



U.S. Department of Justice

Antitrust Division

---

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

September 13, 1999

Mr. William A. Ehrman  
Executive Director  
York County Solid Waste and  
Refuse Authority  
2700 Blackridge Road  
York, PA 17402

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. Ehrman:

This letter responds to your letter, submitted on behalf of the York County Solid Waste and Refuse Authority ("Solid Waste Authority"), commenting on the proposed Final Judgment pending in federal district court in Cleveland, Ohio. The Complaint in the case charged, among other things, that USA Waste's acquisition of Waste Management would substantially lessen competition in the disposal of municipal solid waste from the New York, NY and Philadelphia, PA areas. The proposed Judgment would settle the case with respect to these markets by, *inter alia*, requiring that the defendants divest Waste Management's Modern Landfill, a large facility located in York County, Pennsylvania. *See* Judgment, §§ II (C)(1)(k) and IV(A). In a transaction approved by the United States in August 1998, under the terms of the decree, the defendants divested Modern Landfill to Republic Services, Inc., which prior to the sale did not operate any waste disposal facilities in the Philadelphia or New York areas.

In your letter, you expressed concern that the defendants' divestiture of Modern Landfill may interfere with defendant Waste Management's contractual commitment to deliver waste to the Solid Waste Authority's incinerator and dispose of noncombustible material and ash from the incinerator. You also question whether the defendants' divestiture of this landfill would promote competition in the Philadelphia market.

The proposed Judgment does not in any way affect the defendants' commitment to deliver waste to the Solid Waste Authority. Nor does it affect in any way their commitment to dispose of material at Modern Landfill. Under the terms of the proposed Judgment, Waste Management must divest Modern Landfill subject to any contractual commitments it has with the Solid Waste Authority to accept noncombustible material or ash for disposal. *See* Judgment, §§ II (C) and

(C)(1)(k), and IV(A) (defining landfill-related contracts and accounts as among the intangible assets that must be divested along with Modern Landfill).

As to your concern that divesting Modern Landfill is unnecessary to alleviate any competitive problems created by the proposed merger, it suffices to say that Modern would be one of only a handful of landfills capable of accepting municipal solid waste from the Philadelphia or New York City area that is not currently owned or controlled by the defendants. Divesting Modern Landfill to a capable new competitor such as Republic will surely enhance competition for the disposal of waste from both of these major metropolitan areas.

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(b), 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