UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA; STATE OF OHIO; STATE OF ARIZONA; STATE OF CALIFORNIA; STATE OF COLORADO; STATE OF FLORIDA; COMMONWEALTH OF KENTUCKY; STATE OF MARYLAND; STATE OF MICHIGAN; STATE OF NEW YORK; COMMONWEALTH OF PENNSYLVANIA; STATE OF TEXAS; STATE OF WASHINGTON; and STATE OF WISCONSIN,	)	Civil Action No. 1:98 CV 1616 JUDGE ALDRICH
Plaintiffs,	)	Filed: July 23, 1998
v.	)	
USA WASTE SERVICES, INC.; DOME MERGER SUBSIDIARY; and WASTE MANAGEMENT, INC.,	)	
Defendants.	)	

COMPETITIVE IMPACT STATEMENT

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. § 16(b)-(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On July 16, 1998, the United States, and the states of Ohio, Arizona, California, Colorado, Florida, Maryland, Michigan, New York, Texas, Washington and Wisconsin, and the commonwealths of Kentucky and Pennsylvania ("the governments") filed a civil antitrust complaint, which alleges that the proposed acquisition by USA Waste Services, Inc. ("USA Waste") of Waste Management, Inc. ("WMI") would violate Section 7 of the Clayton Act, 15 U.S.C. § 18. The Complaint alleges that in many markets across the country, USA Waste and WMI are the two of the most significant competitors in commercial waste collection, or disposal of municipal solid waste ("MSW") (*i.e.*, operation of landfills, transfer stations and incinerators), or both services.

The Complaint alleges that a combination of USA Waste and WMI would substantially lessen competition in commercial waste collection services in twelve highly concentrated, relevant geographic markets: Akron, Cleveland and Columbus, Ohio; Allentown and Pittsburgh, Pennsylvania; Denver, Colorado; Detroit, Michigan; Gainesville, Florida; Houston, Texas; Louisville, Kentucky; Portland, Oregon; and Tucson, Arizona.

The Complaint alleges the merger also would substantially lessen competition in disposal of municipal solid waste in seventeen highly concentrated markets: Akron/Canton, Cleveland and Columbus, Ohio; Baltimore, Maryland; Denver, Colorado; Detroit, Flint, and Northeastern Michigan; Houston, Texas; Los Angeles, California; Louisville, Kentucky; Miami, Florida; Milwaukee, Wisconsin; New York, New York; Pittsburgh and Philadelphia, Pennsylvania; and Portland, Oregon.

According to the Complaint, the loss of competition would likely result in consumers paying higher prices and receiving fewer or lesser quality services for the collection and disposal

of waste. The prayer for relief in the Complaint seeks: (1) a judgment that the proposed acquisition would violate Section 7 of the Clayton Act; and (2) a permanent injunction that would prevent USA Waste from acquiring control of or otherwise combining its assets with WMI.

At the same time the suit was filed, the governments also filed a proposed settlement that would permit USA Waste to complete its acquisition of WMI, but require it to divest certain waste collection and disposal assets in such a way as to preserve competition in the affected markets. This settlement consists of a Hold Separate Stipulation and Order, proposed Final Judgment, and a letter that outlines defendants' views as to which commercial waste collection routes should be divested and that sets forth the standard by which the governments determined whether routes that serve a given geographic area should be divested under the Judgment.[1/]

The proposed Final Judgment orders USA Waste and WMI to divest commercial waste collection routes in each of the relevant areas in which the Complaint alleges the merger would substantially reduce competition in commercial waste collection services. In addition, the Judgment orders USA Waste and WMI to divest landfills, transfer stations, or disposal rights in

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[1] A copy of this correspondence appears in Appendix B. Defendants are required to divest front end loader (FEL) commercial waste collection routes that serve certain geographic areas specified in the Judgment. Since some FEL routes may serve more than one area, the governments agreed to apply a *de minimis* standard for determining whether defendants' routes that serve a given area are subject to divestiture under the Judgment. If a defendant's FEL route obtained 10% or more of its commercial revenues from a geographic area set forth in the Judgment, §§II(D)(1)-(12), in the route's most recent year of operation, defendants must divest that FEL route. Applying this rule in Detroit, for instance, would require defendants to divest any WMI FEL commercial route from which 10 percent or more of its revenues derive from customers located in either the City of Detroit or Wayne County, MI.

Defendants USA Waste and WMI have specifically identified and listed the FEL commercial routes they believe must be divested under the Judgment. The governments, however, have not verified defendants' representations.

such facilities in each of the relevant markets in which the merger would substantially reduce competition in disposal of municipal solid waste. (A summary of the commercial waste collection and waste disposal assets that defendants must divest pursuant to the Judgment appears below in Appendix A.) USA Waste and WMI must complete their divestitures of the waste collection and disposal assets within 120 days, or five days after entry of the Final Judgment, whichever is later.

The Hold Separate Stipulation and Order ("Hold Separate Order") and the proposed Final Judgment ensure that until the divestitures mandated by the Judgment are accomplished, the currently operable waste collection and disposal assets that are to be divested, whether owned by USA Waste or WMI, will be maintained and operated as saleable, economically viable, ongoing concerns, with competitively sensitive business information and decision-making divorced from that of the combined company. USA Waste and WMI will appoint a person or persons to manage the operations to be divested and ensure the parties' compliance with the requirements of the proposed Judgment and Hold Separate Order.

The parties have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify or enforce the provisions of the proposed Judgment and to punish violations thereof.

II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE VIOLATIONS ALLEGED IN THE COMPLAINT

A. The Defendants and the Proposed Transaction

USA Waste is the third largest waste collection and disposal firm in the United States. Based in Houston, Texas, it provides waste collection and disposal services throughout the country. In 1997, USA Waste's total operating revenues exceeded $2.6 billion.

WMI, based in Oak Brook, Illinois, is the nation's largest waste collection and disposal firm. It also provides waste collection and disposal services throughout the country, often in direct competition with USA Waste. In 1997, WMI had total operating revenues of over $9 billion.

In March 1998, USA Waste announced its agreement to acquire WMI in a stock transaction worth nearly $14 billion. This transaction, which would combine two of the nation's largest waste collection and disposal firms and substantially increase concentration in a number of already highly concentrated, difficult-to-enter markets, precipitated the governments' suit.

B. The Competitive Effects of the Transaction

Waste collection firms, or "haulers," contract to collect municipal solid waste ("MSW") from residential and commercial customers; they transport the waste to private and public disposal facilities (*e.g.,* transfer stations, incinerators and landfills), which, for a fee, process and legally dispose of waste. USA Waste and WMI compete in operating waste collection routes and waste disposal facilities.

1. The Effects of the Transaction on Competition in the Markets for Commercial Waste Collection.

Commercial waste collection is the collection of MSW from commercial businesses such as office and apartment buildings and retail establishments (*e.g.*, stores and restaurants) for shipment to, and disposal at, an approved disposal facility. Because of the type and volume of waste generated by commercial accounts and the frequency of service required, haulers organize commercial accounts into special routes, and use specialized equipment to store, collect and transport waste from these accounts to approved disposal sites. This equipment -- one to ten cubic yard containers for waste storage, and front-end loader vehicles for collection and transportation -- is uniquely well suited to commercial waste collection service. Providers of other types of waste collection services (*e.g.*, residential and roll-off services) are not good substitutes for commercial waste collection firms. In their waste collection efforts, other firms use different waste storage equipment (*e.g.*, garbage cans or semi-stationary roll-off containers) and different vehicles (*e.g.*, rear- or side-load trucks), which, for a variety of reasons, cannot be conveniently or efficiently used to store, collect or transport waste generated by commercial accounts, and hence, are rarely used on commercial waste collection routes. For purposes of antitrust analysis, commercial waste collection constitutes a line of commerce, or relevant service, for analyzing the effects of the merger.

The Complaint alleges that provision of commercial waste collection services takes place in compact, highly localized geographic markets. It is expensive to ship waste long distances in either collection or disposal operations. To minimize transportation costs and maximize the scale, density, and efficiency of their waste collection operations, commercial waste collection firms concentrate their customers and collection routes in small areas, often limited to a

metropolitan area. Firms with operations concentrated in a distant area cannot easily compete against firms whose routes and customers are locally based. Sheer distance may significantly limit a distant firm's ability to provide commercial waste collection service as frequently or conveniently as that offered by local firms with nearby routes. Also, local commercial waste collection firms have significant cost advantages over other firms, and can profitably increase their charges to local commercial customers without losing significant sales to firms outside the area.

Applying that analysis, the Complaint alleges that twelve areas -- Akron, Cleveland and Columbus, Ohio; Allentown and Pittsburgh, Pennsylvania; Denver, Colorado; Detroit, Michigan; Gainesville, Florida; Houston, Texas; Louisville, Kentucky; Portland, Oregon; and Tucson, Arizona -- constitute sections of the country, or relevant geographic markets, for the purpose of assessing the competitive effects of a combination of USA Waste and WMI in the provision of commercial waste collection services. In each of these markets, USA Waste and WMI are two of the largest competitors, and the combined firm would command from 50 to 90 percent or more of total market revenues. These twelve commercial waste collection markets generate from $2 million to well over $45 million in annual revenues.

Significant new entry into these markets would be difficult, time consuming, and is unlikely to occur soon. Many customers of commercial waste collection firms have entered into "evergreen" contracts, tying them to a market incumbent for indefinitely long periods of time. In competing for uncommitted customers, market incumbents can price discriminate, *i.e.*, selectively (and temporarily) charge unbeatably low prices to customers targeted by entrants, a tactic that would strongly discourage a would-be competitor from competing for such accounts, which, if won, may be very unprofitable to serve. The existence of long term contracts and price

discrimination substantially increases any would-be new entrant's costs and time necessary for it to build its customer base and obtain efficient scale and route density to become an effective competitor in the market.

The Complaint alleges that a combination of USA Waste and WMI would likely lead to an increase in prices charged to consumers of commercial waste collection services. The acquisition would diminish competition by enabling the few remaining competitors to engage more easily, frequently, and effectively in coordinated pricing interaction that harms consumers. This is especially troublesome in markets where entry has not proved an effective deterrent to the exercise of market power.

2. The Effects of the Transaction on Competition in the Markets for Disposal of Municipal Solid Waste.

A number of federal, state and local safety, environmental, zoning and permit laws and regulations dictate critical aspects of storage, handling, transportation, processing and disposal of MSW. MSW can only be sent for disposal to a transfer station, sanitary landfill, or incinerator permitted to accept MSW. Anyone who attempts to dispose of MSW in a facility that has not been approved for disposal of such waste risks severe civil and criminal penalties. Firms that compete in the disposal of MSW can profitably increase their charges to haulers for disposal of MSW without losing significant sales to other firms. For these reasons, there are no good substitutes for disposal of MSW.

Disposal of MSW tends to occur in highly localized markets.[2] Disposal costs are a significant component of waste collection services, often comprising 40 percent or more of overall operating costs. It is expensive to transport waste significant distances for disposal. Consequently, waste collection firms strongly prefer to send waste to local disposal sites. Sending a vehicle to dump waste at a remote landfill increases both the actual and opportunity costs of a hauler's collection service. Natural and man-made obstacles (*e.g.*, mountains and traffic congestion), sheer distance and relative isolation from population centers (and collection operations) all substantially limit the ability of a remote disposal site to compete for MSW from closer, more accessible sites. Thus, waste collection firms will pay a premium to dispose of waste at more convenient and accessible sites. Operators of such disposal facilities can -- and do -- price discriminate, *i.e.*, charge higher prices to customers who have fewer local options for waste disposal.

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[2] Though disposal of municipal solid waste is primarily a local activity, in some densely populated urban areas there are few, if any, local landfills or incinerators available for final disposal of waste. In these areas, transfer stations are the principal disposal option. A transfer station collects, processes and temporarily stores waste for later bulk shipment by truck, rail or barge to a more distant disposal site, typically a sanitary landfill, for final disposal. In such markets, local transfer stations compete for municipal solid waste for processing and temporary storage, and sanitary landfills may compete in a broader regional market for permanent disposal of area waste.

The Complaint in this case alleges that in three relevant areas -- New York, NY; Baltimore, MD; and Philadelphia, PA -- transfer stations are the principal method for disposal of MSW. In other markets (*e.g.*, Miami, Louisville, Akron, Cleveland and Columbus), distant landfills may compete with local disposal facilities (incinerators or landfills) through the use of transfer stations. Regional landfills also compete for permanent disposal of waste from these areas. In some areas, however, the proposed Final Judgment requires defendants to divest transfer stations because such divestitures may aid in the competitive viability of a companion landfill, the divestiture of which, the governments believe, is essential for effective relief.

For these reasons, the Complaint alleges that, for purposes of antitrust analysis, seventeen areas -- Akron/Canton, Cleveland and Columbus, OH; Baltimore, MD; Denver, CO; Detroit, Flint, and Northeastern Michigan; Houston, TX; Los Angeles, CA; Louisville, KY; Miami, FL; Milwaukee, WI; New York, NY; Pittsburgh and Philadelphia, PA; and Portland, OR -- are relevant geographic markets for disposal of municipal solid waste. In each of these markets, USA Waste and WMI are two of only a few significant competitors. Their combination would command from over 50 to well over 90 percent of disposal capacity for municipal solid waste, in markets that generate annual disposal revenues of from $10 million to over $200 million annually.

Entry into the disposal of municipal solid waste is difficult. Government permitting laws and regulations make obtaining a permit to construct or expand a disposal site an expensive and time-consuming task. Significant new entry into these markets is unlikely to occur in any reasonable period of time, and is not likely to prevent exercise of market power after the acquisition.

In each listed market, USA Waste's acquisition of WMI would remove a significant competitor in disposal of municipal solid waste. With the elimination of WMI, market incumbents will no longer compete as aggressively since they will not have to worry about losing business to WMI. The resulting substantial increase in concentration, loss of competition, and absence of reasonable prospect of significant new entry or expansion by market incumbents likely ensure that consumers will pay substantially higher prices for disposal of MSW, collection of commercial waste, or both, following the acquisition.

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The relief described in the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in commercial waste collection in and disposal of MSW from the relevant markets by establishing new, independent and economically viable competitors in each affected market. The proposed Final Judgment requires USA Waste and WMI, within 120 days after the filing of the Complaint in this matter, or five days after notice of the entry of this Final Judgment by the Court, whichever is later, to sell certain commercial waste collection assets ("Relevant Hauling Assets") and disposal assets ("Relevant Disposal Assets") as viable, ongoing businesses to a purchaser or purchasers acceptable to the United States, in its sole discretion, after consultation with the relevant state. The collection assets to be divested include front-end loader commercial waste collection routes, trucks and customer lists. The disposal assets to be divested include landfills, transfer stations, disposal rights in such facilities, and certain other assets (*e.g.*, leasehold and renewal rights in the particular landfill or transfer station, garages and offices, trucks and vehicles, scales, permits, and intangible assets such as landfill or transfer station-related customer lists and contracts).

If USA Waste and WMI cannot accomplish the divestitures within the prescribed time, the Final Judgment provides that, upon application of the United States, the Court will appoint a trustee to complete the divestiture of each relevant disposal asset or relevant hauling asset not sold. The proposed Final Judgment provides that the assets must be divested in such a way as to satisfy the United States, in its sole discretion, after consultation with the relevant state, that the assets can and will be used by the purchaser as part of a viable, ongoing business or businesses engaged in waste collection or disposal that can compete effectively in the relevant area.

Defendants must take all reasonable steps necessary to accomplish the divestitures, and shall cooperate with bona fide prospective purchasers and, if one is appointed, with the trustee.

If a trustee is appointed, the proposed Final Judgment provides that USA Waste and WMI will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestitures are accomplished. After his or her appointment becomes effective, the trustee will file monthly reports with the parties and the Court, setting forth the trustee's efforts to accomplish the divestitures. At the end of six months, if the divestitures have not been accomplished, the trustee and the parties will make recommendations to the Court which shall enter such orders as appropriate in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against defendant.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The United States and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry of the decree upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the Federal Register. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court and published in the Federal Register. Written comments should be submitted to:

J. Robert Kramer II
Chief, Litigation II Section
Antitrust Division
United States Department of Justice
1401 H Street, NW, Suite 3000
Washington, D.C. 20530

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against defendants USA Waste and WMI. The United States could have brought suit and sought preliminary and permanent injunctions against USA Waste's acquisition of WMI . The United States is satisfied, however, that defendants' divestiture of the assets described in the Judgment will establish, preserve and ensure viable competitors in each of the relevant markets identified by the governments. To this end, the United States is convinced that the proposed relief, once implemented by the Court, will prevent USA Waste's acquisition of WMI from having adverse competitive effects.

VII. STANDARD OF REVIEW UNDER THE APPA FOR PROPOSED FINAL JUDGMENT

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." In making that determination, the court may consider--

> (1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;
>
> (2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e) (emphasis added). As the Court of Appeals for the District of Columbia Circuit recently held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. See United States v. Microsoft, 56 F.3d 1448 (D.C. Cir. 1995).

In conducting this inquiry, "the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process."[3] Rather,

> absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. Mid-America Dairymen, Inc., 1977-1 Trade Cas. ¶ 61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." United States v. BNS, Inc., 858 F.2d 456, 462 (9th Cir. 1988) quoting United States v. Bechtel Corp., 648 F.2d 660, 666 (9th Cir.), cert. denied, 454 U.S. 1083 (1981); see also, Microsoft, 56 F.3d 1448 (D.C. Cir. 1995). Precedent requires that

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[3] 119 Cong. Rec. 24598 (1973). See, United States v. Gillette Co., 406 F. Supp. 713, 715 (D. Mass.1975). A "public interest" determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. § 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. See, H.R. 93-1463, 93rd Cong. 2d Sess. 8-9, reprinted in (1974) U.S. Code Cong. & Ad. News 6535, 6538.

> the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "*within the reaches of the public interest.*" More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[4]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' (citations omitted)."[5]

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[4] United States v. Bechtel, 648 F.2d at 666 (citations omitted)(emphasis added); see United States v. BNS, Inc., 858 F.2d at 463; United States v. National Broadcasting Co., 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); United States v. Gillette Co., 406 F. Supp. at 716. See also United States v. American Cyanamid Co., 719 F.2d at 565.

[5] United States v. American Tel. and Tel. Co., 552 F. Supp. 131, 150 (D.D.C. 1982), aff'd sub nom. Maryland v. United States, 460 U.S. 1001 (1983) quoting United States v. Gillette Co., supra, 406 F. Supp. at 716; United States v. Alcan Aluminum, Ltd., 605 F. Supp. 619, 622 (W.D. Ky 1985).

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: July 22, 1998.

Respectfully submitted,

_____/S/_____

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APPENDIX A

Summary of Waste Disposal and Collection Assets that Must be Divested Under the Proposed Final Judgment

II. Waste Disposal Assets

The proposed Final Judgment (§§II(C)(1) and (2), IV and V) requires USA Waste and WMI to divest certain "relevant disposal assets." In general, this means, with respect to each landfill or transfer station, all tangible assets, including the garage and related facilities; offices; landfill-related or transfer station-related assets including capital equipment, trucks and other vehicles, scales, permits, and supplies, and all intangible assets of the landfill or transfer station, including landfill-related or transfer station-related customer lists, contracts, and accounts, or options to purchase any adjoining property. The list of disposal facilities that must be divested includes properties and permits in the following locations, under the listed terms and conditions:

A. Landfills and Airspace Disposal Rights

1. Akron/Canton, OH

WMI's Countywide R&D Landfill, located at 3619 Gracemont Street, SW, East Sparta, OH 44626 (known as the "Countywide Landfill");

2. Columbus, OH

USA Waste's Pine Grove Landfill, located at 5131 Drinkle Road, SW, Amanda, OH 43102;

3. Denver, CO

USA Waste's Front Range Landfill, located at 1830 County Road 5, Erie, CO 80516-8005; and at purchaser's option, a two-year waste supply agreement that would require defendants to dispose of a minimum of 150 tons/day of waste at the Front Range Landfill, at disposal fees to be negotiated between purchaser and defendants;

4. Detroit, MI

USA Waste's Carleton Farms Landfill, located at 28800 Clark Road, New Boston, MI, subject to two conditions, *viz.*, USA Waste's obligations to (1) dispose of ash from the Greater Detroit Resource Recovery Center's incinerator at a separate monofill cell on this site pursuant to an existing contract, and (2) dispose of waste from the Greater Detroit Resource Recovery Center's bypass transfer station at this landfill, until defendants transfer such obligation to another landfill, which they shall use their best efforts to accomplish expeditiously;

5. Flint, MI

USA Waste's Brent Run Landfill, located at Vienna Road, Montrose Township, Genesee County, MI;

6. Houston, TX

(1) USA Waste's Brazoria County Landfill, located at 10310 FM-523, Angleton, TX 77515; and

(2) Airspace disposal rights at WMI's Security Landfill, located at 19248 Highway 105E, Cleveland, TX, or WMI's Atascocita Landfill, located at 2020 Atascocita Road, Humble, TX, or both, pursuant to which defendants will sell to one or more

purchasers rights to dispose of at least 3.0 million tons of waste, over a ten-year period.

7. Los Angeles, CA

USA Waste's Chiquita Canyon Landfill, located at 29201 Henry Mayo Drive, Valencia, CA 91355;

8. Louisville, KY

USA Waste's Valley View Landfill, located at 9120 Sulphur Road, Sulphur, KY 40070;

9. Miami, FL

Airspace disposal rights at USA Waste's Okeechobee Landfill, controlled by a subsidiary of USA Waste, and located at 10800 NE 128th Avenue, Okeechobee, FL 34972, pursuant to which defendants will sell a total of 4.3 million tons of airspace, over a 20-year time period, to one or more purchasers.

10. Milwaukee, WI

USA Waste's Kestrel Hawk Landfill, located at 1989 Oakes Road, Racine, WI 53406; and WMI's Mallard Ridge Landfill, located at W. 8470 State Road 11, Delavan, WI 53115;

11. New York, NY/Philadelphia, PA

WMI's Modern Landfill & Recycling, located at 4400 Mt. Piscah Road, York, PA 17402, and known as the "Modern Landfill";

12. Northeast Michigan

USA Waste's Whitefeather Landfill, located at 2401 Whitefeather Road, Pinconning, MI; and Elk Run Sanitary Landfill, located at 20676 Five Mile Highway, Onaway, MI;

13. Pittsburgh, PA

WMI's Green Ridge Landfill, located at 717 East Huntingdon Landfill Road, Scottdale, PA 15683 (variously known as the "Green Ridge Landfill," the "Y&S Landfill," or the "Greenridge Reclamation Landfill");

14. Portland, OR

USA Waste's North WASCO Landfill, located at 2550 Steele Road, The Dalles, OR 97058; and

B. Transfer Stations, Disposal Rights and Throughput Agreements

1. Akron/Canton, OH

Throughput disposal rights of a maximum of 400 tons/day of waste, for a ten-year time period, at WMI's Akron Central Transfer Station, located at 389 Fountain Street, Akron, OH, under the following terms and conditions:

(a) The purchaser (or its designee) can deliver waste to the Akron Central Transfer Station for processing and, at the purchaser's option, load the processed waste into the purchaser's (or its designee's) vehicles for disposal;

(b) For each purchaser of such disposal rights (or its designee), defendants must commit to operate the listed Akron Central Transfer Station's gate, scale house, and disposal area under terms and conditions no less favorable than those provided to defendants' own vehicles or to the vehicles of any municipality in Ohio, except as to price and credit terms;

2. Baltimore, MD

Disposal rights of at least 600 tons of waste/day, pursuant to which defendants will sell to one or more purchasers rights to dispose, for a five-year time period, under the following terms and conditions:

(a) The purchaser (s) or its designee(s) may dispose of waste at any one or any combination of the following facilities, as specified in its purchase agreement: Southwest Resource Recovery Facility (known as "Baltimore RESCO" or "BRESCO"), located at 1801 Annapolis Road, Baltimore, MD 21230; Baltimore County Resource Recovery Facility, located at 10320 York Road, Cockeysville, MD; Western Acceptance Facility, located at 3310 Transway Road, Baltimore, MD; or Annapolis Junction Transfer Station, located at 8077 Brock Bridge Road, Jessup, MD 20794. If more than one person purchases the disposal rights, the minimum daily disposal rates, and the total of all purchasers' maximum disposal amounts at all facilities specified shall be no less than 600 tons/day;

(b) For each purchaser of disposal rights (or its designee), defendants must commit to operate the listed Baltimore, MD area facilities' gates, scale houses, and disposal areas under terms and conditions no less favorable than those provided to defendants' own vehicles or to the vehicles of any municipality in Maryland, except as to price and credit terms;

3. Cleveland, OH

At purchaser's option, either USA Waste's Newburgh Heights Transfer Station, located at 3227 Harvard Road, Newburgh Heights, OH 44105 (known as the "Harvard Road Transfer Station"); or all of WMI's right, title and interest in the Strongsville Transfer Station, located at 16099 Foltz Industrial Parkway, Strongsville, OH; provided, however, that the City of Strongsville, owner of the transfer station, approves such sale or assignment. Defendants will exercise their best efforts to secure the assignment to the purchaser of all their rights, title and their interests in the Strongsville Transfer Station, and in the event the purchaser selects Strongsville, defendants will not reacquire any right, title or interest in the Strongsville transfer station. If the contract is not assigned, defendants will enter into a disposal rights agreement with the purchaser (or purchasers), which will provide, in effect, that the purchaser(s) will enjoy all disposal rights and privileges now enjoyed by defendants at the Strongsville Transfer Station, and that defendants will operate the facility's gate, scale house, and disposal areas under terms and conditions no less favorable than those provided to defendants' own vehicles or to the vehicles of any municipality in Ohio, except as to price and credit terms;

4. Columbus, OH

WMI's Reynolds Road Transfer Station, located at 805 Reynolds Avenue, Columbus, OH 43201;

5. Detroit, MI

WMI's Detroit Transfer Station, located at 12002 Mack Avenue, Detroit, MI 48215;

6. Houston, TX

USA Waste's Hardy Road Transfer Station, located at 18784 East Hardy, Houston, TX;

7. Louisville, KY

USA Waste's Poplar Level Road Transfer Station, located at 4446 Poplar Level Road, Louisville, KY;

8. Miami, FL

All USA Waste's right, title, and interest in the Reuters Transfer Station Rights, as conveyed to Chambers Waste Systems of Florida, a subsidiary of USA Waste, pursuant to the Final Judgment in *United States v. Reuter Recycling of Florida, Inc.*, 1996-1 Trade Cas. (CCH) ¶ 71,353 (D.D.C. 1996);

9. New York, NY

(a) WMI's SPM Transfer Station, located at 912 East 132nd Street, Bronx, NY 10452, and all rights and interests, legal or otherwise, that WMI now enjoys, has had or made use of out of the SPM Transfer Station, to deliver waste by truck to rail siding at the Oak Point Rail Yard in the Bronx, NY, and at the Harlem River Yards facility, located at St. Ann's and Lincoln Avenues at 132nd Street, Bronx, NY 10454;

(b) All right, title, and interest in USA Waste's pending application to construct and operate a waste transfer station located at 2 North 5th Street, Brooklyn, NY 11211 (known as the "Nekboh Transfer Station"); and

(c) USA Waste's All City Transfer Station, located at 246-252 Plymouth Street, Brooklyn, NY 11202; and

(d) WMI's Brooklyn Transfer Station, located at 485 Scott Avenue, Brooklyn, NY 12222, but only in the event that USA Waste's Nekboh Transfer Station has not been licensed or permitted to accept waste within one year from the date of entry of the Final Judgment; and

10. Philadelphia, PA

USA Waste's Girard Point Transfer Station, located at 3600 South 26th Street, Philadelphia, PA 19145; and USA Waste's Quick Way Inc. Municipal Waste Transfer Station, located at SE Corner, Bath and Orthodox Streets, Philadelphia, PA 19137, subject to the conditions that (1) the existing City of Philadelphia waste contract is transferred to a WMI transfer station, which defendants must use their best efforts to accomplish, and (2) until such transfer is effected, USA Waste will be granted throughput capacity at the Quick Way Transfer Station to handle this contract.

II. Commercial Waste Collection Assets

The Final Judgment also orders USA Waste and WMI to divest certain commercial waste collection assets. Those assets primarily include routes, capital equipment, trucks and other vehicles, containers, interests, permits, used to service customers along the routes, in the following locations:

A. Akron, OH

USA Waste's and American Waste Corporation's front-end loader truck ("FEL") commercial routes that serve Summit County, Ohio;

B. Allentown, PA

WMI's FEL commercial routes that serve the cities of Allentown and Northampton and Lehigh County, PA;

C. Cleveland, OH

WMI's FEL commercial routes that serve the City of Cleveland, portions of Cuyahoga, and very limited portions of Geauga and Lake County, Ohio;

D. Columbus, OH

WMI's FEL commercial routes that serve Franklin County, Ohio;

E. Denver, CO

USA Waste's FEL commercial routes that serve the City of Denver, and Denver and Arapahoe County, CO;

F. Detroit, MI

WMI's FEL commercial routes that serve the City of Detroit, and Wayne and limited portions of Oakland and Macomb County, MI;

G. Houston, TX

WMI's FEL commercial routes that serve the City of Houston, the Dickinson area, and Harris County, TX;

H. Louisville, KY

USA Waste's FEL commercial routes that serve the City of Louisville and Jefferson County, KY;

I. Pittsburgh, PA

WMI's FEL commercial routes that serve Allegheny County and Westmoreland County, PA, and the garage facility (real estate and improvements) located at the Y&S Landfill;

J. Portland, OR

WMI's FEL commercial routes that serve the City of Portland, OR;

K. Tucson, AZ

USA Waste's FEL commercial routes that serve the City of Tucson and Pima County, AZ; and

L. Gainesville, FL

WMI's FEL commercial routes that serve Alachua County, FL.

APPENDIX B

Correspondence Between with Counsel for USA Waste Services, Inc. and Dome Merger Subsidiary and Counsel for the United States, dated July 14, 1998