



U.S. Department of Justice

Antitrust Division

---

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

September 13, 1999

Daniel J. Roth, Esquire  
Kommers & Roth  
Bridger Professional Center  
517 South 22<sup>nd</sup> Avenue, Suite 5  
Bozeman, Montana 50718-6842

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. Roth:

Thank you for your letter commenting on the proposed Final Judgment submitted for entry in the above case. Your submission largely consists of copies of a complaint and other pleadings filed by your client, Three Rivers Disposal Co., in a lawsuit against defendants USA Waste Services, Inc. and Waste Management, Inc. in Montana state court. In that suit, Three Rivers contends that USA Waste's acquisition of Waste Management would violate Waste Management's agreement not to compete with Three Rivers in hauling waste in the Bozeman, Montana area.

In deciding whether entry of the Final Judgment would be in the public interest, the Court's principal task is to determine whether the relief contained in the proposed decree adequately addresses the competitive problems that the United States has alleged in its Complaint. By this standard, it is difficult to see how Three Rivers Disposal's private contractual dispute bears on the competitive merits of the proposed Final Judgment in this case. The Complaint in this case does not allege that the defendants' proposed merger would create a competitive problem in the Bozeman area, and for that reason, the proposed Judgment contains no relief relating to the Bozeman market. Of course, if you believe that the merger would create significant competitive problems in that area, then you are free to file a private action against the defendants' proposed merger, as it appears you have, in fact, done.

Thank you for bringing your concerns to our attention. 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 decree court.

Sincerely yours,

/s/

J. Robert Kramer II  
Chief  
Litigation II Section