



U.S. Department of Justice

Antitrust Division

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

September 13, 1999

Douglas H. Ward, Esquire
Ward, Sommers & Moore, L.L.C.
Plaza Office Center
122 South Swan Street
Albany, NY 12210

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. Ward:

Thank you for your letter commenting on the proposed Final Judgment submitted for entry in the above case. The proposed Judgment requires the defendants to divest their interest in the proposed Nekboh Transfer Station, which, if permitted by local government regulatory officials, would be constructed in Brooklyn, NY. Your client, Neighbors Against Garbage, strongly opposes permitting, construction and operation of a waste transfer station on the Nekboh site. It proposes, instead, that we modify the proposed Final Judgment to provide an incentive for using the Nekboh site not as a waste transfer facility, but as a public park.

We strongly believe that divestiture of the Nekboh permit application to an acceptable purchaser, and prompt permitting, construction and opening of a waste transfer station on the Nekboh site are steps that must be taken in order to provide an important competitive constraint on defendants' disposal operations in the New York City area. There is, however, nothing in the proposed Judgment that precludes the responsible New York state and city agencies from deciding not to issue a permit to operate a waste transfer station on the Nekboh site. In fact, whether these regulatory agencies decide to issue an operating permit for the Nekboh site depends on a variety of factors, including an assessment of the environmental impact of such a waste disposal facility. For that reason, your argument that opening a waste transfer station on the Nekboh site will have devastating environmental effects should be left to the appropriate state and local regulatory agencies to review and ultimately resolve.

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