



U.S. Department of Justice

Antitrust Division

*City Center Building
1401 H Street, NW
Washington, DC 20530*

September 13, 1999

Kirk S. Rimmer, Esquire
Offices of Arthur M. Traugh
The Pacific Stables Building
1126 Second Street
Old Sacramento, California 95814

Re: *Comment on Proposed Final Judgment in United States, State of Ohio, et al. v. USA Waste Services, Inc., Waste Management, Inc., et al., Civil No. 98-1616 (N.D. Ohio, filed July 16, 1998)*

Dear Mr. Rimmer:

This letter responds to your comment on the proposed Final Judgment, submitted on behalf of Coastal Waste Management (“Coastal”), a small waste hauler in Sacramento, CA. The Complaint in this case charged, among other things, that USA Waste’s acquisition of Waste Management would substantially lessen competition in the collection or disposal of municipal solid waste in a number of markets throughout the country. In California, the Complaint alleged, the merger would substantially reduce competition in commercial waste disposal in the City of Los Angeles. The proposed Judgment, now pending in federal district court in Cleveland, Ohio, would settle the case with respect to the Los Angeles market by, *inter alia*, requiring that the defendants divest Chiquita Canyon Landfill, a large facility located about 40 miles north of Los Angeles, CA. In a transaction approved by the United States in August 1998, under the terms of the decree, the defendants divested Chiquita Canyon Landfill to Republic Services, Inc., which prior to the sale did not operate any waste disposal facilities in the Los Angeles area.

In your letter, you expressed concern that USA Waste’s acquisition of Waste Management would also substantially reduce competition in the collection of commercial waste in the Sacramento area, with the combined firm controlling 65-80 percent of commercial waste collection after the merger. To eliminate the alleged adverse effects of the merger in this market, you suggest that we revise the proposed Judgment by adding provision that would, among other things, limit the duration of defendants’ commercial waste collection contracts to no more than two years, with perhaps a single one-year renewal period.

We believe that the defendants’ divestiture of Chiquita Canyon Landfill to an acceptable purchaser, Republic, alleviated any competitive concerns created by the defendants’ merger in the Los Angeles, CA market alleged in the Complaint. As to your statement that additional injunctive relief is necessary to eliminate competitive problems the merger would create in the Sacramento area, we note that at the time of the governments’ Complaint, we had seen no evidence that the defendants’ merger would raise competitive problems warranting the imposition of the relief that you

propose. Of course, should we find in a subsequent investigation that the defendants' activities have unreasonably restrained competition in Sacramento, CA or any other waste collection or disposal market, the United States will take appropriate legal action, including requesting that a court impose injunctive relief. Depending on the nature of the violation, that relief may perhaps be similar to that which you have outlined in your comment on this decree. In the meantime, if you believe that your operations have been injured as a result of the proposed merger, you are certainly free to institute a private antitrust action for damages or injunctive relief in federal district court.

Thank you for bringing your concerns to our attention; we hope this information will help alleviate them. Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. §16(d), a copy of your comment and this response will be published in the Federal Register and filed with the Court.

Sincerely yours,

/s/

J. Robert Kramer II
Chief
Litigation II Section