fees in recent years, a *News/Sun-Sentinel* investigation has found. Some officials have ignored evidence of padded trash bills, while in some cities garbage contracts haven't been bid in years, records show.

Waste Management and rival Browning Ferris Industries (BFI) also face charges of price fixing here and in other parts of the country. The firms deny wrongdoing.

## WEIGHT

Since 1980, Waste Management and other haulers have sought periodic price hikes to homeowners in 13 cities and the unincorporated area on the premise that every person produces 4.9 pounds of garbage daily. The *News/Sun-Sentinel* found the figure includes business garbage. County officials agree the rate formula inflates garbage bills — but so far they've done nothing to stop it.

**BROWARD COUNTY:** A preliminary county study done in April found each person produced 3 pounds of garbage a day, not 4.9 pounds as the haulers claim. Using 3 pounds as a baseline figure, Broward County Commission Auditor Norman Thabit estimated homeowners in the unincorporated areas have overpaid trash bills by about \$642,200 since 1982. That money was shared by Waste Management, BFI and six other haulers.

**SUNRISE:** Sunrise City Auditor Dan Cole estimates that condominium owners could be overpaying garbage bills by as much as \$34,825 a month to All Service Refuse, Inc. No refund has been made. And that figure doesn't include any possible overcharge to single-family homeowners, who are likewise charged on the

basis that each person produces about 4.9 pounds a day. Cole, however, said he doesn't believe single-family homeowners are being overcharged in his city. The rate-by-weight formula has been used successfully in at least seven other cities: Coconut Creek, Coral Springs, Davie, Lauderdale, Margate, North Lauderdale and Sea Ranch Lakes.

**PALM BEACH COUNTY:** For four years, homeowners in unincorporated areas have paid Waste Management and other haulers an annual premium to boost their profit margin. Although a guaranteed margin was approved by the county commission, officials now say that no records exist to determine whether it was computed properly. The haulers earned as much as \$500,000 from the add-on, more than half of which went to Waste Management, one official estimated. The practice has since been halted.

## OVERBILLING

**BROWARD COUNTY:** County Commissioners set garbage fees in 1977 for residents in the unincorporated areas. But Waste Management and other haulers ignored the edict for three years before officials took notice. By that time, homeowners had overpaid at least \$1 million. The money has yet to be repaid. "Let's face it," said Broward County Commission Auditor Norman Thabit. "The administration just screwed up."

**POMPANO BEACH:** Waste Management began overbilling the city in 1973. The practice netted the hauler an estimated \$1 million, according to one estimate, and took years to halt. In 1973, Waste Management refunded \$3,600; in 1981 \$89,000. In 1984, after a police investigation, the firm paid back \$200,000 more and agreed to slash rates in a new contract.

**FORT LAUDERDALE:** Waste Management underpaid city fees in 1978 by \$57,000. The firm repaid the money, as did several other haulers. Two years later, city auditors alleged Waste Management overbilled the city by about \$111,000. The city settled for about \$65,000, however.

## RIGHTS

Numerous South Florida cities have granted Waste Management a monopoly. City officials argue the policies keep rates low for homeowners by assuring haulers profitable commercial routes. But

competition has saved the Wynmoor condominium complex in Coconut Creek \$80,000 since 1983. That's when condo officials convinced the city to allow them to negotiate with other companies. Broward and Palm Beach County cities having exclusive deals with Waste Management are: Coral Springs, Davie, Delray Beach, Jupiter, Lauderdale Lakes, Lauderdale, North Lauderdale, Parkland, Plantation, Pompano Beach and Sea Ranch Lakes.

## FEW BIDS

**CORAL SPRINGS:** Coral Springs officials asked 25 haulers to bid for the city's contract in 1978. Only three responded, and two of them dropped out. So the city wound up negotiating with the only firm left, Waste Management. The city hasn't bid garbage collection since, although it plans to do so next spring.

**PARKLAND:** When Parkland city officials bid garbage collection two years ago, nobody was interested but Waste Management. Nor was anyone but Waste Management interested in bidding for a contract to haul trash in Coconut Creek 11 years ago. "Neither city has rebid the job. A BFI official said he didn't bid on the Parkland job because city officials wouldn't permit him to pass on higher landfill costs. Waste Management owns a landfill in Pompano Beach.

**GREENACRES CITY:** Greenacres City, which gives County Sanitation Inc. the exclusive rights to haul its garbage, hasn't bid the contract since at least 1971. "I don't have any record that it was ever bid," said Marshall Dan, finance director and city clerk. The city agreed to extend County Sanitation's contract until 1996 when the hauler agreed to increase the fee it pays the city.

**WILTON MANORS:** For years Wilton Manors allowed garbage companies to pick up residential or commercial waste as long as they paid a \$5,000 licensing fee. But for most of that period only two companies — Industrial Waste Service Inc. and BFI — picked up the city's garbage. Industrial Waste handled the residential, according to city officials, and the two firms shared the commercial business. The city recently signed a contract with Industrial Waste Services to do household pick-up. The contract wasn't bid. A city official said the city saved money by sticking with its long-term hauler, rather than seeking bids.

Waste Management took over trash hauling in Plantation in 1968 on a handshake deal. The hauler and the city later signed a formal contract, but the contract never has been competitively bid. While cities seek bids for virtually every service or purchase, garbage pickup remains a glaring exception to the rule. Pompano Beach hasn't bid its contract since 1973, when Waste Management took over following a strike by city sanitation workers. Coconut Creek, Cooper City, Lighthouse Point and Sunrise — two are Waste Management clients — have not bid garbage collection in the last decade.

Other cities, such as Fort Lauderdale, bid garbage collection as often as every three years.

## GOVERNMENT

The U.S. Environmental Protection Agency awarded a Waste Management a \$1.5 million contract in September 1983 to clean up pollution at an oil refinery near Houston. An EPA auditor later questioned about \$400,000 of the costs because the firm didn't document the expense. The *News/Sun-Sentinel* obtained three other audits in which EPA alleged that Waste Management failed to document charges to the government.

BFI and a Waste Management subsidiary overcharged taxpayers at least \$210,416 for hauling trash from Atlanta sites such as the Centers for Disease Control and a U.S. Air Force Base, the government alleged in a 1984 lawsuit. The suit charged that the excess charges stemmed from a conspiracy by the firms to fix bids on federal contracts.

**STATE:** Waste Management and other haulers kept garbage bills paid by several state agencies "artificially high" through illegal price fixing, the Florida Attorney General's Office charged in a lawsuit filed in March. The suit alleges that from 1971 to 1984 the haulers inflated fees by rigging bids for contracts at the Dade County School Board, Miami's Jackson Memorial Hospital and other state sites. The suit seeks treble damages.

## CONVICTIONS

Waste Management officials in South Florida have been convicted of price fixing in the past two years, part of a conspiracy that is believed to have included dozens of other garbage haulers in 26 different companies. Federal prosecutors alleged that the conspiracy indirectly

cost consumers excess fees "clearly in the millions of dollars." Another Waste Management official was convicted of price fixing in Atlanta in 1983 and paid a fine of \$375,000. The firm also was convicted of price fixing in 1974 in Wisconsin, where it paid a \$4,000 fine.

On Oct. 29, subsidiaries of Waste Management and BFI agreed to plead guilty to a felony count alleging price fixing in Toledo. Each firm agreed to pay a \$1 million fine, the maximum penalty.

## INDICTMENTS

Waste Management was indicted in Miami and Los Angeles this year on criminal charges of price fixing. If convicted, the haulers could be fined millions of dollars and lose the right to conduct business in California. Prosecutors said the California cases stems from "predatory pricing," in which one hauler cuts prices to force a competitor out of business. The *News/Sun-Sentinel* found that Waste Management and BFI have been the subject of dozens of similar complaints since the early 1970s, most of which federal authorities declined to prosecute. However, the U.S. Department of Justice said in October that waste haulers were the subject of price fixing probes by grand juries in eight cities.

## SCHOOLS

When the Broward County School Board went shopping for someone to haul trash from half the county's 160 schools, it decided to split the job up. Half went to a Waste Management subsidiary; half went to rival Browning Ferris Industries (BFI). Waste Management's Floyd Cherry, a former Fort Lauderdale High School football coach, won the bid to serve north Broward schools. Cherry was named as an unindicted co-conspirator in two criminal indictments of South Florida garbage haulers. BFI's Bob Hely, who played quarterback for Cherry in the mid-1970's won the southern portion. In dividing the contract, worth \$429,300 to the haulers, School Board officials claim they saved about \$200,000. The Florida Attorney General's Office confirmed it is investigating the bids, however.

## ANTITRUST

**BFI:** When Joe Kelley refused to sell his Vermont trash company to BFI, the company allegedly tried to force Kelley out of business, to "squish him like a bug," one witness testified. A Vermont jury awarded Kelley \$6 million in damages in May after finding BFI had violated antitrust laws. BFI agreed to pay \$3 million in October 1984 to settle allegations of price fixing brought by the New Jersey Attorney General.

**WASTE MANAGEMENT:** Max and

Susan Chira, who own a Broward apartment building, are suing a Waste Management subsidiary and several other haulers alleging that the firms refrained from soliciting each others' customers and rigged bids to keep businesses from switching haulers. The class action suit is one of at least three filed in South Florida after an official of a Waste Management subsidiary was convicted of price fixing in December 1986. The government settled the case for about half the amount it had sought.

## MERGERS

Both Waste Management and BFI have grown by swallowing up hundreds of smaller garbage haulers since the early 1970s. But the Justice Department doesn't have enough staff to challenge most of these deals, said J. Robert Kramer III, an anti-trust division attorney. In 1984, the government let Waste Management buy part of SCA Services, the nation's number three trash firm. That made Waste Management the number one hauler. Officials admit enforcement of anti-trust laws is relaxing. They blame permissive court rulings and staff cutbacks. Whether mergers reduce competition and drive up prices is far from clear. But some cities in which one of the giant trash firms owns all the landfill space have seen prices soar, records state. Waste Management purchased 50 new companies in the first half of this year. This summer, BFI said it had paid about \$278 million to purchase new firms.

TUESDAY,  
DECEMBER 8, 1987

# HAULERS CURRY FAVOR IN COMMUNITY



## THE TITANS OF TRASH

Big profits,  
big problems.

By RICK PIERCE  
and FRED SCHULTE  
Staff Writers

**W**hen Broward County Commission candidate John Hart needed campaign cash, he called on trash titan Waste Management.

Hart said the company paid \$948 in October for a fund-raising party. He is mayor of North Lauderdale, where Waste Management has an exclusive contract to pick up garbage.

That night, Hart's upcoming County Commission campaign picked up \$3,400 — about 8 percent of its total.

He denied Waste Management got anything for its money.

"There is no correlation that can be drawn between contributions and special treatment," Hart said.

But Waste Management and Browning-Ferris Industries — the nation's top garbage haulers — have sought to influence public policy through donations to election campaigns, gifts to civic causes — and by hiring prominent political figures to plead their cases, a *News/Sun-Sentinel* investigation has found.

The investigation shows:

■ Waste Management is one of the largest corporate givers to Broward election campaigns. It also is among the most generous contributors in congressional races.

■ Both trash titans have hired former environmental regulators and political figures to lobby on their behalf.

■ Waste Management stays on the good side of the local establishment by underwriting costly community service campaigns in the cities where it does business.

"We service the public, and their opinion is very important to us," said Joseph Jack, president of Waste

Management of Florida.

"It's almost mandated by our top management that we get involved in the local community."

■

William Moffatt has been Waste Management's man in Broward political circles since the mid-1970s.

He treats friends to big-bucks-a-plate political dinners, throws an elegant Christmas bash for scores of political figures — and can call in key vote-getters and big-time contributors.

"All I ask is for consideration for my clients," he said. "I don't have influence."

Many candidates deny Moffatt's favors buy clout. Others insist his power is small because Waste Management donates to most politicians, regardless of their voting record.

"When Moffatt walks in my office, he is on the same level as any other lobbyist," said Broward County Commissioner Nicki Grossman, for whom Moffatt has thrown a fund-raiser.

"I'll never understand why people think there is a relationship between fund-raising and your term in office."

Grossman said she was assured by Moffatt that he paid for the fund-raiser out of his own pocket.

She called Moffatt a "friend." But she also said:

"I don't always vote the way he'd like me to. No one's got a lock on this commissioner."

Grossman said she does not "keep track" of whether she has voted favorably on issues affecting Waste Management.

Records show that Moffatt shelled out \$1,000 for a Grossman fund-raiser last year. Her campaign collected \$9,000 in the time it took guests to "have a drink and write a check," she said.

Moffatt's bash was her biggest money-raising event, netting 7 percent of her campaign chest.

Florida Secretary of State George Firestone raised \$6,095 at an October 1985 fund-raiser paid for by Waste Management. The event cost

the hauler about \$1,200, mostly for food, records state.

Politicians are lining up at the company's door despite the hauler's history of indictments for fixing the price of trash pickup and for run-ins with environmental regulators.

Two Waste Management officials were convicted of price-fixing in Miami last year. Waste Management and BFI pleaded guilty to similar charges in Toledo, Ohio, in October.

Waste Management pleaded no contest to a felony price-fixing charge in Fort Lauderdale on Nov. 23.

County Commission hopeful Lori Parrish said she was aware of the hauler's history of legal problems when she let the firm be host to a fund-raiser for her in September.

Parrish, now a School Board member, got \$3,500 for her upcoming campaign.

"I understand the negative things that have happened. But I have no knowledge of that in Broward County," she said.

Sometimes Waste Management's lobbyist works behind the scenes.

When Broward commissioners were searching for a chief executive, Moffatt pushed in private for Lex Hester, who got the job.

"He did a real strong selling job on his behalf," Grossman said. "They're obviously friends."

BFI, a relative newcomer to South Florida, is only a minor contributor to local political races. It also gives far less in national elections than rival Waste Management.

But one critic thinks Broward's elected officials are beholden to Waste Management.

"The tendency is to placate the contributor with a favorable vote," said Jim Worl, Fort Lauderdale coordinator for the citizens' lobbying group Common Cause. "We're imperfect humans."

Waste Management, the nation's largest garbage hauler, is proud of its headquarters near Chicago.

So proud that it will pay to fly a congressman into town for a tour and lunch with company executives. The politician is asked to give a talk, take a few questions — and gets \$2,000 for the trouble.

"It's a working session," said Harold Gershowitz, a Waste Management vice president. "They don't drop by the office and pick up \$2,000."

The waste company spent about \$57,000 during 1985 on these talks, according to Common Cause.

Common Cause put Waste Management as 10th in a list of the 21 largest givers of honoraria. The waste firm gave more than General Electric, the Distilled Spirits Council or the United States Tobacco Co.

Contributions to candidates for national office also are generous, federal records show.

The trash firm gave \$248,763 to congressional races in 1985 and 1986, 21 times the money it gave only six years ago.

Since Waste Management formed its own political action committee in 1980, it has kicked in another \$425,000 to congressional races. The waste hauler's PAC ranked 24th in spending out of 1,779 corporate committees during 1985-86, records state.

By contrast, BFI's political action committee gave \$55,000 to congressional candidates in 1985 and 1986.

Gershowitz denied Waste Management seeks to buy influence. But he conceded that the contributions give the waste company "somewhat greater access" to politicians.

Records show that Waste Management has courted politicians since the early 1970s — both in South Florida and elsewhere.

In 1970, the company paid \$16,400 to a Milwaukee lobbyist to "establish rapport" between executives of a Waste Management subsidiary and city and county officials.

In 1972, Waste Management began making payments to Patrick O'Block, a Chicago-area political figure, to "neutralize any adverse community or political reaction" to a landfill, company records state.

The payments to O'Block, a former township committeeman, reached \$55,885 by 1975.

Waste Management hoped that O'Block had the clout to seek the "intervention" of then-Chicago Mayor Richard Daley, should opponents

succeed in derailing the landfill project, company records state.

"We informed Pat that if the struggle came down to this point, we would be looking for him to use all of his powers, skills and favors owed to accomplish this result," reads a May 1974 memo written by Waste Management vice president Peter Hui-zenga.

Some of Waste Management's political contributions drew the scrutiny of the U.S. Securities and Exchange Commission.

In 1976, Waste Management signed an agreement with the SEC promising not to make "unlawful political contributions," records state.

The action followed an SEC complaint alleging that the firm kept a "slush fund" for campaign contributions in Florida and Canada.

Gershowitz denied the firm kept a slush fund at the time.

Waste Management has hired numerous former U.S. Environmental Protection Agency regulators.

"Our company has supported strong environmental laws," said Jack Schramm, a former EPA regional administrator, now with Waste Management's Washington office. "I didn't have to change hats."

But allegations of violations of pollution-control laws continue to plague the trash titans, records show.

Waste Management and BFI have been cited more than 1,000 times since 1980 for these violations.

Critics worry that the growing sophistication of the waste firms, and their hiring of ex-regulators, could result in relaxed enforcement of environmental laws — and result in the waste firms amassing more expertise than the government.

"EPA is by no means an aggressive agency," said Dave Lennett, a former Environmental Defense Fund official, who now publishes a journal on hazardous waste.

"These decisions require a great deal of expertise at the regulatory level that may not be there," he said.

Others argue that enforcement of these laws already is timid.

"It's hard to slap the hand of the people who you said were good enough to run a facility," said Sharon Rogers, an activist in Missouri.

She said regulators "bend 'over backwards" not to fine the firms because to do so "reflects badly on them."

Waste Management disagrees. "I don't think anybody has been subjected to more regulatory scrutiny orders and fines than we have,"

said Peter Vardy, the firm's vice president who handles environmental matters.

Waste Management has been fined about \$19.9 million since 1980 for violating environmental laws.

BFI also has found itself in an unwelcome political spotlight.

Take the case of Sue Dance, an elected official in Platte City, Mo., who led a long drive to force government officials to scrutinize BFI's operations closely.

BFI's concern "was not for the citizens of Platte County, who have been subjected to refuse blowing from trucks and unknown liquids dripping from trucks," Dance told state senators in February 1983.

Dance — who was equally critical of state regulators — sued to close down a company-owned landfill, but lost.

"We are convenient scapegoats for the political process when it runs into a hard decision," said James D. Range, who directs Waste Management's Washington office.

May 19: It's "Award for Excellence Day" for the Broward County public schools.

Twenty-one high school students each get a \$1,000 grant for academic achievements; 25 middle school students each get a \$100 savings bond for an essay on the environment; and 69 elementary school students each get a \$50 savings bond for environmental posters that they have drawn.

Behind this event — as well as "Erase Drugs Day" and "Career Day" and "A Day in the Life of Waste Management" — is, of course, Waste Management.

The company is a growing presence in Broward County schools as well as in other community affairs.

It gave \$500,000 to support a performing arts center in downtown Fort Lauderdale, the largest corporate contribution to date.

The firm is fond of noting how much it contributes to cities it does business in, both from taxes and gifts to civic causes.

Waste Management executive Joseph Jack said that because much of the company's community relations activity is geared toward educating the public, the grade schools are a natural place to start.

Said Jack: "When they grow up they can't say anything nasty about Waste Management because maybe we made it possible for them to go to college."

Staff Writers Jean Marbella and Robert McClure contributed to this report.



# BRIBERY INVESTIGATIONS DOG WASTE HAULER

By ROBERT McCLURE  
and FRED SCHULTE  
Staff Writers

**E**mployees of Waste Management Inc. have been accused by government officials of bribery in Florida and Illinois — two of the trash titan's top three markets — despite an 11-year-old agreement with the government barring such practices, records show.

The 1976 pact with the U.S. Securities and Exchange Commission forbids Waste Management to make "unlawful political contributions" or use company money for "similar unlawful purposes."

Since then, the hauler has surfaced in several bribery investigations, two of which have led to convictions.

The company denies wrongdoing.

"Whenever they bid on city business, people try to figure out whether they are involved in pervasive corrupt behavior," said Joseph Hartzler, an assistant U.S. attorney in Chicago. "I can't tell you whether that's true or not."

Among the cases:

■ Former Margate City Commissioner Rick Schwartz testified in court, in exchange for immunity from prosecution, that he sold his vote on a 1979 city contract to Waste Management for \$3,000. Former City Commissioner Jack Tobin, now a state representative, and then-commissioner president George Liederman also were charged with taking bribes. Tobin was acquitted, and the charges against Liederman were dropped.

■ John Horak, manager of HOD Disposal in Fox Lake, Ill., was convicted in 1986 of paying \$12,000 in bribes to the town's mayor and a village board member. Horak was sentenced to six months in jail.

■ Lewis Goodman, manager of a Miami-based Waste Management subsidiary called United Sanitation Services, bribed a city sanitation inspector for steering business to his company, federal prosecutors alleged in court papers. Goodman was

convicted of price-fixing in December 1986. Goodman, who no longer works for Waste Management, could not be reached for comment.

■ Former Chicago Alderman Clifford P. Kelley pleaded guilty in April to accepting \$6,500 from a Waste Management lobbyist to help the firm obtain an option to purchase land for a trash station.

Waste Management senior vice president Harold Gershowitz said that any employees caught in acts of bribery are fired.

"We have probably 3,000 people in the U.S. in a position to pull a stunt like that," Gershowitz said.

"It's abundantly clear to anyone who knows the company that the company has not engaged in that activity," he said.

But Waste Management's 1976 agreement with the SEC stemmed from allegations that the firm kept an illegal "slush fund" for political contributions in Florida and Canada, records show.

SEC spokesman Chiles Larson said about 50 companies have agreed to abolish slush funds, but the agency has no system to assure that they do so.

Larson would not comment on the agreement with Waste Management. But he said any company violating terms of a consent decree can be held in contempt of court.

Waste Management — whose top three trash markets are California, Illinois and Florida, according to company documents — has been the target of at least one other SEC investigation.

In 1974, the SEC investigated allegations that the firm made "false and misleading" statements in connection with the sale of company securities, records show.

Top-ranking company officials also have been accused twice, in 1983

and 1987, of possible violations of SEC regulations.

The 1983 allegations were brought by a New Jersey investor. He claimed a large block of Waste Management stock was sold before a lawsuit filed by the state of Illinois alleging pollution violations by the firm. The suit, and news coverage of the firm's other environmental troubles, sent the company's stock plunging in March 1983.

The SEC later was advised that thousands of shares of company stock were sold within a week of the Illinois attorney general's filing of the \$1 million lawsuit, records state.

Brokers reported selling about 20,000 shares of the stock, worth more than \$1 million, on behalf of a Waste Management official and his wife.

A firm that Waste Management sought to purchase also has leveled allegations of illegal stock trading, court records state.

Lawyers for ChemLawn Corp. charged in a March 1987 lawsuit that Waste Management officials and their families purchased 45,400 shares of stock in the firm before the takeover bid.

ChemLawn questioned whether the purchases were for the "personal profit" of Waste Management officers and their families.

Waste Management officials acknowledged the purchases, but denied they did anything wrong. Dean L. Buntrock, Waste Management's chairman and chief executive officer, later released a statement saying the company was re-examining its policy for use of "inside information."

Staff Writer Rick Pierce contributed to this story.



Kelley

# HOW TO WIN FRIENDS

Trash titans Waste Management and Browning-Ferris Industries have amassed power and influence through hefty contributions to election campaigns, generous gifts in cities where they do business — and by hiring scores of former government regulators and well-known politicians to plead their cases.



Douglas Costle

## ETC LAB

Douglas M. Costle left his job as EPA chief in 1981. With three former aides, he helped form Environmental Testing and Certification (ETC), a New Jersey-based lab dedicated to the "accurate measurement and safe management of toxic chemicals." Two years later, ETC landed two big clients — EPA and Waste Management. BFI became a client in 1985, a year ETC grossed \$16.5 million. EPA has paid the firm about \$6 million since June 1983 to test toxins at waste sites. ETC declined to disclose its fees for measuring pollutants at Waste Management landfills. But a 1985 ETC report called Waste Management a "major customer."

In July 1985, EPA deemed one method ETC had used to test specimens for Waste Management "inappropriate." In April 1986, EPA claimed test results from ETC could be "biased low" for pollutants because Waste Management had filtered samples before shipping them to the lab. Costle said he was trying to be "helpful" to EPA and private waste companies by setting up the lab, which has a reputation as one of the nation's best.



Sylvia Poitier is sworn in as Broward Commissioner in October 1985.

## BROWARD COMMISSIONER

Sylvia Poitier's quest to keep her seat on the Broward County Commission was in jeopardy. She survived a bitter, racially tense primary that drained her campaign coffers. Poitier got the money she needed to win the job — in part through the generosity of Waste Management.

Waste Management spent \$1,000 for food and drinks at a fund-raiser. Its lobbyist, Bill Moffatt, spent \$109. Poitier garnered about \$12,000 — about 7 percent of her total campaign chest at the party. Last month, her colleagues named her commission chairman.

Waste Management is among the largest corporate contributors to Broward County and state legislative races. Nationwide, Waste Management gave \$248,763 to congressional candidates in 1985 and 1986. That's up from \$11,550 in contributions given by the firm in 1979 and 1980, records show.



State Rep. Jack Tobin



Rep. E. Clay Shaw

## HIGH-POWER LOBBYING

Jack Tobin, then a Margate City Commissioner, got a phone call at home before a vote on who should get the contract to haul trash in the city. On the line was E. Clay Shaw, then mayor of Fort Lauderdale, now a U.S. congressman. Shaw wanted Tobin, now a state representative, to abandon Waste Management in favor of BFI, a client of Shaw's. Tobin recounted the call from Shaw in a conversation that was secretly recorded by federal prosecutors. BFI got a

contract in Fort Lauderdale in 1981, a year after Shaw's election to Congress. Shaw said he could not remember calling Tobin, but defended his role as a BFI lobbyist. Shaw said he abstained from all votes involving BFI before the Fort Lauderdale City Commission. "As mayor of Fort Lauderdale, you still maintain an active law practice," Shaw said. "Mayor of Fort Lauderdale is a \$3,000-a-year job."

## WASTE INSTITUTE

Waste Management has donated about \$1 million since 1983 to start and fund the Environmental Institute for Waste Management Studies at the University of Alabama in Tuscaloosa.

One of the institute's recent studies concluded that PCBs, banned in 1976 after being linked to cancer and liver damage, actually cause no "significant chronic adverse health effects."

Waste Management has been under fire from regulators for mishandling PCBs, and paid a \$600,000 fine in 1984 for illegally storing PCBs and violating other laws at Emale.

The institute's reports make no mention that the studies are partly funded by the waste industry. "We like private industry," said institute assistant director Robert Wells. "We push it all we can."

## TAX POWER

The Rev. Emmitt Summerville led a prayer at the dedication of the new city hall in Gainesville, Fla., earlier this year by thanking the entity that made it all possible. "God bless Chem Waste," the minister exhorted.

Indeed, Waste Management's chemical division is a blessing for the city's treasury. The towns surrounding the landfill share in \$2 million in annual tax bounty the company pays while providing 400 jobs. The firm says it pumped \$24 million into the area during 1985.

"I'd say I wish [the landfill] weren't here," said Gainesville Mayor John Rogers, "but it is one of our biggest economies in the area."



William Ruckelshaus

## BIG-NAME BOARD MEMBER

In June, BFI announced it had appointed William Ruckelshaus, a respected former administrator of the U.S. Environmental Protection Agency, to its board of directors. Ruckelshaus was credited with reviving the scandal-racked agency before he resigned in December 1964. BFI appointed him about five weeks after EPA filed a \$70

million lawsuit against the waste firm. The suit, one of the largest ever filed by the agency, alleges thousands of violations of pollution standards at a BF dump in Louisiana. Ruckelshaus "add an important new dimension to our board of directors," BFI said at the time. Ruckelshaus had no comment on his appointment.



William Moffatt

## WILLIAM MOFFATT

Waste Management lobbyist Bill Moffatt has thrown so many fund raising parties for politicians through the years he can't remember them all. His bosses at the trash firm regularly shell out about \$1,000 to pay for drinks and food at fund raisers held at the Tower Club in downtown Fort Lauderdale. The firm also makes direct contributions. But the big money comes from the contributions generated at the fund-raising parties.

Moffatt was indicted in 1975 on charges that he attempted to bribe former Cooper City Vice Mayor Albert Carlson to secure a garbage contract. Charges against Moffatt were dropped by the Broward State Attorney's Office after a key witness changed his testimony. No money changed hands. Carlson wound up being convicted of soliciting a bribe from Moffatt. He was sentenced to two years.

## JUPITER MAYOR

While Mayor Robert Nichols presided over the business of town government in Jupiter, his own business, Nichols Sanitation, was cleaning up. From 1968 to 1972, Nichols' crews picked up much of the garbage in the town, and northern Palm Beach County. Authorities examined Nichols' dual role and found no improprieties. In 1972, Nichols retired and sold out to Waste Management, which now controls about 40 percent of the private hauling market in Palm Beach County.

## DONATIONS

A select group of local leaders gathered one afternoon this summer in a riverfront restaurant in Fort Lauderdale for a reception — paid for by Waste Management

The occasion: the garbage firm's \$500,000 gift — the largest corporate donation to date — to help build a performing arts center in downtown Fort Lauderdale.

It was one of hundreds of checks the hauler hands over every year to civic causes large and small, local and national.

"We service the public, and their opinion is very important to us," said Joseph Jack, president of Waste Management of Florida.



Staff photo/BOB MACK

Robert Kauth, right, gives tour of Pompano landfill in 1985.

## EX-BROWARD OFFICIAL

When Robert Kauth was an assistant Broward County administrator, he administered regulations affecting Waste Management. Now he works for the trash firm. In 1980, County Commission Auditor Norm Thabit suggested that garbage haulers submit audited reports to justify rate hikes. But, according to Thabit, Kauth said the reports were unnecessary. Kauth took that position even though he knew Waste Management and other haulers had overcharged homeowners by an estimated \$1 million between 1977 and 1980. In October 1980, Kauth and other county officials admitted publicly that they had known about the overcharges for at least a year. The money was never repaid. Kauth left the county in April 1981. He joined Waste Management that summer and now is a vice president in the firm's Pompano Beach office.

Kauth declined to be interviewed.

## FORMER REGULATORS

Waste Management has hired an array of ex-federal regulators, lawyers and environmental lobbyists. Walter Barber used to prosecute Waste Management and other garbage haulers for EPA. Now he's on the payroll. So is former EPA regional administrator Jack Schramm. Joan Z. Barnstein, a former general counsel for the EPA, now holds a similar job with Waste Management's chemical division. Frank Moore, President Carter's liaison with Congress, now runs the trash firm's government affairs office. James Range, who heads Waste Management's Washington office once worked for former U.S. Sen. Majority Leader Howard Baker, now White House Chief of Staff. Former Environmental Defense Fund Director Bill Brown also works for the hauler. And when Waste Management needed lawyers to ensure compliance with environmental laws, it retained Washington attorney Angus Macbeth, former head of pollution control for the U.S. Department of Justice and Jeffrey Miller, former director of enforcement for EPA, company records state.

Compiled from reporting by David Altaper, Jess Marbella, Robert McClure, Rick Pierce and Fred Schulte.

WEDNESDAY,  
DECEMBER 9, 1987

# TRASH FIRMS VIEWED AS 'SAVIORS OR SINNERS'



## THE TITANS OF TRASH

Big profits,  
big problems.

By ROBERT McCLURE  
and FRED SCHULTE  
Staff Writers

**W**hen a chemical spill and fire menaced a Miami neighborhood in March, experts from Waste Management raced to the rescue.

Three weeks later, Waste Management looked less heroic: it was fined \$4,000 for spilling chemicals near Pompano Beach and other infractions.

The giant waste hauler can be both savior and sinner. So can its chief rival, Browning-Ferris Industries.

While the nation's two top trash firms have cleaned up many a toxic mess, they also have caused a few. They have been cited for more than 1,000 environmental violations, records show.

And both agreed last month to plead guilty to felony charges of fixing prices for trash removal.

Yet public reliance on the waste titans is growing — to the point that the government's power to discipline them is threatened, the *News/Sun-Sentinel* has found.

The investigation discovered:

■ The government has paid the haulers millions of dollars to clean up polluted waste sites, while fining them millions for allegedly causing pollution at other waste sites.

■ Federal officials are considering barring both companies from receiving federal money because of a felony conviction. That action may not be possible, however, because the government depends heavily on the waste haulers, officials said.

■ The government is trusting the companies to perform laboratory tests to detect pollution at their land-

fills, even though experts say test results often are unreliable.

■ Regulators concede they often lack the expertise to challenge waste industry safety claims or enforce environmental laws.

"The state of knowledge of people who investigate these sites is not very advanced," said Lamar Miller, a University of Florida professor and former Environmental Protection Agency official.

■  
Flames erupting from the Miami warehouse in March brought out 100 firefighters. One died fighting the blaze.

But disposing of chemicals at the scene called for the expertise of Waste Management.

The incident reflects a trend toward government reliance on private firms to deal with the dreaded duty of waste removal.

Waste Management and BFI share nearly half the nation's private rubbish market. Waste Management also holds about a fifth of the chemical waste disposal trade. BFI has about one-twelfth of this market, according to Find/SVP, a New York research group.

The two firms handle roughly 40 percent of EPA-financed emergency toxic cleanups, an EPA official said. These contracts can net as much as \$2 million each.

Waste Management is "confident that it will continue to play the premier role in hazardous site remediation," chairman Dean L. Buntrock told New York stock analysts in October.

Yet Waste Management has been accused of serious violations of laws set up to prevent pollution.

Regulators have fined the firm about \$19.9 million since 1980 for alleged infractions of pollution-control laws, records show. BFI has been fined about \$1.2 million.

"These companies do have violations," said Elaine Stanley, who directs an EPA enforcement branch. "We continue to work with them to get them to address them, to change

them."

Disciplining the firms can be difficult because fewer than 50 licensed hazardous waste dumps exist, officials said.

Waste Management owns 16 such waste dumps in key locations from Oregon to Alabama. BFI now has five.

"They have facilities located in areas where we need to use them," Stanley said. "We don't have too much of a choice in some cases."

EPA officials are considering some action, however.

Bob Meunier, compliance chief for an EPA grants division, said agency officials have told the haulers they could be barred from receiving federal contracts after their agreement in October to plead guilty to a price-fixing charge in Toledo, Ohio. The firms agreed to pay a \$1 million fine in that case.

Being barred from doing business with the government — "debarment," the government calls it — could cost the firms millions of dollars in future earnings and damage their reputation among business analysts.

"I'm not at liberty to say a great deal because we're in the investigative phase," EPA's Meunier said.

But he conceded that the EPA may not be able to follow through because of its reliance on the haulers.

EPA has no work force to handle chemical cleanups.

"If we blacklist hazardous waste haulers in an area where they are the only hauler, we put ourselves in a bad situation. We need someone to move that waste," Meunier said.

The problem has cropped up before.

Federal officials sent 8,300 tons of toxic materials to a Waste Management dump in Southern California between November 1984 and May 1985, even though the EPA had barred use of the site temporarily because of environmental violations, records state.

BFI spokesman Peter Block confirmed that his company has discussed the debarment issue with

EPA.

"The question is whether or not that would serve anybody's best interest," Block said.

One of the most critical areas of landfill pollution enforcement — the quality of testing laboratories — is largely unregulated.

"Lab data is EPA's only sure-fire method to know whether the environment is being polluted," said Barrett Benson, of the EPA National Enforcement Investigations Center in Denver.

Federal law requires dump owners to dig wells and test whether trash dumping has caused pollution. Regulators have the power to close a dump that has become badly contaminated.

Several hundred labs around the country perform pollution tests, with little oversight.

Four federal studies since 1972 have urged tighter lab standards, while a 1985 congressional review dubbed the government's failure to issue strict water testing regulations a "serious omission."

"There's not a laboratory in the country that doesn't have problems," said Sweb Davis, a former EPA official, now president of Environmental Testing and Certification. The New Jersey lab is considered one of the nation's most reliable.

A *News/Sun-Sentinel* review of Waste Management and BFI landfills in 22 states found that disputes over the validity of lab results have stalled pollution enforcement.

Both haulers have claimed — in a few cases for years — that test results showing contamination are simply a "lab error," not evidence of pollution. Regulators usually accepted these claims without independent verification, records show.

The EPA is preparing to take even more on faith.

Waste Management expects to open its own \$20 million lab near its Chicago-area headquarters next year.

The lab will test samples from about 100 active Waste Management dump sites and submit the results to the government.

"If someone wants to call that the fox guarding the henhouse, they're way off base," said Peter Vardy, a Waste Management vice president for environmental affairs.

Company officials expect the lab to save them money and improve the quality and consistency of test results.

"We're not doing it for the purpose

of manipulating the data, we're doing it to improve the quality," Vardy said.

BFI owns a lab in Houston that the government has relied upon to test whether BFI sites pose a pollution problem.

BFI spokesman Block said the firm's lab does top-notch work.

"You'd be a fool, two times a fool, to have a laboratory doing analysis for you that you couldn't trust," he said.

But flaws in the system remain, records state.

Problems with lab methods in some cases make the whole system "nearly useless," an EPA task force wrote in January 1986. EPA regulations raise a "high probability that contamination might go undetected," the Congressional Office of Technology Assessment wrote in April 1984.

"It is a large problem. We are trying to pay some attention to this," EPA official Elaine Stanley said.

John Baker, Waste Management's environmental programs manager, thinks that state and federal regulators lack the training they need.

"In EPA, every two years I'm dealing with new people," said Baker, who blamed low salaries for causing turnover. "The agencies are a little behind in the technical expertise."

Said BFI vice president Richard Oakley:

"A lot of times when we go for meetings with them, technically we've got the upper hand."

Government officials concede they often are unable to match wits with the waste titans.

Front-line EPA workers "have not been adequately trained" to enforce regulations, and technical experts are in chronic short supply, an EPA task force reported in 1986.

Critics fear the environment will be the loser unless the government gets more skilled help.

They cite several technical conflicts, and policy matters, that need to be resolved.

For example, laws in several states, including Florida, grant a dump owner the right to pollute groundwater within the dump site. That's absurd, critics charge.

"How does the groundwater know to stop at the property boundary?" asked Madeline Grulich of the Environmental Defense Fund. "We're really fighting against it."

EPA is considering allowing some toxic waste sites to pollute water be-

yond their boundaries. A decision is expected soon.

Some critics charge that the agency faltered in its mission to curb pollution long ago.

In the 1970s, EPA considered forcing states to require pollution-control systems on thousands of trash landfills.

That hasn't happened.

EPA limited enforcement to disposal of hazardous waste such as chemicals and left scrutiny of trash dumps to the states.

Yet, these dumps, including some owned by private haulers, pose a greater pollution threat than toxic sites, critics charge.

Despite those concerns, the trash titans want regulators to trust them to handle the nation's waste safely.

"There is much more of a need for cooperation than for enforcement," said Waste Management's Vardy. "Some of our experience ought to be accepted and listened to."

Enforcement of critical pollution laws has been haphazard for years, state and federal records show.

When a worker tapped a well at



Staff photo/KEITH HADLEY

A worker takes samples of hazardous waste for tests at Chemical Waste Management's facility in Emelle, Ala. Fewer than 50 licensed hazardous waste dumps exist and Waste Management owns 16.

Waste Management's Pompano Beach landfill in 1981, the water came up contaminated.

Several times since then, illegal levels of a contaminant have been found in the water. But officials have yet to act.

"We haven't been enforcing that [pollution] standard," said Fran Henderson, of the Broward County Environmental Quality Control Board. "There is a certain amount of leeway that's given."

Nor was a penalty imposed for violations of pollution-control regulations at Waste Management dumps in Fort Myers, Jacksonville and Medley, near Miami, records show.

"We may need to do some things better," said Chuck Aller, chief of groundwater protection for the Florida Department of Environmental Regulation in Tallahassee.

"We generate a tremendous amount of data and we don't always have a good handle on everything," he said.

Waste Management and BFI insist they abide by pollution laws.

But clashes with regulators date back more than a decade at numerous dump sites, records show.

The Pompano Beach landfill was cited in March 1974 for operating a water pollution source without a proper permit and for disposing of rubbish improperly.

In February 1975, Waste Management was cited for improperly discharging polluted water into a canal. The firm was accused again the next month, records state.

In August 1979, the firm was blamed for failing to monitor water below the landfill for pollution.

And in March 1987, state officials imposed a \$4,000 fine for improper handling of toxic chemicals, and other violations.

Waste Management officials told a state inspector that leaking drums of chemicals were a "common occurrence" at the Pompano Beach site, records state.

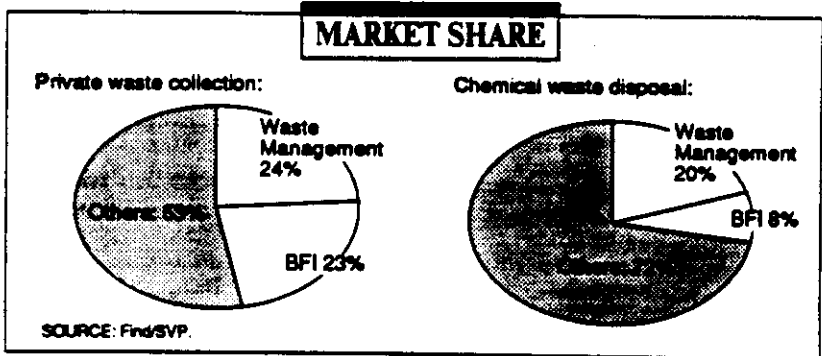
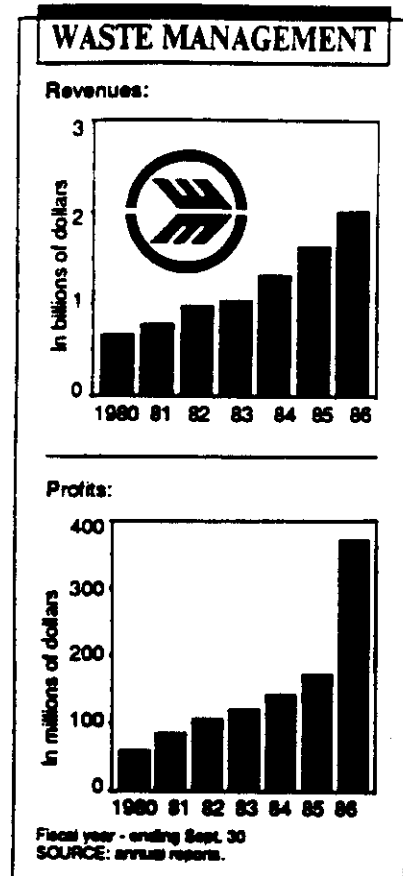
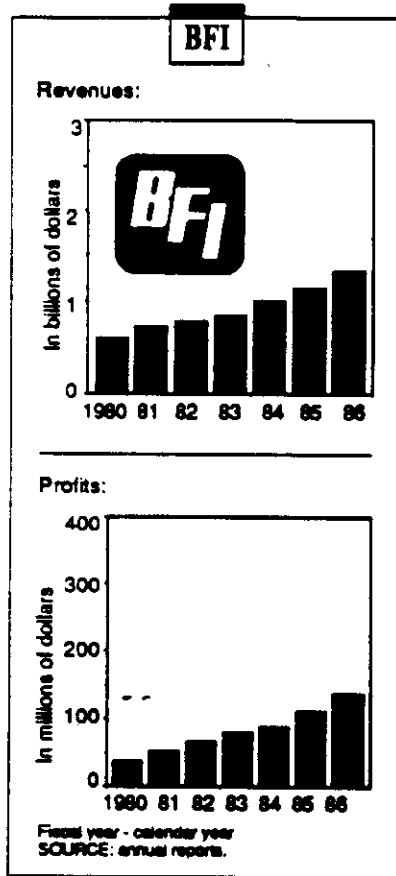
BFI also operates many dumps with chronic pollution-control problems, records show.

For example, regulators levied \$32,500 in fines against a BFI chemical dump in Niagara Falls, N.Y., between August 1985 and June 1986 for violations, including discharging polluted water.

An adjacent BFI trash landfill has been cited at least a dozen times since 1978 for failing to control pollution, records show.

## THE TITANS AND HOW THEY GREW

Waste Management was formed in 1968 when Chicago garbage man Dean Buntrock joined forces with Fort Lauderdale hauler H. Wayne Huizenga. BFI was founded by Houston accountant Thomas Fajjo in 1967 with \$500 and a single truck. Both companies have grown rapidly, due in part to aggressive acquisition campaigns. Last year, revenues at Waste Management exceeded \$2 billion and at BFI totaled more than \$1.5 billion.



The government has routinely settled pollution cases for small fines — if waste companies paid anything at all, records show.

Inspectors were startled to discover bags of infectious hospital waste amid the trash at the Pompano Beach landfill in 1980.

This waste is supposed to be burned or sterilized before it is sent to a landfill. Alleging that Waste Management had dumped the bags

illegally, the state sought a \$2.2 million fine.

What the state got was \$423. It took two years to get it.

EPA began regulating toxic waste in 1976 under the Resource Conservation and Recovery Act. The purpose was to track waste from the "cradle to the grave" and punish polluters.

"We are trying to be as stringent as we can," said EPA's Stanley, who

Staff graphic

directs EPA enforcement of the law. "They [waste firms] have been held accountable as well as we could."

Yet congressional auditors have repeatedly accused EPA of falling down on the job.

An April 1981 General Accounting Office audit found that EPA could undertake just 40 to 50 pollution cases that year, though more than 200 such cases were being reviewed.

About six months later, GAO found that only 12 percent of about 8,000 waste sites had been inspected, while fines levied against polluters "have been small."

EPA sometimes reduced fines by more than 60 percent, the GAO wrote, noting that these settlements provide little deterrent.

And in January 1986, the GAO found that four EPA regions had

"eliminated or reduced" their role in enforcing hazardous waste regulations because of a chronic shortage of lawyers.

Pollution control also has been compromised by a requirement that EPA turn enforcement over to any state that sets up a program "substantially equivalent" to EPA's.

Yet many states lacked the expertise to handle these duties, GAO auditors found in June 1979. In October 1984, an EPA report reached a similar conclusion.

"Obviously, some states have stronger and larger staffs than others," said Marcia Williams, who directs EPA's Office of Solid Waste.

States don't always have the legal clout to police waste haulers — especially ones that cross state lines.

Texas official Bob King argued

that the state water commission should reject a dump permit because the applicant had been fined \$100,000 for mismanaging a dump in another state.

No action was taken because the commission lacked the authority to consider a company's record outside Texas.

That view is "absurd, of course, especially when you're dealing with nationwide companies," King said.

"The lack of action on the part of regulators is what makes a lot of people see red," said Charles Aligood, who lives near a BFI toxic waste site in Livingston, La.

# LAB STANDARDS DILUTE POLLUTION TESTS

By ROBERT McCLURE  
and FRED SCHULTE  
Staff Writers

**S**onny Kuykendall paid a chemist to find out whether his well had been tainted by a Waste Management landfill near his Alabama farm.

The test found a toxic substance at levels twice as high as considered safe to drink.

But when Alabama Department of Environmental Management experts tested the well, they found just a trace of the toxin.

"Who am I supposed to believe?" the farmer asked.

His dilemma is common in the complex swirl of water-testing regulations and standards.

Landfill owners are required to dig wells and test water for contamination. If lab tests detect pollutants, the government can order a cleanup.

But the *News/Sun-Sentinel* found that doubts about the reliability of lab results, and other technical disputes, have hampered enforcement of water pollution laws for more than a decade, records show.

At least four federal studies since the early 1970s have recommended tighter lab standards.

"We see tremendous differences in [lab] quality," said Peter Vardy, a Waste Management vice president for environmental affairs.

Just how much lab results vary is difficult to assess. Some industry experts estimate the testing-error rate as high as 50 percent.

EPA records reveal dozens of cases in which Waste Management insisted — in a few cases for years — that test results showing pollution were simply lab mistakes.

Yet, EPA officials have failed to resolve the conflicts. The agency has the right to conduct its own tests, but it rarely does.

Because of the EPA's laxity in setting regulations, "You could kind of expect things to run amok," said Steven Sisk, an EPA investigator. "It was bound to."

■  
An EPA task force of water protection experts visited Waste Management's hazardous waste dump near Niagara Falls, N.Y., in July 1985. What they found bothered them.

The firm was filtering some water samples before testing. EPA alleged that the process could remove some toxic substances, thus making pollution look less serious than it was.

EPA halted the practice, and some other testing procedures, at the Niagara Falls site.

The task force also objected to some lab procedures other than filtering during 1985 inspections at Waste Management landfills in Arlington, Ore., and Kettleman City, Calif., records reveal.

Yet, Waste Management still uses the testing tactics at more than 100 landfills, company executives said. Browning-Ferris Industries doesn't usually filter water specimens. But the EPA has alleged that BFI used testing methods that yield "suspect" results, records show.

The EPA failed to alert state regulators, or anyone else, of the dispute over water-testing techniques, however.

"You can look at that as a flaw in the system if you want. I guess it is," said Fred Haber, who monitors labs for an EPA office in Edison, N.J.

Florida regulators bar filtering. But state officials who review lab results from four Waste Management landfills said nobody told them of EPA's decision to disapprove other testing methods.

"We have to assume someone is going to do something right until we are aware they are doing it wrong,"

said Nick Bruno, of the Florida Department of Environmental Regulation.

Waste Management experts defended the lab practices.

"It's not a matter of a black and white issue," Vardy said. "This is a very complex field."

The water below Waste Management's chemical dump near Carlyss, La., was given a pollution test in October 1984. It flunked.

Waste Management had an explanation, though. The firm argued that the test, which is required by federal law, is useless because it tends to show pollution that isn't really present.

When the dump flunked again in April 1985, Waste Management blamed the test results on an error by the lab.

"We are confident that waste disposal operations have not affected

groundwater quality," Kenneth A. Anderson, a Waste Management engineer, wrote to Louisiana regulators.

The firm made similar claims in June 1985, August 1985, February 1986 and September 1986 after tests continued to show pollutants.

The dispute has not been resolved, although EPA's groundwater experts inspected the site this spring, records state.

# LAWS HELP HIDE HAULERS SAFETY RECORDS

By ROBERT McCLURE  
and FRED SCHULTE  
Staff Writers

**B**etty Ferrari wanted to know whether Waste Management Inc. could be trusted to run a dump in her hometown.

So she wrote to several states where the firm hauls trash — only to find that regulators weren't too eager to help her.

"They wouldn't tell us anything," said Ferrari, who led an environmental committee set up by the town of Macedon, N.Y. "We had to dig it out for ourselves."

Three years later, Ferrari still doesn't have all the facts.

Facts can be hard to come by. Citizens seeking to track the safety records of the nation's top trash firms can face years of delay and a bewildering array of secrecy laws and policies that shields haulers from public scrutiny, a *News/Sun-Sentinel* investigation has found.

The investigation discovered:

■ It is a federal crime to make public some records that detail landfill pollution.

■ New Jersey is the only state that keeps a full tally of environmental violations, and these reports are confidential.

■ Waste Management has been accused of concealing its pollution problems from stockholders and potential investors.

"It's a farce," said Sharilyn Dienst, an activist who is fighting Waste Management's bid to reopen a tainted Kansas landfill. "There is no reason for them to be able to keep information secret."

Two federal pollution-control laws give toxic-dump owners the right to ask that inspection findings be kept confidential.

It's an offer many owners don't refuse.

The intent is to protect a company's trade secrets, such as the types of chemicals used in manufacturing, from competitors. Violators can be fined \$5,000 and spend a year in jail.

But an EPA task force found in January 1986 that some dump owners were abusing the law to "delay progress" of EPA investigations into groundwater contamination problems.

EPA rules prevent investigators from sharing their findings with colleagues or the public — until the EPA has ruled the information does not qualify for the secrecy exemption.

That can cause delays because the law also allows a firm to challenge EPA's decision to release materials.

Tom Gallagher, director of the U.S. Environmental Protection Agency's investigations center in Denver, said many firms "pervert" the law to hide pollution damage.

"They are using that as an excuse to avoid telling the public," Gall-

gher said.

The January 1986 EPA task force agreed that changes were needed: "Workable procedures should be developed to quickly process claims of confidentiality," the group wrote.

Yet, EPA officials have refused to disclose some dump inspection reports sought by the *News/Sun-Sentinel* since November 1986 because Waste Management claimed they should be confidential.

In March, EPA notified the newspapers that it would decide whether to uphold the firm's claim or release the documents. As of last week, EPA was still deciding.

"I think that they are abusing the confidentiality privilege," said Ron Leach, of EPA's San Francisco office.

Pat Madigan, an Ohio environmental regulator, would have to contact 88 county offices and 67 city offices to find out which trash haulers have ignored pollution laws in her state.

"You have to look in tons of places to answer what is really a very simple question," said Madigan, who works for the Ohio Environmental Protection Agency.

It's a situation the *News/Sun-Sentinel* encountered often while researching the safety records of trash titans Waste Management Inc. and Browning-Ferris Industries, which operate in more than 40 states.

Reporters obtained thousands of



pages of documents from most states in which the haulers have major operations, but only after months of haggling with hundreds of state regulators.

And those records often were incomplete.

Fifteen states flatly refused to send records at any price. Most cited staff shortages.

New Jersey has tracked the haulers across the country, but state law keeps the findings secret.

"I'm not permitted to give out any of that information," said Lt. Dirk Ottens, of the New Jersey state police. "The law was designed to help law enforcement agencies here."

Texas legislators recently considered a law requiring background checks on trash haulers. It didn't pass, partly because state regulators thought it would be too much work.

Nor is the federal government or any of the hundreds of environmental groups keeping a full record.

An April 1987 EPA review found that the agency had failed to follow

its own recommendation to start such a data base.

The EPA wrote, "It would be very costly and difficult to obtain copies from the states in a timely manner."

Critics of secrecy said there is more to it than money.

"The bureaucracy and the industry are not interested in helping you get that information," said Rick Piltz, who analyzes waste policy for the Texas agriculture commissioner.

Like most investors, Stanley Grossman had expected a profit in Waste Management's stock.

But the price of shares plummeted in March 1983 after the *New York Times* reported that the firm had been accused of serious violations of environmental laws.

Grossman sued. He alleged the firm violated U.S. Securities and Exchange Commission laws that require disclosure of "significant events" that could hurt the company financially.

Waste Management claimed that

it revealed its problems as required. But the firm settled the class-action suit for \$11.4 million, after a judge called its claims "at best laughable."

Allegations that Waste Management tends to downplay its pollution problems have not gone away.

The firm has a "history of indifference to the [SEC] disclosure obligations," attorneys charged in a March lawsuit seeking to thwart Waste Management's takeover of a lawn-care company. Waste Management denied the charges.

The suit charged that Waste Management failed to advise stockholders of frequent run-ins with environmental regulators.

Yet Sid Cato, an expert at analyzing reports to stockholders, picked Waste Management's 1984 annual report as one of five he singled out for "obfuscation and stonewalling."

Cato now says that Waste Management has improved its reporting since 1984. But he also says: "I would not assume they've turned over a new leaf."

# THE DUMPING GROUND



The toxic waste dump is Ecemba, Ala. More firms that handle toxic waste are locating in the South — often in poor, mostly black areas.

By JEAN MARBELLA  
and DAVID ALTANER  
Staff Writers

**W**endell Paris' forehead still bears a scar of the civil rights movement in the 1960s. Someone whacked him with a bottle when he

tried to pray in a "whites-only" church.

Now Paris is waging a new struggle — this time to halt the dumping of toxic waste in black areas of the South.

"They have targeted us as the dumping ground of this nation," Paris said. He lives in Emelle, Ala., home of Waste Management Inc.'s

largest toxic waste dump.

Paris and other southerners fear their region is easy prey for dump owners seeking to evade tighter environmental laws up North.

Among the concerns:

■ More firms that handle toxic waste are locating in the South — often in poor, mostly black areas.

■ Few dump owners can get insurance to clean up environmental damage or compensate pollution victims.

■ Southern regulators lag behind northern states in policing the dumping industry.

"The only thing that can happen if you fail to respond is people will look at those who were in charge and say, 'Why the hell didn't they do something?'" New Jersey Deputy Attorney General Steven Madonna told Southern officials in August.

You can barely see the dump from two-lane Highway 17 as it snakes up the western border of Alabama. But behind the kudzu-strangled trees, it is undeniably there.

The site brings in 400 jobs and about \$2 million annually in taxes.

Yet some Emelle residents fear the uncertainty that hitches a ride on 100 trucks a day hauling toxic waste.

"You always wonder if you're sitting on top of dynamite," resident Mary Mason said. "But where are you going to go? This is Mason property — has been for four generations."

The South's rapid rise as a waste belt can be seen in a 1985 congressional survey, a report earlier this year by the United Church of Christ and in Environmental Protection Agency statistics.

EPA figures show that 13 southern states house nearly half the sites handling toxic waste, even though they are home to less than a third of the nation's population.

In addition, two studies since 1983 have found that the largest southern dump sites tend to be in black areas.

Waste Management doesn't dispute that southern waste sites tend to be in black areas. But spokesman Gordon Kenna said the firm is proud of its role in Emelle and other towns. The sites pose no health threat, and they pump up the local economy, he said.

Paris has a hard time thinking of the Emelle landfill as his benefactor.

In a \$300 million lawsuit, he claims the dump has poisoned groundwater and heightened his risk of cancer.

"It's frightening, to say the least," said Paris, a farm supervisor. "You never know what the chemicals they are putting into the environment mean to yourself and your children."

Waste Management denied the charges. But lawsuits such as Paris' pose an indirect threat.

Fearing "potentially enormous" jury verdicts, insurers are refusing to cover most waste haulers, the congressional General Accounting Office reported in October.

Insurers paid \$6.6 million in 1985 to settle 200 pollution claims, but 60 times that many suits are pending, the GAO found.

Lacking insurance, waste firms must assure regulators they have the money to pay for pollution damage. Despite \$2 billion in assets, Waste Management acknowledges it is scrambling to meet those demands.

Waste Management has been cited five times since March 1985 for failing to give adequate assurances that it could pay for long-term care of four toxic waste sites.

Browning-Ferris Industries, Waste Management's chief competitor, also can't get insurance. And the

firm concedes its income could be "adversely affected" by uninsured claims.

BFI also faces a lawsuit from its former insurance company, which is refusing to pay some pollution claims.

Nobody can predict the outcome of the insurance problem. While some states are tightening financial guarantees, others take it largely on faith that dump owners can pay.

Says Missouri regulator Miles Stotts about a leaking site near St. Louis owned by BFI: "We intend to hold them responsible. I hope they have the money. I'm counting on it."

Nobody is sure how much giant waste haulers will have to pay to close down, monitor and, possibly, clean up landfills.

All landfills eventually fill up. Most states require dump owners to monitor water pollution beneath the site for 20 years after closure, as well as cover the dump with dirt to reduce odors.

Waste Management estimates the tab for closing its 16 hazardous waste sites will top \$70 million. BFI expects to spend \$9 million at just one of its eight toxic waste sites.

Those figures assume that no money will be needed to clean up pollution damage.

Cleanup costs range from \$500,000 to \$33 million at waste sites. EPA pegs the average at \$8 million.

More will be needed to close about 100 trash landfills owned by BFI and Waste Management. Again, cost predictions vary.

Waste Management expects to spend \$7.6 million to close its Pompano Beach landfill. By contrast, Broward County has reserved \$14.6 million to shut down its Davie dump, a much smaller site.

Some landfills are "potential time bombs" because nobody knows what has been buried, said William Ginsberg, a professor of environmental law at Hofstra University in New York.

"It only takes one Love Canal to ruin your day," said Tony Roisman, executive director of the Trial Lawyers for Public Justice, a group that represents pollution victims.

The South is the last region to unify efforts to crack down on environmental crimes, Alabama Attorney General Don Siegelman says.

The Southern Hazardous Waste Project, made up of officials from nine states, was formed in August, in

part because of criticism that state environmental agencies have been too easy on polluters.

Whether Florida is stepping up pollution enforcement is doubtful, however.

Two audits in the last year alleged that the Florida Department of Environmental Regulation has been lax in enforcing pollution laws. One noted that fines have been small and the agency lacks the power to file criminal charges.

A Florida task force was formed in May 1986 to prosecute polluters. But the unit was superseded — after bringing only one case — by passage of a referendum creating a statewide prosecutor.

Pinellas County State Attorney James T. Russell, legal adviser to the short-lived task force, said the group tried to investigate the operations of Waste Management, and other large trash haulers, outside Florida.

But the inquiry was shelved so that prosecutors could focus on more basic problems — such as ferreting out illegal dumps in Florida.

"We were trying to get a handle on it, and that's really as far as we got," Russell said. "We felt kind of frustrated."

Staff Writer Robert McClure contributed to this report.

THURSDAY,  
DECEMBER 10, 1987

# BURNING ISSUES



## THE TITANS OF TRASH

Big profits,  
big problems.

By RICK PIERCE  
and FRED SCHULTE  
Staff Writers

**T**he giant garbage incinerator to be built two miles from Patricia Lawrence's home won't belch smoke or smell.

Yet the pollutants she can't see — some of which might cause cancer — scare her.

"I can expect these particles to come blowing through my house," said Lawrence, who lives in Plantation. "I feel so strongly about it that I have to move."

In two years, 700,000 people in Broward and Palm Beach counties could live within five miles of a trash incinerator.

Boosters say the furnaces, three of the biggest and costliest ever built, are safe and profitable and will ease a critical landfill shortage.

But a *News/Sun-Sentinel* investigation found that trash burning creates a host of troubles — most of which local officials have ignored in their quest for a quick fix.

Among the problems:

■ The plants emit dioxins, suspected of causing cancer. While most experts insist the health threat is minimal, no Florida agency has set limits on dioxin discharges.

■ Burning costs are skyrocketing and are likely to shoot even higher in the next few years.

■ The burners disgorge tons of toxic ash that may require burial at costly landfills hundreds of miles away.

■ Many plants have been plagued by design flaws, safety hazards and profits far below expectations.

"We need to approach them [burners] cautiously," said J. Winston Porter, an assistant administrator with the U.S. Environmental Protection Agency. "We don't have all the answers."



A giant claw feeds Tampa's garbage incinerator 2 million pounds of garbage daily.

Many communities are banking on burn plants as the trash disposal method of the future.

About 4 percent of the 250 million tons of trash tossed out this year will be burned. Ten times that amount could wind up in an incinerator 10 years from now, EPA officials estimate.

More than 100 incinerators now operate nationwide and twice that many are in the works. Cities and counties awarded \$2.2 billion in contracts to build burn plants last year.

Said Lawrence: "If you move out West, they could build one even closer. It's a damned if you do, damned if you don't situation."

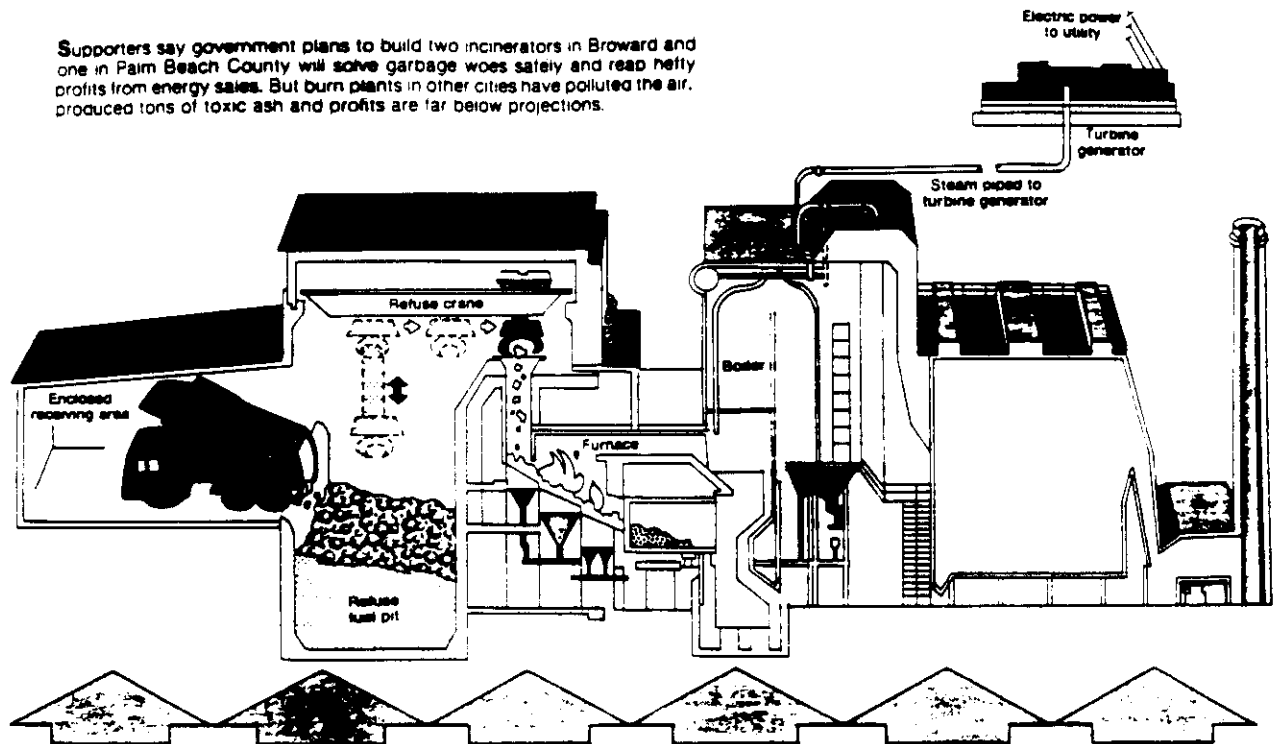
Still, the most ambitious burn project to date is Broward County's \$521 million, bond-financed bid for two incinerators.

Waste Management, the nation's largest garbage hauler, will open a plant near Pompano Beach in 1990. The second plant, owned by a subsidiary of Wheelabrator Environmental Systems Inc., is to open near Fort Lauderdale, also in 1990. A \$320 million plant built by the Palm Beach County Solid Waste Authority near Riviera Beach is expected to begin burning in July 1989.

■  
When the north wind blew the

## BURNING ISSUES

Supporters say government plans to build two incinerators in Broward and one in Palm Beach County will solve garbage woes safely and reap hefty profits from energy sales. But burn plants in other cities have polluted the air, produced tons of toxic ash and profits are far below projections.



### SOARING FEES

Homeowners will pay at least \$74 more a year in Broward, about \$80 more in Palm Beach County for garbage pickup when the burners open. And it's likely to be far more because costs are soaring. Officials in both counties admit the fee will be twice what they forecast in 1984.

### SIZE PROBLEMS

The burners can consume up to 12.9 million pounds of garbage a day. Whether Broward can deliver its quota is unclear. If not, plant owners have the right to import garbage, a move that could worsen air pollution and fill up scarce landfill space. Palm Beach County won't import garbage. That county may wind up paying to ship its trash to Broward because the Riviera Beach plant is being built too small.

### ENERGY CRISIS

Federal law requires power companies to buy electricity from burn plants. But planners failed to predict plummeting energy prices. Trash removal costs have gone up in many cities as a result. The lower prices mean Broward County will owe plant owners \$7.9 million the first year. Palm Beach County officials now expect to earn \$6 million less than they expected the first year.

### ASH DILEMMA

The three burners will discharge 2.2 million pounds of ash every day. Officials expect to dump the waste at nearby landfills. That plan may fail. Recent studies have shown that ash sometimes is so toxic that it should be buried at chemical waste dumps, which are illegal in Florida. Homeowners would pay an additional \$78 for garbage pickup, based on an expert's opinion, if the ash had to be shipped out of state.

### POLLUTION QUESTIONS

Reducing acid gas emissions will cost millions. One Broward plant owner sought \$19.1 million from the county to add pollution control devices; the other has yet to submit a bid. Palm Beach County paid \$12 million for the controls. Pollution control could cost more if dioxin emissions, shown to cause cancer in animals, must be monitored. In Sweden, dioxins are strictly regulated. The U.S. government hasn't imposed standards.

### CANCER RISK

The cancer threat from spending a lifetime near a plant depends on whose predictions are relied on. Federal officials estimated in June that the nation's 111 existing garbage burners could cause between 3 and 38 cases of cancer annually. In another measure, New York state officials predicted a burner planned for Niagara Falls could cause 11 to 20 cancer cases per million residents. But an opponent said 270 cancer cases would result.

Staff graphic/JEFF JAMISON

smell and soot through his Pompano Beach neighborhood, Ed Hammett had to close his windows and swelter.

That was almost 10 years ago. The incinerator that incensed him closed in 1978, a victim of fortified pollution laws and the notion that dumping trash into the ground posed fewer health risks.

Now many landfills are brimming, or seeping toxic chemicals into groundwater, and burning trash once again is in vogue.

Hammett's area once again will be host to a burn plant.

This time, he is hearing a chorus of guarantees — how there will be almost no health risk, almost no smoke and almost no offensive odor.

"They can't look at me, my wife, my children or grandchildren and tell me there won't be any health ef-

fects," said Hammett, 41, a gas company technician.

Waste Management's proposed plant is a far cry from the smoke-belchers Hammett recalls.

The new-generation burners are laden with multimillion-dollar pollution controls that choke off nearly all the smoke; they create electric power for thousands of homes. They even try to blend into the area.

Broward County plans to spend at least \$2.6 million to dress up the grounds or restore native foliage. Palm Beach County has spent about \$1 million to clear trees from the 20-acre site and is sure to spend much more for decorative ponds and roads to the plant.

But the plants still expel unseen pollutants.

Swedish officials imposed a mora-

torium on new incinerators in 1985 after worrisome levels of dioxins were detected in mothers' milk and fish. While the ban was lifted the following year, incinerator emissions now are closely regulated.

"You have to test every one," said Olle Alfredsson, senior technical officer to Sweden's National Environment Protection Board. "They [owners] have to pay for it if they are going to burn."

The largest Swedish plants, only a third the size of the plants proposed here, are tested twice a year.

The U.S. EPA has not imposed dioxin limits because officials are not convinced that a health peril exists. Agency experts are studying the cancer issue, however.

EPA officials intend to write emission guidelines by December 1990.

But many plants would be exempt because they are set to open before the rules take effect.

Whether state regulators will step in with their own dioxin standards remains to be seen.

In Massachusetts, the first state to enact dioxin regulations, one of four incinerators was closed in June because its emissions were as much as 10 times the limit, officials said.

Florida regulators said they oppose mandatory testing because the complex procedures can cost as much as \$200,000 each and may not yield reliable findings.

The Pinellas County burner is the only one in Florida tested so far. The tests showed dioxins were escaping from the plant. But officials said the cancer risk was one in a million for a person spending a lifetime near the plant. Palm Beach County officials plan to conduct dioxin tests, but Broward officials do not.

Other states, however, have backed off from tough emission standards after authorities warned that few incinerators could comply.

■

When Mildred Maher moved to Broward County from New York 16 years ago, the main reason was the low cost of living.

Now a widow, the one-time secretary to former New York City Mayor Fiorello la Guardia says she is being squeezed out of her modest home by the rising cost of government services.

"It's very difficult," said Maher, who fears she may be forced to sell her two-bedroom home in Brentwood Estates.

Like all homeowners in the county's unincorporated areas, Maher pays \$149 a year to have her garbage hauled away.

But she will have to pay at least \$74 more annually once Broward turns to trash burning.

Palm Beach County residents face rate hikes of about \$60 a year, largely because the project's costs were underestimated.

Soaring burn costs are not unique to South Florida.

These fees more than doubled nationwide between 1983 and 1986 as plant operators struggled to pay off construction costs and other debts, according to a recent industry poll.

"We have the whole country being ripped off," said Paul Connett, a chemist and head of Work on Waste, a coalition of citizens groups opposed to incinerators.

Even plant owners agree that zooming costs — some of which they

blame on misleading predictions — may be the Achilles' heel of the trash burning movement.

Some incinerator builders "are making a lot of claims that they can't back up," said Harvey Bush, manager of environmental engineering for Waste Management's North American subsidiary.

Bush also said that tightening regulation of problems such as pollution control and changes in tax laws are driving burn prices up.

"I haven't seen any of them go down," he said. "The question is, 'Does the public really want to pay?'"

Other factors are likely to push prices up, industry officials agree.

Half the burn plants under construction will fail to make as much from electricity sales as expected, according to John Sullivan, president of Wheelabrator Environmental Systems. That electricity also is being sold to power companies at depressed prices.

Sullivan has said that missing an electrical sales quota by 10 percent could mean a loss of \$1.5 million annually.

"This is a tough business," he said. "Some of these plants are going to be missing by 10 percent."

Officials in Collier County, on Florida's Gulf Coast, agree. Told of soaring prices, commissioners recently scrapped a burn project — even after selling \$88 million in bonds.

Perhaps the most costly question — where to put the ash — is yet to be resolved.

Regulators may decide to treat ash as hazardous waste, and that could "stop incinerator construction," said Tom Kennedy, head of the Association of State and Territorial Solid Waste Management Officials.

■

The three local incinerators will deposit 2.2 million pounds of ash daily once they operate at capacity.

Whether the ash poses an environmental threat is perhaps the major unknown facing the burn industry.

"We definitely think ash is something to be concerned about," EPA assistant administrator Porter said. But he also said: "We don't think it's a catastrophe."

Tests as early as 1981 showed that the ash contained high levels of lead and cadmium, the same metals that often pollute water beneath trash landfills.

Some batches of ash test far higher in toxins than others — and nobody can predict what the levels will be.

For example, ash from the Islip, N.Y., garbage barge, which made headlines earlier this year as it searched the seas for a home, flunked a toxicity test once it was burned.

So did more than half of the ash samples recently tested from New York state incinerators.

New York state regulators are not requiring costly burial in hazardous waste landfills, at least right now. Burn enthusiasts hope that position will prevail. But environmental groups are lobbying hard for tighter federal controls, and nobody can predict the outcome.

"Until we're sure that's what should be done, we don't want to go overboard," said Steve Greene, assistant to the director of the EPA's waste management division.

Some states are not waiting for the EPA to resolve the debate.

Alabama requires a Tuscaloosa plant to ship part of its ash to the Waste Management toxic dump in Emelle. Florida regulators have asked at least one plant to halt the practice of mixing ash with garbage at dumps. Mixing increases the risk that metals in the ash will seep into groundwater, officials said.

Yet states imposing firmer controls on ash may face the ire of cities desperate to hold down disposal costs.

While nobody is sure what those costs would be, an Environmental Defense Fund official predicted fees would rise between 10 percent and 50 percent if a portion of the ash were deemed hazardous.

It is clear that such a move would hit Florida hard. State law prohibits burial of hazardous waste, so ash might have to be trucked to the closest toxic waste dump, in Emelle, Ala., 500 miles from South Florida.

Broward project director Thomas Henderson said he was not aware of any recent tests showing ash to be hazardous and has not calculated the cost of carting the waste out of state.

"I can't deal in hypotheticals. I can only deal with realities," Henderson said.

The ash crisis is very real in at least one city, however.

Philadelphia officials found no state was willing to bury its ash. So they shipped 250,000 tons of the waste to Panama for use in road beds, only to have that country reject the load.

■

The town fathers in Tuscaloosa, Ala., were beaming in March 1984 when they unveiled their trash incinerator.

Two years later, they sued the firm that built and operated the plant, Consumat Systems, for \$20 million. The suit charged the plant's design was defective, its managers lacked proper training and its potential to be self-sustaining had been grossly overstated.

The burner lost \$2 million in three years, officials alleged. The suit was settled in March with neither side admitting fault. The city had to double dumping fees. Businesses are paying higher disposal fees as a result. Homeowners' bills have not gone up because the city dipped into tax funds to make up the shortfall.

A survey by the *News/Sun-Sentinel* found similar problems have plagued some of the nation's so-called "model" incinerators.

Industry officials concede that pesky flaws raise doubts about the economics of burn plants.

Dade County's plant, billed as the biggest of its kind, has suffered from poor maintenance and had to raise rates. However, Montenay Power Corp., which took over operation of the plant two years ago, agreed in October to invest \$45 million to refurbish the burner.

In a few cases, plant accidents have taken lives.

Three workers were killed and seven others injured when an incinerator exploded in Akron, Ohio, in December 1984. The blast occurred after a New Jersey firm mistakenly shipped the plant a mixture of highly flammable paint residues and sawdust.

The plant was closed for 9½ months and city officials spent \$2.6 million for safety improvements and repairs.

Mindful of these accidents, some groups think federal regulation of plant operations should accompany tighter environmental rules.

"We need uniform national standards that are enforced," said Cyn-

thia Pollock, a senior researcher with Worldwatch Institute, a Washington think tank that analyzes public policy. "It's premature to sink this much money into this until those rules are in place."

Some plants also are getting a hostile reception from neighbors who complain of odors and loose trash — the very annoyances that boosters vowed would never happen.

Still other plants have run afoul of regulators.

Waste Management has been cited twice since 1983 for emissions in excess of pollution standards at its chemical incinerator in Saugat, Ill. Other plants have become embroiled in lawsuits over pollution standards.

Many of these problems have been overlooked by a cadre of burn loyalists in government — some of whom argue that burning is the best way to handle garbage, whatever the cost.

■

A brochure touting Tampa's burn plant barely mentions the debate over pollution.

The booklet was printed by the city of Tampa, which owns the plant, and operator Waste Management.

These alliances bother critics. They worry that government officials may be unwilling to police plant owners, to resolve troubling pollution disputes, or to watch over the titanic infusion of public money.

"You're making one of the largest investments a community will ever make," said Eric Goldstein, of the National Resources Defense Council, an environmental group. "These are decisions that will last 35 years or so," he said.

Indeed, key decisions on Broward's \$521 million project are being made by a nine-member board that has met only five times since it was set up earlier this year. At two of those meetings, the Broward County Resource Recovery Board could not reach a quorum.

The Palm Beach County project is overseen by political appointees, who have little experience with burn plants.

Neither group consults the other regularly, even though garbage crosses county lines daily. That could pose problems if haulers stampede the burn plant offering the lowest rates.

Nor is it clear how much power officials will have over plant operations.

The need for controls has become apparent in Tampa, according to a draft city audit in October.

The audit urged officials to resolve turmoil over burning prices and the movement of trash across county and city lines. Auditors also were unable to tell whether the city had been overcharged by Waste Management, the plant's operator.

That controversy is erupting in cities that have turned to trash incinerators does not surprise industry critics.

They see parallels to the early 1970s, when landfills were expected to solve an emerging garbage "crisis."

And they see many of the same conditions that powered the rise of giant trash haulers such as Waste Management: unchecked buyouts and mergers, shaky scientific data — and regulators struggling to stay abreast of ever-changing technology.

"It's not a long-term solution," said opponent Connett. "It just doesn't make sense..."

But most officials remain convinced that incinerators offer the best garbage-disposal course despite a risk-filled future.

"It's a Catch-22 really," said Joseph Giancola, health director for Saugus, Mass., which has burned trash for nearly a decade. "We're either going to drown in our garbage or suffocate in our own emissions."

# CITY GETS BURNED

## Tampa finds incinerator project falls short of expectations.

By RICK PIERCE  
Staff Writer

**T**AMPA — As white herons pick their way through shallow water on stilt-like legs, other birds start their descent to the mud flats that serve as their sanctuary.

That's the scene from the giant viewing window at the city-owned garbage incinerator near McKay Bay: serene and so at odds with the smoky image trash burning conjures up.

It's the image Waste Management, the plant's builder and operator, and the city convey in a slick brochure heralding the burner as "environmentally sound" and "economical."

But the *News/Sun-Sentinel* found that Tampa's state-of-the-art burner, similar to three proposed for South Florida, has fallen far short of its public billing.

The investigation found:

■ Local officials feuded for 18 months over the safety of the plant's pollution controls.

■ Water tainted by potentially toxic ash seeped into a ditch that flows to McKay Bay. Officials said the water did not reach the bay, but they concede that ash disposal is a costly problem.

■ A draft audit said the city was not controlling its burn plant "efficiently," and profits from electricity sales are only about half what had been forecast.

"I think this plant is going to be a very expensive situation," said Allan Nicks, Tampa's deputy auditor.

Inside the mammoth plant, a crane operator sips coffee with one hand while his other manipulates the giant claw that feeds the furnace 2 million pounds of garbage daily.

Waste Management has dazzled scores of dignitaries — and calmed concerned citizens — with this tour of the high-tech burn plant.

"There's very little if any emissions," said Rose Chillura, principal

of 350-pupil DeSoto Elementary School, three blocks from the plant. "That's what they told us. We were very impressed."

So is Robert Heath, a former Audubon Society president who delights in the bird sanctuary set up in the shadows of the burn plant's towering twin smokestacks.

But Hillsborough Environmental Protection Commission officials found themselves feuding with the plant's owners soon after the plant opened in September 1985.

The dispute centered on the plant's refusal to turn on pollution controls upon firing up the burner. That caused serious air pollution, the commission charged.

Plant officials disagreed. They argued that the pollution controls could be damaged if they were turned on before the furnace had a chance to heat them thoroughly. In any case, plant operators argued, the burner's operating permit did not require full-time use of the devices.

Waste Management now admits its fears were groundless. In February, the firm agreed to use the devices continuously.

South Florida officials are not concerned about pollution problems from the area's three burners.



Tampa's strange bedfellows: bird sanctuary in shadows of a waste disposal plant.

■  
Tons of gritty ash, some still warm to the touch, rest on a cement lot behind the Tampa plant.

Because the ash contains toxic metals such as lead, it must be stored so that rainwater tainted by the ash can't seep into nearby drainage ditches.

But from the plant's opening until this spring, runoff from the ash pile emptied into a ditch. That ditch, in turn, flows to McKay Bay.

While the waste apparently did not reach bay waters, the Florida Department of Environmental Regulation ordered steps to prevent the runoff problem from recurring.

"It was all just a blunder to begin with," said DER's Kim Ford. "No water should ever have been allowed to leave that paved area."

Regulators are still struggling with ash disposal.

In July, DER asked that the practice of piling ash atop garbage be stopped because it could pose a threat to groundwater. That practice is likely to boost dumping fees.

Broward and Palm Beach counties will need to find space for six times as much ash as Tampa. Most will wind up near existing landfills.

But ash from the burn plant near Fort Lauderdale will be buried in a new dump site abutting a fragile marsh that flows to the New River.

"There is a tremendous potential for an ecological catastrophe," said George Fitzpatrick, a University of Florida professor who has done extensive studies on wetlands animals.

Jack Ristau, who represents Broward plant owner Wheelabrator Technologies Inc., disagreed. He said the ash landfill will have two liners to prevent tainted rainwater from polluting the wetlands.

Palm Beach County officials, meanwhile, have set aside space in a specially constructed landfill west of Florida's Turnpike.

■  
Tampa officials hoped to cash in on the sale of electricity generated by the incinerator. That hasn't happened.

The city expected first-year earnings of \$4.4 million; it got \$2.3 million instead.

This year's fees were supposed to pass \$6 million, but the figure had to be revised to \$3.9 million. Now, city officials said they expect only \$3.2

million, mostly because the price of energy has fallen.

"We're generating about half of what everybody thought it would be," deputy auditor Nicks said.

Nor does the plant have much chance of meeting projections that call for electrical revenues to grow at better than 10 percent annually until the year 2005.

So far, homeowners have paid an average of \$36 more a year for garbage pick-up than before the plant opened. And officials concede that

garbage fees will continue to increase.

Who controls the burn plant is likely to become an issue in both counties, however.

A draft city of Tampa audit found in October that the city had failed to monitor plant operations adequately.

Auditors also said the city erred by allowing Waste Management to divert burnable garbage to its landfill — a move that cost the city more than \$500,000 and boosted the company's profits.

"These guys are in the business to make money," said Luciano Prida Jr., Tampa's auditor. "You can't blame them."

Broward administrators doubt they will have any problems overseeing the two burners, even though both will be privately owned.

While Tampa officials defend their incinerator, they concede that further fee hikes are on the horizon.

"We have to make it up some way," said Mike Salmon, the city's public works director.

# RUNAWAY COSTS FOUL SOUTH FLORIDA INCINERATOR PLANS

By RICK PIERCE  
and FRED SCHULTE  
Staff Writers

**T**hree South Florida incinerators, pushed by local officials as a thrifty way to dispose of trash, are plagued by millions of dollars in runaway costs two years before they open.

Most of the costs stem from poor planning, inept bargaining and misleading predictions, records show.

A *News/Sun-Sentinel* investigation found:

■ The price of Palm Beach County's plant has more than doubled, from \$73 million to \$175 million.

The plant will be overtaxed the day it opens and will need a \$50 million expansion.

■ At least \$13.9 million in sales of electricity that officials were relying on to hold down fees in Broward and Palm Beach counties the first year are not likely.

■ Broward residents will pay millions of dollars more in fees than was forecast — how many millions more is unclear — because of a series of policy blunders.

"People are just going to have to belly up to the bar and pay the price," said Harvey Bush, manager of environmental engineering for a division of Waste Management, which plans to own a Broward plant.

But Florida International Univer-

sity professor Marshall Barry said escalating costs show that private industry cannot always be counted on to provide services cheaply.

"It's kind of scary that the guy looking out for the public interest doesn't even know how much it's going to be," Barry said.

■ In March, a wandering barge from Long Island became a symbol of the nation's trash-disposal troubles. Shunned by ports from North Carolina to Mexico, the barge ended up sailing home and unloading its cargo into an incinerator.

Two years from now, tons of garbage may be brought into Broward for burning, albeit less dramatically.

Plant owners Waste Management and Wheelabrator Environmental Systems are within their rights to import garbage — and deposit the ash in dwindling area landfill space.

Broward could import trash unless the county can ship the burners about 4,500 tons of garbage daily. There may not be that much on hand because seven Broward cities, including Hollywood and Pompano Beach, the second and third largest, have yet to agree to burn.

Wheelabrator official Jack Ristau said his firm could bring in as much as 60,000 tons of garbage the first year.

"It was the county's decision not to fully use the facility from the start," he said. "Not ours."

Waste Management official Bush did not rule out bringing in garbage, but he said the costs would be "astronomical" to cities.

By contrast, Palm Beach County may wind up paying premium prices to export waste to Broward — unless officials spend up to \$50 million to expand the Riviera Beach plant.

That expansion was not expected until 1992 or 1993. Now planners say it will be essential the day the plant opens in 1989, because they failed to factor in population growth adequately.

"God, the growth. I just can't believe it," said Stanley Timmerman, project manager for the plant's engineering consultant.

Timmerman conceded the burner's price tag would have been smaller if it had been built larger to begin with. How much less he could not say.

The Palm Beach County plant already is way over initial cost predictions. In 1984, officials expected to pay \$73 million for the plant alone. Now, they expect to pay \$175 million. They said most of the increase stems from a decision to let private industry run the plant. These firms seek far higher fees when they must assume some of the risk of operating the plant.

■ Tom Henderson runs Broward's incinerator program with a motto: "If all objections are met, nothing



will be accomplished."

He dismisses critics with the comment that burn plants are the way to solve the area's garbage woes — regardless of their cost.

But Henderson and county commissioners have supported a series of debatable decisions that could wind up costing taxpayers millions of dollars.

One such decision permitted private industry to own and operate the two plants.

The price of private ownership may not come due until contracts expire in 20 years. Broward either will have to buy out the \$521 million project, or renegotiate on the owners' terms.

"If you have no other options for garbage disposal, you're really at a disadvantage," said Daniel Strobbridge, a Florida incinerator consultant.

Henderson said the ownership decision, which was made before he joined county government, will prove to be cheaper. He offered no statistics to back up his claim.

Officials in Palm Beach County, which owns its incinerator, disagree.

Timmerman also said public ownership gives the county more control over plant operations.

Wheelabrator's Jack Ristau said that Broward County officials probably did not fathom the project's full costs in its early stages.

■

When voters in tiny San Marcos, Calif., let a firm build an incinerator, they won tight controls, including the right to close the furnace if it failed to meet pollution standards.

But Broward officials, led by project director Henderson, fought to limit pollution controls.

That call has backfired — in a way that could cost residents millions.

The dispute dates to October 1985, when state officials recommended that new incinerators be equipped with scrubbers, devices that cleanse pollutants.

Expecting the state would end up requiring the devices, Palm Beach County officials added scrubbers to plant bids, at a cost of about \$12 million.

Broward decided to fight.

A hearing officer ruled in April 1986 that the county's pollution controls were adequate. But that decision had no bearing on the U.S. Environmental Protection Agency.

Thinking the battle had been won, Broward officials approved plant contracts in the summer of 1986. In November 1986, the EPA told the county that scrubbers would be required.

"They went crazy, as far as we're concerned, with monitoring equipment," Henderson said.

At first, Wheelabrator wanted \$19.1 million to install the scrubbers. Waste Management has not submitted a price yet.

■

Just how much homeowners will have to pay in 1990 to have their trash burned is far from clear.

"We don't know what it's going to cost," Henderson said.

Pressed for a prediction, Henderson said Broward garbage rates will go up for an average homeowner about \$74 a year. Fee hikes may vary widely by city, however.

Palm Beach County officials expect to bill homeowners an extra \$60 a year for starters.

Garbage prices in both counties will be affected by the sale of electricity, a byproduct of incineration.

Because energy costs have dropped, Florida Power & Light Co. will pay much less for the electricity

Wheelabrator settled with the county in November. The cost of the plant went up \$20.8 million. While that figure included some additional items, most of the cost was for the pollution-control devices.

Wheelabrator officials refused to discuss the exact cost of the pollution control devices.

"Hindsight is always 20-20," Henderson said.

generated by the incinerators than officials originally hoped.

Palm Beach County expected \$18 million from energy sales the first year, but now concedes that \$12 million is more realistic.

"I look back now and say, 'Oh, gee. It didn't come to pass,'" Timmerman said.

Similar shortfalls in Broward will require payments of \$5.8 million to Waste Management and \$2.1 million to Wheelabrator, according to Henderson.

Broward residents also face higher rates because commissioners gave Wheelabrator an unexpected rate hike of \$2.9 million annually.

County officials caved in because they feared the company might scrap the project unless its fee demands were met.

Broward County also paid \$3.5 million to win environmental permits for the plants, costs that owners have borne in other areas.

Incinerator opponent Barry Commoner said soaring burn costs rarely prompt officials to take a second look at the technology.

"When a city makes a decision, the officials hate like hell to be second-guessed," he said.

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## EDITORIALS

# The business of garbage and trash needs closer government scrutiny

**T**he disposal of garbage and trash has become a big business that will cause bigger and bigger problems unless it gets the attention of government agencies it deserves.

Last week, this newspaper published a five-part investigative series on waste disposal called "The Titans of Trash." The series focused on the nation's two largest waste disposal firms, Waste Management Inc. and Browning-Ferris Industries. The issues raised in the series should concern every citizen, since they affect both the public health and individuals' pocketbooks.

Among other things:

■ Waste Management and BFI control 47 percent of the nation's waste disposal business. They have become so big that the question arises whether government can adequately regulate them.

■ Records indicate that the two waste-disposal giants have difficulty meeting anti-pollution regulations. The companies have been cited more than 1,000 times.

■ Both firms have a long record of civil suits, criminal prosecutions and complaints against them for price fixing.

In 1986, Waste Management revenues passed the \$2 billion mark and BFI's reached \$1.6 billion. Waste Management is the largest South Florida hauler, operating under a variety of names, including Southern Sanitation. BFI has made some inroads into the South Florida market, including parts of Fort Lauderdale.

Regulation is a problem. When federal Environmental Protection Agency experts meet the companies' experts, the EPA tends to be outclassed. Regulators rely on lab data supplied by the companies to determine whether pollution standards are being met. When the data says they aren't, the companies often claim "lab error," and the regulators accept the explanation.

The firms, too, have become so big that the government can find itself at their mercy. Waste Management and BFI recently pleaded guilty to price-fixing in the Toledo market, which would warrant the withholding of government contracts. The two firms control so many toxic waste dumps, however, that "debarment" may be impossible.

On the local level, regulation can be lax. Contaminants have been found in the water underneath Waste Management's Pompano Beach landfill, but the Broward County Environmental Quality Control Board has not cited the company. An EQCB official says a certain amount of "leeway" can be given.

One of the more curious elements of waste disposal in the area is the pricing structure. In unincorporated Palm Beach County, haulers have received a 15 percent bonus in the last



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## THE TITANS OF TRASH

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Big profits,  
big problems.

---

several years. Commissioner Ken Adams is asking why and says he will investigate.

In Broward, a flawed county formula has resulted in inflated fees. The county factors in waste produced by business and industry in figuring rates for homeowners. County auditor Norman Thabit says this has cost residents \$642,000 since 1982. Waste Management, BFI and others use the county formula in figuring charges. Here, too, officials need to take a look.

One of the most troubling aspects of the business of waste disposal is the political involvement of the trash haulers, particularly Waste Management. The company is a major contributor to politicians nationally and in Florida. Former Secretary of State George Firestone and Broward County commissioners Nicki Grossman and Sylvia Poitier are among the beneficiaries. One tactic of Waste Management is to host fund-raisers for the politicians that can net sizable sums.

There's nothing illegal about this, but it is troubling and unsightly to see politicians accepting contributions from an organization that has a major influence in providing a municipal service, especially when that company has been involved in price-fixing and has broken environmental regulations.

The company also seeks to improve its image through community involvement and donations to institutions. That's fine, but government officials must always realize that this good corporate citizen is out to make a buck.

The fact is, the Titans of Trash are cornering the market. Decreased competition will require increased attention throughout all levels of government, including the Justice Department's anti-trust division.

Given the dangers inherent in waste disposal, environmental regulations must be strictly enforced on a local, state and national level. Government agencies shouldn't be trusting the waste haulers. They should be gathering and evaluating pollution data themselves.

The politicians need to stay at arms length from the companies, too, and pay close attention to the prices being charged. It is the politicians who have the ultimate responsibility in awarding contracts and setting performance standards. They must never forget that they work for the people, not the waste haulers.

The News/Sun-Sentinel's investigation of the trash-hauling industry was led by Fred Schulte. Schulte, 35, has been with the newspaper since 1978 and has won numerous state and national awards for public service and investigative reporting. His coverage of medical care in Veterans Administration hospitals was a finalist for a 1986 Pulitzer Prize.

The principal reporters on the series were:

Robert McClure, 28, who has covered several government beats since joining the newspaper in 1984. He previously worked for United Press International, where his assignments included the Florida statehouse and the Miami bureau. His coverage of the crash of Delta Flight 191 in Dallas was a finalist for a 1986 Pulitzer Prize.

Rick Pierce, 29, who joined the staff of the News/Sun-Sentinel in 1981. He reports on Broward County government and previously covered education and other topics. His coverage of education has won several state and national journalism awards. Before coming to the News/Sun-Sentinel, he was a reporter for newspapers in Illinois.

Also reporting on the series were staff writers David Altaner and Jean Marbella.

Photography for the series was provided by Keith Hadley, a staff photographer at the News/Sun-Sentinel since 1984. A 1980 graduate of Florida A&M University, Hadley worked for newspapers in Miami and Tallahassee before joining the News/Sun-Sentinel.

Graphics for the series were created by Jeff Jamison, a staff artist at the newspaper for three years. He studied engineering and fine arts at Middle Tennessee State University and graduated in 1984 from the Art Institute of Fort Lauderdale.



*Fred Schulte*



*Robert McClure*



*Rick Pierce*



*Keith Hadley*



*Jeff Jamison*

# **News/Sun-Sentinel**

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101 N. New River Drive  
Fort Lauderdale, Florida 33301-2293

**ATTACHMENT B**

**Ventura County Sheriff's Department Report**

**COUNTY OF VENTURA  
DEPARTMENT OF SHERIFF**

**WASTE MANAGEMENT, INC.**

**JOHN V. GILLESPIE, SHERIFF**

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# VENTURA COUNTY SHERIFF'S DEPARTMENT

800 SOUTH VICTORIA AVENUE, VENTURA, CA 93009

- JOHN V. GILLES  
SHERIFF
- LARRY CARPENTE  
UNDERSHERIFF
- RICHARD S. BRYCE  
ASSISTANT SHERIFF
- OSCAR L. FULLER  
ASSISTANT SHERIFF

September 20, 1991

Supervisor Maggie Erickson-Kildee  
Chair, Board of Supervisors  
800 South Victoria Avenue  
Ventura, California 93009

Re: WASTE MANAGEMENT REPORT

Dear Supervisor Erickson-Kildee:

Several months ago you requested the Sheriff to investigate and report on the historical background of Waste Management, Inc. Your inquiry was prompted by questions and concerns raised by citizens about alleged regulatory agency violations and criminal activity of the corporation and/or its employees, including alleged connections to organized crime.

In response to your request for this information, the following report is provided to assist you and the other board members.

We have focused our investigation on the criminal history of Waste Management, Inc., and their involvement with all known regulatory agencies. The information contained herein has been obtained from a variety of public sources.

- Attachment 1: Overview of Waste Management, Inc.
- Attachment 2: Waste Management Employee Criminal Conduct Non-Antitrust Civil Cases
- Attachment 3: Waste Management, Inc., Criminal Cases
- Attachment 4: Waste Management, Inc., Antitrust Civil Cases
- Attachment 5: Waste Management, Inc., Environmental Civil Cases
- Attachment 6: Waste Management, Inc., Administrative Cases
- Attachment 7: Chemical Waste Management, Judicial and Administrative Environmental Actions
- Attachment 8: Waste Management, Inc., and Waste Management of California, Inc., Corporate Officer List

WEST COUNTY DIVISION  
800 South Victoria Avenue  
Ventura, CA 93009  
(805) 454-7311

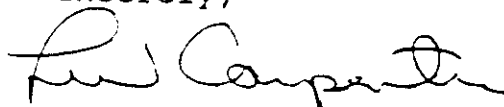
CENTRAL COUNTY DIVISION  
67 Palm Drive  
Camarillo, CA 93010-7995  
(805) 482-9844

EAST VALLEY DIVISION  
2101 East Olsen Road  
Thousand Oaks, CA 91360  
(805) 494-8200

**Attachment 9: Glossary of Terms**  
**Attachment 10: Definitions**

With regard to the corporate officers listed in Attachment 8, we have not developed information on any individual which suggests a criminal background. In conjunction with the background search on these officers, we have not uncovered any information which would suggest that any of these individuals are, or have been, involved with any traditional organized crime subjects.

Sincerely,

A handwritten signature in cursive script, appearing to read "Larry W. Carpenter".

LARRY W. CARPENTER  
Undersheriff



ATTACHMENT 1:  
OVERVIEW OF WASTE MANAGEMENT, INC.

SUMMARY OF WASTE MANAGEMENT

Waste Management is the world's largest waste disposal company. It has nearly 500 subsidiaries operating in 1200 communities in North America, with 27,000 employees (6,700 in management or sales positions). For 1988, Waste Management had total assets of \$4.9 billion and revenues of \$3.6 billion.

An article in the Wall Street Journal, dated May 1, 1991, identified Waste Management's 1990 revenue as \$6.03 billion and the company's earnings as \$684.8 million. These figures, according to the article, represent that in four years, the revenue of the firm has tripled and the earnings have doubled.

Waste Management, Inc., now has a total of 634 facilities with 53 of those located within the State of California. The California locations are a sampling of the diversity of the conglomerate, which include rubbish collection and disposal, chemical waste services, landfills, eight rental/lease companies, two trucking firms, a paper processing business, and a wholesale brick outlet.

In a report prepared for the City of Seattle, Washington, as a background study on Waste Management and other companies who bid for a local landfill, all the subsidiaries and related divisions of Waste Management in the world were identified.

Attachment 1

The list, which was accurate as of January 31, 1989, itemized a total of 886 names of companies controlled by Waste Management, Inc.

Waste Management, as well as several of its divisions and subsidiaries have been the subject of local, state and federal investigations throughout the nation. Generally, the complaints against the company involved bribery and antitrust violations including bid rigging, price fixing and price gouging.

As pointed out in the Seattle Report, when evaluating the performance of Waste Management, consideration should be given to the size and complexity of the Organization.

ATTACHMENT 2:  
WASTE MANAGEMENT EMPLOYEE CRIMINAL CONDUCT  
NON ANTITRUST CASES

WASTE MANAGEMENT  
EMPLOYEE CRIMINAL CONDUCT/NON ANTITRUST

<u>ITEM</u>	<u>NAME</u>	<u>CASE</u>
1	JOHN HORAK	U.S.VS HORAK, FOX LAKE ILLINOIS
<u>DATE</u>	<u>PLEA</u>	<u>DISPOSITION</u>
01/01/85	NOT GUILTY	CONVICTION

SUMMARY

In 1985, John Horak, the General Manager of HOD Disposal, a Waste Management, Inc. subsidiary near Chicago, was indicted for paying \$12,000.00 in bribe money to the mayor of Fox Lake, Illinois and another municipal officer in order to obtain a waste hauling contract. At the time of the indictment, Horak managed the disposal company he had previously sold to Waste Management.

Mr. Horak was charged with mail fraud and Rico forfeiture charges, and was convicted after a jury trial and sentenced to a six-month jail term and a \$25,000.00 fine.

Waste Management fired Mr. Horak as a result of this incident.

Waste Management denied any prior knowledge of Mr. Horak's actions. After a lengthy investigation, neither Waste Management, Inc., nor its local subsidiary were ever charged in this case.

<u>ITEM</u>	<u>NAME</u>	<u>CASE</u>
2	RAYMOND AKERS JR.	U.S.VS AKERS, CHICAGO
<u>DATE</u>	<u>PLEA</u>	<u>DISPOSITION</u>
01/01/87	GUILTY	CONVICTION

SUMMARY

In 1987, after a probe of municipal corruption in the Chicago area, the Justice Department arrested Mr. Raymond Akers, a former Waste Management employee. Based on his conduct while acting as a lobbyist and marketing representative for Waste Management, evidence established Mr. Akers had bribed Chicago Alderman Clifford Kelley to acquire, among other things, an option to buy land for a waste transfer facility.

Prior to the trial, Mr. Akers plead guilty and was sentenced in March of 1988 to sixty days of work release, three years probation and a \$150.00 fine.

Waste Management was not charged in the indictment and discharged Mr. Akers, indicating that he never acted to benefit the company.

ATTACHMENT 3:  
WASTE MANAGEMENT, INC., CRIMINAL CASES

WASTE MANAGEMENT  
CRIMINAL CASES

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
1	01/01/80	SHERMAN ANTITRUST CASE	GUILTY VERDICT	\$350,000.00 FINE

SUMMARY

The Department of Justice prosecuted Georgia Waste Systems, Inc., a Waste Management subsidiary, and Mr. Raymond Dinkle, its former general manager, for violations of the Sherman Antitrust Act, Section 1, in the Atlanta area. Specifically, the government alleged that Waste Management, SCA Services of Georgia, Inc., and Browning-Ferris Industries of Georgia, Inc., conspired to fix prices and allocate customers for waste disposal services in the Atlanta area. The government alleged that the activity began in 1974, and continued through at least 1979.

In a jury trial in February, 1983, Georgia Waste Systems, Inc., and Mr. Raymond Dinkle were found guilty. Georgia Waste Systems, Inc., received a fine of \$350,000.00 and Mr. Raymond Dinkle received a one year jail sentence, with all but 45 days suspended.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
2	06/30/84	SHERMAN ANTITRUST CASE	GUILTY VERDICT	\$10,500.00 FINE

SUMMARY

In an indictment filed July 30, 1984, the Department of Justice charged David Hoopengardner, general manager of Waste Management's Florida subsidiary, United Sanitation Services, of engaging in a conspiracy involving price fixing, bid rigging and market allocation. In April 1986, Mr. Hoopengardner was convicted, fined \$10,500.00 and sentenced to two years probation.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
3	11/08/85	SHERMAN ANTITRUST CASE	NOLO CONTENDERE	UNKNOWN FINE

SUMMARY

In an indictment filed November 8, 1985, the Department of Justice charged Mr. Lewis Goodman, chief operations officer of United Sanitation Services, a Waste Management subsidiary, of continuing the illegal practices outlined in the Hoopengardner indictment. Specifically, the government charged that between 1971 and 1985, Mr Goodman was involved in price fixing, bid rigging and market allocation.

Mr Goodman was convicted at trial in December, 1986. The conviction was reversed by the Circuit Court of Appeals and remanded for retrial. Mr. Goodman plead nolo contendere prior to retrial, received a fine and was sentenced to a short period of confinement in a Community Treatment Center.

WASTE MANAGEMENT  
CRIMINAL CASES

ATTACHMENT 3

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
4	01/01/86	SHERMAN ANTITRUST CASE	NOLO CONTENDERE	\$250,000.00 FINE

SUMMARY

Bestway Disposal, a trash hauling subsidiary in Henriette, New York, acquired by Waste Management in 1984, was charged in 1986 with engaging in an agreement to allocate customers in the late 1970's and through at least 1984. As part of the agreement to allocate customers, Bestway Disposal and four other waste haulers, were alleged to have met and agreed which company would serve certain customers in the Monroe County area of New York, and provided noncompetitive and rigged bids for industrial refuse removal.

On June 7, 1988, the company plead nolo contendere, and was fined \$250,000.00. The remaining defendants went to trial and were acquitted.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
5	01/01/87	SHERMAN ANTITRUST CASE	NOLO CONTENDERE	\$1,000,000.00 FINE

SUMMARY

Los Angeles County District Attorney filed a felony complaint against Western Waste Industries, Inc., Angelus-Hudson, Inc., and Waste Management of California alleging that they were involved in a five year conspiracy to allocate markets and fix prices. Waste Management entered a plea of "no contest," similar to a nolo contendere plea and agreed to pay the maximum fine of \$1 million. Mr Clifford Chamblee, a former manager of Waste Management of Gardena, and Mr. Wiley Scott, operations manager for Waste Management of Sun Valley were also charged.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
6	09/01/87	SHERMAN ANTITRUST CASE	NOLO CONTENDERE	\$1,000,000.00 FINE

SUMMARY

In September, 1987, the Department of Justice filed felony information against Waste Management, Inc., of Florida, charging the company with engaging in a conspiracy to allocate customers for waste disposal services in Dade and Broward Counties in Southern Florida from as early as February, 1980, until at least November, 1985. The corporate prosecution stemmed from the same facts charged against Mr. Hoopengardner and Mr. Goodman.

As part of a plea bargain, Waste Management waived indictment and agreed to prosecution by felony information. On January 15, 1988, Waste Management plead nolo contendere to one count of a Sherman Antitrust Act, Section 1 violation, and received the maximum fine of \$1 million.



WASTE MANAGEMENT  
CRIMINAL CASES

ATTACHMENT 3

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
7	10/01/87	SHERMAN ANTITRUST CASE	PLEAD GUILTY	\$1,000,000.00 FINE

SUMMARY

In October, 1987, the Department of Justice filed a one count information, alleging violation of the Sherman Antitrust Act against a Waste Management subsidiary, Ohio Waste Systems, Inc., and Browning-Ferris Industries of Ohio and Michigan, Inc. The information alleged that the companies conspired to allocate customers between 1981 and 1982 and to fix prices in the greater Toledo area by means of collusive, noncompetitive and rigged bid.

Department of Justice records indicated that on November 23, 1987, Ohio Waste Systems, Inc., plead guilty to the count charged in the information and received the maximum fine of \$1 million.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
8	12/28/89	SHERMAN ANTITRUST ACT	PLEA AGREEMENT	\$500,000.00 FINE

SUMMARY

On December 28, 1989, the U.S. Attorney's Office for the Southern District of California filed a Sherman Antitrust Act, criminal case against Waste Management of California, Inc., d/b/a/ Daily Disposal Service in the San Diego County area.

The complaint alleges a conspiracy to allocate customers and fix prices in San Diego County, Los Angeles County and Orange County. Daily Disposal and the U.S. Government agreed that a fine of \$500,000.00 was an appropriate disposition in this case.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
9	12/28/89	SHERMAN ANTITRUST CASE	PLEAD GUILTY	\$1,000,000.00 FINE

SUMMARY

On December 28, 1989, the U.S. Attorney's Office for the Central District of California, filed a Sherman Antitrust criminal case against Dewey's Disposal Service, a subsidiary of Waste Management. The complaint alleges that the defendants engaged in price fixing and customer allocation in the Orange County area.

Pursuant to an agreement with the Government, a plea of guilty was entered on February 13, 1990, and a fine of \$1 million was paid. Waste Management contends that the alleged activity which occurred in 1983-84 was prior to the ownership of the company by Waste Management.

WASTE MANAGEMENT  
CRIMINAL CASES

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
10	01/12/90	MISDEMEANOR ODOR L.A. CO	NOLO CONTENDERE	\$2,450.00 PENALTY

SUMMARY

On January 12, 1990, a case was filed in L.A. Municipal Court alleging three misdemeanor violations regarding odor complaints which occurred on May 1 and 2, 1989. The complaint was filed against Valley Reclamation Co, a Waste Management subsidiary. Waste Management plead nolo contendere and paid a \$2,450.00 penalty.

Waste Management indicates that they decided to upgrade the environmental integrity of the Bradley Landfill in Sun Valley. To install a state of the art landfill gas recovery system, some fairly ripe garbage was uncovered. Waste Management felt that the greater environmental results outweighed the brief minor nuisance of the odors. Waste Management also paid \$10,000.00 to the University of California, Board of Regents, to be utilized for an asbestos exposure course at UCLA.

WASTE MANAGEMENT CRIMINAL CASES SUMMARY  
 TOTAL ITEMS: 10  
 TOTAL STATES INVOLVED: 5  
 TOTAL FINES AND PENALTIES: \$5,112,950.00

ATTACHMENT 4:  
WASTE MANAGEMENT, INC., ANTITRUST CIVIL CASES

WASTE MANAGEMENT  
ANTITRUST CIVIL CASES

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
1	07/03/80	ANTITRUST CIVIL CASE	SETTLED	\$750,000.00

SUMMARY

A private individual, Mr. Frank filed a civil case against Chemical Waste Management on July 3, 1980, in the State of Illinois. Mr. Frank alleged that Waste Management took his customers by fixing prices and underbidding. The case was settled in March of 1986 with Waste Management paying \$750,000.00 to the plaintiff and the plaintiff retaining portions of Waste Management's hauling business.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
2	03/31/82	ANTITRUST CIVIL CASE	NONE	DISMISSED

SUMMARY

On March 31, 1982, a private individual by the name of Margaret Savage filed a civil antitrust suit complaint against Waste Management of South Carolina, alleging a invalid exclusive franchise. The complaint was dismissed on December 19, 1985, with prejudice, in favor of Waste Management of South Carolina.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
3	01/01/83	ANTITRUST CIVIL CASE	SETTLED	\$525,000.00

SUMMARY

In the State of Georgia, Metro Development Corp, filed a class action law suit against B.F.I. et al., which was settled in 1985. The settlement required a payment of \$525,000.00 into a settlement fund. This case was listed in the Seattle report.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
4	12/20/83	ANTITRUST CIVIL CASE	SETTLED	\$85,000.00

SUMMARY

In the State of Pennsylvania, Applied Technology, Inc., filed a civil antitrust suit against Chemical Waste Management, et al., on December 20, 1983. The law suit alleged that Chemical Waste Management was attempting to monopolize the hazardous waste hauling business in the Northeast. The civil suit was settled in March of 1987 for \$85,000.00.

WASTE MANAGEMENT  
ANTITRUST CIVIL CASES

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
5	10/18/84	ANTITRUST CIVIL CASE	PENDING	PENDING

SUMMARY

In the State of New Jersey, the State filed a civil antitrust law suit on October, 18, 1984, against Arace Brothers, et al. The civil suit alleges that Arace Brothers were involved in customer allocations and price fixing. The case is pending and settlement is expected.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
6	11/27/85	ANTITRUST CIVIL CASE	NONE	DISMISSED

SUMMARY

In the State of Florida, a private individual by the name of Benefield, filed a antitrust civil case against Waste Management, Inc. of Florida, et al. The plaintiff alledged that Waste Management and the County were involved in a conspiracy to prevent him from developing a landfill. The case was dismissed on its merits in favor of Waste Management on October 30, 1986.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
7	02/28/86	ANTITRUST CIVIL CASE	NONE	SETTLED

SUMMARY

In the State of California, Vinci Enterprises, Inc, filed a civil antitrust suit against Oakland Scavenger, a Waste Management subsidiary, on February 28, 1986. The plaintiff alleged that Oakland Scavenger was attempting to monopolize the local trash hauling business. The suit was dismissed after settlement on March 29, 1989.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
8	03/17/86	ANTITRUST CIVIL CASE	SETTLED	\$1,200,000.00

SUMMARY

In the State of Florida, Carefree David Travel Co, filed a class action antitrust civil case on March 17, 1986, against IWS, Waste Management of Florida, et al. The case was settled for \$1,200,000.00 in 1988.

WASTE MANAGEMENT  
ANTITRUST CIVIL CASES

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
9	05/15/86	ANTITRUST CIVIL CASE	SETTLED	\$51,000.00

SUMMARY

On May 15, 1986, in Sonoma County California, Industrial Carting filed a civil antitrust case against Empire Disposal, a Waste Management subsidiary. Industrial Carting alleged that Empire Disposal was involved in below cost bidding. The case was settled on November 2, 1987, for \$51,000.00 without admission of any liability on the part of Waste Management.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
10	05/22/86	ANTITRUST CIVIL CASE	SETTLED	\$350,000.00

SUMMARY

On May 22, 1986, the Attorney General for the State of Ohio, filed a civil antitrust case against Waste Management of North America, and Browning-Ferris Industries, et al. This case was filed prior to any Federal antitrust action. This case was settled for \$350,000.00 in damages and attorney's fees.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
11	07/22/86	ANTITRUST CIVIL CASE	NONE	DISMISSED

SUMMARY

On July 7, 1986, a private individual by the name of Robert O'Conner, filed a civil antitrust case against Oakland Scavenger, a Waste Management subsidiary. He alleged in his complaint that Oakland Scavenger used exclusive franchise to improperly obtain a monopoly over recycleable materials. The case was dismissed on June 17, 1989, on the merits in favor of Waste Management.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
12	09/17/86	ANTITRUST CIVIL CASE	SETTLED	\$1,000.00

SUMMARY

On September 17, 1986, in the State of Louisiana, C.C. Sanitation filed a civil antitrust case against Waste Management, Inc., et al. C.C. Sanitation alleged that Waste Management attempted to monopolize the portable sanitation market. The case was settled on January 20, 1989, for a "nuisance value" of \$1000.00 and dismissed.

WASTE MANAGEMENT  
ANTITRUST CIVIL CASES

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
13	01/08/87	ANTITRUST CIVIL CASE	PENDING	PENDING

SUMMARY

On January 8, 1987, in the State of New York, Scrantom's Book and Stationary Company, filed an antitrust civil case against Bestway Disposal Corp., a Waste Management subsidiary. The case is still pending.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
14	03/18/87	ANTITRUST CIVIL CASE	SETTLED	\$130,000.00

SUMMARY

On March 18, 1987, in the State of Florida, the Attorney General filed a antitrust civil case against Waste Management, Inc., of Florida. The Attorney General alleged that Waste Management violated the Sherman Antitrust Act, Section 1. The case was settled in January, 1988, with Waste Management paying a fine of \$130,000.00.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
15	03/18/87	ANTITRUST CIVIL CASE	SETTLED	\$595,000.00

SUMMARY

In the State of Florida, the Attorney General filed a antitrust civil case against Waste Management, Inc., of Florida, alleging a violation of the Sherman Antitrust Act, Section 1.

This case was also settled in January, 1988, for \$595,000.00 in damages and attorney's fees.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
16	06/12/87	ANTITRUST CIVIL CASE	PENDING	PENDING

SUMMARY

On June 12, 1987, in the State of California, Marina Two filed a State court class action against Waste Management of California, alleging violations of the state's antitrust laws. The case is pending at this time.

WASTE MANAGEMENT  
ANTITRUST CIVIL CASES

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
17	06/18/87	ANTITRUST CIVIL CASE	SETTLED	\$19,500,000.00

SUMMARY

On June 18, 1987, in the State of Pennsylvania, a private company called Cumberland Farms, filed a class action antitrust law suit against Waste Management, Inc., and Browning-Ferris Industries, et al., alleging a nation wide price fixing conspiracy. On October 30, 1990, the suit was settled with Waste Management paying \$19.5 million and Browning-Ferris also paying \$30.5 million toward a fund.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
18	06/23/87	ANTITRUST CIVIL CASE	PENDING	PENDING

SUMMARY

On June 23, 1987, in the State of California, Airport Century Inn, Ltd., filed a class action law suit in federal court against Waste Management. The suit alleges violations of both state and federal antitrust laws. The suit is still pending.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
19	07/01/87	ANTITRUST CIVIL CASE	PENDING	PENDING

SUMMARY

On July 1, 1987, the L.A. District Attorney filed a civil penalty/injunctive action against Waste Management of California, Inc. This case follows the criminal case and alleges price fixing and customer allocation. The suit is still pending.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
20	04/14/88	ANTITRUST CIVIL CASE	PENDING	PENDING

SUMMARY

On April 14, 1988, in the State of Missouri, a private individual by the name of Cone, filed a antitrust civil case against Waste Management of Missouri, Inc. She is alleging wrongful termination for "Whistle blowing" on company price fixing activities. The case is pending.



WASTE MANAGEMENT  
ANTITRUST CIVIL CASES

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
21	06/29/88	ANTITRUST CIVIL CASE	PENDING	PENDING

SUMMARY

On June 29, 1988, in the State of Colorado, a private company by the name of Crabtree, filed a civil antitrust case against the State of Colorado. The plaintiff alleges a conspiracy to violate Minority Business Enterprises preference laws. There are parallel cases pending in both State and Federal courts on this issue. This case was listed in the Seattle report.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
22	07/05/88	ANTITRUST CIVIL CASE	PENDING	PENDING

SUMMARY

On July 5, 1988, in the State of Texas, a private company by the name of Johnson's Disposal, filed a antitrust civil case against Browning-Ferris Industries, et al. The plaintiff alleges violations of both Section 1 and Section 2 of the Sherman Antitrust Act. This case is identified in the Seattle report.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
23	03/17/89	ANTITRUST CIVIL CASE	PENDING	PENDING

SUMMARY

On March 17, 1989, in the State of Ohio, a private individual by the name of Yeager, filed a antitrust civil case against Waste Management, Inc. The plaintiff alleges violations of the Sherman Antitrust Act, Section 1. The case is pending .

## WASTE MANAGEMENT ANTITRUST CIVIL CASE SUMMARY

TOTAL ITEMS: 23

TOTAL STATES INVOLVED: 23

TOTAL FINES, PENALTIES AND SETTLEMENT COST: \$23,187,000.00

ATTACHMENT 5:  
WASTE MANAGEMENT, INC., ENVIRONMENTAL CIVIL CASES

WASTE MANAGEMENT  
ENVIRONMENTAL CIVIL CASES

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
1	08/08/74	OPERATIONAL VIOLATION	NONE	\$48,000.00 PENALTY

SUMMARY

Case filed by State of Wisconsin, against United Waste Systems, Inc., alleging a failure to comply with DNR Order 2A-73-719 in that United Waste Systems did not install a groundwater monitoring system or leachate removal system, did not submit full site engineering plans or, in alternative, did not close landfill by dates specified in order.

Case closed on May 10, 1985 via an Administrative Consent Order, entered into between Wisconsin Department of Natural Resources and Waste Management of Wisconsin, Inc., requiring implementation of groundwater and leachate monitoring programs. May 16, 1985, Stipulation and Order for Dismissal upon terms whereby WMWI agreed to pay \$6260 civil penalty and \$41,740 forfeiture.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
2	08/10/83	RCRA VIOLATIONS	CONSENT DECREE	\$35,000.00 PENALTY

SUMMARY

SCA Chemical Services, Inc., CWM Chemical Services, Model City, New York. EPA alleged numerous hazardous waste violations including leaking containers, open containers, storage and handling violations.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
3	09/30/83	RCRA AND TSCA VIOLATIONS	CONSENT DECREE	\$2,500,000.00 PENALTY

SUMMARY

Waste Management Inc., Ohio Liquid Disposal, Vickery Division Vickery, Ohio. EPA alleged numerous TSCA and RCRA violations, especially dilution of PCB'S in large lagoons, in addition to storage, labelling and disposal requirements violations. A complaint seeking \$6.8 million was filed. Case settled in April, 1985 with \$2,500,000.00 penalty. This may be the same as Item 10, attachment 6.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
4	05/31/84	OPERATIONAL VIOLATIONS	NONE	DISMISSED

SUMMARY

Case filed in District Court, State of Michigan, against Michigan Waste Systems, Inc., alleging that the company failed to provide required amount of daily cover for

WASTE MANAGEMENT  
ENVIRONMENTAL CIVIL CASES

the landfill site.

On January 22, 1985, case was dismissed after agreement with the prosecuting attorney.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
5	01/15/85	RCRA VIOLATIONS	SUMMARY JUDGEMENT	\$40,000.00 FINE

SUMMARY

Chemical Waste Management Inc., Denver-Arapahoe Chem Waste Pro. Co., Aurora, Co. EPA alleged groundwater and reporting violations.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
6	04/01/85	CLEAN AIR ACT VIOLATION	CONSENT DECREE	\$8,500.00 FINE

SUMMARY

Waste Management of Wisconsin, Inc., Omega Hills North Landfill, Germantown, WI. EPA alleged failure to comply particulate emissions limits. Fined and required to pave one of the roads into the facility.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
7	04/09/85	RCRA VIOLATIONS	NONE	\$2,000.00 PENALTY

SUMMARY

Case filed in Town Court of Whitestown, New York, against Mohawk Valley Sanitation, Inc., alleging that hauling company disposed of 55 gallon drums into hardfill landfill.

Case closed on April 9, 1985, with \$2,000 penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
8	04/15/85	CLEAN AIR ACT	CONSENT DECREE	\$8,500.00 CIVIL PENALTY

SUMMARY

Case filed in U.S. District Court against Waste Management of Wisconsin, Inc., regarding the Omega Hills Landfill. Case alleged that Omega Hills Landfill emitted particular matter into the ambient air so as to contribute to exceedance of national and secondary ambient air quality standards, as recorded by site monitoring equipment on 34 dates from 05/08/81 through 10/03/84.

Case closed on September 12, 1986, by Consent Decree whereby Waste Management of Wisconsin, Inc., agreed to institute a program to reduce emissions and pay a \$8,500

WASTE MANAGEMENT  
ENVIRONMENTAL CIVIL CASES

civil penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
9	06/14/85	OPERATIONAL VIOLATIONS	NOT GUILTY	CASE DISMISSED

**SUMMARY**

Case filed by New York Department of Environmental Conservation against Waste Management of New York-Utica. Case alleged Waste Management of New York-Utica relinquished to a facility without a valid permit covering such waste and transported, collected and removed waste from its point of origin without a permit. Case closed in 1985 with Waste Management of New York-Utica plead not guilty, paying a \$100 fee on appearances and case was then dismissed.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
10	07/25/85	PERMIT	NONE	\$1,500.00 CIVIL PENALTY

**SUMMARY**

Case filed by State of New York against SCA Services, Inc., doing business as Mohawk Valley Sanitary Landfill. Case alleged Mohawk Valley Landfill accepted special waste without having the proper permits as required by New York Law. Case closed on 12/12/85 with civil penalty in the amount of \$1,500.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
11	08/22/85	OPERATIONAL VIOLATION	CONSENT DECREE	\$5,000.00 PENALTY

**SUMMARY**

Case filed by State of Illinois against SCA Services of Illinois, Inc., regarding the Chain of Rocks Landfill. Case alleged that Chain of Rocks landfill failed to place daily cover on exposed refuse and failed to collect and dispose of litter. Case closed on January 6, 1988 by Consent Decree and the payment of \$5,000 penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
12	09/03/85	OPERATIONAL VIOLATIONS	CASE DISMISSED	\$2,000.00 PENALTY

**SUMMARY**

Case filed in Los Angeles Municipal Court against Waste Management of California. Case alleged Waste Management was using coatings with excessive VOC content in spray booth. Case dismissed on October 14, 1986 with Waste Management paying a \$2,000

WASTE MANAGEMENT  
ENVIRONMENTAL CIVIL CASES

penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
13	04/11/86	PERMIT	STIPULATION	\$800,000.00 FINE

SUMMARY

Case filed by State of Wisconsin against Waste Management of Wisconsin, Inc., regarding the Omega Hills Landfill, North Germantown, Wisconsin.

Case alleges that Waste Management failed to comply with leachate head level requirements in the original and modified plans of operations for Omega Hills North; leachate has contaminated nearby groundwater; failure to properly operate the site by using fill areas in a sequential manner; deficient groundwater monitoring program; failure to submit an adequate closure plan.

Case closed on April 3, 1989, by stipulation and judgement whereby Waste Management agreed to conduct certain remedial activities and pay fines and forfeitures of \$800,000 over four years.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
14	06/10/86	CERCLA VIOLATIONS	CONSENT DECREE	\$1,200,000.00 PENALTY

SUMMARY

Case filed by EPA against SCA Services of Indiana, Fort Wayne Reduction Dump, Fort Wayne, Indiana. The remedy required by the ROD calls for excavation and off-site incineration of drums, reconsolidation and capping of contaminated soils, groundwater collection and treatment at the western portion of the site to prevent migration of contaminated groundwater into the nearby river, and monitoring of groundwater in perpetuity.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
15	06/23/86	APC REGULATIONS	NONE	\$100.00 & COURT COST

SUMMARY

Case filed in District Court, Jefferson County, Kentucky, against Waste Management of Kentucky, Inc. Case alleges violations of APC Regulations 6.05 Section 2(c) by causing the discharge of fugitive dust in excess of 20% opacity.

Case closed on 08/05/86 with Waste Management of Kentucky paying \$100.00 and court cost.

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<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
16	09/09/86	AIR POLLUTION VIOLATION	NONE	NONE

SUMMARY

Case filed in the District Court of Harms County by Harms County and the State of Texas against Atascocita Development Corporation, et al. Case alleges that the defendent, Atascocita Dev. Corp operated the Atascocita Road Landfill in such a manner as to violate rules and regulations of the Texas Air Control Board, Article 4477-5, V.A.T.S., by allowing or permitting emissions of one or more air contaminants; alleged emissions caused nuisance odor.

As of 04/18/89, the County has taken no further action in prosecuting this suit. Atascocita continues to work with, and provide status reports to, the Harris County Pollution Control Department on implementation of a landfill odor assessment and control program.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
17	06/08/87	OPERATIONAL VIOLATIONS	PLEA AGREEMENT	\$685.00 FINE

SUMMARY

Case filed by Maricopa County Air Pollution Control Board against Waste Management of Phoenix regarding 27th Avenue Landfill. Case alleged failure to take reasonable precautions to effectively prevent fugitive dust from becoming airborne.

Case closed on 11/29/88 by plea agreement with Waste Management paying a fine of \$500 plus 37% surcharge for a total of \$685.00. (This case may be duplicated in Attachment 6, Item #33.)

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
18	09/29/87	RCRA VIOLATIONS	CONSENT DECREE	\$750,000.00 PENALTY

SUMMARY

Case filed by EPA against Chemical Waste Management, Ohio Liquid Disposal, Vikery, Ohio. In addition to the fine partial closure of plant was ordered, for numerous violations, including groundwater monitoring, permit violations, reporting violations, admin. violations, build ups of metal, waste oil and PCB's. Chemical Waste Management paid a penalty of \$750,000.00.

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<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
19	12/11/87	PERMIT VIOLATIONS	NONE	\$1,100.00 PENALTY

SUMMARY

Case filed in Kent County Circuit Court, State of Michigan, which alleged that Waste Management hauled recycleables to a recycling center in Kent County without the required Michigan Public Service Commission permit.

Case closed on May 15, 1988 with Michigan Waste Systems paying a \$1,100 penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
20	02/22/88	PUBLIC HEALTH NUISANCE	NONE	NONE

SUMMARY

Case filed in Camden Township Court, New Jersey by Robert Pirrotts of the Camden County Health Department against O'Connor Corporation. Case alleges a violation of a public health nuisance code, odors from a partially filled trash truck left overnight.

Settlement was pending as of October, 1989.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
21	04/12/88	PERMIT VIOLATIONS	GUILTY	\$22,500.00 FINE, PLUS

SUMMARY

Case filed by Ontario Ministry of the Environment, Canada, against York Sanitation, a division of Waste Management of Canada, Inc. Case alleged the York Sanitation failed to operate a waste management system in accordance with conditions set out in the provisional certificate of approval #8454 by delivering waste to a disposal site other than the one identified, specifically, Innisfil Landfill.

Waste Management of Canada, Inc., plead guilty to nine outstanding charges on April 3, 1989. Court imposed fine of \$22,500 plus \$750 in court cost.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
22	05/10/88	CITY ORDINANCE	AGREEMENT	DISMISSED

SUMMARY

Case filed by City of Moraine, State of Ohio, against Pinnacle Road Landfill, Inc. Case alleged borrowing of soils on 16 acre tract at landfill which violated city soil removal and erosion control ordinances.

Case closed on June 27, 1988, by agreement for entry of dismissal without



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ATTACHMENT 5

prejudice. Pinnacle Road Landfill agreed to submit plans for sedimentation and erosion control to the city.

ENVIRONMENTAL CIVIL CASE SUMMARY:  
TOTAL ITEMS: 22  
TOTAL STATES INVOLVED: 12 PLUS CANADA  
TOTAL FINES, PENALTIES AND SETTLEMENT COST: \$5,424,885.00

ATTACHMENT 6:  
WASTE MANAGEMENT, INC., ADMINISTRATIVE CASES

WASTE MANAGEMENT  
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<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>1</u>	01/16/79	GENERAL FACILITY REQ.	CONSENT DECREE	\$15,000.00 PENALTY

SUMMARY

SCA Chemical Waste Services, Model City, NY.  
EPA alleged violations of General Facility Requirements dealing with TSCA/6E PCB markings and disposal regulations.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>2</u>	11/19/80	GENERAL FACILITY REQ.	CONSENT DECREE	\$13,500.00 PENALTY

SUMMARY

SCA Chemical Waste Services, Model City, NY.  
EPA alleged violations of General Facility Requirements dealing with TSCA/6E PCB marking and disposal regulations.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>3</u>	02/24/84	GENERAL FACILITY REQ.	CONSENT DECREE	\$20,000.00 PENALTY

SUMMARY

SCA Chemical Services, Inc., Model City, NY.  
EPA alleged violations of General Facility Requirements dealing with TSCA/6E PCB markings and disposal regulations.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>4</u>	02/24/84	GENERAL FACILITY REQ.	CONSENT DECREE	\$18,000.00 PENALTY

SUMMARY

SCA Chemical Services, Inc., Model City, NY.  
EPA alleged violations of General Facility Requirements dealing with TSCA/6E PCB markings and disposal regulations.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>5</u>	06/28/84	RCRA VIOLATIONS	DISMISSED AFTER FINE	\$2,475.00 PENALTY

SUMMARY

Waste Management, Inc., Lyncott Corporation, New Milford, PA. EPA alleged violations of RCRA /3008A. Case voluntarily dismissed after fine.

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<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>6</u>	07/06/84	OPERATIONAL VIOLATIONS	NONE	APPEALING

SUMMARY

USEPA-Region V alleged that Michigan Waste Systems, Inc., failed to monitor groundwater. Administrative Order seeks monitoring wells in clay fill. Michigan Waste Systems, Inc., is appealing the Order.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>7</u>	07/06/84	RCRA VIOLATION	SOURCE AGREEMENT	\$15,000.00 PENALTY

SUMMARY

Chemical-Security Systems, Inc., Chemical Waste Management of the Northwest, Arlington, Oregon. EPA alleged TSD facility failed to submit complete part B permit application in a timely manner.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>8</u>	11/13/84	FIFRA VIOLATION	SOURCE AGREEMENT	\$4,000.00 PENALTY

SUMMARY

Torco Pest and Terminate Control Company. Columbus, Ohio. EPA filed an action alleging violation of FIFRA 14. Respondent agreed and paid fine of \$4,000.00.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>9</u>	01/24/85	TSCA VIOLATIONS	SOURCE AGREEMENT	\$2,500,000.00 PENALTY

SUMMARY

Chemical Waste Management, Inc., Hinsdale, IL. EPA report is not specific, however, Seattle report list a case in the same time frame and with the same penalty. This case grew out of mixing PCBs with oil and selling the solution which was sprayed on the roadway. Seattle report identifies site as Vickery, Ohio.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>10</u>	04/05/85	RCRA VIOLATION	SOURCE AGREEMENT	\$2,000,000.00 PENALTY **

SUMMARY

Chemical Waste Management, Ohio Liquid Disposal, Vickery Division, Vickery, Ohio. Case involves hazardous waste left in lagoons. Total amount of \$2 million dollars paid in full. This may be the same as item #3, attachment 5.

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<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>11</u>	05/31/85	RCRA/SUPERFUND 106	NONE	SLUDGE REMOVAL

SUMMARY

Chemical Waste Management of Kansas; Valley Cent, Kansas. Remedial design in process. Some of the evaporation ponds linked to construction of above ground storage cell for the disposal of E-pond sludge. Last proposal to temporarily store sludge over winter.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>12</u>	05/31/85	RCRA VIOLATION	CONSENT DECREE	\$15,000.00 PENALTY

SUMMARY

SCA Chemical Services, Inc., Chemical Waste Management, Model City, NY. EPA alleged failure to properly monitor ground water.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>13</u>	06/07/85	RCRA VIOLATIONS	SOURCE AGREEMENT	\$125,000.00 PENALTY

SUMMARY

EPA alleged that Chem-Security Systems, Inc., Chem Waste Management of the Northwest, Arlington, Oregon, violated RCRA regulations. \$125,000.00 penalty assessed. This item may be the same as Attachment 7, item 40.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>14</u>	07/16/85	TSCA VIOLATION	SOURCE AGREEMENT	\$235,000.00 PENALTY

SUMMARY

Chemical-Security Systems, Inc., Chemical Waste Management of the Northwest; Arlington, Oregon. EPA alleged violations of PCB's Regulations. Ordered to pay penalty. EPA to conduct quarterly PCB audits for one year according to work plan. This item may be the same as Attachment 7, item 39.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>15</u>	10/13/85	HEALTH DEPT. REGULATIONS	STIPULATION/CONSENT	\$200.00 FINE

SUMMARY

Complaint filed on 10/13/85, 10/25/85, 01/08/86 and 01/23/86 by Wayne County Department of Health against Michigan Waste Systems, Inc., Woodlands Meadows

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Landfill-South. Complaint alleges violations of Health regulation regarding road maintenance and odors.

On 01/24/86, both parties entered into an order and stipulation whereby Michigan Waste Systems agreed to pay \$200.00 in fines and plead "no contest" to the allegation concerning road maintenance.

On 05/29/86, both parties entered into an administrative consent order which resolved the odor violations.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>16</u>	11/05/85	OPERATIONAL VIOLATIONS	CONSENT ORDER	\$1,200.00 PENALTY

SUMMARY

Complaint filed by South Carolina Department of Health and Environmental Control against SCA Services of South Carolina, Inc., Waste Management of South Carolina. Complaint alleges failure to provide verification of financial responsibility for sudden and accidental occurrences; storage of electroplating sludge in excess of permitted storage period; failure to accurately document origin and intended disposal facility for electroplating waste; and failure to implement an approved personnel training program. On December 18, 1985, both parties entered into Consent Order assessing \$1,200.00 penalty and acknowledging that compliance was achieved.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>17</u>	11/06/85	RCRA VIOLATIONS	SOURCE AGREEMENT	\$30,000.00 PENALTY

SUMMARY

The action was taken because the facility had installed an inadequate groundwater assessment program under 40 CFR 265.93 and had not completed its certification of insurance properly.

Parties have reached agreement to settlement in principal.

CAFO to be redrafted. Agreement includes penalties of \$30,000.00; groundwater assessment program; additional wells and admendment of certificate of insurance. Adams Center Sanitary Landfill, Chemical Waste Management, Fort Wayne, IND.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>18</u>	01/10/86	OPERATIONAL VIOLATION	NONE	PENDING

SUMMARY

Complaint filed by Arkansas Department of Pollution Control and Ecology against Waste Management of Arkansas, Pine Bluff Landfill. Complaint alleges failure to

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identify and dispose properly of hazardous waste at a landfill not authorized to receive such waste.

Disposition pending as of 10/1989.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>19</u>	03/19/86	TSCA VIOLATIONS	CONSENT DECREE	\$15,000.00 PENALTY

**SUMMARY**

Chemical Waste Management, Inc., Denver-Arapahoe Chemical Waste Pro. Aurora, Co. EPA alleged failure to properly dispose of PCB's (4) counts.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>20</u>	03/28/86	RCRA VIOLATIONS	SOURCE AGREEMENT	\$40,000.00 PENALTY

**SUMMARY**

Wayne Disposal operates a landfill in Belleville, Michigan. Ford Motor Company owns the property upon which Wayne Disposal operates its landfill facility. Several RCRA inspections found Wayne Disposal to be operating in violation of RCRA regulations. The complaint cites those violations, and orders Wayne Disposal and Ford Motor Company to cease operating in violation of the regulations.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>21</u>	04/11/86	OPERATIONAL VIOLATIONS	CONSENT AGREEMENT	\$6,000.00 PENALTY

**SUMMARY**

Complaint filed by USEPA-Region V against Ohio Waste Systems, Inc., Evergreen Landfill. Complaint alleges Evergreen violated the shipping manifest regulations and had an inadequate groundwater assessment plan.

On 01/24/88, both parties entered into a consent agreement and final order whereby OWS agreed to pay a civil penalty in the amount of \$6,000.00; submit an assessment report including a determination of whether hazardous waste or hazardous waste constituents are in the groundwater at the Evergreen Facility and if so, the concentration, rate and extent of migration.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>22</u>	04/11/86	RCRA VIOLATIONS	LITIGATED	\$8,425.00 FINE

**SUMMARY**

EPA Alleged that respondent is in violation of groundwater monitoring regulations,

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in particular 40 CFR 265.93 by failure to submit an adequate groundwater assessment plan. Facility is in closure.

Respondent is Ohio Waste System of Toledo, Ohio.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>23</u>	06/30/86	OPERATIONAL VIOLATIONS	COMPLIANCE ORDER	\$8,000.00 PENALTY

SUMMARY

Complaint filed by LDEQ against American Waste and Pollution Control Company, Magnolia Sanitary Landfill. Compliance order issued stemming from a inspection which occurred on 06/17/86. Inspection report alleged insufficient daily cover and contaminated surface water. Compliance order suggest penalty of \$8,000.00.

On 07/30/86, a response was filed to the compliance order, outlining how compliance was achieved.

On 10/23/86, \$8,000.00 penalty was paid.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>24</u>	07/18/86	APPLICATION VIOLATION	NONE	PENDING

SUMMARY

Complaint filed by USEPA-Region V against Waste Management of Illinois, Inc., E.S.I. Facility. Complaint alleges deficiencies in the Part B application for E.S.I.

Disposition pending as of 10/89.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>25</u>	07/21/86	RCRA VIOLATIONS	SOURCE AGREEMENT	UNKNOWN

SUMMARY

Complaint filed alleging failure to submit adequate part (B) permit application. The application allegedly contained deficient groundwater monitoring information and was a violation of the RCRA. Respondent is Waste Management of Ill., Inc.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>26</u>	09/16/86	OPERATIONAL VIOLATIONS	NONE	\$10,000.00 PENALTY

SUMMARY

Complaint filed by LDEQ against Recovery I, Inc., New Orleans, LA. Complaint alleges permit violations by surface water and mismanagement leachate, litter, levee



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in disrepair and other repetitive or minor violations.

Compliance order issued.

On 10/22/86, Recovery I, Inc., filed a response to the compliance order, setting forth a compliance schedule and paying a \$10,000.00 penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>27</u>	09/22/86	OPERATIONAL VIOLATION	NONE	PENDING

**SUMMARY**

Complaint filed by USEPA-Region V against Waste Management of Illinois, Inc, CID-Chemical Waste Management Inc. Complaint alleged failure to implement groundwater monitoring program required by RCRA.

Disposition pending as of 10/89.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>28</u>	10/06/86	OPERATIONAL VIOLATIONS	SETTLEMENT AGREEMENT	\$300.00 PENALTY

**SUMMARY**

Complaint filed by Regional Air Pollution Control Agency against the Pinnacle Road Landfill. Complaint alleges observations on a release of visible emissions of asbestos containing waste. On August 19, 1986, Ohio EPA issued a letter directing Pinnacle Road Landfill to cease acceptance of asbestos containing waste.

On 01/09/87, both parties entered a settlement agreement whereby Pinnacle Road Landfill agreed to continue to follow the OHIO EPA guidelines for asbestos waste acceptance and disposal; \$300.00 penalty paid.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>29</u>	10/09/86	OPERATIONAL VIOLATIONS	NONE	\$18,000.00 PENALTY

**SUMMARY**

Complaint filed by LDEQ against American Waste and Pollution Control Company and the City of New Iberia Landfill. Complaint alleges AWPC failed to apply required daily cover as outlined in compliance order, dated March 31, 1986.

Complaint resolved with AWPC entering into an agreement and paying \$18,000 settlement.

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<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>30</u>	01/01/87	FIFRA VIOLATION	SOURCE AGREEMENT	\$27,000.00 PENALTY

SUMMARY

EPA alleged that Mighigan Waste System violated sections of FIFRA.' Case settled with Michigan Waste Systems paying \$27,000.00.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>31</u>	03/19/87	OPERATIONAL VIOLATIONS	NONE	VIOLATION CORRECTED

SUMMARY

Complaint filed by City of Los Angeles against Valley Reclamation Company, Bradley West Landfill, Sun Valley, California. Complaint alleges refuse was not covered at the end of the day.

Complaint settled after follow-up inspection and violation corrected.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>32</u>	05/01/87	OPERATIONAL VIOLATIONS	NONE	\$11,000.00 PENALTY

SUMMARY

Complaint filed by LDEQ against American Waste and Pollution Control Company, Magnolia Sanitary Landfill. Complaint alleges permit violations regarding receiving and monitoring of incoming special waste, and failure to follow contingency plan.

Compliance order issued on 05/01/87 and civil penalty assessed on 07/17/87 for \$11,000.00.

On 07/25/87, company paid civil penalty of \$11,000.00.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>33</u>	06/03/87	STATE AIR LAWS	SETTLEMENT	\$278.00

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SUMMARY

On 06/03/87, Maricopa County Air Pollution Bureau, State of Arizona, filed a complaint against Oakland Scavenger Company, Waste Management of Phoenix-South. The complaint alleges two separate occasions of violations of the state air laws due to fugitive dust emissions from the 27th Avenue Landfill.

On 07/21/87, per a pre-litigation settlement agreement: Defendant paid \$139.00 for each violation. Agreement also stated that no future NOV's would be issued as long as Waste Management remains in compliance. (This case may be duplicated under Attachment 5, Item #17).

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<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>34</u>	06/19/87	PUBLIC ACT 84-1320	NONE	\$500.00 CIVIL

SUMMARY

Complaint filed Illinois Pollution Control Board against Waste Management of Illinois, Inc, Woodland Sanitary Landfill. Complaint alleges violation of Public Act 84-1320, based on a site inspection on 04/30/87 which observed refuse that remained uncovered from a previous day.

On 04/21/88, an Administrative Order issued to dismiss without admitting or denying the allegations. Civil penalty paid by Waste Management of Illinois, Inc., in amount of \$500.00.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>35</u>	06/24/87	RCRA VIOLATION	UNKNOWN	\$27,000.00 PENALTY

SUMMARY

Waste Management of Peoria, Ill., settled for alleged violations of Res. Conserv. and Rec. Act.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>36</u>	06/25/87	USEPA-Region V	CONSENT ORDER	\$27,000.00 CIVIL PENALTY

SUMMARY

Complaint filed by USEPA-Region V against Michigan Waste Systems, Inc., Woodland Meadows Landfill-North. Complaint alleges unapproved waste piles resulting from the installation of a gas recovery system.

On June 25, 1987, Consent order whereby Michigan Waste Systems, Inc., agreed to submit a closure plan for the removal of the waste pile and pay a civil penalty of \$27,000.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>37</u>	07/21/87	OPERATIONAL VIOLATION	NONE	\$500.00 CIVIL FEE

SUMMARY

Complaint filed by Illinois Pollution Control Board against Waste Management of Illinois, Greene Valley Landfill. Complaint alleges site inspection noted that refuse left uncovered from previous day.

Complaint settled by Waste Management of Illinois paying a civil penalty of \$500.00 on 04/21/88.

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<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>38</u>	08/13/87	RCRA VIOLATION	UNKNOWN	\$18,240.00 PENALTY

SUMMARY

SCA Chemical Services, Inc., Chicago, Ill reached agreement with the EPA, which called for penalty assessment and required groundwater monitoring. (This case may be a duplication under Attachment 7, Item #56).

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>39</u>	08/26/87	LA MUNICIPAL CODE	NONE	PENDING

SUMMARY

Complaint filed by City of Los Angeles, Bureau of Sanitation against Valley Reclamation Company, Bradley West Landfill, Sun Valley. Complaint alleges Valley has violated L.A. Municipal Code for failure to control gas migration at the site. Disposition pending as of 10/1989.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>40</u>	10/09/87	OPERATIONAL VIOLATION	NONE	SETTLEMENT

SUMMARY

Complaint filed by LEDQ against American Waste and Pollution Control Company, Lafayette Landfill. Complaint alleges that inadequate cover, surface water and litter violations.

Complaint resolved by settlement agreement.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>41</u>	10/15/87	ODOR VIOLATIONS	SETTLEMENT AGREEMENT	\$1,625.00 PENALTY

SUMMARY

Complaint filed by Broward County Environmental Quality Control Board against Waste Management Inc., of Florida, Central Disposal, Pompano Beach, Florida. Complaint alleges Central Disposal caused, allowed or permitted the discharge of air pollutants which contributed to an objectionable odor.

Complaint settled by agreement and payment of penalty of \$1,625.00 on 02/19/88.

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<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>42</u>	12/22/87	OPERATIONAL VIOLATIONS	NONE	VIOLATION CORRECTED

SUMMARY

Complaint filed by City of Los Angeles, Bureau of Sanitation, against Valley Reclamation Company, Bradley West Landfill, Sun Valley, California. Complaint alleges failure to cover refuse at end of day.

Complaint settled after follow-up inspection and violation corrected.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>43</u>	12/22/87	OPERATIONAL VIOLATIONS	NONE	COMPLIANCE ORDER

SUMMARY

Complaint filed by LDEQ against AWPC/Waste Management of South Louisiana, Inc. Complaint alleged discharge without a permit, absence of secondary containment, oil spills contaminating soil.

Compliance order issued and on 01/25/88, AWPC filed a response stating the action to be taken to comply with the order.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>44</u>	02/10/88	OPERATIONAL VIOLATIONS	NONE	COMPLIANCE ORDER

SUMMARY

Complaint filed by LDEQ against American Waste and Pollution Control Company and Waste Management of Central Louisiana. Complaint alleged contingency plan not available; inadequate training plan and failure to apply for a new generator facility number when facility moved.

On 03/07/88, AWPC filed a response, addressing the issues identified in the compliance order.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>45</u>	02/25/88	STATE MINIMUM STANDARDS	NONE	RESOLVED

SUMMARY

Complaint filed by California Waste Management Board against Valley Reclamation Company, Bradley West Landfill. Complaint alleges violation of State Minimum Standards: section 17660- Internal Roads (mud on hauling roads), section 17710- Grading of fill surfaces, during rain, small ponds were observed on current lift, and section 17708-Draining and Erosion Control. Inspector misinterpreted existing

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drainage conditions.

Complaint settled by written response; no further agency action.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>46</u>	03/03/88	OPERATIONAL VIOLATION	NONE	COMPLIANCE ORDER

**SUMMARY**

Complaint filed by LEDQ against American Waste and Pollution Control Company and Waste Management of St. Tammany. Complaint alleges that on October 7, 1987, an inspection observed the discharge of contaminated wastewater from a truck wash and package treatment plant.

AWPCC filed a response to the compliance order, outlining action to be taken in terms of the compliance order.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>47</u>	03/03/88	OPERATIONAL VIOLATIONS	NONE	\$10,000.00 PENALTY

**SUMMARY**

Complaint filed by NYDEC against Genessee Valley Waste Systems, Inc. Complaint alleges GVWS operated a storage area for solid waste without a valid permit.

On 12/16/88, a civil penalty of \$10,000.00 was assessed and paid.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>48</u>	03/09/88	TSCA VIOLATIONS	NONE	DISMISSED

**SUMMARY**

EPA alleged possible UIC and PCB related violations. Chemical Waste Management, Ohio Liquid Disposal, Vickery Div.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>49</u>	03/11/88	OPERATIONAL VIOLATIONS	NONE	\$23,000.00 SETTLEMENT

**SUMMARY**

Complaint filed by NJDEP against Interstate Waste, Inc., Parklands Reclamation Project. Complaint alleges violations of odor regulations.

On 01/04/89, Administrative Order issued with settlement for \$23,000.00.

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<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>50</u>	03/14/88	OPERATIONAL VIOLATIONS	NONE	ADMINISTRATIVE ORDER

**SUMMARY**

Complaint filed by New Hampshire Department of Environmental Services against Waste Management of New Hampshire, Inc., Turnkey Landfill. Complaint alleges failure to maintain layer of the required cover material which had not been placed over exposed refuse.

On March 25, 1988, Administrative Order issued and immediate corrective action taken by Waste Management.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>51</u>	04/07/88	UNACCEPTABLE REFUSE	NONE	VIOLATION CORRECTED

**SUMMARY**

Complaint filed by City of Los Angeles, Bureau of Sanitation, against Valley Reclamation Company, Bradley West Landfill, Sun Valley, California. Complaint alleges unacceptable refuse being dumped, one (1) 55-gallon drum containing waste oil residue and three (3) one-gallon cans of latex house paint dumped at working face but not buried.

Complaint settled by removal to approved disposal facility.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>52</u>	04/13/88	OPERATIONAL VIOLATIONS	NONE	DISMISSED

**SUMMARY**

Complaint filed by Illinois Pollution Control Board against Waste Management of Illinois, Inc., Tazewell County Landfill. Complaint alleges failure to collect and contain litter from site.

Complaint dismissed as defective.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>53</u>	04/25/88	OPERATIONAL VIOLATION	NONE	DISMISSED

**SUMMARY**

Complaint filed by IDEQ against Kelvin Landfill alleging that in the matter of the Jefferson Davis Landfill, construction of proposed expansion was being done without a permit.

Complaint dismissed. IDEQ adopted administrative law judge's finding of facts and

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conclusions of law and entered an order providing that no penalties were to be assessed and the matter was dismissed with prejudice.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>54</u>	04/28/88	OPERATIONAL VIOLATIONS	NONE	\$1,000.00 CIVIL

SUMMARY

Complaint filed by Illinois EPA against Waste Management of Illinois, Wheatland Prairie Landfill. Complaint alleges site inspection noted uncovered refuse remaining from the previous day and inadequate depth of daily cover.

Complaint settled with payment of \$1,000.00 in civil penalties.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>55</u>	05/11/88	OPERATIONAL VIOLATIONS	NONE	\$500.00 CIVIL

SUMMARY

Complaint filed by Illinois Pollution Control Board against Waste Management of Illinois, Inc., Kankakee Landfill. Complaint alleges site inspection noted uncovered refuse remaining from a previous operating day.

Complaint settled by payment of \$500.00 civil penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>56</u>	05/17/88	OPERATIONAL VIOLATIONS	NONE	\$500.00 CIVIL

SUMMARY

Complaint filed by Illinois Pollution Control Board against Waste Management of Illinois, Inc., Tazewell County Landfill. Complaint alleges failure to collect and contain litter from the site by the end of each day.

Complaint settled by payment of \$500.00 civil penalty by Waste Management of Illinois, Inc.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>57</u>	05/23/88	OPERATIONAL VIOLATIONS	NONE	\$10,000.00 PENALTY

SUMMARY

Complaint filed by NYDEC against Genessee Valley Waste Systems, Bestway Disposal Facility, NY. Complaint alleges Bestway stored nine rolloff containers of drummed waste that were not tarped; that liquid was observed being released.

On 12/15/88, Administrative Consent Order issued and civil penalty of \$10,000.00



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paid.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>58</u>	05/31/88	ENVIRONMENTAL PROTECTION	NONE	DISMISSED

SUMMARY

Complaint filed by Madison County Environmental Control Department against Waste Management of Illinois, Inc., Chain of Rocks Landfill. Complaint alleges violation of the Illinois Environmental Protection Act in that during the 05/16/88 inspection, the following were observed: Insufficient operable equipment to comply with the permit, act or regulations, uncovered refuse remaining from the previous day, and inadequate depth of the daily coverage.

Complaint dismissed on 07/16/88.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>59</u>	06/10/88	OPERATIONAL VIOLATIONS	CONSENT DECREE	\$10,000.00 PENALTY

SUMMARY

Complaint filed by Georgia Department of Natural Resources against Georgia Waste Systems, Rolling Hills Landfill. Complaint alleges landfill was operated in violation of certain rules for solid waste management relating to daily cover and bird control. Complaint issued on 06/10/88, 07/01/88, 10/07/88 and 11/30/88.

Complaint settled on 02/28/89 by Consent Order requiring payment of \$10,000.00 penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>60</u>	07/13/88	OPERATIONAL VIOLATION	NONE	COMPLIANCE ORDER

SUMMARY

Complaint filed by LDEQ against American Waste and Pollution Control Company regarding Jefferson Davis Landfill. Complaint alleged that inspection on July 13, 1988 revealed that soil cover was inadequate.

On 09/30/88, compliance order issued requiring adequate cover to be applied daily.

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<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>61</u>	07/14/88	CLEAN AIR ACT	INFO REQUEST ONLY	CONCLUDED

SUMMARY

Lakeview Landfill, East Erie, Pa. EPA seeking information from landfills regarding asbestos disposal in bribery cases.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>62</u>	07/14/88	CLEAN AIR ACT	INFO REQUEST ONLY	CONCLUDED

SUMMARY

Waste Management Services, Pottstown, PA. EPA seeking information from landfills regarding asbestos disposal in bribery cases.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>63</u>	07/14/88	CLEAN AIR ACT	INFO REQUEST ONLY	CONCLUDED

SUMMARY

SCA Chemical Services, Model City, New York.  
EPA seeking information from landfills regarding asbestos disposal in bribery cases.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>64</u>	07/14/88	CLEAN AIR ACT	INFO REQUEST ONLY	CONCLUDED

SUMMARY

EPA was seeking information from Modern Landfill regarding asbestos disposal in bribery cases. Modern Landfill P.O. Box 209 Model City, NY.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>65</u>	07/15/88	OPERATIONAL VIOLATIONS	NONE	COMPLIANCE ORDER

SUMMARY

Complaint filed by LDEQ against American Waste and Pollution Control Company and Woodside Landfill. Complaint alleged that construction commenced without prior approval and that geophysical shot hole was improperly plugged.

On 09/02/88, AWPC filed a response, addressing the action referred in the compliance order.

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<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>66</u>	07/28/88	OPERATIONAL VIOLATION	NONE	\$6,000.00 SETTLEMENT

SUMMARY

Complaint filed by NJDEP against The O'Connor Corporation, Blackwood, New Jersey. Complaint alleges noise problems at the facility. \$6,000.00 settlement.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>67</u>	08/12/88	ILLINOIS EPA	NONE	\$500.00 CIVIL FINE

SUMMARY

Complaint filed by Illinois EPA against Waste Management of Illinois, Greene Valley Landfill. Complaint alleges site inspection noted that refuse from previous day was left uncovered.

Complaint settled by Waste Management of Illinois paying a \$500.00 civil penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>68</u>	09/01/88	TSCA VIOLATIONS	CONSENT DECREE	\$45,000.00 FINE

SUMMARY

EPA filed complaint against Chemical Waste Management of Oak Brook, Ill., alleging five counts of violations of TSCA and regulations promulgating there from; improper PCB storage container; failure to date PCB container; failure to mark one PCB container with ML mark. Complaint also alleges three counts of improper disposal of PCB's

In addition to paying fine of \$45,000.00, CWM also completed a cleanup directive from the EPA at the site.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>69</u>	09/09/88	OPERATIONAL VIOLATIONS	NONE	\$1,500.00 FINE

SUMMARY

Complaint filed by Pennsylvania Department of Environmental Resources filed a complaint against Lakeview Landfill, Parrie Pennsylvania. Complaint alleges failure to prevent accelerated erosion and install proper erosion control measures during earthmoving activities to install new lift stations.

On September 15, 1988 DER report noted that the final necessary erosion control measures were completed by September 7th. Fine paid 01/01/89; \$1,500.00.

WASTE MANAGEMENT  
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<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>70</u>	09/18/88	OPERATIONAL VIOLATION	NONE	\$668.00

SUMMARY

Complaint filed by Bay Area Air Quality Management District, Livermore, California, against Oakland Scavenger Co, Altamont Landfill. Complaint alleges failure to operate flare. (2 counts)

Case settled by installation of extra alternator and payment of \$334.00 on each notice.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>71</u>	09/30/88	OPERATIONAL VIOLATION	NONE	COMPLIANCE ORDER

SUMMARY

Complaint filed by LEDQ against American Waste and Pollution Control Company, Lafayette Landfill. Complaint alleged that contaminated water was allowed to run off into the buffer zone.

Complaint resolved by compliance with order by AWPC on 10/17/88.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>72</u>	10/04/88	OPERATIONAL VIOLATION	NONE	\$600.00 SETTLEMENT

SUMMARY

Complaint filed by NJDEP against Gloucester Solid Waste Complex, Gloucester County, New Jersey. Complaint alleges spill of approximately 100 gallons of fuel from a tank.

On 06/28/89, settlement agreement for payment of \$600.00.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>73</u>	12/14/88	TSCA VIOLATIONS	UNKNOWN	\$4,250.00 PENALTY

SUMMARY

EPA filed a complaint against Chemical Waste Management alleging that they improperly disposed of an unknown amount of PCB's.

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ADMINISTRATIVE CASES

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>74</u>	12/16/88	OPERATIONAL VIOLATIONS	NONE	ADMINISTRATIVE ORDER

SUMMARY

Complaint filed by NJDEP against Waste Disposal, Inc., New Jersey. Complaint alleges failure to submit a closure plan and recommends penalty of \$7,500.00. On 01/27/89, closure plan submitted and penalty suspended.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>75</u>	12/30/88	ODOR VIOLATION	NONE	CASE CLOSED

SUMMARY

Complaint filed by Department of Health, Welfare and Bio-Environmental Services against Refuse Service, Inc of Jacksonville, Florida. Complaint alleges objectional odor violations. Citation closed on 07/28/89.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>76</u>	03/23/89	TSCA VIOLATION	CONSENT DECREE	\$8,500.00 FINE

SUMMARY

Complaint against Chemical Waste Management Services, Inc., in Model City, New York. EPA alleges disposal of one drum of PCB contaminated waste in a land disposal unit which was not authorized for such disposal. Fine of \$8,500.00 assessed.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>77</u>	03/23/89	TSCA VIOLATION	CONSENT DECREE	\$8,500.00 PENALTY

SUMMARY

Complaint against Chemical Waste Management alleging that they improperly disposed one (1) drum of PCB contaminated waste in a land disposal unit which was not authorized for such disposal.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>78</u>	05/01/89	OPERATIONAL VIOLATIONS	NONE	VIOLATION CORRECTED

SUMMARY

Complaint filed by South Coast Air Quality Management District against Valley Reclamation Company, Bradley West Landfill, Sun Valley, California. Complaint alleges emission of odors from working face. Complaint settled 05/08/89 as Valley

WASTE MANAGEMENT  
ADMINISTRATIVE CASES

Reclamation Company took immediate corrective action upon receipt of NOV.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>79</u>	07/20/89	OPERATIONAL VIOLATIONS	NONE	DISMISSED

SUMMARY

Complaint filed by LDEQ against American Waste and Pollution Control Company, Alexandria Landfill. Complaint alleges inspection on 04/17/89 revealed large areas of exposed waste, improper leachate control, inadequate erosion protection and deficiencies with City's Operational plan relating to leachate control, waste management and disposal, daily cover, and vector control.

Appealed filed on 07/28/89 and case dismissed on 10/09/89 without prejudice.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>80</u>	07/25/89	OPERATIONAL VIOLATION	NONE	\$486.00 PENALTY

SUMMARY

Complaint filed by Bay Area Air Quality Management District against Oakland Scavenger Co., Altamont Landfill, Livermore, California. Complaint alleges caterpillar punctured pipe to electric generating facility at gas plant.

Complaint settled by payment of \$486.00 Penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>81</u>	07/26/89	OPERATIONAL VIOLATIONS	NONE	COMPLIANCE ORDER

SUMMARY

Complaint filed by LDEQ against Waste Management of North America, Inc., Magnolia Landfill. Complaint alleges site records reveal selenium exceeded the maximum allowable limits that may be received at a solid waste facility.

On 08/18/89, AWPCC filed a response to the compliance order and requested a hearing if the response was not satisfactory.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>82</u>	07/28/89	OPERATIONAL VIOLATION	NONE	\$952.00 PAID

SUMMARY

Complaint filed by Washington Department of Ecology against Northwest Garbage Co, Inc. Complaint alleged that on 01/21/89, a fish kill occurred in Silver creek, Snohomish County, as a result of lot runoff and catch basin overflow from Northwest

WASTE MANAGEMENT  
ADMINISTRATIVE CASES

Garbage Company garbage.

On August 19, 1989, payment of damage claim for \$952.00.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>83</u>	08/03/89	OPERATIONAL VIOLATIONS	NONE	NONE

SUMMARY

Complaint filed by LDEQ against American Waste and Pollution Control Company. Complaint alleges company allowed discharge of inadequately treated sanitary waste water on 05/09/89.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>84</u>	08/11/89	OPERATIONAL VIOLATIONS	NONE	\$487.00 PENALTY

SUMMARY

Complaint filed by Bay Area Air Quality Management District against Oakland Scavenger Co., Altamont Landfill, Livermore, California. Complaint alleges earthmoving equipment ruptured landfill gas pipeline.

Complaint settled by payment of \$487.00 penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>85</u>	09/02/89	OPERATIONAL VIOLATIONS	NONE	PENDING

SUMMARY

Complaint filed by USEPA-Region V against Ohio Waste Systems, Inc., Evergreen Landfill. Complaint alleges monitoring system is not capable of determining the facilities impact on the uppermost aquifer; failure to comply with the postclosure groundwater monitoring requirements; failure to include the required statistical evaluations in the 1987 ground water annual report.

Disposition Pending.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>86</u>	09/12/89	OPERATIONAL VIOLATIONS	NONE	NONE

SUMMARY

Complaint filed by LDEQ against American Waste and Pollution Control Company and Woodside Landfill. Complaint alleged a failure to provide LDEQ with requested copies of the facility's daily construction activity report.

On 09/21/89, AWPC requested a hearing and no other information regarding this

WASTE MANAGEMENT  
ADMINISTRATIVE CASES

matter is available.

<u>ITEM</u>	<u>DATE:</u>	<u>VIOLATION:</u>	<u>PLEA</u>	<u>DISPOSITION</u>
<u>87</u>	09/29/89	OPERATIONAL VIOLATION	NONE	PENDING

SUMMARY

Complaint filed by USEPA-Region V against Waste Management of Illinois, Inc., E.S.I. Complaint alleges failure to prepare adequate groundwater assessment plan. Disposition Pending.

ADMINISTRATIVE CASES SUMMARY:

TOTAL ITEMS LISTED: 87

TOTAL STATES INVOLVED: 13

TOTAL FINES, PENALTIES AND SETTLEMENT COST: \$3,345,408.00

\*\* This item may be a duplication, the cost are not included in this section.



ATTACHMENT 7:  
CHEMICAL WASTE MANAGEMENT  
JUDICIAL AND ADMINISTRATIVE ENVIRONMENTAL ACTIONS

CHEMICAL WASTE MANAGEMENT  
JUDICIAL AND ADMINISTRATIVE ENVIRONMENTAL ACTIONS

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
1	11/13/78	NEW YORK	NEW YORK DEPT. ENV. CONS.	\$1,000.00 PENALTY

SUMMARY

Alleged causation of noxious odors and unauthorized waste water discharge.  
\$1,000.00 penalty. (Complaint occurred prior to Chemical Waste Management purchasing company.)

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
2	01/09/79	NEW YORK	NEW YORK DEPT. ENV. CONS.	\$5,000.00 PENALTY

SUMMARY

Alleged violations for odor emissions, improper fencing and other operating deficiencies.  
\$5,000.00 penalty. (Complaint occurred prior to Chemical Waste Management obtaining the company.)

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
3	10/11/79	NEW YORK	NEW YORK DEPT. ENV. CONS.	\$9,000.00 PENALTY

SUMMARY

Alleged odor emissions caused by pumping leachate.  
\$9,000.00 penalty. (Complaint occurred prior to Chemical Waste Management obtaining company.)

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
4	03/06/80	NEW YORK	NEW YORK DEPT. ENV. CONS.	\$7,500.00 PENALTY

SUMMARY

Alleged odors released during construction.  
\$7,500.00 penalty. (Complaint occurred prior to Chemical Waste Management obtaining company.)

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
5	01/08/81	NEW YORK	NEW YORK DEPT. ENV. CONS.	\$2,750.00 CIVIL

SUMMARY

Alleged allowance of leachate levels to exceed authorized levels.  
\$2,750.00 penalty. (Complaint occurred prior to Chemical Waste Management

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obtaining company.)

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
6	04/16/81	OHIO	U.S.E.P.A.	\$2,000.00 CIVIL

SUMMARY

Alleged acceptance of hazardous waste from Canada without providing the required notice to EPA; alleged failure to prevent pond erosion and provide cover to a hazardous waste pile; alleged failure to submit a contingency plan to local authorities.

\$2,000.00 civil penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
7	09/18/81	KANSAS	U.S.E.P.A.	\$8,550.00 PENALTY

SUMMARY

Alleged improper storage of PCB transformers and failure to maintain an annual record of PCBs handled during 1978 and 1979.

\$8,550.00 penalty. (complaint occurred prior to CWM acquisition of site)

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
8	11/17/81	NEW YORK	NEW YORK DEPT. ENV. CONS.	\$13,500.00 PENALTY

SUMMARY

Alleged violations of PCB's regulations, including leaking storage drums; improper storage and labeling of articles containing PCB's; failure to report PCB storage tanks; allowance of leachate levels in a PCB storage cell to exceed the approved level.

\$13,500.00 penalty. (Complaint occurred prior to Chemical Waste Management obtaining this company.)

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
9	04/16/82	NEW YORK	NEW YORK DEPT. ENV. CONS.	\$7,500.00 CIVIL

SUMMARY

Alleged discharge of lagoon liquid into a drainage ditch and failure to cover sludge and prevent off-site odors.

\$7,500.00 civil penalty. (Complaint occurred prior to Chemical Waste Management obtaining this company.)

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<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
10	05/14/82	NEW YORK	NEW YORK DEPT. ENV. CONS.	\$10,000.00 CIVIL

SUMMARY

Alleged noxious odor emissions.  
\$10,000.00 civil penalty. (Complaint occurred prior to Chemical Waste Management obtaining this company.)

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
11	01/18/83	NEW YORK	NEW YORK DEPT. ENV. CONS.	\$12,000.00

SUMMARY

Alleged noxious odor emissions  
\$12,000.00 penalty. (Complaint occurred prior to Chemical Waste Management obtaining this company.)

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
12	03/29/83	ALABAMA	ALA DEPT. OF ENV. MGMT.	\$50,000.00 CIVIL

SUMMARY

Alleged failure to complete leachate collection system in accordance with facility plan; alleged improper PCB storage; alleged improper "mapping" of waste within disposal cells.  
\$50,000 civil penalty, \$100,000 reimbursement of costs to Alabama Department of Environmental Management.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
13	05/11/83	KANSAS	KANSAS DEPT. OF HEALTH & ENV.	\$700.00 CIVIL

SUMMARY

Alleged late payment of closure escrow account. \$700.00 civil penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
14	12/07/83	ALABAMA	U.S.E.P.A.	\$13,500.00 CIVIL

SUMMARY

Alleged failure: to have an organized inspection check for leaks from stored PCB items; to mark storage dates on containers; to install collector drain in storage

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area. Alleged storage of PCB drums on top of closed disposal cells. Alleged amount of spillage of drained material. Alleged crack in storage area floor.  
\$13,500.00 civil penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
15	12/09/83	OREGON	U.S.E.P.A.	\$3,500.00

SUMMARY

Alleged solidification and burial of PCBs in violation of 40 CFR 761.60 (a)(1).  
\$3,500.00 penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
16	02/22/84	COLORADO	U.S.E.P.A.	\$40,990.00 CIVIL

SUMMARY

Alleged failure: to maintain adequate inspection logs; to correct alleged leakage at a surface impoundment; to conduct proper groundwater monitoring; to maintain an up to date contingency plan.  
\$40,990.00 civil penalties.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
17	03/30/84	COLORADO	U.S.E.P.A.	\$1,500.00 PENALTY

SUMMARY

Alleged failure to follow decontamination procedure in closure plan.  
\$1,500.00 penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
18	05/22/84	OHIO	ATTORNEY GENERAL'S OFFICE	\$10,000.00 PENALTY

SUMMARY

Alleged operation error led to an annulus pressure differential less than that permitted.  
\$10,000.00 penalty.

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<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
19	05/22/84	OHIO	ATTORNEY GENERAL'S OFFICE	\$10,000,000.00 CIVIL

SUMMARY

Alleged violation of permits on: deep well injection; failure to close surface impoundments; odor emissions; PCB nuisance; violations of state RCRA regulations and permits; alleged unauthorized air pollution emissions.

\$5,000,000.00 civil penalty; \$3,000,000.00 paid for permitting and inspection costs; \$2,000,000.00 paid to Sandusky Co.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
20	05/25/84	NEW JERSEY	NEW JERSEY DEPT. ENV. PROTECTI	\$15,700.00 CIVIL

SUMMARY

Alleged storage of drums in unpermitted areas, storage of waste in excess of 90 days, and failure to maintain complete operating log.

\$15,700.00 civil penalty. (Complaint occurred prior to Chemical Waste Management's acquisition of the company.)

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
21	06/27/84	COLORADO	U.S.D.O.T.	\$5,000.00 PENALTY

SUMMARY

Alleged improper transport of hazardous materials.  
\$5,000.00 penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
22	08/01/84	NEW JERSEY	NEW JERSEY SUPERIOR COURT	\$1,025.00 FINE

SUMMARY

Alleged knowledge of storage of hazardous waste without authorization from New Jersey Department of Environmental Protection. (Complaint occurred prior to purchase of company by Chemical Waste Management.)

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
23	08/20/84	COLORADO	U.S.E.P.A.	\$70,000.00 CIVIL

SUMMARY

Alleged: discharged of leachate sump pumping contrary to 06/15/82 order; failure

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to grade and maintain a drainage ditch; malfunctioning run on control system; deteriorated and improperly lidded storage drums; drum storage preventing inspection for leaks.

\$70,000.00 civil penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
24	09/28/84	OHIO	OHIO EPA	\$40,000.00

SUMMARY

Alleged mixing of incompatible waste in lagoons.  
\$40,000.00 penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
25	11/27/84	OHIO	OHIO EPA	\$8,000.00

SUMMARY

Alleged violations of manifest regulations.  
\$8,000.00 penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
26	12/19/84	ALABAMA	U.S.E.P.A.	\$600,000.00 CIVIL

SUMMARY

Alleged violation of 40 CFR 761-65(a) regarding storage of PCB's beyond storage deadline. Amended complaint alleged RCRA violations of 40 CFR 265.74, 40 CFR 265.314, 40 CFR 365.90(c), 40 CFR 265.19(a)(2), and 40 CFR 265.15(d).  
\$600,000.00 civil penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
27	01/28/85	NEW YORK	U.S.E.P.A.	\$367,500.00 CIVIL

SUMMARY

Alleged disposal of sludge containing PCBs in excess of EPA approved levels and in violation of TSCA regulations.  
\$367,500.00 civil penalty. (Complaint occurred prior to Chemical Waste Management obtaining this company.)

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<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
28	01/28/85	NEW YORK	U.S.E.P.A.	\$15,750.00 CIVIL

SUMMARY

Alleged failure to complete annual PCB document for 1983.  
 \$15,750.00 civil penalty. (Complaint occurred prior to Chemical Waste Management obtaining this company.)

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
29	03/27/85	NEW YORK	U.S.E.P.A.	\$20,000.00

SUMMARY

Alleged storage of PCB liquids in an unmarked area.  
 \$20,000.00 penalty. (Complaint occurred prior to Chemical Waste Management obtaining this company.)

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
30	03/27/85	NEW YORK	U.S.E.P.A.	\$18,000.00

SUMMARY

Alleged improper disposal of PCB contaminated sludge.  
 \$18,000.00 penalty. (Complaint occurred prior to Chemical Waste Management obtaining this company.)

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
31	03/30/85	PENNSYLVANIA	PA DEPT. ENV. RESOURCES	\$20,000.00 CIVIL

SUMMARY

No description given.  
 \$20,000.00 civil penalty, \$70,000.00 contribution to Solid Waste Abatement Fund, payments made by Chemical Waste Management and Lyncott Corp.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
32	04/05/85	OHIO	U.S.E.P.A.	\$2,500,000.00 **

SUMMARY

Alleged violations of RCRA and TSCA regulations for the treatment, storage and disposal of hazardous waste. \$2,500,000.00 penalty.  
 This record may be a duplication of Attachment 6, item 10 and Attachment 5, item



CHEMICAL WASTE MANAGEMENT  
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3.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
33	08/08/85	NEW YORK	U.S.DISTRICT COURT, WESTERN DIS	\$35,000.00 CIVIL

SUMMARY

No description given.  
\$35,000.00 civil penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
34	08/16/85	TEXAS	DISTRICT COURT, JEFFERSON CO	\$1,000,000.00

SUMMARY

Alleged violations of industrial waste permit.  
\$1,000,000.00 penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
35	08/25/85	OHIO	OHIO EPA	\$28,000.00 CONTRIBUTION

SUMMARY

Alleged allowance of release of rain water that has fallen on stabilized hazardous waste; alleged failure to timely report incident.  
\$28,000.00 contribution to Ohio Hazardous Waste Special Cleanup Account.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
36	09/30/85	NEW YORK	U.S.E.P.A.	\$15,000.00 CIVIL

SUMMARY

Alleged failure to notify NYDEC of statistical increase in indicators parameters; to submit an adequate groundwater quality assessment to NYDEC And USEPA; to submit annual report for 1982 and 1983.  
\$15,000 civil penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
37	11/07/85	CALIFORNIA	U.S.E.P.A.	\$2,100,000.00 CIVIL

SUMMARY

Alleged failure: to have ground water monitoring program; to have unsaturated zone monitoring program; to have partial facility closure plan.

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Alleged modifications to facility in violation of state permit and regulations.  
 \$2,100,000 civil penalty and \$1,100,000 monitoring over ten years.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
38	11/18/85	ILLINOIS	ILLINOIS DOT	\$1,650.00 PENALTY

SUMMARY

Alleged shipment of hazardous waste without proper identification. \$1,650.00 penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
39	12/02/85	OREGON	U.S.E.P.A.	\$235,000.00 CIVIL **

SUMMARY

Alleged failure: to properly handle hazardous waste; to accurately document storage and disposal of PCBs; to sample and analyze waste; to operate a leachate detection system.

\$235,000.00 civil penalty. This item may be the same as Attachment 6, item 14.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
40	12/26/85	OREGON	U.S.E.P.A.	\$125,000.00 CIVIL **

SUMMARY

Alleged failure: to properly handle waste; to accurately document waste transactions; to sample and analyze waste; to modify and update contingency plans.

\$125,000.00 civil penalty. This item may be the same as Attachment 6, item 13.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
41	03/25/86	NEW YORK	NEW YORK DEPT. ENV. CONS.	\$105,000.00 CIVIL

SUMMARY

Alleged various deficiencies in groundwater sampling; analysis, and statistical analysis; alleged exceedance of allowed leachate levels.

\$105,000.00 civil penalty.

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<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
42	04/21/86	NEW JERSEY	U.S.D.O.T.	\$5,000.00 PENALTY

**SUMMARY**

Alleged transport of hazardous waste in an unauthorized cargo tank in violation of 49 CFR 173.22.  
\$5,000.00 penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
43	05/22/86	LOUISIANA	LOUISIANA DEPT. OF PUBLIC SAFE	\$1,250.00 FINE

**SUMMARY**

Alleged failure to display proper identification numbers markings on a vehicle; alleged use of a non-specification cargo tank. \$1,250.00 fine.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
44	07/03/86	ALABAMA	WEST VA. DEPT. OF HIGHWAYS	\$5,800.00

**SUMMARY**

Alleged existence of manifest irregularities and tractor trailer containing leaking package.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
45	07/31/86	ILLINOIS	ILLINOIS DOT	\$3,900.00 CIVIL

**SUMMARY**

Alleged violation of IDOT regulations by improperly transporting waste xylene.  
\$3,900.00 civil penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
46	08/26/86	ILLINOIS	ILLINOIS DOT	\$3,900.00 CIVIL

**SUMMARY**

Alleged violation of IDOT regulations by transporting waste in tank without proper venting capacity, piping protection or closure means.  
\$3,900.00 in civil penalties.

CHEMICAL WASTE MANAGEMENT  
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<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
47	09/26/86	INDIANA	U.S.E.P.A	\$30,000.00 CIVIL

SUMMARY

Alleged failure: to install monitoring wells in a certain required locations; to submit or timely implement an adequate groundwater quality assessment program; to obtain adequate liability coverage. \$30,000.00 civil penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
48	10/22/86	NEW JERSEY	FIRST DISTRICT COURT, HAUPPAUG	\$5,000.00 PAYMENT

SUMMARY

No description given.  
\$5,000.00 payment of restitution and investigative costs.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
49	04/22/87	FLORIDA	FLORIDA DEPT. OF ENV. REGULATI	\$3,550.00 CIVIL

SUMMARY

Alleged miscellaneous storage deficiencies. \$3,550.00 civil penalty and \$500.00 reimbursement of costs.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
50	06/04/87	OREGON	U.S.E.P.A.	\$15,000.00 CIVIL

SUMMARY

Alleged failure: to keep certain inspection records on site; to maintain a signed copy of a manifest; to conduct repairs on certain occasions; to record the storage location of a hazardous waste; to comply with the facility waste analysis plan; to properly manage water reactive waste.  
\$15,000.00 civil penalty.  
(May be same case as listed on 08/04/87.)

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
51	07/02/87	LOUISIANA	LOUISIANA DEPT. OF ENV. QUALIT	\$2,500.00 SETTLEMENT

SUMMARY

Alleged failure to sign two asbestos disposal verification forms and submit them in a timely manner. \$2,500.00 settlement.

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ATTACHMENT 7

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
52	07/07/87	MICHIGAN	DISTRICT COURT, DISTRICT NO. 1	\$3,000.00 FINE

SUMMARY

Alleged transportation of hazardous waste without proper state vehicle permit.  
\$3,000.00 fine.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
53	07/26/87	ALABAMA	ALABAMA DEPT. OF ENV. MGMT.	\$20,000.00 SETTLEMENT

SUMMARY

Alleged failure to follow waste analysis plan by accepting 14 drums of outdated pesticide materials.  
\$20,000.00 settlement and reimbursement.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
54	08/04/87	OREGON	U.S.E.P.A.	\$15,000.00 SETTLEMENT **

SUMMARY

Alleged failure: to maintain inspection reports for two days; to record certain repairs; to maintain a signed copy of a manifest; to record location of storage of hazardous waste; to properly manage water reactive waste; to comply with waste acceptance plan. \$15,000.00 settlement.  
(May be same incident as recorded on 06/04/87.)

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
55	08/05/87	CALIFORNIA	MUNICIPAL COURT, SANTA CLARA, CO	\$680.00 CIVIL

SUMMARY

No description given of complaint. May be a duplicate of item dated 08/07/88, however, courts and dates are different. \$680.00 civil penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
56	08/13/87	ILLINOIS	U.S.E.P.A.	\$18,240.00 PENALTY **

SUMMARY

Alleged delay in implementation of groundwater assessment, late filings.  
\$18,240.00 penalty. This item is duplicated under the Waste Management Administrative Cases, Item 38.

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<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
57	08/26/87	NEW YORK	NEW YORK DEPT. ENV. CONS.	\$7,500.00 CIVIL

SUMMARY

Alleged failure to obey permit condition and regulation relating to daily cover.  
\$7,500.00 civil penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
58	10/09/87	NEW JERSEY	NEW JERSEY DEPT. ENV. PROTECTI	\$700.00 SETTLEMENT

SUMMARY

Alleged operation of tank without associated scrubber.  
\$700.00 settlement.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
59	10/11/87	COLORADO	U.S.E.P.A.	\$15,000.00 CIVIL

SUMMARY

Alleged improper disposal of drums containing PCB's.  
\$15,000.00 civil penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
60	11/02/87	CALIFORNIA	CALIF. DEPT. OF HEALTH SERVICE	\$20,000.00 PAYMENT

SUMMARY

Alleged failure to comply with groundwater monitoring requirements. \$20,000.00  
payment for agency oversight costs.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
61	11/30/87	LOUISIANA	LOUISIANA DEPT. OF ENV. QUALIT	\$32,500.00 CIVIL

SUMMARY

Alleged failure: to notify LDEQ when certain waste shipments were rejected for  
manifest discrepancies; various drums handling and disposal deficiencies.  
\$32,500.00 penalty.

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<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
62	01/22/88	ILLINOIS	ILLINOIS DOT	\$3,450.00 PENALTY

**SUMMARY**

Alleged transportation of waste without adequate labeling on containers, without complete description on shipping paper, and without complete vehicle placarding.  
\$3,450.00 penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
63	04/11/88	LOUISIANA	LOUISIANA DEPT. OF ENV. QUALIT	\$2,000.00 CIVIL

**SUMMARY**

Alleged untimely submission of groundwater quality assessment plan. \$2,000.00 civil penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
64	04/28/88	NEW JERSEY	NEW JERSEY DEPT. ENV. PROTECTI	\$5,000.00 CIVIL

**SUMMARY**

Alleged discharge of treated aqueous waste which was not permitted by facility's permit.  
\$5,000.00 civil penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
65	06/02/88	ILLINOIS	CIRCUIT COURT OF COOK COUNTY	\$53,000.00 CIVIL

**SUMMARY**

No description given. \$53,000.00 civil penalties; anticipate additional payments of \$290,000.00 plus \$350,000.00 /year for five years.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
66	07/01/88	NEW YORK	NEW YORK DEPT. ENV. CONS.	\$1,000.00 CIVIL

**SUMMARY**

Alleged shipment of waste which were not included on manifest.  
\$1,000.00 civil penalty.

CHEMICAL WASTE MANAGEMENT  
JUDICIAL AND ADMINISTRATIVE ENVIRONMENTAL ACTIONS

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
67	08/05/88	ALABAMA	U.S.E.P.A.	\$150,000.00 SETTLEMENT

SUMMARY

Alleged acceptance of wastes for landfilling not listed in the RCRA permit. \$150,000.00 settlement. (this may be the same items as listed on 09/19/88)

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
68	08/07/88	CALIFORNIA	U.S.DISTRICT COURT, NORTHERN	\$680.00 **

SUMMARY

No description given of complaint. May be duplicative of item listed at 08/05/87, but dates and courts are different. \$680.00 civil penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
69	08/15/88	PENNSYLVANIA	PA DEPT. ENV. RESOURCES	\$1,000.00 FINE

SUMMARY

Alleged transportation of waste without completion of manifest by generator. \$1,000.00 fine.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
70	09/19/88	ALABAMA	U.S.E.P.A.	\$150,000.00 **

SUMMARY

Alleged disposal of certain wastes whose waste codes were not authorized in the facility's Part B permit. \$150,000.00 penalty. (this may be duplicative of item listed at 08/05/88)

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
71	09/30/88	INDIANA	INDIANA DEPT. OF ENV. MGMT.	\$16,000.00 PAYMENT

SUMMARY

Alleged failure: to properly install and operate groundwater monitoring wells; alleged deficiency of cost estimates and financial assurance. \$16,000.00 payment.



CHEMICAL WASTE MANAGEMENT  
JUDICIAL AND ADMINISTRATIVE ENVIRONMENTAL ACTIONS

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
72	11/03/88	ILLINOIS	ILLINOIS DOT	\$1,500.00 PENALTY

SUMMARY

Alleged failure to comply with placard requirements.  
penalty.

\$1,500.00

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
73	11/03/88	ILLINOIS	ILLINOIS DOT	\$1,050.00 PENALTY **

SUMMARY

Alleged failure to comply with placard requirements.  
\$1,050.00 penalty. May be same as above.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
74	11/03/88	ILLINOIS	ILLINOIS DOT	\$1,800.00 PENALTY

SUMMARY

Alleged failure to properly label a waste container.  
penalty.

\$1,800.00

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
75	12/27/88	OHIO	OHIO PUBLIC UTILITIES COMMISSI	\$450.00 SETTLEMENT

SUMMARY

Driver allegedly smoking while operating vehicle.  
\$450.00 settlement.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
76	01/13/89	OHIO	OHIO EPA	\$14,000.00 SETTLEMENT

SUMMARY

Alleged operation of waste storage tanks that were not in compliance with newly  
applicable tank standards.  
\$14,000.00 settlement.

CHEMICAL WASTE MANAGEMENT  
JUDICIAL AND ADMINISTRATIVE ENVIRONMENTAL ACTIONS

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
77	01/13/89	OHIO	U.S.E.P.A.	\$5,000.00

SUMMARY

Alleged violation of 40 CFR 263.193  
\$5,000.00 penalty.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
78	01/13/89	OHIO	U.S.E.P.A.	\$5,000.00 SETTLEMENT

SUMMARY

Alleged operation of waste storage tanks that were not in compliance with newly applicable standards.  
\$5,000.00 settlement.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
79	03/27/89	WASHINGTON	SEATTLE MUNICIPAL POTW	\$26,595.00 SETTLEMENT

SUMMARY

Facility failed to comply with POTW permit applications (Western Processing Superfund Site)  
\$26,595.00 settlement, subject to 80 % reimbursement under certain conditions.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
80	03/31/89	NEW YORK	U.S.E.P.A.	\$8,500.00 SETTLEMENT

SUMMARY

Alleged landfill had one drum containing material with excessive PCB concentrations.  
\$8,500.00 settlement agreed to in principal.

<u>ITEM</u>	<u>DATE:</u>	<u>STATE:</u>	<u>AGENCY</u>	<u>PENALTY</u>
81	04/07/89	CALIFORNIA	U.S.E.P.A.	\$117,500.00 SETTLEMENT

SUMMARY

Alleged failure: to post warning signs no more than 200 feet apart; to timely notify the State of fires; to perform certain supplemental analyses; to maintain sufficient cover; to maintain adequate shower and eyewash.  
\$117,500.00 settlement. (\$82,500.00 penalties and \$35,000.00 administrative

CHEMICAL WASTE MANAGEMENT  
JUDICIAL AND ADMINISTRATIVE ENVIRONMENTAL ACTIONS

costs)

CHEMICAL WASTE MANAGEMENT SUMMARY

TOTAL ITEMS: 81

TOTAL STATES INVOLVED: 12

TOTAL FINES, PENALTIES AND SETTLEMENT COST: \$15,251,690.00

\*\* This item may be a duplication, the cost are not included in this section.

ATTACHMENT 8:  
OFFICER'S LIST  
WASTE MANAGEMENT, INC.  
WASTE MANAGEMENT OF CALIFORNIA, INC.

## ATTACHMENT 8

WASTE MANAGEMENT, INC.  
OFFICER INFORMATION

<u>NAME</u>	<u>TITLE</u>	<u>CITY OF RESIDENCE</u>
DEAN L. BUNTROCK	CHAIRMAN	HINSDALE, IL.
PHILLIP B. ROONEY	PRESIDENT	HINSDALE, IL.
JERRY E. DEMPSEY	SR. VICE PRESIDENT	OAK BROOK, IL.
HAROLD GERSHOWITZ	SR. VICE PRESIDENT	NORTHBROOK, IL.
D. PATTERSON PAYNE	SR. VICE PRESIDENT	HINSDALE, IL.
J. STEVEN BERGERSON	VICE PRESIDENT & GENERAL COUNSEL	LISLE, IL.
JOAN Z. BERNSTEIN	VICE PRESIDENT- ENVIORMENTAL POLICY AND ETHICAL STANDARDS	OAK BROOK TERRACE, IL.
DAVID C. COLEMAN	VICE PRESIDENT - HUMAN RESOURCES	NAPERVILLE, IL.
EDWIN G. FALKMAN	VICE PRESIDENT	LONDON ENGLAND
HERBERT A. GETZ	VICE PRESIDENT - SECRETARY & ASST. GENERAL COUNSEL	NAPERVILLE, IL.
JEROME D. GIRSCH	VICE PRESIDENT	HINSDALE, IL.
THOMAS C. HAU	VICE PRESIDENT - CONTROLLER	OLYMPIA FIELDS, IL.
WILLIAM P. HULLIGAN	VICE PRESIDENT	DARIEN, IL.
JAMES E. KOENIG	VICE PRESIDENT - CHIEF FINANCIAL OFFICER AND TREASURER	WAUCONDA, IL.
FRANCIS B. MOORE	VICE PRESIDENT - GOVERNMENTAL AFFAIRS	HINSDALE, IL.
ROBERT A. PAUL	VICE PRESIDENT - ADMINISTRATION	LAKE FOREST, IL.
THOMAS R. FRANK	STAFF VICE PRES.- RISK MANAGEMENT	NAPERVILLE, IL.

RONALD M. JERICHO	STAFF VICE PRES.- FINANCE	GLENVIEW, IL.
DAVID I. KOPP	STAFF VICE PRES.- TAX	LAKE FOREST , IL.
JOHN E. NOEL	STAFF VICE PRES.- ASST. GENERAL COUNSEL	GLEN ELLYN, IL.
SUSAN C. NUSTRAS	STAFF VICE PRES.- TREASURY	OAK BROOK, IL.
LESLIE W. PARMAN JR.	STAFF VICE PRES.- AVIATION	LEMONT, IL.
WILLIAM J, PLUNKETT	STAFF VICE PRES.- CORPORATE COMMUNICATIONS	WESTERN SPRINGS, IL.
JAMES D. RANGE	STAFF VICE PRES.	WASHINGTON D.C.
JOHN H. SLOCUM	STAFF VICE PRES.	NAPERVILLE, IL.

WASTE MANAGEMENT OF CALIFORNIA, INC.  
OFFICER INFORMATION

THOMAS K. BLACKMAN	PRESIDENT	NEWPORT BEACH, CA.
DONALD R. CHAPPEL	VICE PRESIDENT ASST. SECRETARY, TREASURER	WILLOW SPRINGS, IL.
JERRY W. CAUDLE	VICE PRESIDENT	SAN JUAN CAPISTRANO CA.
CHARLES R. DELVIN	VICE PRESIDENT	FREEMONT, CA.
JEROME M. KRUSZKA	VICE PRESIDENT	DANVILLE, CA.
CAROL L. HILL	VICE PRESIDENT	SAUGAS, CA.
MICHAEL WILLIAMS	VICE PRESIDENT	VENTURA, CA.
THOMAS L. COLLINS	VICE PRESIDENT	POWAY, CA.
DAVID L. KELLY	SECRETARY	IRVINE, CA.

ATTACHMENT 9:  
GLOSSARY OF TERMS

## GLOSSARY OF TERMS

AFS	Air Facility System
APC	Air Pollution Control
CAA	Clean Air Act
CAFO	Consent Agreement - Final Order
CDS	Compliance Data System
CDET	Consent Decree Tracking System
CERCLA	Comprehensive Environmental Response, Compensation and Liability Act
CERCLIS	Comprehensive Environmental Response, Compensation and Liability Information System
CFR	Code Federal Regulations
CWA	Clean Water Act
DOCKET	Consolidated Docket Enforcement System
EPCRA	Emergency Planning & Community Right to Know Act
ERNS	Emergency Response Notification System
FIFRA	Federal Insecticide, Fungicide, Rodenticide Act
FINDS	Facility Index System
HWDMS	Hazardous Waste Data Management System
PCS	Permit Compliance System
PRP	Potentially Responsible Parties
RCRA	Resource Conservation and Recovery Act
RCRIS	Resource Conservation and Recovery Information System
SDWA	Safe Drinking Water Act
TRIS	Toxic Substance Inventory System
TSCA	Toxic Substance Control Act



ATTACHMENT 10:  
DEFINITIONS

DEFINITIONS:

Definitions of EPA terms:

Administrative: Type of case that will not be processed through the federal court system. Case handled in house by the Environmental Protection Agency and the business being investigated. Once an agreement is met, a CONSENT AGREEMENT is written by the attorneys involved. The EPA and the business agree and the matter is settled out of court.

Civil: Cases routed through EPA headquarters, utilizing United States Attorneys from the Department of Justice to file cases in federal court. These cases are those fought by the business and require litigation to settle the matter. Once a decision is made a CONSENT DECREE is written by the court. The decree will spell out the penalty and corrections mandated by the court.

IN COMPLIANCE The number of facilities identified without violations and enforcement actions

COMPLIANCE UNKNOWN The number of facilities identified with "no" or "insufficient" data

WITH VIOLATIONS The number of facilities identified with violations or in noncompliance

WITH ENFORCEMENT ACTIONS The number of facilities identified with formal or informal enforcement action by either the State or EPA may range from warning telephone calls to major enforcement cases

Because some but not all violations result in enforcement action and because there is not necessarily a one-on-one correspondence between violations and enforcement actions, a facility may be counted in one or the other or both of the latter two categories ("with violation" and "with enforcement actions").

Environmental  
Liability:

Any of a number of violations that may include failure to monitor ground water, failure to test soils, failure to test materials before storage, improper storage of materials etc....

Hazardous  
Material:

Any material that must be discarded at an approved dump site because of its harmful affect on the environment or the immediate inhabitants of the area. Violations in this general area deal with the improper handling of hazardous material at the dump site.

BOTH THE ABOVE REMEDIES ARE CONSIDERED ENFORCEMENT ACTIONS BY THE EPA

DEFINITIONS OF LEGAL TERMS

Blacks Law  
Dictionary

NOLO CONTENDERE: Lat. I will not contest it. The name of a plea in a criminal action, having the same legal effect as a plea of guilty, so far as regards all proceedings on the indictment, and on which the defendant may be sentenced. U.S. V. Hartwell, 3 Cliff. 221, F. Cas. No 15,318

Ballentine's  
Law Dictionary

NOLO CONTENDERE: Literally, "I do not wish to contend." Substantially, though not technically, a plea of guilty; an implied confession; a quasi confession of guilt. 21 Am J2d Crim L @ 497. A plea recognized in administrative proceedings. Re 17 Club, Inc. 26 NJ Super 43, 97 A2d 171. It is difficult to define the exact nature of a plea of nolo contendere; regardless of the label attached, the plea for practical purposes is a plea of guilty, or the equivalent thereof. United States v Safeway Stores, Inc. (DC Tex) 20 FRD 451.

**ATTACHMENT C**

**Civil Complaint:**

**State of Wisconsin v. Acme Disposal, et al.**

STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEE COUNTY

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STATE OF WISCONSIN,

Plaintiff,

vs.

ACME DISPOSAL SERVICE CORP., ACME DISPOSAL CORP.,  
ACE SANITATION SERVICE, INC., TRASH COLLECTIONS,  
INC., BEST DISPOSAL COMPANY, INC., DOMAN, INCORPOR-  
ATED, LAND-FILL, INC., LAKEFIELD SAND & GRAVEL CO.,  
JAMES J. MAGESTRO, d/b/a ABC TRASH DISPOSAL, JOSEPH  
MAGESTRO, d/b/a JM DISPOSAL SERVICE, DOMINIC MANDELLA,  
d/b/a MANDELLA BOX CO., JACOB BILTHUIS, DEAN BUNTROCK,  
HOWARD DORE, CONRAD DOUMA, JOHN C. GROOT, CLARENCE  
HUIZENGA, ELMER LAUER, GUST MAGESTRO, a/k/a GUS  
MAGESTRO, ANTHONY S. MANDELLA, JACK MANDELLA, CLARENCE  
MANTEI, FRED MLECZEK, STANLEY RUMINSKI, and HAROLD  
VAN DER MOLEN,

COMPLAINT

Defendants.

-----  
The State of Wisconsin, by its attorneys, John W. Repolias,  
Attorney General; George F. Sieker, LeRoy L. Dalton and George B.  
Schwahn, Assistant Attorneys General; Robert P. Russell, Corporation  
Counsel of Milwaukee County, and John R. Devitt, Assistant Corpor-  
ation Counsel, brings this action against the defendants named  
herein and complains and alleges as follows:

I.

#### JURISDICTION AND VENUE

1. This complaint is filed and these proceedings are  
instituted against the defendants pursuant to the provisions of  
secs. 133.01 and 134.01, Wis. Stats., and under the common law.  
This involves a conspiracy to restrain trade, to wilfully injure  
the business of others, to hinder others from performing lawful  
acts, and an attempt to monopolize the rubbish collection,  
removal or disposal business in and around Milwaukee County and

that such conspiracy was formed within Milwaukee County.

## II.

### THE DEFENDANTS

2. Each of the corporations named hereinafter is made a defendant herein. Each is or has been engaged in the rubbish collection, waste removal or disposal business in and around Milwaukee County during all or a part of the period covered by this complaint. Each is a domestic corporation and has its principal place of business and registered office as indicated below. Hereinafter, for purposes of brevity, each will sometimes be referred to by its abbreviated name.

#### CORPORATE DEFENDANTS

NAME OF CORPORATION	PRINCIPAL PLACE OF BUSINESS	LAST REPORTED REGISTERED AGENT AND OFFICE	ABBREVIATED NAME
Acme Disposal Service, Corp.	1528 W. Pierce St. Milwaukee, Wis.	Clayton R. Buntrock 606 W. Washington Milwaukee, Wis.	Acme Service
Acme Disposal Corp.	5447 Harrison St. Chicago, Ill.	Kenneth K. Port 7127 W. North Ave. Wauwatosa 13, Wis.	Acme
Ace Sanitation Service, Inc.	9050 N. 124th St. Milwaukee, Wis.	Elmer J. Lauer 11301 W. Brown Deer Road Milwaukee, Wis.	Ace
Trash Collections, Inc.	9600 W. Nash St. Milwaukee, Wis.	Carter Wells 1323 N. Water St. Milwaukee, Wis.	Trash
Best Disposal Company, Inc.	9050 N. 124th St. Milwaukee, Wis.	Querin F. Wilda 1113 E. Kensington Blvd. Shorewood, Wis.	Best
Doman, Incorporated	2455 W. State St. Milwaukee, Wis.	Howard Dore 2455 W. State St. Milwaukee, Wis.	Doman

Land-Fill, Inc.	9050 N. 124th St. Milwaukee, Wis.	Elmer J. Lauer 9050 N. 124th St. Milwaukee, Wis.	Land-Fill
Lakefield Sand & Gravel Co.	1541 E. Tripoli Ave. Milwaukee, Wis.	Gust Magestro 1541 E. Tripoli Ave. Milwaukee, Wis.	Lakefield

3. Each of the individuals named hereinafter is made a defendant herein. Each is or has been engaged in the rubbish collection, waste removal or disposal business in and around Milwaukee County during all or a part of the period covered by this complaint. Each resides within the city and state and is doing business as or is associated with the corporations or firms as indicated below.

INDIVIDUAL DEFENDANTS

NAME	ADDRESS	POSITION	FIRM
James J. Magestro	3810 N. 35th Milwaukee, Wis.	d/b/a	ABC Trash Disposal Service
Joseph A. Magestro	3235 E. Waterford St. Milwaukee, Wis.	d/b/a	JM Disposal Service
		Pres.-Dir.	Land-Fill, Inc.
		Pres.-Dir.	Best Disposal Co.
		Pres.-Dir.	Lakefield Sand & Gravel Co.
Dominic Mandella	168 W. Clovernook Lane Milwaukee, Wis.	d/b/a	Mandella Box Co.
Jacob Bilchuis	5735 Woodland Dr. Western Springs, Ill.	Pres.-Dir.	Acme Disposal Service Corp.
Dean Buntrock	5722 Crestview Western Springs, Ill.	Sec.-Treas.- Dir.	Acme Disposal Service Corp.

Howard Dore	8423 South 100 City of Franklin, Wis.	V.P.-Treas.- Dir.	Doman, Incorporated
Conrad Douma	1151 Wisconsin Ave. Oak Park, Ill.	Dir.	Acme Disposal Service Corp.
John C. Groot	10030 St. Louis Ave. Evergreen Park, Ill.	Dir.	Acme Disposal Service Corp.
Clarence Huizenga	1239 E. Berwyn Ave. Berwyn, Ill.	Dir.	Acme Disposal Service Corp.
Elmer J. Lauer	9050 N. 124th St. Milwaukee, Wis.	Pres.-Dir.	Ace Sanitation Service, Inc.
		Sec.-Treas.- Dir.	Land-Fill, Inc.
		Sec.-Treas.- Dir.	Best Disposal Company, Inc.
Gust Magestro, a/k/a Gus Magestro	1541 E. Tripoli Ave. Milwaukee, Wis.	V.P.-Dir.	Land-Fill, Inc.
		Sec.-Treas.- Dir.	Lakefield Sand & Gravel Co.
		Employee or agent of	Acme Disposal Service Corp.
Anthony S. Mandella	5558 N. 53rd St. Milwaukee, Wis.	Employee or agent of	Mandella Box Co.
Jack Mandella	2954 N. Booth Milwaukee, Wis.	Employee or agent of	Mandella Box Co.
Clarence Mantei	7919 N. 55th St. Milwaukee, Wis.	V.P.-Dir.	Trash Collections, Inc.
Fred Mieczek	9600 W. Nash St. Milwaukee, Wis.	Pres.-Dir.	Trash Collections, Inc.
Stanley Ruminski	2827 So. 72nd West Allis, Wis.	Employee or agent of	Acme Disposal Service Corp.
Harold Van Der Molen	363 N. York Elmhurst, Ill.	Pres.-Treas.- Dir.	Acme Disposal Corp.



### III.

#### DEFINITIONS

4. As used herein:

(a) "Rubbish collection and waste removal" shall include the collection and removal of refuse, trash, scrap, garbage, debris, or other rejected matter.

(b) "Disposal business" shall include the operation of a dump site or incinerator in connection with the disposition of rubbish and waste.

(c) "In and around Milwaukee County" shall include Milwaukee County and parts of the several counties bordering thereon.

### IV.

#### OFFENSES CHARGED

##### A. CONSPIRACY TO RESTRAIN TRADE

5. Commencing on or about December 18, 1958, and continuing up to the filing of this complaint, the defendants combined, conspired and agreed to restrain trade in the rubbish collection and waste removal business in and around the City and County of Milwaukee, Wisconsin, in violation of sec. 133.01 (1), Stats.

6. That in furtherance of said conspiracy the defendants combined, conspired and agreed to fix prices for rubbish collection and waste removal in and around the City and County of Milwaukee, Wisconsin; and that by individual acts and through the establishment of an association called the "Metropolitan Disposal Association, Inc." and composed of individuals, representing themselves or firms and corporations engaged in the rubbish collection, waste removal or disposal business, attempted to obtain the

agreement of members of said association and said industry to establish uniform prices for rubbish collection and waste removal in and around the City and County of Milwaukee, Wisconsin.

7. That in furtherance of said conspiracy the defendants conspired and agreed to limit competition in the rubbish collection and waste removal business by agreeing not to offer or submit competitive bids to haul rubbish or waste from accounts handled by each other; and that the defendants attempted to obtain a similar agreement from the other members of said association.

8. That the acts committed by said corporate conspirators were done in their names and on their behalf by their officers, employees and agents acting in their capacities as agents of said corporations.

9. That each defendant thereby became indebted to the plaintiff in the sum of FIVE THOUSAND (\$5,000.00) DOLLARS, pursuant to the provisions of sec. 133.01 (1), Stats.

#### B. ATTEMPT TO MONOPOLIZE

10. That for a second and separate cause of action against said defendants, the plaintiff hereby repeats and incorporates herein, as if fully set forth, all the allegations contained in paragraphs 1, 2, 3, 4 & 8 of the first cause of action, and further alleges:

11. That commencing on or about December 18, 1953, and continuing up to the filing of this complaint the defendants conspired and combined in an attempt to monopolize the rubbish collection, waste removal and disposal business in and around

the City and County of Milwaukee, Wisconsin, in violation of sec. 133.01 (1), Stats.

12. That in furtherance of said conspiracy the defendants threatened physical harm to the owners of competing rubbish collection, waste removal and disposal firms, corporations or persons engaged in said business and their families and destruction or damage to their property and equipment, or threatened to haul all their accounts for nothing if they offered or submitted competitive bids to accounts handled by the defendants or if they obtained accounts previously handled by said defendants. Further that they tied such threats to mysterious fires and acts of vandalism by unknown persons which resulted in damage to the trucks and other property of such competitors.

13. That in furtherance of said conspiracy the defendants conspired and combined in an attempt to gain control of dump sites located in and around Milwaukee County, by diverting business to dump sites owned or operated by them and away from those owned or operated by others.

14. That in furtherance of said conspiracy the defendants conspired and combined in an attempt to drive other rubbish collection, waste removal or disposal firms, corporations or persons out of business by systematically canvassing their accounts and resorting to predatory price cutting to obtain said accounts.

15. That each defendant thereby became indebted to the plaintiff in the sum of FIVE THOUSAND (\$5,000.00) DOLLARS, pursuant to the provisions of sec. 133.01 (1), Stats.

C. PUBLIC NUISANCE-COMMON  
LAW CONSPIRACY TO  
MONOPOLIZE

16. That for a third and separate cause of action against said defendants, the plaintiff hereby repeats and incorporates herein, as if fully set forth, all the allegations contained in paragraphs 1, 2, 3, 4 & 8 of the first cause of action, and further alleges:

17. That commencing on or about December 18, 1933, and continuing up to the filing of this complaint the defendants conspired and combined in an attempt to monopolize the rubbish collection, waste removal and disposal business in and around the City and County of Milwaukee, Wisconsin, in violation of the common law.

18. That in furtherance of said conspiracy the defendants threatened physical harm to the owners of competing rubbish collection, waste removal and disposal firms, corporations or persons engaged in said business and their families and destruction or damage to their property and equipment, or threatened to haul all their accounts for nothing if they offered or submitted competitive bids to accounts handled by the defendants or if they obtained accounts previously handled by said defendants. Further that they tied such threats to mysterious fires and acts of vandalism by unknown persons which resulted in damage to the trucks and other property of such competitors.

19. That in furtherance of said conspiracy the defendants conspired and combined in an attempt to gain control of dump sites located in and around Milwaukee County, by diverting business to dump sites owned or operated by them and away from those owned or operated by others.

20. That in furtherance of said conspiracy the defendants conspired and combined in an attempt to drive other rubbish collection, waste removal or disposal firms, corporations or persons out of business by systematically canvassing their accounts and resorting to predatory price cutting to obtain said accounts.

21. That said acts constitute a public nuisance at common law, and the defendants will continue to perform said acts unless enjoined therefrom.

D. PUBLIC NUISANCE-CONSPIRACY  
TO WILFULLY INJURE THE  
BUSINESS OF OTHERS

22. That for a fourth and separate cause of action against said defendants, the plaintiff hereby repeats and incorporates herein, as if fully set forth, all the allegations contained in paragraphs 1, 2, 3, 4 & 8 of the first cause of action, and further alleges:

23. That commencing on or about December 13, 1958, and continuing up to the filing of this complaint the defendants combined, agreed and concerted together to wilfully injure the business of other firms, corporations, or persons engaged in the rubbish collection, waste removal or disposal business, and located in and around Milwaukee County, Wisconsin, in violation of sec. 134.01, Stats.

24. That in furtherance of said conspiracy the defendants threatened physical harm to the owners of competing rubbish collection, waste removal and disposal businesses and their families and destruction or damage to their property and equipment, or threatened to haul all their accounts for nothing if they offered or submitted competitive bids to

accounts handled by the defendants or if they obtained accounts previously handled by said defendants. Further that they tied such threats to mysterious fires and acts of vandalism by unknown persons which resulted in damage to the trucks and other property of such competitors.

25. That in furtherance of said conspiracy, the defendants continue to resort to predatory price cutting and false statements about competitors for the purpose of driving other rubbish collection, waste removal or disposal firms, corporations or persons engaged in such business, out of business in and around the City and County of Milwaukee, Wisconsin.

26. That the plaintiff is informed and believes that these defendants notoriously, continuously and intentionally resort to threats, predatory price cutting and false statements, and will continue to do so unless enjoined therefrom.

27. That the defendants' continuous violations of sec. 134.01, Stats., constitutes a public nuisance, will occasion a multiplicity of actions, are not susceptible to adequate compensation and damages at law, and there is no adequate remedy at law to compel the defendants to comply with said statute.

E. PUBLIC NUISANCE-CONSPIRACY  
TO HINDER OTHERS FROM  
PERFORMING LAWFUL ACTS

28. That for a fifth and separate cause of action against said defendants, the plaintiff hereby repeats and incorporates herein, as if fully set forth, all the allegations contained in paragraphs 1, 2, 3, 4 & 8 of the first cause of action, and further alleges:

29. That commencing on or about December 18, 1958,

and continuing up to the filing of this complaint the defendants combined, agreed and concerted together to hinder other persons, firms or corporations engaged in rubbish collection, waste removal or disposal business, located in and around Milwaukee County, Wisconsin, from performing lawful acts, in violation of sec. 134.01, Stats.

30. That in furtherance of said conspiracy the defendants threatened physical harm to the owners of competing rubbish collection, waste removal and disposal businesses and their families and destruction or damage to their property and equipment; also they threatened to haul all of the competitors' accounts for nothing if they offered or submitted competitive bids to accounts handled by the defendants or if they obtained accounts previously handled by said defendants. Further that they tied such threats to mysterious fires and acts of vandalism by unknown persons which resulted in damage to the trucks and other property of such competitors. That these acts were committed by said defendants to hinder other rubbish collection, waste removal or disposal companies or individuals engaged in such business from submitting competitive bids.

31. That in furtherance of said conspiracy, the defendants resort to predatory price cutting to prevent other rubbish collection, waste removal or disposal companies or individuals engaged in such business from submitting competitive bids.

32. That the plaintiff is informed and believes that these defendants notoriously, continuously and intentionally resort to threats and predatory price cutting, and will continue to do so unless enjoined therefrom.

33. That the defendants' continuous violations of sec. 134.01, Stats., constitutes a public nuisance, will occasion a multiplicity of actions, are not susceptible to adequate compensation and damages at law, and there is no adequate remedy at law to compel the defendants to comply with said statute.

V.

PRAYER FOR RELIEF

WHEREFORE, the State of Wisconsin demands judgment against said defendants as follows:

(1) That each defendant is indebted to the plaintiff in the amount of TEN THOUSAND (\$10,000.00) DOLLARS, together with costs and disbursements of this action;

(2) That each defendant be perpetually enjoined from agreeing or conspiring to restrain trade or attempting to monopolize the rubbish collection, waste removal or disposal business in this state, or to commit any acts in furtherance thereof, pursuant to sec. 133.02, Stats., and the common law;

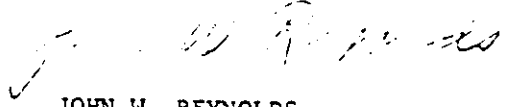
(3) That each defendant be perpetually enjoined from agreeing or conspiring to wilfully injure or to hinder from performing a lawful act, any firm, corporation or person engaged in the rubbish collection, waste removal and disposal business in this state, or to commit any acts in furtherance thereof, pursuant to sec. 230.02, Stats.;

(4) That the court enter its temporary restraining order to prevent the continued violations of secs. 133.01 and 134.01, of the Wisconsin Statutes, and of the common law, pending final determination of this matter;



(5) For such other and further relief as may be  
just and equitable.

Dated this 28th day of September, 1962.



JOHN W. REYNOLDS  
Attorney General

GEORGE F. SIEKER  
Assistant Attorney General

LEROY L. DALTON  
Assistant Attorney General

GEORGE B. SCHWAHN  
Assistant Attorney General

ROBERT P. RUSSELL  
Corporation Counsel of  
Milwaukee County

JOHN R. DEVITT  
Assistant Corporation Counsel

Attorneys for the Plaintiff

STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEE COUNTY

-----  
STATE OF WISCONSIN,

Plaintiff,

vs.

ACME DISPOSAL SERVICE CORP., ACME DISPOSAL CORP.,  
ACE SANITATION SERVICE, INC., TRASH COLLECTIONS,  
INC., BEST DISPOSAL COMPANY, INC., DOMAN, INCORPOR-  
ATED, LAND-FILL, INC., LAKEFIELD SAND & GRAVEL CO.,  
JAMES J. MAGESTRO, d/b/a ABC TRASH DISPOSAL, JOSEPH  
MAGESTRO, d/b/a JM DISPOSAL SERVICE, DOMINIC MANDELLA,  
d/b/a MANDELLA BOX CO., JACOB BILTHUIS, DEAN BUNTROCK,  
HOWARD DORE, CONRAD DOUMA, JOHN C. GROOT, CLARENCE  
HUIZENGA, ELMER LAUER, GUST MAGESTRO, a/k/a GUS  
MAGESTRO, ANTHONY S. MANDELLA, JACK MANDELLA,  
CLARENCE MANTEI, FRED MLECZEK, STANLEY RUMINSKI,  
and HAROLD VAN DER MOLEN,

AFFIDAVIT

Defendants.  
-----

STATE OF WISCONSIN )  
                              ) SS.  
COUNTY OF DANE       )

GEORGE B. SCHWABN, Assistant Attorney General, being  
first duly sworn on oath, deposes and says:

1. That he is one of the attorneys for the plaintiff,  
State of Wisconsin, in the above-entitled action;

2. That the nature of the pending action is for  
an injunction to prevent the defendants from agreeing, combining  
or conspiring to restrain trade, to wilfully injure the business  
of others, to hinder others from performing lawful acts and  
to monopolize the rubbish collection, waste removal or disposal  
business in and around Milwaukee County, or to commit any acts  
in furtherance thereof, which violate secs. 133.01 and 134.01,  
Wis. Stats., and the common law; and to impose forfeitures  
for past violations of sec. 133.01, Stats.;

3. That said defendants continue, and, as your affiant is informed and believes, will continue to violate the sections of the statutes and common law as set out in the complaint herein, unless a temporary restraining order is entered by this Court, and this affidavit is made for the purpose of obtaining an order to show cause directed to the defendants as to why a temporary restraining order should not be entered pending final disposition of this matter.

Dated at Madison, Wisconsin, this 16<sup>th</sup> day of ~~September~~ October, 1962.

George B. Schwahn  
GEORGE B. SCHWAHN  
Assistant Attorney General

Subscribed and sworn to  
before me this 16<sup>th</sup>  
October  
day of ~~September~~, 1962.

SEAL

William F. Lupton  
Notary Public, Dane County,  
State of Wisconsin

My Commission is Permanent.

**ATTACHMENT D**

**Criminal Information and Settlement Agreement:**

**United States of America v. Dewey's Rubbish Service**

FILED  
CLERK, U.S. DISTRICT COURT

DEC 28 1989

CENTRAL DISTRICT OF CALIFORNIA  
DEPT

UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

v.

DEWEY'S RUBBISH SERVICE,  
Defendant.

CRIMINAL NO. SA *CR 89-56 AHS*

FILED

*15 U.S.C. 51  
(Sherman Antitrust Act)*

INFORMATION

The United States of America, acting through its attorneys,  
charges:

I

DEFINITIONS

1. As used in this Information:
  - a. "trash hauling services" means the collection, hauling, and dumping or storage of solid waste;
  - b. "commercial and industrial" means business, manufacturing, service or financial organizations; and
  - c. "person" means any individual, partnership, corporation, association, or other business or legal entity.

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II

DEFENDANT

2. Dewey's Rubbish Service is named as a defendant on the charge hereinafter stated. During the period covered by this Information, Dewey's Rubbish Service was a corporation organized and existing under the laws of the State of California and had its principal place of business in Irvine, California. During the period covered by this Information, Dewey's Rubbish Service engaged in the trash hauling services business in portions of Orange County, California.

3. Whenever in this Information reference is made to any act, deed or transaction of any corporation, the allegation means that the corporation engaged in the act, deed, or transaction by or through its officers, directors, agents, employees, or representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

III

CO-CONSPIRATORS

4. Various persons, not made defendants in this Information, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

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IV

TRADE AND COMMERCE

5. During the period covered by this Information, the defendant derived revenues of approximately \$6.5 million from providing commercial and industrial trash hauling services to customers located in portions of Orange County.

6. During the period covered by this Information, substantial quantities of trash hauling equipment and supplies were provided by vendors outside the State of California for use in servicing the customers of the defendant and the corporate co-conspirators.

7. The activities of the defendant and co-conspirators which are the subject of this Information were within the flow of, and substantially affected, interstate commerce.

V

OFFENSE CHARGED

8. Beginning at least as early as 1983 and continuing thereafter through 1984, the exact dates being unknown to the United States, the defendant and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of the aforesaid interstate trade and commerce in violation of Section One of the Sherman Act, 15 U.S.C. § 1.

9. The aforesaid combination and conspiracy consisted of an agreement, understanding, and concert of action among the defendant and co-conspirators, the substantial terms of which were to allocate among themselves customers for

1 commercial and industrial trash hauling services in portions  
2 of Orange County, California, and to maintain at artificially  
3 high levels prices charged to customers for such trash  
4 hauling services.

5 10. For the purpose of forming and carrying out the  
6 conspiracy, the defendant and co-conspirators did those  
7 things that they conspired to do, including, among other  
8 things:

- 9 a. allocating among themselves customers for  
10 commercial and industrial trash hauling  
11 services in portions of Orange County,  
12 California;
- 13 b. refraining from competing, on the basis of  
14 price, for the business of customers so  
15 allocated; and
- 16 c. submitting noncompetitive price quotations  
17 to the customers so allocated.

18 VI

19 EFFECTS

20 11. The conspiracy charged herein had the following  
21 effects, among others:

- 22 a. prices charged for commercial and industrial  
23 trash hauling services by the defendant and  
24 the corporate co-conspirators in portions of  
25 Orange County, California were maintained at  
26 artificially high and noncompetitive levels;

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- b. competition in the commercial and industrial trash hauling services business in portions of Orange County, California was restrained; and
- c. customers for commercial and industrial trash hauling services in portions of Orange County, California were denied the benefits of free and open competition.

VII

JURISDICTION AND VENUE

12. The combination and conspiracy charged herein was carried out by the defendant and co-conspirators, in part, within the Orange County Division of the Central District of California within the five years preceding the filing of this Information.

DATED: Dec 27, 1989

James F. Rill  
 JAMES F. RILL  
 Assistant Attorney General

Barbara J. Nelson  
 BARBARA J. NELSON

Joseph H. Widmar  
 JOSEPH H. WIDMAR

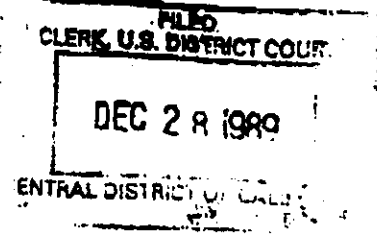
Phillip R. Malone  
 PHILLIP R. MALONE

Gary R. Spratling  
 GARY R. SPRATLING

Attorneys  
 U.S. Department of Justice  
 Antitrust Division  
 450 Golden Gate Avenue  
 Box 36046  
 San Francisco, CA 94102  
 Tel.: (415) 556-6300

Attorneys, Antitrust Division  
U.S. Department of Justice

Robert L. Brosio  
 ROBERT L. BROSIO  
 United States Attorney  
 Central District of California  
 312 North Spring Street  
 Los Angeles, CA 90012



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5 UNITED STATES DISTRICT COURT  
6 FOR THE CENTRAL DISTRICT OF CALIFORNIA

7  
8 UNITED STATES OF AMERICA ) CRIMINAL NO. SA *CR 80-211*  
9 v. )  
10 DEWEY'S RUBBISH SERVICE, ) RULE 11(e)(1)(C) PLEA  
11 Defendant. ) AGREEMENT BETWEEN THE  
 ) UNITED STATES OF AMERICA  
 ) AND DEFENDANT DEWEY'S  
 ) RUBBISH SERVICE  
 )  
 )

12  
13 The United States of America and defendant Dewey's Rubbish  
14 Service ("Dewey's") hereby enter into the following plea agreement  
15 pursuant to Rule 11(e)(1)(C) of the Federal Rules of Criminal  
16 Procedure.

17 A. In consideration of the mutual covenants and undertakings  
18 expressed herein, Dewey's shall:

- 19 1) Waive indictment pursuant to Rule 7(b) of the Federal  
20 Rules of Criminal Procedure and plead guilty to a  
21 one-count criminal Information charging a violation of  
22 Section 1 of the Sherman Act (15 U.S.C. §1) in  
23 connection with a conspiracy to allocate customers and  
24 fix prices of commercial and industrial trash hauling  
25 services in Orange County, California beginning at  
26 least as early as 1983 and continuing thereafter  
27 through 1984;

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2) Cooperate fully with the United States in the conduct of any federal grand jury investigations or other federal investigations under the federal antitrust statutes (15 U.S.C. §1, et seq.) involving any act or offense committed prior to the date of this plea agreement arising out of or undertaken in furtherance of any conspiracy, combination, or agreement to allocate customers or fix prices for trash hauling services in San Diego County, Los Angeles County, or Orange County, California, and in any litigation or other proceedings arising or resulting therefrom to which the United States is a party. Dewey's and its parents, subsidiaries, divisions, or affiliates shall use their best efforts to secure the full and candid cooperation of their employees in such investigations or litigation;

3) Acknowledge to the Court that it considers a fine of \$1,000,000 as agreed upon by the United States to be the appropriate disposition of this case. The fine shall be payable by Dewey's within sixty (60) days of the date of entry of judgment and sentence by the Court. Dewey's understands that the government's agreement that the above sentence is the appropriate disposition of the case is not binding on the Court. However, Dewey's also understands that the maximum sentence which the Court may impose upon it upon conviction for a violation of the Sherman Act (15 U.S.C. § 1) is a fine of \$1,000,000.

1 B. In consideration of the mutual covenants and undertakings  
2 expressed herein, the United States shall:

- 3 1) Inform the Court that the United States agrees that a  
4 fine of \$1,000,000, payable by Dewey's under the terms  
5 set forth in this agreement, is the appropriate  
6 disposition of the charge in this case;
- 7 2) Agree that, subject to Dewey's full and complete  
8 compliance with this agreement, the United States will  
9 not bring further criminal charges against Dewey's  
10 Rubbish Service or any of its parents, subsidiaries,  
11 divisions, or affiliates (hereinafter collectively "the  
12 Company") under the federal antitrust statutes (15  
13 U.S.C. § 1, et seq.) or any other federal criminal  
14 statute which prohibits any act also prohibited by such  
15 statutes for any act or offense committed prior to the  
16 date of this plea agreement arising out of or  
17 undertaken in furtherance of any conspiracy,  
18 combination, or agreement to allocate customers or fix  
19 prices for trash hauling services provided by the  
20 Company in Los Angeles County, Orange County, or San  
21 Diego County, California.

22 C. Dewey's understands that the fine called for by this plea  
23 agreement is an agreed-upon disposition with the United  
24 States, and agrees that it will not file any motion to  
25 reduce, modify, or alter the sentence imposed pursuant to  
26 this plea agreement, so long as the fine imposed does not  
27 exceed the amount recommended by the United States in this  
28 plea agreement.

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D. In the event of the failure of either party to fulfill completely each and every one of its obligations pursuant to this agreement, the other party will be released from its obligations.

This plea agreement constitutes the entire agreement between the United States of America and the defendant Dewey's concerning the disposition of the charges against Dewey's set forth in the Information referred to herein. The United States has made no other promises to or agreements with Dewey's.

Executed on this 28 day of December, 1989.

DEWEY'S RUBBISH SERVICE

FOR THE UNITED STATES

BY Don T. Hibner, Jr., Esq.

Barbara J. Nelson  
Phillip R. Malone

Don T. Hibner, Jr., Esq.  
Sheppard, Mullin,  
Richter & Hampton  
48th Floor  
333 South Hope  
Los Angeles, CA 90071  
Counsel for Dewey's Rubbish  
Service

Attorneys  
U.S. Department of Justice  
Antitrust Division  
450 Golden Gate Avenue  
Box 36046  
San Francisco, CA 94102

I have read and certify on 11/3/90  
that the foregoing document is a full, true  
and correct copy of the original on file in  
my office, and in my legal custody.

CLERK, U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
[Signature]



0032

PAGE 4 -- PLEA AGREEMENT

**ATTACHMENT E**

**Criminal Information and Settlement Agreement:**

**United States of America v. Waste Management of California, Inc.**

FILED \_\_\_\_\_ LODGED \_\_\_\_\_  
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SOUTHERN DISTRICT OF CALIFORNIA  
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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA  
v.  
WASTE MANAGEMENT OF CALIFORNIA, INC.,  
d/b/a DAILY DISPOSAL SERVICE,  
Defendant.

CRIMINAL NO.  
FILED: 891277 I  
15 U.S.C. § 1  
(Sherman Antitrust Act)

INFORMATION

The United States of America, acting through its attorneys,  
charges:

I

DEFINITIONS

1. As used in this information:
  - a. "trash hauling services" means the collection, hauling, and dumping or storage of solid waste;
  - b. "commercial and industrial" means business, manufacturing, service or financial organizations; and
  - c. "person" means any individual, partnership, corporation, association, or other business or legal entity.

II

DEFENDANT

1  
2           2.     Waste Management of California, Inc., d/b/a Daily  
3 Disposal Service ("Daily Disposal Service") is named as a  
4 defendant on the charge hereinafter stated. During the  
5 period covered by this Information, Daily Disposal Service  
6 was a division of Waste Management of California, Inc., a  
7 corporation organized and existing under the laws of the  
8 State of California. During the period covered by this  
9 Information, Daily Disposal Service had its principal place  
10 of business in El Cajon, California, and engaged in the trash  
11 hauling services business in portions of San Diego County,  
12 California.

13           3.     Whenever in this Information reference is made to  
14 any act, deed or transaction of any corporation, the  
15 allegation means that the corporation engaged in the act,  
16 deed, or transaction by or through its officers, directors,  
17 agents, employees, or representatives while they were  
18 actively engaged in the management, direction, control, or  
19 transaction of its business or affairs.

20                             III

21                             CO-CONSPIRATORS

22           4.     Various persons, not made defendants in this  
23 Information, participated as co-conspirators in the offense  
24 charged herein and performed acts and made statements in  
25 furtherance thereof.

26     ///

27     ///

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IV

TRADE AND COMMERCE

1  
2 5. During the period covered by this Information, the  
3 defendant derived revenues of approximately \$8 million from  
4 providing commercial and industrial trash hauling services to  
5 customers located in portions of San Diego County.

6 6. During the period covered by this Information,  
7 substantial quantities of trash hauling equipment and  
8 supplies were provided by vendors outside the State of  
9 California for use in servicing the customers of the  
10 defendant and the corporate co-conspirators.

11 7. The activities of the defendant and  
12 co-conspirators which are the subject of this Information  
13 were within the flow of, and substantially effected,  
14 interstate commerce.

V

OFFENSE CHARGED

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17 8. Beginning at least as early as 1983 and continuing  
18 thereafter through 1984, the exact dates being unknown to the  
19 United States, the defendant and co-conspirators engaged in a  
20 combination and conspiracy in unreasonable restraint of the  
21 aforesaid interstate trade and commerce in violation of  
22 Section One of the Sherman Act, 15 U.S.C. § 1.

23 9. The aforesaid combination and conspiracy consisted  
24 of an agreement, understanding, and concert of action among  
25 the defendant and co-conspirators, the substantial terms of  
26 which were to allocate among themselves customers for  
27

1 commercial and industrial trash hauling services in portions  
2 of San Diego County, California, and to maintain at  
3 artificially high levels prices charged to customers for such  
4 trash hauling services.

5 10. For the purpose of forming and carrying out the  
6 conspiracy, the defendant and co-conspirators did those  
7 things that they conspired to do, including, among other  
8 things:

- 9 a. allocating among themselves customers for  
10 commercial and industrial trash hauling  
11 services in portions of San Diego County,  
12 California;
- 13 b. refraining from competing, on the basis of  
14 price, for the business of customers so  
15 allocated; and
- 16 c. submitting noncompetitive price quotations  
17 to the customers so allocated.

18 VI

19 EFFECTS

20 11. The conspiracy charged herein had the following  
21 effects, among others:

- 22 a. prices charged for commercial and industrial  
23 trash hauling services by the defendant and  
24 the corporate co-conspirators in portions of  
25 San Diego County, California were maintained  
26 at artificially high and noncompetitive  
27 levels;

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b. competition in the commercial and industrial trash hauling services business in portions of San Diego County, California was restrained; and

c. customers for commercial and industrial trash hauling services in portions of San Diego County, California were denied the benefits of free and open competition.

VII

JURISDICTION AND VENUE

12. The combination and conspiracy charged herein was carried out by the defendant and co-conspirators, in part, within the Southern District of California within the five years preceding the filing of this Information.

DATED: Dec 27, 1989

James F. Rill  
JAMES F. RILL  
Assistant Attorney General

Barbara J. Nelson  
BARBARA J. NELSON

Joseph H. Widmar  
JOSEPH H. WIDMAR

Phillip R. Malone  
PHILLIP R. MALONE

Gary R. Spratling  
GARY R. SPRATLING

Attorneys  
U.S. Department of Justice  
Antitrust Division  
450 Golden Gate Avenue  
Box 36046  
San Francisco, CA 94102  
Tel.: (415) 556-6300

Attorneys, Antitrust Division  
U.S. Department of Justice

Maria L. Arroyo Taberi for  
WILLIAM BRANIFF  
United States Attorney  
Southern District of California  
5-N-19 U.S. Courthouse  
940 Front Street  
San Diego, CA 92189

FILED	LODGED
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UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

v.

WASTE MANAGEMENT OF CALIFORNIA, INC.,  
d/b/a DAILY DISPOSAL SERVICE

Defendant.

CRIMINAL NO. 99-1277 T  
RULE 11(e)(1)(C) PLEA  
AGREEMENT BETWEEN THE  
UNITED STATES OF AMERICA  
AND DEFENDANT WASTE  
MANAGEMENT OF CALIFORNIA,  
INC., d/b/a DAILY  
DISPOSAL SERVICE

The United States of America and defendant Waste Management of California, Inc., d/b/a Daily Disposal Service ("Daily Disposal"), hereby enter into the following plea agreement pursuant to Rule 11(e)(1)(C) of the Federal Rules of Criminal Procedure.

A. In consideration of the mutual covenants and undertakings expressed herein, Daily Disposal shall:

- 1) Waive indictment pursuant to Rule 7(b) of the Federal Rules of Criminal Procedure and plead guilty to a one-count criminal information charging a violation of Section 1 of the Sherman Act (15 U.S.C. §1) in connection with a conspiracy to allocate customers and fix prices of commercial and industrial trash hauling services in San Diego County, California beginning at

1 least as early as 1983 and continuing thereafter  
2 through 1984;

3 2) Cooperate fully with the United States in the conduct  
4 of any federal grand jury investigations or other  
5 federal investigations under the federal antitrust  
6 statutes (15 U.S.C. §1, et. seq.) involving any act or  
7 offense committed prior to the date of this plea  
8 agreement arising out of or undertaken in furtherance  
9 of any conspiracy, combination, or agreement to  
10 allocate customers or fix prices for trash hauling  
11 services in San Diego County, Los Angeles County, or  
12 Orange County, California, and in any litigation or  
13 other proceedings arising or resulting therefrom to  
14 which the United States is a party. Daily Disposal and  
15 its parents, subsidiaries, divisions, or affiliates  
16 shall use their best efforts to secure the full and  
17 candid cooperation of their employees in such  
18 investigations or litigation;

19 3) Acknowledge to the Court that it considers a fine of  
20 \$500,000 as agreed upon by the United States to be the  
21 appropriate disposition of this case. The fine shall  
22 be payable by Daily Disposal within sixty (60) days of  
23 the date of entry of judgment and sentence by the  
24 Court. Daily Disposal understands that the  
25 government's agreement that the above sentence is the  
26 appropriate disposition of the case is not binding on  
27 the Court, and that (a) the maximum sentence which the  
28 Court may impose upon it upon conviction for a

1 violation of the Sherman Act (15 U.S.C. § 1) is a fine  
2 of \$1,000,000; and (b) the Court has absolute  
3 discretion pursuant to Rule 11 of the Federal Rules of  
4 Criminal Procedure to impose any sentence permitted by  
5 15 U.S.C. § 1.

6 B. In consideration of the mutual covenants and undertakings  
7 expressed herein, the United States shall:

- 8 1) Inform the Court that the United States agrees that a  
9 fine of \$500,000, payable by Daily Disposal under the  
10 terms set forth in this agreement, is the appropriate  
11 disposition of the charge in this case;
- 12 2) Agree that, subject to Daily Disposal's full and  
13 complete compliance with this agreement, the United  
14 States will not bring further criminal charges against  
15 Daily Disposal Service, Waste Management of California,  
16 Inc., or any of their parents, subsidiaries, divisions,  
17 or affiliates (hereinafter collectively "the Company")  
18 under the federal antitrust statutes (15 U.S.C. § 1, et  
19 seq.) or any other federal criminal statute which  
20 prohibits any act also prohibited by such statutes for  
21 any act or offense committed prior to the date of this  
22 plea agreement arising out of or undertaken in  
23 furtherance of any conspiracy, combination, or  
24 agreement to allocate customers or fix prices for trash  
25 hauling services provided by the Company in Los Angeles  
26 County, Orange County, or San Diego County, California.

27 //

28 PAGE 3 -- PLEA AGREEMENT

1 C. Daily Disposal understands that the fine called for by this  
2 plea agreement is an agreed-upon disposition with the United  
3 States, and agrees that it will not file any motion to  
4 reduce, modify, or alter the sentence imposed pursuant to  
5 this plea agreement, so long as the fine imposed does not  
6 exceed the amount recommended by the United States in this  
7 plea agreement.

8 D. In the event of the failure of either party to fulfill  
9 completely each and every one of its obligations pursuant to  
10 this agreement, the other party will be released from its  
11 obligations.

12 This plea agreement constitutes the entire agreement between  
13 the United States of America and the defendant Daily Disposal  
14 concerning the disposition of the charges against Daily Disposal  
15 set forth in the Information referred to herein. The United  
16 States has made no other promises to or agreements with Daily  
17 Disposal.

18 Executed on this 25<sup>th</sup> day of December, 1989.

19  
20 DAILY DISPOSAL SERVICE

FOR THE UNITED STATES

21  
22 BY

Don T. Hibner, Jr.  
Don T. Hibner, Jr., Esq.  
Sheppard, Mullin,  
Richter & Hampton  
48th Floor  
333 South Hope  
Los Angeles, CA 90071  
Counsel for Daily Disposal  
Service, a division of Waste  
Management of California, Inc.

Barbara J. Nelson  
Barbara J. Nelson  
Phillip R. Malone

Attorneys  
U.S. Department of Justice  
Antitrust Division  
450 Golden Gate Avenue  
Box 36046  
San Francisco, CA 94102

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24  
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26  
27  
28 PAGE 4 -- PLEA AGREEMENT

**ATTACHMENT F**

**Notice of Settlements:**

**Containerized Solid Waste Haulers v. Waste Management, Inc., et al.**



**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: CONTAINERIZED SOLID WASTE HAULERS  
ANTITRUST LITIGATION AGAINST BROWNING-  
FERRIS INDUSTRIES, INC. AND WASTE  
MANAGEMENT, INC. COMPANIES**

**MASTER FILE  
NO. 87-3717**

**NOTICE OF PENDENCY OF CLASS ACTION,  
OF PROPOSED SETTLEMENTS IN THE RESPECTIVE  
AMOUNTS OF \$30,500,000 AND \$19,500,000, AND OF HEARING**

**TO: ALL DIRECT PURCHASERS IN THE UNITED STATES OF CONTAINERIZED SOLID WASTE RE-  
MOVAL AND DISPOSAL SERVICES FROM BROWNING-FERRIS INDUSTRIES, INC., WASTE MAN-  
AGEMENT, INC., WASTE MANAGEMENT OF NORTH AMERICA, INC. AND WASTE MANAGEMENT  
PARTNERS, INC. DURING THE PERIOD JANUARY 1, 1978 TO AND INCLUDING JUNE 30, 1987.**

**PLEASE READ THIS ENTIRE NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED BY LAW-  
SUITS NOW PENDING IN THIS COURT.**

**I. DEFINITION OF THE CLASS AND  
DESCRIPTION OF THE LITIGATION**

This Notice is given pursuant to Rule 23 of the Federal Rules of Civil Procedure, and pursuant to Order of the United States District Court for the Eastern District of Pennsylvania ("the Court").

By Order dated July 21, 1988, the Court certified the following plaintiff class:

All purchasers in the United States of containerized solid waste removal and disposal services directly from defendants, or their respective wholly-owned subsidiaries, partnerships, joint ventures, or affiliates, at any time during the period January 1, 1978 to and including June 30, 1987 (excluding from the class defendants, their respective wholly-owned subsidiaries, partnerships, joint ventures, and affiliates, and co-conspirators, and other providers of containerized solid waste removal and disposal services and excluding governmental entities).

The defendants in the lawsuit are: Browning-Ferris Industries, Inc., Waste Management, Inc., Waste Management of North America, Inc., Waste Management Partners, Inc. and their respective wholly-owned subsidiaries, partnerships, joint ventures, and affiliates.

Plaintiffs in this litigation asserted claims against the defendants for alleged violations of the federal antitrust laws, and sought damages and other relief. Plaintiffs alleged that beginning at least as early as January 1, 1978, and continuing thereafter at least until June 30, 1987, defendants and their alleged co-conspirators engaged in a continuing combination and conspiracy to fix, raise, maintain and stabilize the prices of containerized solid waste removal and disposal services in the United States.

Plaintiffs further alleged that, as a result of defendants' alleged combination and conspiracy, the prices paid by class members for containerized solid waste removal and disposal services have been higher than they otherwise would have been.

Defendants vigorously deny all of these allegations and deny any violations of the antitrust laws. The complaint, the answers and all other pleadings filed of record in this action are available for inspection at the office of the Clerk of the Court, United States Courthouse, 601 Market Street, Philadelphia, PA, during regular business hours.

This Notice is given to you in the belief that you may be a member of the class whose rights are affected by this lawsuit. This Notice should not be understood as an expression of an opinion by this Court as to the merits of any claims or defenses asserted by any parties in this litigation.

## II. PROPOSED SETTLEMENTS

A settlement has been reached with defendants Waste Management, Inc., Waste Management of North America, Inc. and Waste Management Partners, Inc. (hereinafter collectively "Waste Management") whereby Waste Management has agreed to pay, and has paid, the amount of \$19,500,000 in final settlement of all claims against it in this litigation.

A second settlement has been reached with defendant Browning-Ferris Industries, Inc. ("BFI") whereby BFI has agreed to pay, and has paid, the amount of \$30,500,000 in final settlement of all claims against it in this litigation.

The proceeds of these settlements, totalling \$50,000,000, have been deposited in escrow where they are presently earning interest.

Copies of the settlement agreements with Waste Management and BFI are on file with the Clerk of the Court, where they may be inspected during normal business hours, at the following address:

Clerk of the Court  
Room 2609  
United States Courthouse  
601 Market Street  
Philadelphia, PA 19106

Neither Waste Management nor BFI admits any wrongdoing or liability on its part. The proposed settlements are compromises of disputed claims and are not to be taken as an indication that liability or damages have been or would have been found against the defendants, plaintiffs' counsel having concluded, after extensive investigation, that, as in many cases involving disputed claims, there is uncertainty as to the ability of the class ultimately to prevail on its damage claims against defendants, including claims outside of the areas listed below.

With respect to the fund of \$19,500,000 created by the settlement with Waste Management, distributions will be made based on payments made for containerized solid waste removal and disposal services by class members whose businesses were served by either defendant and were located in the following geographic areas: Toledo, Ohio<sup>1</sup>; Memphis, Tennessee<sup>2</sup>; Birmingham, Alabama<sup>3</sup>; Jacksonville and Orlando, Florida<sup>4</sup>; Phoenix, Arizona<sup>5</sup>; New Jersey<sup>6</sup>; Atlanta, Georgia<sup>7</sup>; South Florida<sup>8</sup>; Southern California<sup>9</sup>; and Rochester, New York<sup>10</sup>. Both Waste Management and BFI have denied wrongdoing of any kind whatsoever, and in particular have contended that they have never engaged in the antitrust violations alleged by plaintiffs, but have nevertheless agreed to enter into Agreements of Settlement solely to avoid the continuing disruption of their business and the considerable expense, burdens, distractions and inconvenience entailed in further protracted litigation of local claims.

The fund created by the settlement with BFI will be distributed to all class members throughout the United States whose claims are approved. The settlement funds will be distributed pro-rata based upon the proportion which each claim, in the amount approved by the Court, bears to the total of all claims so approved, less payments received in other antitrust litigation involving either or both of the defendants.

<sup>1</sup> Lucas, Sandusky, Seneca, Ottawa, Wood, Fulton, Hancock Counties

<sup>2</sup> Shelby County, TN; northern Desoto County, MS; and eastern Crittenden County, AR

<sup>3</sup> Jefferson, Shelby, St. Clair Counties

<sup>4</sup> Orlando, Osceola, Orange, Seminole, Duval, Clay, Nassau Counties

<sup>5</sup> Maricopa County

<sup>6</sup> Camden, Gloucester, Mercer, Burlington, Middlesex, Cumberland Counties

<sup>7</sup> Fulton, Gwinnett, DeKalb, Cobb, Douglas, Cherokee, Bartow, Paulding, Clayton, Rockdale, Henry, Coweta Counties

<sup>8</sup> Dade, Broward Counties

<sup>9</sup> Los Angeles, Lancaster, Orange, San Diego Counties, San Gabriel Valley

<sup>10</sup> Monroe, Ontario, Wayne, Livingston, Genesee Counties

Each claim must be based upon purchases of contractualized solid waste removal and disposal services from one or both of the defendants for any consecutive period not to exceed 48 calendar months anytime during the period January 1, 1978 through June 30, 1987, inclusive, as designated by the claimant.

A claim form will be mailed to you at a later date, provided the settlement agreements are approved at or following the hearing on December 14, 1990 (see Section V below). **PLEASE DO NOT SEND AT THIS TIME ANY INFORMATION ON YOUR PURCHASES FROM DEFENDANTS.** However, you should retain all of your records of such purchases for use should you decide to file a claim.

### **III. REQUEST FOR EXCLUSION FROM THE CLASS**

If you are a member of the class defined above, and do not exclude yourself in the manner described below, you will be eligible to benefit from the settlements and bound by the terms of the settlement agreements and any judgment which may be entered.

As a member of the class, you will not be responsible for attorneys' fees or expenses of litigation. However, attorneys' fees and expenses of litigation may be awarded by the Court to plaintiff counsel to be paid from the settlement fund referred to in Section II above.

You may request to be excluded from the class, in which case you cannot share in the settlements referred to in Section II and will not be bound by any judgments which may be entered. If you desire to be excluded, you must mail a written request to be excluded to:

Michael E. Kunz, Clerk  
United States District Court for the  
Eastern District of Pennsylvania  
P.O. Box 58728  
Philadelphia, PA 19102-8728

Any such request must be postmarked no later than December 6, 1990.

If you do not elect to be excluded, your interests as a class member will be represented by the class representatives and counsel for the class. By remaining a class member, all claims against the defendants for damages under the federal antitrust laws arising from defendants' conduct as alleged by the class representatives will be determined in this case and cannot be presented in another lawsuit.

If you have any questions, please communicate with lead counsel for the class at the following address:

KOHN, SAVETT, KLEIN & GRAF, P.C.  
P.O. Box 58728  
Philadelphia, PA 19102-8728

**IF YOU WISH TO REMAIN A MEMBER OF THE CLASS AND SHARE IN THE PROCEEDS OF THE SETTLEMENT, YOU NEED NOT TAKE ANY ACTION AT THIS TIME.**

You may, if you desire, also enter an appearance through your privately retained counsel, at your own expense.

### **IV. APPLICATION FOR AWARD OF ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES**

In the event that the proposed settlements are approved by the Court, the Court will consider the application of plaintiff counsel for an award of attorneys' fees and reimbursement of expenses.

The application for attorneys' fees will request fees not to exceed 25% of the settlement funds and interest. The application will also request reimbursement for expenses advanced by plaintiff counsel in this litigation. The application for attorneys' fees and expenses will be filed with the Clerk of the Court, United States Courthouse, 601 Market Street, Philadelphia, Pennsylvania on or before November 16, 1990, and will be available for your inspection after that date during regular business hours.

## V. HEARING

The Court will hold a hearing on Friday, December 14, 1990 at 9:30 a.m. At that hearing, the Court will consider the reasonableness, fairness and adequacy of the proposed settlements and distribution of settlement funds, the dismissal of defendants, and whether to approve the application of plaintiff counsel for attorneys' fees and reimbursement of expenses. The hearing will be held in the Courtroom of the Honorable Louis C. Bechtle, Chief Judge, United States District Court for the Eastern District of Pennsylvania, Room 17B, United States Courthouse, 601 Market Street, Philadelphia, Pennsylvania.

**YOU NEED NOT APPEAR AT THE HEARING OR TAKE ANY OTHER ACTION IF YOU APPROVE OF, OR DO NOT OBJECT TO, THE PROPOSED SETTLEMENTS AND DISTRIBUTION OF SETTLEMENT FUNDS, AND THE APPLICATION OF PLAINTIFF COUNSEL FOR ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES.**

Any member of the class may appear at the hearing and show cause, if any, why the settlements should not be approved as fair, reasonable and adequate, why the distribution of settlement funds to class members should not be approved, why the defendants should not be dismissed, and why the application of plaintiff counsel for attorneys' fees and reimbursement of expenses should not be approved by the Court.

No person will be heard at the hearing unless a written notice of intention to appear, stating all grounds for the objection or other statement of position, together with all supporting papers and briefs, are sent to the Clerk of the Court by first-class mail, postage pre-paid, postmarked no later than December 6, 1990, at the following address:

Clerk of the Court  
United States Courthouse  
601 Market Street  
Philadelphia, PA 19106

The envelopes and such papers must bear the caption: "In Re: Containerized Solid Waste Haulers Antitrust Litigation, Master File No. 87-3717 (E.D.Pa.)." A copy of such papers must be served by first class mail, postage pre-paid, upon lead counsel for the class, postmarked no later than December 6, 1990, at the following address:

KOHN, SAVETT, KLEIN & GRAF, P.C.  
Suite 2400  
1101 Market Street  
Philadelphia, PA 19107

## VI. ADDITIONAL INFORMATION

If you have changed your address, if you change your address at any time in the future, if this Notice reached you at a place other than the one to which it was directed, or if you have additional questions concerning this Notice, you should immediately notify:

KOHN, SAVETT, KLEIN & GRAF, P.C.  
P.O. Box 58728  
Philadelphia, PA 19102-8728

**PLEASE DO NOT CONTACT THE CLERK OF COURT OR CHIEF JUDGE BECHTLE.**

BY ORDER OF THE COURT:

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Michael E. Kunz, Clerk  
United States District Court  
Eastern District of Pennsylvania

Dated: November 5, 1990

**ATTACHMENT G**

**Santa Clara County, Search Warrant Affidavit**

SUPERIOR COURT OF CALIFORNIA  
SANTA CLARA COUNTY JUDICIAL DISTRICT

STATE OF CALIFORNIA        )  
                                  ) ss.  
COUNTY OF SANTA CLARA    )

**AFFIDAVIT IN SUPPORT  
OF SEARCH WARRANT**

Personally appeared before me on this 29th day of August, 1991, ROBERT NALETT, SAN JOSE POLICE DEPARTMENT, who, being duly sworn, states that on the basis of the information contained within this affidavit, there is just, probable and reasonable cause to believe, and that he does believe, that the property described below is lawfully seizable in that it is possessed with the intent to use it as a means of committing a public offense and that it is evidence which tends to show that a felony has been committed or a particular person has committed a felony to wit: violation of Penal Code Section 484-487.1 (grand theft) and that such property will be found at the locations set forth below. It is therefore requested that there be issued a WARRANT TO SEARCH the following locations and vehicles:

**LOCATION NUMBER ONE:**

the premises at 715 Comstock Street, Santa Clara, near the intersection of Comstock and Lafayette, the building is a two story brown and beige commercial building with a flat top roof; the numbers 715 appear above the front door in black on a white background; there is a gate marked "employees only" in front of the property; there is a wooden sign reading "Waste Management of Santa Clara County" in front of the building; to the west of that sign is another sign with the number "715" stenciled in; to the rear are a number of commercial WMI trucks visible through the chain link fence and gate.

**LOCATION NUMBER TWO:**

the premises at 1760 South Tenth Street, near the intersection of North Tenth and Phelan streets, San Jose, a grey building with burgundy trim; the building is connected to a larger aluminum building surrounded by a cyclone fence with wooden slats and barbed wire; to the north of the front gate is a

burgundy sign with the numbers "1760" in white; above that sign is another sign which has the Waste Management logo and the name "Waste Management" along with the phone number "980-9900"; WMI garbage trucks can be seen in the parking lot behind the cyclone fence.

VEHICLES TO BE SEARCHED:

**COLLECTION VEHICLES:** residential and commercial garbage trucks believed to be at or near 1760 South Tenth Street, San Jose and 715 Comstock, Santa Clara, burgundy and white in color, bearing the name "Waste Management" and bearing identification numbers appearing on Exhibit A of the affidavit in support of search warrant; and any of said vehicles which may return to said locations during the execution of the search warrant.

**PASSENGER VEHICLES:** passenger trucks and cars located on the premises at 1760 South Tenth Street, San Jose and 715 Comstock, Santa Clara, whether leased, owned, or registered to WMI or its subsidiary companies; and any such vehicles which may come onto said premises during the execution of the search warrant.

FOR THE FOLLOWING PROPERTY:

1. Documents reflecting the names, addresses and positions held of any WMI management or supervisory employees, or employees having responsibility for (a) the assignment of truck routes, (b) designation of disposal sites for collected waste, (c) provision of information to City of San Jose or BFI/IDC regarding waste collected and deposited under the WMI - City of San Jose contract and (d) employee training or development of policies regarding such areas of responsibility, during the period between 9/4/85 and the date of execution of this search warrant .

This evidence will help to establish the identity of individual persons responsible for the decisions affecting the disposal of non-franchise City of San Jose waste at the Newby Island site, and the authorization to bill such disposal to the City of San Jose.

2. Organizational and management charts, job descriptions, policies and procedures manuals for management and other personnel within WMI in existence during the period from 9/4/85 through the date of execution of this search warrant.

This evidence will establish the identities and levels of responsibility of the individuals making the decisions affecting the disposal of non-franchise City of San Jose waste

at the Newby Island site, and the "chain of command" of such authority for determining ultimate responsibility.

3. Records of all dispatch orders, memoranda, letters, notices, route instructions, and any communication, however recorded, directing any driver of San Jose Franchise Trucks to dispose of waste at the Newby Island facility following collection of waste from outside the City of San Jose collection area during the period from 9/4/85 through the date of execution of this search warrant.
4. Records of all dispatch orders, memoranda, letters, notices, route instructions, and any communication, however recorded, directing any driver of San Jose Franchise Trucks to dispose of waste at the Kirby Canyon facility following collection of waste from the City of San Jose collection area during the period from 9/4/85 through the date of execution of this search warrant.

The evidence described in items 3 and 4 will further establish the knowledge and identity of persons involved in the decisions affecting the disposal of non-franchise City of San Jose waste at the Newby Island site, and the billing of City of San Jose therefore.

5. Route sheets for all San Jose Franchise Trucks for the period from 9/4/85 through the date of execution of this search warrant.

This evidence will show the collection sources of waste dumped at the Newby Island facility under the City of San Jose contract.

6. Scale tags, weight sheets, receipts, bills, invoices, collection forms, audit summaries, accounting summaries, reports, analyses, comparisons, and any other recorded information reflecting the individual or collective loads deposited at the Newby Island site by any WMI trucks during the period from 9/4/85 through the date of execution of this search warrant.

This evidence will show knowledge of the billing to City of San Jose of non-franchise waste by comparison of the scale tags reflecting billing to City of San Jose and route sheets showing collection of non-franchise waste; and the pattern of billing to City of San Jose for non-franchise waste deposited at Newby Island.

7. All bid forms, computations, projection sheets, calculations, estimations, and any media reflecting anticipated waste amounts from both City of San Jose



franchise and non-franchise customers.

This evidence will tend to show WMI's manner of calculating estimated tonnage for each route serviced by WMI trucks, and the approximate ratio of non-franchise to City of San Jose franchise waste hauled by WMI trucks during the period in question. This can be compared to the route sheets for that period and will assist in confirming the actual amounts of non-franchise waste deposited under the City of San Jose contract.

8. Daytimers, calendars, or diaries appearing to belong to any of the persons identified as WMI employees which contain entries which reflect in any way upon the WMI / City of San Jose Contract, meetings with City of San Jose Personnel regarding said contract or contract negotiations, plans, notations, calculations relating to said contract.

This evidence will tend to further identify persons having responsibility for decisions affecting the fraudulent billing of City of San Jose by WMI and further identify specific dates and times where fraudulent representations regarding the nature of waste and actual quantities of waste disposed under the contract were made.

9. Computer hardware, software, and data including, but not limited to, central processing units (CPUs), hard disks, hard disk drives, floppy disk drives, tape drives, optical/CD-ROM disks or cartridges, optical/CD-ROM drives, servers, workstations, display screens, keyboards, printers, modems, peripherals, magnetic tapes, cassette tapes, and floppy disks, found together or separately from one another.
10. Written documentation, whether typed or handwritten, including, but not limited to, computer manuals and instructions for the use of any computers, software, and computer accessories/peripherals found at the premises, handwritten or other notes or printed materials describing the operation of the computer and confidential password and filename lists and access instructions to enter secured files and all media describing, explaining, discussing, and/or documenting the function, operation, or execution of any of the software including documentation, manuals, flow charts, comment statements, help files, and computer printouts and the means by which such information may be accessed during the execution of the search warrant.
11. Letters, notes, memoranda and any media referring, reflecting, or relating to the actual amounts of waste

deposited under the City of San Jose contract by WMI at Newby Island and other facilities.

12. Letters, notes, memoranda and any media referring, reflecting, or relating to the value of the allocated City of San Jose space utilized by WMI at Newby Island for non-franchise waste.
13. Letters, notes, memoranda and any media referring, reflecting, or relating to the designated routes of WMI trucks purportedly used exclusively for hauling waste under the WMI-City of San Jose contract.
14. Letters, notes, memoranda and any media referring, reflecting, or relating to communications between WMI and City of San Jose regarding the disposal of franchise and/or non-franchise waste at Newby Island under the contracts between WMI and City of San Jose and City of San Jose and BFI/IDC.
15. Letters, notes, memoranda and any media referring, reflecting, or relating to communications between WMI and BFI / IDC regarding the disposal of franchise and/or non-franchise waste at Newby Island under the contracts between WMI and City of San Jose and City of San Jose and BFI/IDC.

The evidence described in items 9 through 15 above will tend to show knowledge and responsibility of WMI employees for the deposit of non-franchise waste under the City of San Jose contract; the quantities and dollar value of the non-franchise waste billed to City of San Jose; and representations made by WMI employees to City of San Jose and/or BFI/IDC regarding the deposit of such non-franchise waste.

16. Customer lists and records reflecting amounts of waste collected and/or charged to non-franchise accounts but deposited at Newby Island under the WMI-City of San Jose account; including but not limited to Moffett Field, City of Santa Clara, City of Mountain View, and any other accounts appearing on the route sheets of franchise trucks.
17. Evidence of occupancy and control of said premises, including but not limited to, utility company bills, canceled mail envelopes, personal identification papers, photographs, rent receipts, and keys.

For each location listed above, the premises to be searched also include any and all yards, outbuildings, storage areas,

garages, carports, sheds, trash or recycling containers, or mailboxes assigned to the described premises, including but not limited to those listed above.

The term "media" encompasses all "writings", as that term is defined by section 250 of the California Evidence Code (including but not limited to documents and records), magnetic media (e.g. cassette tapes, magnetic tapes, computer disks, "Bernoulli boxes", tape and/or data cartridges), photographic media (e.g. film, microfilm, photocopies, telefaxes), optical media (e.g. CD-ROM disks), and all information stored within a computer or computer peripheral in any form.

Each category of personal property listed above contains a group of personal property and other items to be searched/seized, regardless of the media they appear in or on. Each item is to be searched/seized at all locations listed in this affidavit.

#### STATEMENT OF PROBABLE CAUSE

AFFIANT EXPERIENCE/TRAINING: Your affiant, Officer Robert P. Nalett, has been a police officer for the San Jose Police Department for the past nine years, and is currently assigned to the Fraud Investigation Unit. Prior to your affiant's employment with the San Jose Police Department, your affiant was employed as a deputy sheriff for the Santa Clara County Sheriff's office for seven months. Your affiant has also been a deputy sheriff in the state of Michigan for approximately four years.

Your affiant has attended numerous classes in law enforcement techniques and investigative training to assist your affiant in the

investigation of fraud and theft-related offenses. Your affiant received a degree in business at Lansing Community College which included 8 hours of special study in Fraud and forged instruments. Your affiant attended the Mid-Michigan Police Academy in Lansing, Michigan in 1977 which included several hours of instruction in the investigation of property crimes. In the nearly four years your affiant served with the Ingham County Sheriff, he participated in the investigation of over 150 such offenses.

Your affiant attended the Santa Clara County Regional Police Academy in 1981, and has received on-going and updated information regarding the investigation of fraud through the San Jose Police Department. Your affiant has participated in approximately 200 theft and fraud related offenses while an officer with San Jose Police Department, and is an instructor in the Property Crimes Section of the Santa Clara County Regional Police Academy since 1986.

Through his involvement in both patrol and fraud investigations your affiant has had the opportunity to speak with many other fraud investigators and continually update his knowledge of investigative techniques, common theft-related schemes, and the development of evidence for the prosecution of property offenses. Your affiant has participated in the execution of search warrants involving computer equipment and storage media, and has discussed the nature and type of equipment, software and storage media that are likely to be found in the execution of a search warrant at WMI with other investigators specializing in the execution of warrants

involving computers and computer media.

Beginning June 24, 1991, your affiant became involved in the investigation of alleged fraud by Waste Management of California (hereinafter be referred to as "WMI") against the City of San Jose and Browning Ferris Industries (hereinafter referred to as "BFI") and their subsidiary company, International Disposal Corporation (hereinafter referred to as "IDC"). Also participating in that investigation is San Jose Police Department Sergeant Ron Gaumont.

INFORMATION FROM SUSAN DEVENCENZI: In two interviews with Susan DeVencenzi, Deputy City Attorney for the City of San Jose, Sgt. Gaumont and your affiant were advised that WMI has been the franchised hauler for City of San Jose waste since 1986 pursuant to an agreement signed between City of San Jose and WMI, Inc. on 9/4/85. Under the terms of the WMI - City of San Jose contract, WMI hauls waste collected in San Jose to the waste disposal site at Newby Island, owned and operated by BFI. (Waste collected within the City of San Jose pursuant to said agreement shall hereinafter be referred to as "franchise waste". All waste collected outside the City of San Jose, from other WMI accounts, and/or not covered by the agreement shall hereinafter be referred to as "non-franchise waste".) Under their contract with BFI, the City has a "designated allocation" of space for disposal of City waste at Newby Island. The City receives a highly favorable rate - approximately 1/2 the standard, or "gate rate" normally charged to other haulers. City of San Jose is billed by BFI for waste deposited there at a on a per-ton basis, and WMI reimburses a portion of that expense to the

City. San Jose ultimately pays approximately 1/2 of the disposal costs. According to Ms. Devencenzi, WMI is not authorized to use the City's allocated space for disposal of waste hauled by WMI under other unrelated contracts.

WMI provides a list of trucks, identified by truck number, to be used exclusively for the hauling of franchise waste to Newby Island. That list is provided to the City of San Jose and then on to BFI/IDC. (A list of the WMI trucks so designated is attached hereto as Exhibit "A". That list was obtained from Linda Kauffmann, Accounting Manager for BFI/IDC. All trucks contained in that list shall be hereinafter referred to as "Franchise Trucks") City of San Jose in turn provides the list of franchise trucks to the operators at Newby Island so the tonnage can be billed to the City of San Jose at the special contract rate. The franchise trucks include side loader, rear loader and front loader residential garbage trucks as well as roll-off container trucks.

Your affiant knows, based upon a letter written June 16, 1986 to Lou Garcia, Deputy City Manager for the City of San Jose (a copy of which is attached hereto as Exhibit B) that WMI uses the Kirby Canyon landfill site as an alternative disposal site for franchise waste under the terms of the WMI - City of San Jose contract. According to Ms. Devencenzi, City of San Jose receives a summary report of the tonnage of franchise waste disposed of at the Kirby Canyon facility on a monthly basis. Only franchise waste in excess of the designated allocation is to be disposed of at the alternative site.

INFORMATION FROM BFI/IDC: BFI owns and operates Newby Island waste disposal facility through (IDC). Prior to 1986 and the WMI - City of San Jose contract, BFI was the franchise hauler for City of San Jose. In interviews with Joyce Hlava and Mark Wolthausen of BFI, your affiant learned that BFI charges a standard "gate rate" of approximately \$28.00 per ton for disposal of waste at Newby Island. The contract with City of San Jose, however, provides that for San Jose waste disposal the rate is only approximately \$15.00 per ton. Pursuant to their contract with City of San Jose, operators at the Newby Island facility charge incoming franchise trucks directly to the City of San Jose account at the reduced rate. WMI drivers are required to notify scale operators at Newby Island at the time the franchise trucks are weighed whenever such trucks are hauling other than franchise waste.

OBSERVATIONS BY AFFIANT: On June 7, 1991, Sgt. Ron Gaumont began surveillance of WMI truck number 208, which is one of the franchise trucks (per exhibit A). At 7:45am Sgt. Gaumont observed truck #208 arrive at Moffett Field and began collecting refuse from the Navy mini mart store and the medical building at Moffett Field. The truck then went to Dennys restaurant in Mountain View, where the driver ate breakfast. Truck #208 was then observed entering the Moffett Field main gate at 9:04am, and it did not re-emerge until 10:34am. The truck then went directly to the City of Santa Clara, where several collections were made. At 11:05am, truck #208 went directly to Newby Island and deposited its load, allowing the entire tonnage to be billed under the City of San Jose contract.

Your affiant and Sgt. Gaumont continued surveillance for a period of three weeks, during which time 8 different San Jose Franchise Trucks were observed. All of said trucks appeared on the WMI list of City of San Jose waste haulers (franchise trucks). Your affiant has also observed other types of vehicles (passenger trucks and cars) either on or about WMI premises, or in conjunction with the collection trucks observed during surveillance.

During that time, your affiant also reviewed the records pertaining to each load deposited at Newby Island by said trucks and determined that all loads were billed to the City of San Jose at the special reduced rate. All of said trucks were observed by your affiant to collect substantial quantities of non-franchise waste from outside the City of San Jose, including Moffett Field, City of Santa Clara, City of Mountain View, and the unincorporated areas of Santa Clara County.

INFORMATION FROM SAYED NAHIM (BFI/IDC): On June 27, 1991, your affiant contacted Sayed Nahim, Office Manager for BFI Newby Island, at the scales station at Newby Island. Mr. Nahim demonstrated the way in which incoming trucks were registered by the scales attendant. As trucks approached the scales the attendant would enter the truck number into the computer. The computer would record the date and time, and weight of each truck, and would designate that information to a certain account based upon the truck number entered. If a WMI driver indicated that a designated truck number was hauling other than franchise waste, the scale attendant would enter that information into the computer and



the load would be billed directly to WMI at the higher "gate rate". The computer generates a "scale tag" containing the above information, a copy of which is given by the attendant to each truck driver. Mr. Nahim demonstrated this process, however he indicated that no WMI driver had ever informed the scale attendants of non-franchise waste loads in any of the franchise trucks since the beginning of the contract.

Your affiant personally inspected the scale tags for each franchise truck followed during the surveillance period. All tags reflected billing to the City of San Jose account. Your affiant spoke with the attendants on duty at the time those scale tags were generated, and confirmed that the WMI drivers had never advised the attendants of the commingled and non-franchise loads.

INFORMATION FROM CI: On 8/14/91, your affiant received information from a citizen informant, hereinafter referred to as CI. CI is untested, in that your affiant has not previously received information from this informant. However, your affiant believes CI to be reliable because much of the information provided by CI was corroborated by information from other sources, as more fully set out below. CI has no pending criminal charges in Santa Clara County and no prior felony convictions, according to the CJIC criminal history system.

CI advised your affiant that based on his personal experience as a WMI employee during several years of the WMI - City of San Jose contract, he knows that WMI maintains computer records of all truck routes, truck number/route assignments, route schedules, and

customers. These records are maintained at WMI facilities located at 715 Comstock, Santa Clara, California and 1760 South 10th Street, San Jose, California. CI further advised your affiant that all scale tags collected by the truck drivers from Newby Island are delivered to and maintained by the dispatch and/or billing departments at each location of WMI. CI advised that the Operations Manager at each facility is responsible for the determination of truck route and disposal site assignments, and that the General Manager for both facilities has ultimate responsibility for and directly oversees these functions of the Operations Manager. According to CI, there have been at least two different General Managers and a number of other supervisory personnel at those facilities during the contract period. CI informed your affiant that the disposal of non-franchise waste at Newby Island under the guise of the City of San Jose contract was "common knowledge" at WMI. CI specifically indicated that City of San Jose was billed for trash commingled from outside the City of San Jose.

INFORMATION FROM OTHER SOURCES: Your affiant reviewed the contract agreement between the City of San Jose and WMI. That agreement provides for the furnishing by WMI of truck number lists, route sheets, and tonnage information for disposal at the Newby Island facility on a regular basis to City of San Jose. This agreement by WMI is consistent with the record-keeping information provided by CI. This information is also consistent with information provided by IDC and BFI management personnel regarding

industry standards and practices for this type of record-keeping, and with information obtained by your affiant from investigators in the LA County DA's Office pertaining to a separate investigation of WMI in Southern California.

INFORMATION FROM WMI: Officer Steve Swartzendruber placed a phone call to the WMI office at 715 Comstock on August 28, 1991 at approximately 10:00am on the pretense that he was taking a survey of computer equipment utilized by local companies. In that conversation he spoke with a WMI employee who identified himself as a computer analyst for WMI. The analyst identified certain WMI computer equipment as an IBM AS/400 with terminals a number of stand alone IBM-compatible personal computers.

CONCLUSION: Based upon the foregoing observations and information and your affiant's experience and training, your affiant believes that WMI is engaging in theft of City of San Jose funds by fraudulently representing the nature of loads dumped at Newby Island under the City of San Jose contract. In effect, the City of San Jose is thereby paying disposal fees for non-franchise waste. In addition, WMI is defrauding BFI of the difference between the standard "gate rate" and the reduced City of San Jose contract rate, by presenting such non-franchise waste under the guise of City of San Jose franchise waste.

Your affiant has personally visited the WMI business locations at 715 Comstock, Santa Clara and 1760 South Tenth, San Jose, and personally observed those locations to be as described in the search warrant. Your affiant believes that WMI maintains records

at those locations documenting the actual routing of trucks, collections and disposal of both City of San Jose franchise and non-franchise waste, and the reports to City of San Jose regarding the total amounts of City of San Jose waste collected and billed at the Newby Island facility. Your affiant also believes that, as in any large organization, WMI maintains organizational charts, personnel records, internal memoranda and other media which will establish the identities of persons having specific responsibility for decisions affecting the City of San Jose account.

It is your affiant's opinion that the fruits, evidence and instrumentalities of the criminal activities described, as described above as the items to be seized on the search warrant and affidavit form, are now located and will be found at the premises and vehicles to be searched.

PROCEDURE TO BE USED IN EXECUTION OF SEARCH WARRANT

Your affiant knows from his training and experience that computer systems commonly consist of central processing units (CPUs) such as the IBM AS/400, hard disk drives, floppy disk drives, tape drives, display screens, keyboards, peripherals, printers, modems (used to communicate with other computers), electronic cables, cassette tapes, floppy disks, and other forms of magnetic or optical media containing computer information (i.e. data).

CI and others have stated, and your affiant's experience confirms, that WMI keeps technical information and personnel, financial, and other business records at their place of business,

and that such records are stored within computers, or on magnetic or optical media in a form which can be "read" by computers. Given all the information related above, and the basic fact that WMI must be keeping records of the suspect transactions and employees, your affiant requests permission to search computers found on the premises for the information requested in this affidavit.

Such information may be in the form of electronic messages sent between persons who are not suspected of a crime (i.e. "E-mail"). Nonetheless, this information may include evidence relevant to a showing that a felony has been committed (such as correspondence between WMI's employees detailing WMI policy regarding the commingling or disposal of non-franchise waste under the WMI - City of San Jose contract), and your affiant requests permission to seize such information.

Your affiant is neither a WMI employee nor a computer expert. Your affiant therefore requests this Court order Michael Bryant to assist in searching any computers found at any of the premises to be searched. Although officers familiar with personal computers and related media will be participating in the execution of this warrant, your affiant expects to encounter IBM AS/400 mainframe(s) and terminals at WMI. Your affiant is not qualified to search those computers, and needs expert assistance to do so.

Michael Bryant is a computer expert having substantial experience with the AS/400 computers. He is familiar with both the hardware and software environments that are likely to be encountered in the execution of the search warrant, and with the

methods for safely extracting or copying data (evidence) from such systems. He has consented to be ordered to assist in this search.

PROCEDURES FOR SEARCH/SEIZURE OF COMPUTERS: As discussed above, your affiant believes that there is probable cause to believe that WMI's computers (as well as computers located at other sites) and magnetic or optical media contain some of the items to be searched/seized described above. Your affiant requests permission to seize computer systems and magnetic or optical media found at the scene where those systems and media contain any of those items. Your affiant further requests permission to videotape, wherever possible, the execution of this search warrant relating to the search/seizure of computers and computer media.

Specifically, your affiant seeks permission to employ the following procedure in executing the warrant. Your affiant plans to examine each and every computer at each WMI location. Your affiant will utilize the assistance of the expert designated by this Court. If any computer and/or magnetic media appears to contain items to be searched/seized as described above, your affiant will examine the magnetic media stored within that computer, copy responsive software and data on that media to other storage media, and leave the original media (and computer) behind.

For "loose" magnetic media, meaning that media which is not stored within a computer, but is contained in floppy disks, data cartridges, tapes, or optical media, your affiant will examine that media, and seize it if any part of that media contains items to be searched/seized as described above.

There are three important exceptions to this plan. First, if media is found which cannot be copied or reproduced by equipment readily available to law enforcement in the execution of the warrant, those media and the hardware and software needed to access such media will be seized. Second, any optical disks found on the scene will be seized if such media contains evidence as described within the warrant and affidavit, along with any unit appearing to be capable of reading said disks. Third, if any stand-alone PC's containing such evidence can be readily removed without necessitating the shut-down of or unduly interfering with WMI operations, such PC's will be seized.

Magnetic or optical media is easily erased or destroyed. Leaving magnetic or optical media behind may well result in the loss of that magnetic or optical media as evidence, unless it can be readily reproduced in its original form by law enforcement. Finally, your affiant needs to seize optical media and drives capable of reading same, for the following reasons. Your affiant is aware that optical media holds tremendous quantities of data. To read every file on each disk could take weeks (if they are full; and your affiant will not know if they are full until they are examined). Your affiant is not sure whether equipment capable of reading those disks may be easily obtained. If it can be obtained, your affiant will return the drive itself (not the disks) immediately.

The reason for this procedure is that, although the computer itself and any original magnetic or optical media is the best

evidence available, your affiant is aware of the hardship that might be imposed upon the target company should such hardware and media be seized and removed from the premises (That is not to say that copies of such media could not be used as evidence, but only that it is better to keep originals when possible). It is the goal of this plan to interfere as little as possible with the continuing operation of the target business. Since removal of such equipment could effectively shut down that operation, your affiant believes that it is preferable, wherever reasonable to do so, to remove copies of the storage media and leave the original media and hardware behind.

Using your affiant's procedure, the search of each media would only take as long as necessary to determine if items to be searched/seized were contained on that media. The rest of the media need not be searched to exclude information not encompassed by this affidavit and warrant.

PROCEDURE FOR SEARCH/SEIZURE OF WMI PASSENGER VEHICLES: Before searching any vehicle (other than collection trucks) found on the premises at either WMI location, your affiant will confirm that such vehicle is owned, leased, or registered to WMI or one of its subsidiaries. Such confirmation will be obtained either through the statement of any WMI employee present during the execution of the warrant, or through the use of DMV registration records.

REQUEST THAT WARRANT ISSUE

Based upon the foregoing facts, your affiant prays that a search warrant be issued with respect to the above location for



the seizure of said property, and that the same be held under California Penal Code Section 1536 and disposed of according to law.

ROBERT NALETT, Affiant

Subscribed and sworn to before me  
this \_\_\_\_th day of August, 1991.

JUDGE OF THE SUPERIOR COURT

EXHIBIT A

11	TRUCK	4100	DUMP TRUCK
101	TRUCK	0080	SIDE LOADER
102	TRUCK	0080	SIDE LOADER
103	TRUCK	0080	SIDE LOADER
104	TRUCK	0080	SIDE LOADER
105	TRUCK	0080	SIDE LOADER
106	TRUCK	0080	SIDE LOADER
107	TRUCK	0080	SIDE LOADER
108	TRUCK	0080	SIDE LOADER
109	TRUCK	0080	SIDE LOADER
10P	TRAILER	0040	ROLL-OFF/CAB
110	TRUCK	0080	SIDE LOADER
111	TRUCK	0080	SIDE LOADER
112	TRUCK	0080	SIDE LOADER
113	TRUCK	0080	SIDE LOADER
114	TRUCK	0080	SIDE LOADER
115	TRUCK	0080	SIDE LOADER
116	TRUCK	0080	SIDE LOADER
117	TRUCK	0080	SIDE LOADER
118	TRUCK	0080	SIDE LOADER
119	TRUCK	0080	SIDE LOADER
120	TRUCK	0080	SIDE LOADER
121	TRUCK	0080	SIDE LOADER
122	TRUCK	0080	SIDE LOADER
123	TRUCK	0080	SIDE LOADER
124	TRUCK	0080	SIDE LOADER
125	TRUCK	0080	SIDE LOADER
126	TRUCK	0080	SIDE LOADER
127	TRUCK	0080	SIDE LOADER
128	TRUCK	0080	SIDE LOADER
129	TRUCK	0080	SIDE LOADER
130	TRUCK	0080	SIDE LOADER
131	TRUCK	0080	SIDE LOADER
132	TRUCK	0080	SIDE LOADER
134	TRUCK	0080	SIDE LOADER
135	TRUCK	0080	SIDE LOADER
136	TRUCK	0080	SIDE LOADER
137	TRUCK	0080	SIDE LOADER
138	TRUCK	0080	SIDE LOADER
139	TRUCK	0080	SIDE LOADER
140	TRUCK	0080	SIDE LOADER
141	TRUCK	0080	SIDE LOADER
142	TRUCK	0080	SIDE LOADER
143	TRUCK	0080	SIDE LOADER

144	TRUCK	0080	SIDE LOADER
145	TRUCK	0080	SIDE LOADER
146	TRUCK	0080	SIDE LOADER
147	TRUCK	0080	SIDE LOADER
148	TRUCK	0080	SIDE LOADER
149	TRUCK	0080	SIDE LOADER
150	TRUCK	0080	SIDE LOADER
151	TRUCK	0060	REAREND LOADER
152	TRUCK	0080	SIDE LOADER
153	TRUCK	0080	SIDE LOADER
154	TRUCK	0080	SIDE LOADER
155	TRUCK	0080	SIDE LOADER
156	TRUCK	0080	SIDE LOADER
157	TRUCK	0080	SIDE LOADER
158	TRUCK	0080	SIDE LOADER
159	TRUCK	0080	SIDE LOADER
15P	TRAILER	0040	ROLL-OFF/CAB
160	TRUCK	0080	SIDE LOADER
161	TRUCK	0080	SIDE LOADER
162	TRUCK	0080	SIDE LOADER
163	TRUCK	0080	SIDE LOADER
164	TRUCK	0080	SIDE LOADER
165	TRUCK	0080	SIDE LOADER
166	TRUCK	0080	SIDE LOADER
167	TRUCK	0080	SIDE LOADER
168	TRUCK	0080	SIDE LOADER
169	TRUCK	0080	SIDE LOADER
16P	TRAILER	0040	ROLL-OFF/CAB
170	TRUCK	0080	SIDE LOADER
171	TRUCK	0080	SIDE LOADER
172	TRUCK	0080	SIDE LOADER
173	TRUCK	0080	SIDE LOADER
174	TRUCK	0080	SIDE LOADER
175	TRUCK	0080	SIDE LOADER
176	TRUCK	0080	SIDE LOADER
177	TRUCK	0080	SIDE LOADER
178	TRUCK	0080	SIDE LOADER
179	TRUCK	0080	SIDE LOADER
17P	TRAILER	0040	ROLL-OFF/CAB
180	TRUCK	0080	SIDE LOADER
181	TRUCK	0080	SIDE LOADER
182	TRUCK	0080	SIDE LOADER
183	TRUCK	0080	SIDE LOADER
184	TRUCK	0080	SIDE LOADER

185	TRUCK	0080	SIDE LOADER
186	TRUCK	0080	SIDE LOADER
187	TRUCK	0080	SIDE LOADER
188	TRUCK	0080	SIDE LOADER
189	TRUCK	0080	SIDE LOADER
18P	TRAILER	0040	ROLL-OFF/CAB
190	TRUCK	0080	SIDE LOADER
191	TRUCK	0080	SIDE LOADER
192	TRUCK	0080	SIDE LOADER
193	TRUCK	0080	SIDE LOADER
197	TRUCK	0080	SIDE LOADER
198	TRUCK	0080	SIDE LOADER
200	TRUCK	0090	FRONTEND LOADER
201	TRUCK	0090	FRONTEND LOADER
202	TRUCK	0090	FRONTEND LOADER
203	TRUCK	0090	FRONTEND LOADER
204	TRUCK	0090	FRONTEND LOADER
205	TRUCK	0090	FRONTEND LOADER
206	TRUCK	0090	FRONTEND LOADER
207	TRUCK	0090	FRONTEND LOADER
208	TRUCK	0090	FRONTEND LOADER
209	TRUCK	0090	FRONTEND LOADER
20P	TRAILER	0040	ROLL-OFF/CAB
210	TRUCK	4100	DUMP TRUCK
211	TRUCK	0090	FRONTEND LOADER
212	TRUCK	0090	FRONTEND LOADER
213	TRUCK	0090	FRONTEND LOADER
214	TRUCK	0090	FRONTEND LOADER
215	TRUCK	0090	FRONTEND LOADER
216	TRUCK	0090	FRONTEND LOADER
217	TRUCK	0090	FRONTEND LOADER
218	TRUCK	0090	FRONTEND LOADER
219	TRUCK	0090	FRONTEND LOADER
220	TRUCK	0090	FRONTEND LOADER
221	TRUCK	0090	FRONTEND LOADER
222	TRUCK	0090	FRONTEND LOADER
223	TRUCK	0090	FRONTEND LOADER
224	TRUCK	0090	FRONTEND LOADER
227	TRUCK	0090	FRONTEND LOADER
228	TRUCK	0090	FRONTEND LOADER
229	TRUCK	0090	FRONTEND LOADER
230	TRUCK	0090	FRONTEND LOADER
231	TRUCK	0090	FRONTEND LOADER
232	TRUCK	0090	FRONTEND LOADER

233	TRUCK	0090	FRONTEND LOADER
234	TRUCK	0090	FRONTEND LOADER
235	TRUCK	0090	FRONTEND LOADER
236	TRUCK	0090	FRONTEND LOADER
237	TRUCK	0090	FRONTEND LOADER
238	TRUCK	0090	FRONTEND LOADER
239	TRUCK	0090	FRONTEND LOADER
24P	TRAILER	0040	ROLL-OFF/CAB
25P	TRAILER	0040	ROLL-OFF/CAB
26L	TRAILER	0040	ROLL-OFF/CAB
26P	TRAILER	0040	ROLL-OFF/CAB
272	TRUCK	0090	FRONTEND LOADER
27P	TRAILER	0040	ROLL-OFF/CAB
28P	TRAILER	0040	ROLL-OFF/CAB
29P	TRAILER	0040	ROLL-OFF/CAB
300	TRUCK	0060	REAREND LOADER
301	TRUCK	0060	REAREND LOADER
303	TRUCK	0060	REAREND LOADER
305	TRUCK	0060	REAREND LOADER
306	TRUCK	0060	REAREND LOADER
307	TRUCK	0060	REAREND LOADER
30L	TRAILER	0040	ROLL-OFF/CAB
30P	TRAILER	0040	ROLL-OFF/CAB
32P	TRAILER	0040	ROLL-OFF/CAB
34P	TRAILER	0040	ROLL-OFF/CAB
35P	TRAILER	0040	ROLL-OFF/CAB
400	CAB	0040	ROLL-OFF/CAB
401	CAB	0040	ROLL-OFF/CAB
402	CAB	0040	ROLL-OFF/CAB
403	CAB	0040	ROLL-OFF/CAB
404	CAB	0040	ROLL-OFF/CAB
406	CAB	0040	ROLL-OFF/CAB
407	CAB	0040	ROLL-OFF/CAB
409	CAB	0040	ROLL-OFF/CAB
40L	TRAILER	0040	ROLL-OFF/CAB
40P	TRAILER	0040	ROLL-OFF/CAB
410	CAB	0040	ROLL-OFF/CAB
411	CAB	0040	ROLL-OFF/CAB
412	CAB	0040	ROLL-OFF/CAB
413	CAB	0040	ROLL-OFF/CAB
415	CAB	0040	ROLL-OFF/CAB
418	CAB	0040	ROLL-OFF/CAB
419	CAB	0040	ROLL-OFF/CAB
420	CAB	0040	ROLL-OFF/CAB

421	CAB	0040	ROLL-OFF/CAB
422	CAB	0040	ROLL-OFF/CAB
423	CAB	0040	ROLL-OFF/CAB
424	CAB	0040	ROLL-OFF/CAB
425	CAB	0040	ROLL-OFF/CAB
428	CAB	0040	ROLL-OFF/CAB
45P	TRAILER	0040	ROLL-OFF/CAB
130X	TRUCK	0030	SIDE LOADER
144X	TRUCK	0080	SIDE LOADER
145X	TRUCK	0080	SIDE LOADER
153X	TRUCK	0080	SIDE LOADER
158X	TRUCK	0080	SIDE LOADER
164X	TRUCK	4100	DUMP TRUCK
X202	TRUCK	0080	SIDE LOADER
144XX	TRUCK	0090	FRONTEND LOADER
		0080	SIDE LOADER



Waste Management of Santa Clara County  
715 Comstock Street • Santa Clara, California 95054  
(408)287-9900

EXHIBIT B

June 16, 1986

Mr. Louis Garcia  
Deputy City Manager  
City of San Jose  
801 North 1st Street  
San Jose, California 95110

Dear Mr. Garcia:

As we discussed, Waste Management would like to clarify our concerns related to the use of Newby Island Landfill, the designated disposal site, for all solid waste generated within the City of San Jose.

The designated amount of refuse specified in the collection agreement is defined specifically as garbage and rubbish with no mention of the method by which refuse is transported. Should the amount of refuse disposed of at Newby Island exceed the designated amount, the cost of disposal would be charged at the existing gate rate at whatever disposal facility WMI chooses to utilize. For operational considerations, WMI should be able to utilize Newby Island for all refuse generated in the city and have that refuse considered as part of the designated amount to meet the quota set by the city in our agreement.

If a roll-off customer either garbage or rubbish, is located in close proximity to Newby Island, that customer's refuse should be disposed of there as part of the annual quota. If a commercial route comprised of garbage and/or rubbish located in South San Jose disposes of its refuse at Kirby Canyon or Guadalupe Mines because of the routes close proximity to those landfills, it is not counted as part of quota. The refuse so disposed of at an alternative site is allowing quota capacity to be available at the designated site for refuse collected nearby. A significant reduction in travel time is realized as a result. Otherwise, the route in South San Jose would have to drive north to Newby Island for disposal to be counted as part of the quota while the roll-off customer in North San Jose would be transported south to be disposed of at an alternative site if it was not considered part of the quota.

WMI pays the city for the designated amount whether it is fully utilized or not, so it is in WMI's interest to fulfill the quota. As stated earlier if the designated amount is exceeded WMI would pay the existing gate rate for disposal at whatever facility we choose. The volume levels of refuse transported to the designated disposal site are routed to maintain a 12 month volume that should coincide with the annual quota. The alternative sites would be utilized throughout the year on a scheduled basis so that the designated amount at Newby Island is achieved but not exceeded.



June 16, 1986  
Mr. Louis Garcia  
Page 2

The elimination of refuse transported by roll-off trucks from the designated amount would artificially create inefficiencies not anticipated by WMI in our bid proposal which was formulated from discussions that took place during the pre-bid conferences. It is our position that the language in both the collection and disposal agreements clearly does not differentiate between garbage and rubbish in defining the designated amount for the disposal site. Therefore, all solid waste generated in the City of San Jose should be weighed and disposed of at Newby Island Landfill until the annual designated amount is attained.

Please contact me to discuss this further at your convenience.

Sincerely,

WASTE MANAGEMENT, INC.

A handwritten signature in cursive script, appearing to read "William A. Harbert".

William A. Harbert  
General Manager

WAH:11b

cc: Chuck Wilhelm  
Cary Brian Lfss  
John Slocum



SUPERIOR COURT OF CALIFORNIA  
SANTA CLARA COUNTY JUDICIAL DISTRICT

SEARCH WARRANT

THE PEOPLE OF THE STATE OF CALIFORNIA

To any Sheriff, Constable, Marshal, Policeman or Peace Officer in the County of Santa Clara:

Proof, by affidavit, has been made before me this day by ROBERT NALETT, SAN JOSE POLICE DEPARTMENT, that there is probable cause for believing that evidence of the commission of felonies, and property used in the commission of said felonies, to wit: violations of California Penal Code Section 484-487.1, more particularly described below, will be located on the premises described below,

YOU ARE THEREFORE COMMANDED TO SEARCH:

LOCATION NUMBER ONE:

the premises at 715 Comstock Street, Santa Clara, near the intersection of Comstock and Lafayette, the building is a two story brown and beige commercial building with a flat top roof; the numbers 715 appear above the front door in black on a white background; there is a gate marked "employees only" in front of the property; there is a wooden sign reading "Waste Management of Santa Clara County" in front of the building; to the west of that sign is another sign with the number "715" stenciled in; to the rear are a number of commercial WMI trucks visible through the chain link fence and gate.

LOCATION NUMBER TWO:

the premises at 1760 South Tenth Street, near the intersection of North Tenth and Phelan streets, San Jose, a grey building with burgundy trim; the building is connected to a larger aluminum building surrounded by a cyclone fence with wooden slats and barbed wire; to the north of the front gate is a burgundy sign with the numbers "1760" in white; above that sign is another sign which has the Waste Management logo and the name "Waste Management" along with the phone number "980-9900"; WMI garbage trucks can be seen in the parking lot behind the cyclone fence.

For all premises listed above, the premises to be searched also include any and all yards, outbuildings, storage areas, garages, carports, sheds, trash or recycling containers, or mailboxes assigned to the described premises, including but not limited to those listed above.

VEHICLES TO BE SEARCHED:

**COLLECTION VEHICLES:** residential and commercial garbage trucks believed to be at or near 1760 South Tenth Street, San Jose and 715 Comstock, Santa Clara, burgundy and white in color, bearing the name "Waste Management" and bearing identification numbers appearing on Exhibit A of the affidavit in support of search warrant; and any of said vehicles which may return to said locations during the execution of the search warrant.

**PASSENGER VEHICLES:** passenger trucks and cars located on the premises at 1760 South Tenth Street, San Jose and 715 Comstock, Santa Clara, whether leased, owned, or registered to WMI or its subsidiary companies; and any such vehicles which may come onto said premises during the execution of the search warrant.

FOR THE FOLLOWING PROPERTY:

1. Documents reflecting the names, addresses and positions held of any WMI management or supervisory employees, or employees having responsibility for (a) the assignment of truck routes, (b) designation of disposal sites for collected waste, (c) provision of information to City of San Jose or BFI/IDC regarding waste collected and deposited under the WMI - City of San Jose contract and (d) employee training or development of policies regarding such areas of responsibility, during the period between 9/4/85 and the date of execution of this search warrant .
2. Organizational and management charts, job descriptions, policies and procedures manuals for management and other personnel within WMI in existence during the period from 9/4/85 through the date of execution of this search warrant.
3. Records of all dispatch orders, memoranda, letters, notices, route instructions, and any communication, however recorded, directing any driver of San Jose Franchise Trucks to dispose of waste at the Newby Island facility following collection of waste from outside the

City of San Jose collection area during the period from 9/4/85 through the date of execution of this search warrant.

4. Records of all dispatch orders, memoranda, letters, notices, route instructions, and any communication, however recorded, directing any driver of San Jose Franchise Trucks to dispose of waste at the Kirby Canyon facility following collection of waste from the City of San Jose collection area during the period from 9/4/85 through the date of execution of this search warrant.
5. Route sheets for all San Jose Franchise Trucks for the period from 9/4/85 through the date of execution of this search warrant.
6. Scale tags, weight sheets, receipts, bills, invoices, collection forms, audit summaries, accounting summaries, reports, analyses, comparisons, and any other recorded information reflecting the individual or collective loads deposited at the Newby Island site by any WMI trucks during the period from 9/4/85 through the date of execution of this search warrant.
7. All bid forms, computations, projection sheets, calculations, estimations, and any media reflecting anticipated waste amounts from both City of San Jose franchise and non-franchise customers.
8. Daytimers, calendars, or diaries appearing to belong to any of the persons identified as WMI employees which contain entries which reflect in any way upon the WMI / City of San Jose Contract, meetings with City of San Jose Personnel regarding said contract or contract negotiations, plans, notations, calculations relating to said contract.
9. Computer hardware, software, and data including, but not limited to, central processing units (CPUs), hard disks, hard disk drives, floppy disk drives, tape drives, optical/CD-ROM disks or cartridges, optical/CD-ROM drives, servers, workstations, display screens, keyboards, printers, modems, peripherals, magnetic tapes, cassette tapes, and floppy disks, found together or separately from one another.
10. Written documentation, whether typed or handwritten, including, but not limited to, computer manuals and instructions for the use of any computers, software, and computer accessories/peripherals found at the premises, handwritten or other notes or printed materials describing the operation of the computer and confidential

password and filename lists and access instructions to enter secured files and all media describing, explaining, discussing, and/or documenting the function, operation, or execution of any of the software including documentation, manuals, flow charts, comment statements, help files, and computer printouts and the means by which such information may be accessed during the execution of the search warrant.

11. Letters, notes, memoranda and any media referring, reflecting, or relating to the actual amounts of waste deposited under the City of San Jose contract by WMI at Newby Island and other facilities.
12. Letters, notes, memoranda and any media referring, reflecting, or relating to the value of the allocated City of San Jose space utilized by WMI at Newby Island for non-franchise waste.
13. Letters, notes, memoranda and any media referring, reflecting, or relating to the designated routes of WMI trucks purportedly used exclusively for hauling waste under the WMI-City of San Jose contract.
14. Letters, notes, memoranda and any media referring, reflecting, or relating to communications between WMI and City of San Jose regarding the disposal of franchise and/or non-franchise waste at Newby Island under the contracts between WMI and City of San Jose and City of San Jose and BFI/IDC.
15. Letters, notes, memoranda and any media referring, reflecting, or relating to communications between WMI and BFI / IDC regarding the disposal of franchise and/or non-franchise waste at Newby Island under the contracts between WMI and City of San Jose and City of San Jose and BFI/IDC.
16. Customer lists and records reflecting amounts of waste collected and/or charged to non-franchise accounts but deposited at Newby Island under the WMI-City of San Jose account; including but not limited to Moffett Field, City of Santa Clara, City of Mountain View, and any other accounts appearing on the route sheets of franchise trucks.
17. Evidence of occupancy and control of said premises, including but not limited to, utility company bills, canceled mail envelopes, personal identification papers, photographs, rent receipts, and keys.

For all premises listed above, the premises to be searched

**ATTACHMENT H**

**San Diego Union-Tribune article:**

**Lost amid county's garbage is a likely solution: Privatization**

# Lost amid county's garbage is a likely solution: privatization

By LYNN SCARLETT

San Diego County, like local governments nationwide, faces two critical garbage problems: what to do with the stuff and how to keep disposal costs down. The county is anguishing over the first problem, reviewing numerous sites for expanding disposal capacity. By contrast, San Diego County's Board of Supervisors has short-changed taxpayers in its deliberations over privatization as a possible way to keep down solid waste management costs.

In December, the supervisors voted against allowing private ownership of landfills. The decision was premature. Even a cursory look at the county's "Privatization Report" indicates that it provides an inadequate assessment of privatization.

Consider the issue of costs. The county's report asserts that public ownership of disposal facilities would save \$256 million over a 10-year period compared with private ownership. The cost advantage attributed in the report to public ownership results from two items: alleged higher private-sector interest rates and private-sector profits.

Authors of the study estimated private-sector costs by assuming a 9 percent interest rate, while using a 7 percent rate for a public facility. To total private-sector costs, the authors then added expected private-sector profits to come up with figures showing private ownership adding 25 percent to county ratepayers' annual landfill costs. The conclusion is based on incomplete analysis and faulty assumptions. Assuming a higher interest rate for the private sector may not be justified. Moreover, the critical issue is not merely the interest rate, but the overall cost of capital. At least one study of private financing of infrastructure concludes that cost of capital may be less for the private sector.

The most egregious omission in the report's cost analysis, however, is its failure to deduct from private-sector costs the taxes — property and corporate — that would be paid on the

SCARLETT, vice president of research at the Los Angeles-based Reason Foundation, oversees the foundation's research of privatization issues.



File photo

**Dwindling resource: Miramar landfill, like other disposal sites in San Diego County, is filling up fast. One potential replacement solution has gotten short shrift from county supervisors.**

project. Privatization analyst E.S. Savas of City University, New York, notes that private-sector costs typically should be adjusted downward by 15-20 percent, the amount the private sector rebates to the public through taxes paid into public coffers.

At least two other flaws mar the cost analysis. First, authors of the report appear to have averaged cost data from a number of privately owned landfills to come out with cost estimates for the proposed private project at Gregory Canyon. Since costs vary significantly by landfill size, volume of waste handled, location, and technologies used, the averaging approach is inappropriate for determining costs of a specific operation.

Second, the report fails to describe current county budgeting practices for its solid-waste facilities. Though the county operates its facilities through an enterprise fund, revenues and expenditures of the fund may not necessarily account for all of the county's solid-waste management costs.

Studies by Savas and others comparing public and private-sector costs for municipal services find public-sector costs typically understated by more than 20 percent. The understatement results from a number of government accounting practices.

For waste disposal service, these include, for example, a failure to allocate to landfill operations (1) costs for vehicle maintenance, (2) overhead costs of city executives, legal, and other agency staff, and (3) costs of liability claims paid as a result of accidents or problems at the disposal facility.

Understated costs also can result from the underfunding of public employee pension funds. The county's report offers outside analysts no way of assessing whether public-sector costs might have been underreported.

Even less adequate is the report's discussion of environmental regulations and public control. The report asserts, "Public ownership enables the county to manage waste facilities at levels beyond the minimum set by law." The implication is that this is not true of

private operations. No evidence for this conclusion is offered, perhaps because the assertion contradicts available empirical information.

A 1989 survey by the National Solid Wastes Management Association found that more than 60 percent of privately owned landfills had groundwater monitoring equipment, contrasted to less than 40 percent of county-owned facilities nationwide. Nearly one-third of private facilities had gas monitoring equipment, contrasted to only 16 percent of county landfills. The report notes that "private operators have been far more willing than their public-sector counterparts to install liners, leachate collection systems and groundwater monitoring equipment."

While private-sector landfill operators must meet environmental regulations or face steep fines and even closure, the same has not always been true of the public sector. Long-term underinvestment in maintenance and environmental mitigation equipment has characterized many public-sector facilities.

Studies of other public-sector

services confirm the tendency toward underinvestment in maintenance — a key to long-term project and equipment viability.

The term "privatization" is misleading, since what really results is a public-private partnership in which the private sector offers management, and sometimes financing and ownership of solid-waste facilities but does so under strict scrutiny and regulatory control of local governments. As a policy tool, privatization can be tailored to suit county needs.

For the final issue raised by the report — risk for any liabilities — neither public nor private ownership escapes these risks. To the extent that all landfill operations could be subject to future liabilities, facility owners must carry insurance or set aside contingency funds for unanticipated future problems. If the public sector fails to do so — and does not charge users accordingly — it is not eliminating the costs of insuring against risk, but is simply deferring those costs.

Private ownership may even offer an advantage with respect to risk concerns. Private owners of numerous facilities can spread the cost of risks over those facilities. Indeed, Waste Management Inc. did just that when it created a multi-million dollar contingency fund to cover, at any of its 125 landfills, potential clean-up or new investment costs associated with passage of new landfill regulations in the 1980s.

San Diego's supervisors took the right step when they opted to study the issue of privatization. However, the product of that decision — the county's "Privatization Report" — does not provide the analysis necessary to making an informed decision.

The public deserves a more thorough analysis of privatization than county supervisors have given. And the public needs to understand that approval of privatization as a potential policy tool does not imply acceptance of a specific site. Actual site approval can only follow full consideration of environmental and other impacts.

The not-in-my-backyard syndrome that has neighbors of Gregory Canyon now opposing privatization should be understood for what it really is: opposition to the site, not an informed reflection on the merits of privatization.

UNION TRIB 2/9/92

**ATTACHMENT I**

**Waste Management, Inc., memorandum by Rick Daniels**

WASTE MANAGEMENT OF NORTH AMERICA, INC.  
WESTERN REGION OFFICE  
MEMORANDUM

TO: Tom Blackman  
Tom Collins  
David Ross  
Alan Walsh

FROM: Rick Daniels *Rick*

SUBJECT: *Privatization Study*

DATE: November 2, 1990

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In 1989, the Los Angeles County Taxpayers Association commissioned the Reason Foundation to analyze Los Angeles City and Los Angeles County budgets to identify cost savings through operational and policy changes in lieu of tax increases as a way to improve government service delivery at a lower cost.

Of particular note is their chapter on Solid Waste Collection and Disposal. By comparing Los Angeles City which uses public employees and equipment to Los Angeles County which is served by private enterprise they concluded that the City could save \$12 - 17 million/year through privatization.

In San Diego County the City collects all single family residential waste and owns and operates the only disposal site. The County owns all of the disposal sites. Our proposal to develop and operate the Gregory Canyon Landfill and Recycling Center has been met with hostility from County Staff and with initial confusion from Supervisors and the public. The City elected officials expressed interest, and when faced with expansion of the City's curbside recycling program, opted to solicit proposals from private vendors. Waste Management of San Diego was ultimately selected to serve 40,000 of the 80,000 homes to be served. City staff remains skeptical, threatened and less than fully cooperative.



Privatization is a major public policy issue throughout the state which needs public discussion. Waste Management will not be successful in that discussion if it is the only source of information or advocate. Public validation of our position will only occur if confirmation occurs through other objective parties.

I approached the Reason Foundation about conducting such a study in San Diego County. Through discussion we concluded that the necessary objectivity could only occur through sponsorship by a public interest party such as the Chamber of Commerce or the San Diego County Tax Payers Association. Both were approached and the SDTA expressed interest.

They proposed that we make a \$40,000 contribution to the SDTA foundation who in turn would conduct the study.

I recommend that we proceed with this project. This issue, if handled right, could open 400,000 home curbside recycling, 400,000 home residential trash collection, and development of disposal capacity for over 3 million tons /yr.

Let me know your thoughts.

RD53:vr

cc: Gaye

**ATTACHMENT J**

**Letter and Proposal by Lynn Scarlett of the Reason Foundation**

RECEIVED OCT 26 1990



22 October, 1990

Gaye Soroka  
c/o Waste Management, Inc.  
8353 Miramar Place  
San Diego, CA 92121

Dear Ms. Soroka:

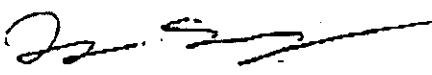
As we discussed, I have enclosed a proposal for examining the prospects of privatizing solid waste collection and disposal in the City and County of San Diego. We would like to request that Waste Management, Inc. contribute \$34,678 to underwrite this research, report, and public information project.

By tailoring the enclosed proposal to focus only on solid waste management issues, we will be able to speed up the time frame for completing the project, with estimations that the preliminary report could be available in early February, provided that we get the research underway by mid-November. It is our understanding that the Reason Foundation will release the report to the public.

I am also enclosing a draft of a paper I am preparing for the Heritage Foundation and the National Chamber Foundation. You may find the recommendations for privatizing solid waste collection and landfill operations of some interest. Note that this paper is incomplete, with the summary and footnotes not yet incorporated into the paper. It should not be cited without prior permission from me.

I look forward to hearing from you about this project. Please let me know if you need any additional information.

Sincerely,

  
Lynn Scarlett  
Vice President, Research

## I. Introduction

The City and County of San Diego are facing serious budget shortfalls. Constraints on federal and state budgets mean that increased assistance from higher levels of government is unlikely. The City and County must find innovative ways of providing high-quality municipal and county services that reduce costs to taxpayers. City and County officials have not fully explored the savings that might be generated through privatization and contracting out of public services.

The Reason Foundation proposes to look at the concept of privatization as it relates specifically to solid waste management, including both collection services and landfill disposal options. This proposal proposes to analyze potential realizable cost savings, environmental concerns, public-versus private-service quality concerns, and provides for a public relations component to help disseminate project results.

### A. Project Background

During budget projections in Spring 1990, the City and County of San Diego faced budget shortfalls estimated to be as high as \$60 million in both jurisdictions. Some local officials attributed a portion of these shortfalls to special circumstances, including increased water treatment requirements and new state mandated programs. However, many of the conditions that led to the budget shortfalls still exist. Yet opportunities for budget savings through privatization may have not been fully explored.

In particular, such opportunities may exist in the area of solid waste management. Are San Diego residents in the City and County receiving services at the lowest cost? Are local officials aware of all the advances (and successes) of privatization and other forms of alternative service delivery across the nation? Are the City and County making optimal use of private-sector alternatives for the most-efficient program of waste disposal/management, including recycling and other forms of resource recovery? Does the current ordinance prohibiting the contracting out of solid waste collection offer San Diego residents the best opportunities for receiving high-quality, cost-effective solid waste collection service?

Existing evidence suggests that privatization could yield substantial benefits. A 1984 study edited by Barbara Stevens showed, for

example, that contracting out of refuse collection could yield savings of 28 to 42 percent. Of the ten lowest-cost cities reviewed in the study, eight were cities in which service was contracted out. In the same study, the authors found that, *"the average quality of service provided by contractors and municipal agencies is almost identical."*

An earlier 1975 study directed by E.S. Savas and prepared for the National Science Foundation looked at municipal refuse collection in over 2,000 U.S. cities. That study found that private refuse collection was *29 percent less costly* than municipal collection services.

That contracting out can be a cost-effective means of providing for solid waste collection is increasingly acknowledged among city officials. By 1985 some 35 percent of local governments contracted with private companies for residential garbage collection. Between 1982 and 1988 contracting increased by 4.5 percent annually. Of those cities that contract for services, some 75 percent report cost savings.

A study comparing the relative costs and quality of service of public and private-sector provision of solid waste collection and disposal could provide the necessary background for San Diego officials to carefully examine the privatization option. In reviewing options for budget cuts, city officials have already proposed that a look at the cost-effectiveness of private waste collection is warranted.

Similarly, recent discussions regarding landfill disposal sites offer an important opportunity to explore the private option. Existing data on public and private landfill costs is scant. However, a recent survey of California landfills shows that of 360 active landfills in the state, 140 are private, with the remainder being public facilities. Thus, there are ample opportunities for comparison.

## **B. Project Objectives and Scope**

The Reason Foundation proposes to examine the feasibility of privatization of solid waste collection and disposal services in the City and County of San Diego. In this context, a key concern will be the expected costs of private services compared to those now associated with public sector service delivery. In addition, a key concern will be quality of service, including a comparison of the

prospects for the private sector versus the public sector to address environmental concerns.

On the basis of the information gathered, the Reason Foundation will describe budget implications and implementation issues related to introducing privatization of solid waste management activities.

The information gathering and research analysis will involve four parts:

1. General review of existing studies comparing public and private-sector solid waste management services.
2. Detailed analysis of City and County of San Diego solid waste management service costs, including landfilling and collection.
3. Comparison of San Diego data from public-sector service provision with data on selected, matched services provided by the private sector in other locales.
4. Examination of implementation issues in order to make privatization a feasible policy option.

## II. Project Approach

### A. General Review

The Reason Foundation has substantial data on privatization of solid waste collection services. The Foundation will undertake a review of this data and prepare a summary of our findings as they relate to refuse collection and disposal in San Diego. An important part of this analysis will be to look not only at collection costs but also collection and disposal fees to assess the degree to which such fees cover full service costs.

In addition, the Foundation will collect and analyze general information on public and private landfill operations. To this end, we will use the recently compiled Solid Waste Information Systems list now available through the State of California. We will also draw

upon available data from the National Solid Waste Management Association. From this information we will select several private landfills from which to gather more extensive cost and operating data.

## **B. Detailed City/County Analysis**

This portion of the project will involve three components. The first task will be to become familiar with current solid waste operations in San Diego City and County. This will include service area considerations, collection route information, operational and planning responsibilities, reporting relationships, and key contact individuals.

The second task will be to obtain historical and budgetary information for both San Diego and the selected private landfills used as comparisons. For the City and County of San Diego, this will include data collection from multiple departments, including, for example, Public Works, General Services, Fleet Services/Maintenance, Risk Management, Finance, and so on. For the private sector, it will involve obtaining information about operating and maintenance costs, post-closure costs, and so on.

The third task will be to compile and process the information gathered and obtain any additional information required.

## **C. Public/Private Comparisons**

This portion of the project will involve taking the information gathered from the General Analysis and the Detailed City/County Analysis, developing a systemic comparison of that analysis, and compiling a summary report of our findings regarding both collection and disposal services and operations.

## **D. Implementation Issues**

The final component of the project will be to analyze the policy implementation implications of the research. This analysis includes an examination of the following:

- What is the potential for cost savings for the City and the County from privatization of a) refuse collection and b) refuse disposal?
- What contract design mechanisms would facilitate the introduction of cost-effective and high-quality solid waste service provision by the private sector?
- What legal or other barriers currently exist that could forestall the introduction of private-sector service provision?
- What implementation tools would be necessary to develop a politically feasible privatization strategy that would address concerns of, for example, existing public employees?

### III. Public Affairs/Educational Program

Once the analysis and implementation issues are prepared and presented in the final report, the Reason Foundation will use the results of the report to build public support for the implementation proposals. This will include developing contacts with the media and with relevant public and private officials. It will also involve preparation of opinion editorials for the local media where appropriate. Finally, the Foundation will give presentations at relevant public forums.

### IV. Schedule and Budget

The Reason Foundation proposes to complete all portions of this project within 12 weeks of commencing. Our estimate is based on the following outline, and is based on hours worked by our consultants plus expenses to cover the cost of clerical assistance, reproduction, telephone, travel and the like. This outline presents the number of hours we estimate will be devoted to each portion of the project:

- A. General Analysis: 80 hours
- B. Detailed City/County Analysis: 150 hours
- C. Public/Private Comparisons: 60 hours



D. Implementation Issues and Report Preparation: 60 hours

E. Public Affairs/Educational Program: 40 hours\*

\* *Note that the time allocated for the public affairs program does not include any time spent giving testimony or presentations.*

The total budget for the project is \$34,678 (see Table 1 for Budget Itemization), and relates to tasks A through E as specified above. This plan provides for data acquisition, compilation, and analysis, and goes further by both discussing relevant implementation issues and providing for the necessary public affairs/public education component.

**Table 1**  
**Budget Itemization**

Personnel	
Research Director (60 hrs. @ \$100)	\$ 6,000
Research Assistant (175 hrs. @ \$35)	6,125
Research Consultant (115 hours @ \$70)	8,050
Public Affairs Director (40 hours @ \$50)	2,000
Report Editing & Printing (500 copies)	2,000
Report Mailing	400
News Releases and Op-Eds	100
Travel	1,500
Miscellaneous	500
Subtotal	\$ 26,675
Administration & Overhead (@ 30%)	\$ 8,003
Total	<u>\$ 34,678</u>

## V. Project Team

We believe that the Reason Foundation brings two distinct advantages to you in performing this project. Our understanding and knowledge have been demonstrated by our prior involvement in similar research. Second, our depth of resources and proven capabilities will provide you with an

experienced team, with abilities carefully matched to meet the requirements of this project.

### A. Organization & Management

Outstanding skills and experience are not enough to assure you a successful effort. The project team must be able to work effectively both within itself and with you. We have the advantage of a team that has worked together on similar projects, with the degree of flexibility and level of professionalism required for this project.

The Project Director responsible for this project is Lynn Scarlett. Ms. Scarlett is Vice President for the Reason Foundation, and has 10 years of experience with the type of privatization issues relevant to this project. She directed the Foundation's Federal Privatization Project from 1985-1988. She also is currently directing our Urban Issues Project, where she has a particular expertise in solid waste management issues. Lynn will be responsible for general oversight of the entire project, as well as coordinating production of the final report and public relations materials. In addition, she will directly supervise research personnel assigned to the project.

The financial component of the project will be supervised by Bryan Snyder. Mr. Snyder is Senior Vice President for the Reason Foundation. Prior to joining Reason, he was a Senior Consultant for Ernst & Young where he conducted many public sector financial engagements and strategic analyses. Bryan will coordinate and supervise the activities of field personnel responsible for financial data collection and preliminary analysis.

### B. Management Resumes

The Reason Foundation has established detailed project control and reporting procedures. The approach of our key management staff will ensure both adequate supervision of support personnel and provide you with periodic project status reports. Following are detailed resumes of the key managers who will conduct this project.

## VI. The Reason Foundation

During the 12 years since its inception, the Reason Foundation has built its reputation as a major source of information and ideas on private-sector solutions to public policy problems. The Foundation has played a key role in putting the term "privatization" into this nation's political vocabulary. Reason Foundation President Robert W. Poole, Jr. was the first individual to coin the word "privatization" when he used it in his pathbreaking book, *Cutting Back City Hall*. Since that time the Reason Foundation's work on privatization has influenced state and local governments across the country. In addition, the United States government, as well as governments in Great Britain, France, and elsewhere have drawn from the Reason Foundation's analysis on privatization.

The Foundation has been a key player in applying market-economic analysis to urban transit problems. The Foundation's proposal for utilizing electronic road pricing and private infrastructure development for some of California's highways has put the Foundation at the cutting edge of policy initiatives now under consideration or already implemented by California state and local officials. The California bill AB680, calling for the private sector to construct four tollways in California, emerged largely as a result of Reason Foundation analysis of how to meet California's infrastructure needs.

As a nonprofit, tax-exempt 501(c)(3) organization, the Foundation's principal activities are research and education. The latter is carried out by means of two public outreach efforts: *REASON Magazine* and a seminar program in Los Angeles, *Reason Forum*. The Foundation's ongoing research activities include work on privatization of state and local public services; a Federal Privatization Project, through which the Foundation commissioned a series of issue papers on privatization at the federal government level; a National Infrastructure project, and an ongoing Urban Issues project. In addition, the Foundation conducts conferences on a variety of theoretical and public policy topics.

**ATTACHMENT K**

**San Diego Tribune article dated November 30, 1990**

**"Company may fund waste-service study"**

# Company may fund waste-services study

By Mark Arner  
Tribune Staff Writer

In an effort to boost its chances to build and operate a landfill in North County, a trash-disposal company is considering donating \$40,000 to the San Diego Taxpayers Association for a study about the "privatization" of public-waste services.

Rick Daniels, an executive from Waste Management Inc., said this week that he is confident such a study would conclude that private industry in general can manage the public's trash more cheaply and efficiently than the county Department of Public Works.

Waste Management's tentative offer of \$40,000 to the San Diego Taxpayers Educational Foundation was revealed to the San Diego Tribune by an anonymous source who mailed an interoffice memorandum that Daniels wrote several weeks ago to four

other Waste Management executives.

While such a donation and resulting study would be legal, the offer is significant because it comes at a time when the county Board of Supervisors is wrestling with the politically hot topic of picking from one to three new landfills to serve the growing population of North County. The board is scheduled to resume deliberations on the issue Tuesday.

In addition, the Board of Supervisors on Nov. 21 asked District Attorney Edwin Miller to investigate Waste Management, which has proposed to build and operate a 280-acre landfill on land that it owns in Gregory Canyon near Pala.

The probe was requested because supervisors had heard allegations from environmental activists that Waste Management had been in-

Please see WASTE: B-10, Col. 1

Friday, November 30, 1990

## NEWS

mented on the memo after learning about it from the Tribune.

"The only thing that worries me is that the SDTA would only look at the money-saving aspect of comparisons, but may know nothing about the environmental danger that Waste Management would pose to our water supplies by placing a dump at Gregory Canyon," Harber said.

When contacted for his reaction, Daniels said that so far his superiors at Waste Management had not authorized the \$40,000 donation to the SDTA foundation. He said he had discussed it with Ray Blair, a political consultant for the taxpayers association. He stressed, however, that Blair had insisted that the foundation would have full control of selecting a consultant to do the study.

Blair, who also is a former San Diego city manager, could not be reached for comment. However, Blair's receptionist confirmed that he had met with Daniels to discuss a proposed donation.

Barry Newman, president of the San Diego Taxpayers Association Educational Foundation, said he would support accepting a donation from Waste Management to fund a study about privatization of waste

services in the county.

He stressed that his foundation was a separate corporation from the SDTA and that it was created solely to "provide a resource for objective study."

Newman said his group would be very interested in doing the study because privatization is a relevant issue.

"I want it clearly understood," Newman added, "that we would not do it if the condition was that (the study) have a preset conclusion. The one thing we have is our credibility. The second that people think that our credibility can be purchased, we've lost our major asset."

Neither the county's public works director, Granville "Bo" Bowman, nor the head of its solid-waste division, Bill Worrell, could be reached for comment on the Waste Management memo.

However, County Chief Administrative Officer Norman Hickey said in a recent interview that he was leery about giving any trash-disposal company the right to own and operate a public landfill.

"It always causes me pause, when looking at such operations and proposals in the long term, because

there's no regulating agency, and they (private companies) really become a very controlling influence over your waste stream, its standards and its future rate increases," Hickey said.

## WASTE

Continued From B-1

involved in organized crime. Representatives of Greenpeace, for example, recently released a scathing report outlining what it characterized as Waste Management's "crimes and environmental misdeeds" during the past decade.

Waste Management officials have acknowledged that they have had "problems" in numerous states since 1980, but contend that the Greenpeace report was "deliberately distorted" to malign the company and was not research but "naked propaganda."

Waste Management has agreed to cooperate with the district attorney's investigation and to pay its cost.

Beyond the intense community opposition that has been raised at a series of hearings this year against Gregory Canyon and the two county-backed landfill sites, Waste Management also has backed opposition from county public works officials to a fundamental part of its proposal. County officials have steadfastly opposed private ownership of landfills.

In Daniels' Nov. 2 memo, which he has confirmed is authentic, he was candid about the fight his company faces as it seeks to open the Gregory Canyon landfill, which is south of state Route 76 and about three miles east of Interstate 15.

He wrote that the company proposal for Gregory Canyon has been met with hostility from county staff and with some confusion from county supervisors and the public.

"Privatization is a major public policy issue throughout the state which needs public discussion," Daniels wrote in the memo. "Waste Management will not be successful in that discussion if it is the only source of information or advocate. Public validation of our position will only occur if confirmation occurs through other objective parties."

Daniels wrote that he initially approached the Reason Foundation of Santa Monica about conducting such a study, and decided during a discussion with its staff that "the necessary objectivity" could only occur if the study were sponsored by a "public interest party" such as the Chamber of Commerce or the San Diego County Taxpayers Association.

"Both were approached," he wrote, "and the SDTA expressed interest. They proposed that we make a \$40,000 contribution to the SDTA foundation who in turn would conduct the study."

The Reason Foundation, according to one of its brochures, has completed many studies concluding that huge amounts of money could be saved if private companies were allowed to take over many services provided by the government.

On Oct. 22, Reason Foundation executive Lynn Scarlett submitted a proposal to Waste Management to conduct a study about privatizing solid-waste collection and disposal in the city and county of San Diego. Scarlett wrote that the study could be completed over a three-month period in return for a contribution of \$34,678 to her organization.

The Reason Foundation describes itself as a "major source of information and ideas on private-sector solutions to public policy problems."

An opponent of the Gregory Canyon landfill — Ruth Harber of nearby Valley Center — said she was skeptical about any study that might emerge from the arrangement described in Daniels' memo. She con-

**Addendum to Final Report**

**WASTE MANAGEMENT,  
INC.**



**Edwin L. Miller, Jr.  
District Attorney**

**July 1992**

**ADDENDUM TO FINAL REPORT**

**WASTE MANAGEMENT, INC.**

**TABLE OF CONTENTS**

**ANTI-TRUST AND UNFAIR BUSINESS PRACTICES**

**People v. Waste Management of California, et al.**

**ATTACHMENTS**

- A. Santa Clara County Grand Jury Indictment
- B. District Attorney News Release and Memorandum to City Council
- C. Waste Management of Santa Clara Press Release and related news articles.

## **ANTI-TRUST AND UNFAIR BUSINESS PRACTICES**

In March 1992, the District Attorney issued a final report on the activities of Waste Management, Inc. Under section VII we reported that in September 1991, an investigation by the San Jose Police Department resulted in the execution of a search warrant upon the offices of Waste Management of Santa Clara County (a subsidiary of Waste Management, Inc.). The investigation revealed that Waste Management trucks were making collections outside the contract area for the City of San Jose, but were dumping the trash collected at the Newby Island landfill site claiming that it was collected within the franchise area. The City of San Jose's contract with BFI Inc., operator of the landfill, provided a rate nearly half of the regular "gate rate" for non-franchise area trash haulers. Thus, Waste Management of Santa Clara County was paying only half what it should have been for dump fees, while at the same time using up volume allocations reserved for the City of San Jose under its contract. [A copy of the affidavit for the search warrant is included as Attachment G of the final report.]

In June 1992, the District Attorney for Santa Clara County presented evidence related to the activities described in the affidavit to the Grand Jury. After receiving the testimony of 83 witnesses and reviewing numerous items of documentary evidence the Grand Jury issued a sealed indictment. On July 15, 1992, an arraignment was held in the Superior Court for the County of Santa Clara. The indictment charged Waste Management of California, Inc., Waste Management of Santa Clara, and five employees of the company with the crime of grand theft. [A copy of the indictment is included as Attachment A of this addendum.]



The estimated value of the landfill space fraudulently taken by the actions of the defendants has been estimated to be in excess of \$750,000. [A copy of the news release by the District Attorney for Santa Clara County and a memorandum to the City Council are included as Attachment B of this addendum.]

Officials of Waste Management of Santa Clara claimed that the facts leading to the indictment were merely the result of a "contract dispute" and characterized the decision to seek the indictment as a "miscarriage of justice". [A copy of the company's press release and related news articles are included as Attachment C of this addendum.]

**ATTACHMENT A**

1 GEORGE W. KENNEDY, DISTRICT ATTORNEY  
2 Linda Condron, Deputy District Attorney  
3 70 West Hedding Street, Fifth Floor  
4 San Jose, CA 95110  
5 Telephone (408) 299-7400

6 Attorneys for the People

**FILED**

JUN 30 1992

GRACE K. YAMAKAWA  
CLERK OF COURT  
SANTA CLARA COUNTY  
DEPUTY

7  
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 IN AND FOR THE COUNTY OF SANTA CLARA

10 PEOPLE OF THE STATE OF CALIFORNIA, )  
11 ) Plaintiff, ) CASE NO. 155966  
12 vs. )  
13 WASTE MANAGEMENT OF CALIFORNIA, ) INDICTMENT  
14 INC., WASTE MANAGEMENT OF SANTA )  
15 CLARA, WILLIAM ROSE, WILLIAM )  
16 BURROWS, MARSHALL MORAN, WILLIAM )  
HARBERT, GINO SCOPESE, JIM REID, )  
LAWRENCE GALEK and JOHN SLOCUM, )  
Defendants.

17  
18 COUNT ONE  
19 (PENAL CODE §484-487.1)  
(Theft of Landfill Space and Money)

20 The Grand Jury of the County of Santa Clara, State of  
21 California, hereby accuses WASTE MANAGEMENT OF CALIFORNIA, INC.,  
22 WASTE MANAGEMENT OF SANTA CLARA, WILLIAM BURROWS, WILLIAM  
23 HARBERT, GINO SCOPESE, LAWRENCE GALEK AND JOHN SLOCUM of a  
24 felony, to wit: a violation of Penal Code Section 484-487.1  
25 (Grand Theft), in that on or about and between March 1, 1986 and  
26 December 7, 1991, said defendants did unlawfully take personal  
27 property, to wit: landfill space and money, of a value exceeding  
28 four hundred dollars (\$400.00), the property of Browning Ferris

1 **COUNT THREE**  
2 (PENAL CODE §484-487.1)  
3 (Theft of Landfill Space and Money

4 The Grand Jury of the County of Santa Clara, State of  
5 California, hereby accuses WILLIAM ROSE of a felony, to wit: a  
6 violation of Penal Code Section 484-487.1 (Grand Theft), in that  
7 on or about and between February 1, 1987 and December 7, 1991,  
8 said defendant did unlawfully take personal property, to wit:  
9 landfill space and money, of a value exceeding four hundred  
10 dollars (\$400.00), the property of Browning Ferris Industries and  
11 International Disposal Company (BFI / IDC).

12 **ENHANCEMENT ALLEGATION TO COUNT THREE**

13 It is further alleged that in the commission and attempted  
14 commission of the foregoing offense, said defendant did take  
15 property with the intent to cause that taking and the loss  
16 exceeded One Hundred Thousand Dollars, within the meaning of  
17 Section 12022.6(b) of the Penal Code.

18 **COUNT FOUR**  
19 (PENAL CODE §484-487.1)  
20 (Theft of Landfill Space and Money)

21 The Grand Jury of the County of Santa Clara, State of  
22 California, hereby accuses MARSHALL MORAN of a felony, to wit: a  
23 violation of Penal Code Section 484-487.1 (Grand Theft), in that  
24 on or about and between September 1, 1987 and December 7, 1991,  
25 said defendant did unlawfully take personal property, to wit:  
26 landfill space and money, of a value exceeding four hundred  
27 dollars (\$400.00), the property of Browning Ferris Industries and  
28 International Disposal Company (BFI / IDC).

//

1 violation of Penal Code Section 484-487.1 (Grand Theft), in that  
2 on or about and between September 1, 1987 and December 7, 1991,  
3 said defendant did unlawfully take personal property, to wit:  
4 landfill space of a value exceeding four hundred dollars  
5 (\$400.00), the property of the City of San Jose.

6 **ENHANCEMENT ALLEGATION TO COUNT SIX**

7 It is further alleged that in the commission and attempted  
8 commission of the foregoing offense, said defendant did take  
9 property with the intent to cause that taking and the loss  
10 exceeded One Hundred Thousand Dollars, within the meaning of  
11 Section 12022.6(b) of the Penal Code.

12  
13 **COUNT SEVEN**  
14 **(PENAL CODE §484-487.1)**  
15 **(Theft of Landfill Space)**

16 The Grand Jury of the County of Santa Clara, State of  
17 California, hereby accuses WILLIAM ROSE of a felony, to wit: a  
18 violation of Penal Code Section 484-487.1 (Grand Theft), in that  
19 on or about and between February 1, 1987 and December 7, 1991,  
20 said defendant did unlawfully take personal property, to wit:  
21 landfill space of a value exceeding four hundred dollars  
22 (\$400.00), the property of the City of San Jose.

23 **ENHANCEMENT ALLEGATION TO COUNT SEVEN**

24 It is further alleged that in the commission and attempted  
25 commission of the foregoing offense, said defendant did take  
26 property with the intent to cause that taking and the loss  
27 exceeded One Hundred Thousand Dollars, within the meaning of  
28 Section 12022.6(b) of the Penal Code.

28 //

1 written by Lou Garcia. That determination clearly states that  
2 non-City of San Jose Waste is excluded from the allocation and  
3 must be declared by Waste Management drivers and paid for at the  
4 posted gate rates. There was nothing concerning the facts at the  
5 time or statements or documents provided to the City of San Jose  
6 and BFI / IDC by Waste Management of Santa Clara that would  
7 indicate otherwise. The City of San Jose and BFI / IDC had no  
8 reason to distrust the accuracy of the information regarding  
9 disposal practices provided by Waste Management of Santa Clara at  
10 that time, or to conduct extensive investigations into such  
11 practices.

12 BFI / IDC first suspected that Waste Management was not  
13 acting in compliance with the contract and determination letter  
14 in early 1991 when it was noted that Waste Management had obtained  
15 the Moffett Field contract with a bid too low to have included  
16 reasonable disposal costs. Immediately thereafter, an  
17 investigation was conducted which resulted in the discovery on  
18 February 13, 1991 that Waste Management was, in fact, utilizing  
19 the City of San Jose allocation for disposal of non-City wastes.  
20 That information was immediately turned over to the City Attorney  
21 and then the San Jose Police Department. Prior to that time,  
22 the City of San Jose, BFI / IDC and the San Jose Police  
23 Department had no actual or constructive knowledge of said  
24 crimes. In the exercise of reasonable diligence, and without  
25 performing their duties in a negligent manner, said crime could  
26 not have been discovered because the non-City of San Jose wastes  
27 being disposed of at Newby Island were not being declared to BFI  
28 / IDC and the information that was presented to BFI / IDC and

NAMES OF WITNESSES EXAMINED BY THE GRAND JURY

ON THE FINDING OF THE FOREGOING INDICTMENT

1		
2		
3	1. SAYED NAHIM	27. ELLIOT COOK
4	2. LESWHITE	28. FERNANDO PEREIRA
5	3. SUSAN DEVENCENZI	29. JOSE RIVEIRA
6	4. BARBARA STEVENS	30. ELOY RODRIGUEZ
7	5. JAVIER VILLAREAL	31. ROBERT CLAYTON
8	6. ANNE HARDIMAN	32. ALBERT HIGAREDA
9	7. LEWIS FIGONE	33. ROBERT KENNEDY
10	8. CHARLES BANNAN	34. ROSARIO CARINI
11	9. LOUIS GARCIA	35. REY IBANEZ
12	10. BUTCH KYLES	36. CHARLES FRANKLIN
13	11. MARTIN PETERS	37. KEN NEWMAN
14	12. JOYCE HLAVA	38. GENELLE BLOOM
15	13. KAY PETTEY	39. ROBERT BRUMLEY
16	14. MICHAEL LOZANO	40. JACK BOTTONI
17	15. LESLIE LIN-GROS	41. VINCENT LUCIA
18	16. JOHN SLATER	42. HENRY MACHENS
19	17. ROBERT NALLET	43. PAUL SEIGMUND
20	18. SCOTT THORNE	44. MICHAEL CONSTANZA
21	19. GERALD SILVA	45. BRET BOCCABELLA
22	20. MARK HARRER	46. CARLOS VALENCIA
23	21. JOE GAMEZ	47. MITCH PRIEST
24	22. CLARENCE CANTILLO	48. DALE NEWTON
25	23. RAFLES WARNERS	49. LEONARD STEFANELLI
26	24. NEAL VAN KEUREN	50. HENRY LACAZE
27	25. MARK WOLTHAUSEN	51. GARY LISS
28	26. MARCUS JAMISON	52. DOUGLAS BARLOW

**ATTACHMENT B**



NEWS RELEASE

For Immediate Release

July 15, 1992

FROM: GEORGE W. KENNEDY  
District Attorney

CONTACT  
PERSON: LINDA R. CONDRON  
Deputy District Attorney

On July 15, 1992, Waste Management of California, Inc. and its subsidiary company, Waste Management of Santa Clara, were arraigned on an indictment charging felony grand thefts from the City of San Jose and Browning Ferris Industries. Also arraigned on that indictment were the following Waste Management employees and prior employees:

William Burrows, 41, San Jose  
Herbert James Reid, 61, Scotts Valley  
William Rose, 39, San Jose  
William Herbert, 39, Bellevue, Washington  
John Slocum, 39, Oakbrook, Illinois

Beginning March 1st, 1986, the City of San Jose had a contract with Browning Ferris Industries and International Disposal Company for disposal of city wastes. Under the contract, BFI/IDC provides the City with a yearly "allocation" of landfill space at the Newby Island landfill. The City pays a much lower rate for that space than the standard "gate" rate other users must pay.

The City's contract with Waste Management grants Waste Management the exclusive right to collect residential waste generated in the City of San Jose, and makes the City's space at Newby Island available to Waste Management for the disposal of wastes hauled under that collection contract.

Waste Management is alleged to have taken waste that was collected in competition with other haulers from accounts outside the City and dumped it at the Newby Island landfill as though it were City waste. The result was that the City's allocation was being filled with non-city waste, although the City was paying for that space. In addition, Waste Management was not paying BFI/IDC the higher gate rates that should have been paid for any non-city wastes brought into the landfill.

The indictment alleges that the defendants fraudulently took and used the City's landfill space at Newby Island in violation of Penal Code Section 484-487.1, and that the value of that space exceeded \$100,000. It alleges a further violation of Penal Code Sections 484-487.1 in that Waste Management

C I T Y O F S A N J O S E - M E M O R A N D U M

TO: HONORABLE MAYOR and CITY COUNCIL FROM: GEORGE RIOS,  
Assistant City Atty.

SUBJECT: People v. Waste Management of California, Inc. DATE: July 15, 1992

APPROVED

DATE

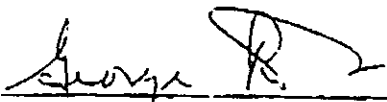
An indictment has been rendered by the Grand Jury against Waste Management of California, Inc. and its subsidiary company, Waste Management of Santa Clara charging felony grand thefts from the City of San Jose and Browning Ferris Industries International Disposal Company. Also indicted were the following Waste Management employees or prior employees: William Burrows, Herbert James Reid, William Rose, William Harbert, and John Slocum.

Waste Management is alleged to have taken waste that was collected from outside the City of San Jose and dumped at the Newby Island landfill as part of the City of San Jose's "allocation" of landfill space at the Newby Island landfill. As a result, the City's allocation was being filled in part with non-City waste, although the City was paying for that space. Thus, Waste Management was not paying BFI/IDC the higher gate rate that should have been paid for non-City waste brought into that landfill.

The indictment alleges that the defendants fraudulently took and used the City's landfill space with a value in excess of \$100,000.00 resulting in felony grand thefts against the City and BFI/IDC.

The corporations and the individuals were arraigned on July 15, 1992.

Under the circumstances, we will review whether the City should initiate civil litigation against Waste Management.

  
\_\_\_\_\_  
GEORGE RIOS,  
Assistant City Attorney

GR:su

cc: Les White, City Manager  
Regina Williams, Assistant City Manager  
Kent Dewell, Deputy City Manager  
Greg Larson, Deputy City Manager

1368c/0043c

## ATTACHMENT C



Contact: Barbara Zeitman Olsen  
(408) 980-9900

## WASTE MANAGEMENT OF SANTA CLARA CALLS CHARGES 'MISCARRIAGE OF JUSTICE'

San Jose, California, July 15, 1992 - Waste Management of Santa Clara County today characterized as a miscarriage of justice the District Attorney's decision to seek indictments against the company and eight of its employees over a contract dispute involving its contract with the City of San Jose.

"We are very disappointed that they have seen fit to seek these indictments," said Barbara Zeitman Olsen, a spokesperson for the Company. "What is involved here is essentially a dispute over the terms and conditions of our contract with the City of San Jose. It is completely unwarranted to treat this as a criminal matter. We are particularly sorry that the individual employees, who are dedicated and hard-working people and who have delivered an essential service to the City, have been singled out in this way."

"We look forward to a speedy trial so that these people can get on with their lives and the company can get on with its business."

Waste Management has held since 1985 the City contract for collection and disposal of City waste. The present dispute stems from Waste Management's disposal of City waste at a disposal facility operated by Browning-Ferris, one of Waste Management's major competitors. Waste Management states that the disposal at Browning-Ferris' Newby Island facility was within the terms of the City contract.

"Each of the parties involved -- the city, our competitor and our company -- received exactly what was contracted for," Ms. Zeitman-Olsen said. "The waste tonnage disposed of at Newby Island, some 395,200 tons per year, was within the City contract and at the contract rates; all excess tonnage was, per the contract, disposed of by us at our expense. No one was disadvantaged, no one sought personal gain, and if this is a crime, it is a 'crime' without a victim."

Named in the indictment in addition to Waste Management of California, Inc. d/b/a Waste Management of Santa Clara, were William Rose, William Burrows, Marshall Moran, William A. Harbert, Gino Scopesi, Jim Reid, Lawrence Galek and John Slocum. These individuals held various positions associated with company operations in San Jose during the course of the contract's negotiations and implementation and in providing service to San Jose.

THURSDAY  
JULY 16, 1992

# S.J. trash hauler indicted over fees

## Garbage-mixing ruse alleged by grand jury +

BY NICK ANDERSON  
Mercury News Staff Writer

Waste Management of California Inc., San Jose's garbage hauler for the past six years, has been charged by the county grand jury with stealing hundreds of thousands of dollars from the city and competitor Browning-Ferris Industries.

The eight-count indictment, made public Wednesday, culminated an investigation that began in June 1991. It alleges that the company and eight of its officials committed felony grand theft through a complex garbage-mixing ruse at a San Jose dump owned by a subsidiary of Browning-Ferris.

According to the indictment, Waste Management trucks picked up garbage from communities outside San Jose and dumped it at the Newby Island landfill as if it were from San Jose. The city has special dumping rates there, roughly \$13 a ton cheaper than what outsiders must pay.

Deputy District Attorney Linda Condron said the losses to Browning-Ferris exceeded \$750,000. The city's loss — the value of its

See GARBAGE, Back Page

# Company charged with mixing trash to avoid landfill fees

## ■ GARBAGE

from Page 1A

exclusive landfill space at Newby Island that was taken up by non-San Jose garbage — was unspecified but more than \$100,000, according to the indictment.

Waste Management and three of its officials — Herber James Reid, 61, of Scotts Valley; William Herbert, 39, of Bellevue, Wash.; and John Stocum, 39, of Oakbrook, Ill. — pleaded not guilty Wednesday afternoon in an arraignment before Superior Court Judge Kevin J. Murphy.

Three other officials postponed entering pleas until August. They were William Rose, 39, of San Jose; William Burrows, 41, of San Jose; and Gino Scopesi, 55, of Los Gatos. All six surrendered to authorities voluntarily Wednesday morning and were immediately released on their own recognizance.

### More indictments on way

The two other officials named in the indictment — Lawrence Galek, 61, of San Jose and Marshall Moran, 42, of Milan, Italy — were scheduled to be arraigned at later dates.

All of the officials named were involved in San Jose operations during the contract, but exact titles and terms in office could not be learned Wednesday.

If convicted on all counts, the company could be fined up to \$20,000 plus penalties; the individuals each face a maximum of five years and eight months in state prison and fines of up to \$20,000.

In prosecuting the case, District Attorney George Kennedy is taking on the world's largest garbage company and a powerful political player in the county with a criminal charge that some argue is a mere civil dispute.

In a prepared statement, the company responded bitterly to the accusations, calling it a "miscarriage of justice" by the district attorney.

"We are very disappointed that they have seen fit to seek these indictments," said spokeswoman Barbara Zeitman Olsen. "What is involved here is essentially a dispute over the terms and conditions of our contract with the city of San Jose. It is completely unwarranted to treat this as a criminal matter."

### Legal defense recruited

Some of the county's top defense lawyers are representing the Waste officials, including Kenneth W. Robinson for John Stocum and Allen Ruby for William Burrows, who is general manager of Waste Management of Santa Clara County.

"We have a united defense," Robinson said. "Noody's guilty of any criminal activity. It's been an honest business since its inception."

The official city reaction was muted. Deputy City Manager Kent Dewell said the case would not affect San Jose's garbage service. Waste Management holds an exclusive franchise to pick up all of San Jose's residential garbage through June 30, 1993. "The contract is in force," Dewell said.

However, Dewell and Assistant City Attorney George Blou said San Jose would review whether to take steps in court itself to recover possible losses.

Mayor Susan Hammer was out of the country and unavailable for comment. One of her aides, Bob Brownstein, said that he didn't believe the indictment would become a political issue.

"They already lost the contract, so it's kind of a moot point," Brownstein said, referring to the city council's June decision to switch to two new garbage haulers after the Waste Management franchise ends.

Still, the indictment is likely to reverberate around City Hall, where several city council members praised Waste Management in a hearing last month as a "good corporate citizen."

Several city officials testified before the Santa Clara County Grand Jury, including City Manager Les White, deputy city managers Greg Larson and Nahar Martinez, City Auditor Gerald Silva and council members Jim Beall and Judy Stabile.

### Suspicious aroused in '91

Transcripts of the grand jury investigation and other records, not yet available, may shed light on the city's handling of what once was the nation's largest municipal garbage contract.

The investigation of Waste Management first became public last September, when San Jose police seized documents at the firm's local offices. Police were tipped by Browning-Ferris, a fierce rival of Waste Management, which suspected unfair play in early 1991 when a low Waste Management bid captured a hauling contract at Moffett Field Naval Air Station.

According to the indictment, Browning-Ferris employees saw a Waste Management truck, No. 208, pick up Moffett garbage and dump it at Newby Island, calling it San Jose trash.

Such garbage-mixing occurred for several years, until December 1991, the indictment alleged. At that time, Waste Management officials wrote the city to say they were changing their truck routes — without admitting fault.

# Waste Handler Charged in Trash Dumping Scheme

By DARYL KELLEY  
TIMES STAFF WRITER

A Santa Clara County grand jury has charged Waste Management of California, a subsidiary of the nation's largest trash company, with grand theft in a garbage-mixing

scheme in which the company allegedly cheated a rival landfill operator and the city of San Jose out of at least \$850,000 over six years.

The grand jury charged Waste Management of California, its Santa Clara County division and eight employees—including an executive currently working for the Illinois-based parent corporation—with dumping refuse collected from other cities in landfill space allocated to San Jose.

The grand jury's eight-count indictment, handed down June 30 but released Wednesday, also charges that Waste Management

Please see WASTE, A27

7-16-92

LOS ANGELES TIMES

## WASTE

Continued from A3

cheated landfill operator Browning-Ferris Industries by mixing trash from several jurisdictions and dumping it under San Jose's allocation to get the city's discounted rate.

The result was that by September, 1991, when police raided Waste Management's Santa Clara County offices, the company was paying \$15 a ton to dump rubbish in San Jose, instead of the usual rate of \$28 a ton, city officials have said.

A Waste Management spokeswoman in Santa Clara said the company and its employees are not guilty.

"This is basically a dispute over the terms of a contract," spokeswoman Barbara Zeitman Olsen said. "It's a local dispute."

Waste Management of California and its Santa Clara division pleaded not guilty in Superior Court on Wednesday. So did three employees, including John Slocum, 39, a finance executive with Waste Management of North America in Oakbrook, Ill. Other pleas are expected later.

The indictments follow a series of controversies in Southern California surrounding Waste Management and its subsidiaries.

Last month, a Waste Management subsidiary settled a dispute with Mission Viejo by agreeing to forgo two guaranteed rate increases to offset what the city said was a 30% overestimation of garbage collection.

In a March report, San Diego Dist. Atty. Edwin Miller warned that public agencies should use "extreme caution" before dealing with Waste Management Inc. Miller scolded the company for what he said was a history of attempts to "gain undue influence over government officials."

A 1991 Ventura County Sheriff's Department survey found that the company had paid \$52.3 million in fines nationwide during the 1980s. It listed 10 criminal, 22 civil environmental and 23 civil antitrust cases against the company—including several for price fixing.