

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,

Plaintiffs,

v.

USA WASTE SERVICES, INC.;
DOME MERGER SUBSIDIARY; and
WASTE MANAGEMENT, INC.,

Defendants.

Civil No.: 1:98CV1616

Filed: July 16, 1998

FINAL JUDGMENT

WHEREAS, plaintiffs, the United States of America, the State of Ohio, the State of Arizona, the State of California, the State of Colorado, the State of Florida, the Commonwealth of Kentucky, the State of Maryland, the State of Michigan, the State of New York, the Commonwealth of Pennsylvania, the State of Texas, the State of Washington, and the State of Wisconsin, and defendants USA Waste Services, Inc. ("USA Waste") and Waste Management, Inc. ("WMI"), by their respective attorneys, having consented to the entry of this Final Judgment

without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

AND WHEREAS, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of the Relevant Disposal Assets and Relevant Hauling Assets to assure that competition is not substantially lessened;

AND WHEREAS, plaintiffs require defendants to make certain divestitures for the purpose of establishing one or more viable competitors in the waste disposal business, the commercial waste hauling business, or both in the specified areas;

AND WHEREAS, defendants have represented to the plaintiffs that the divestitures ordered herein can and will be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW, THEREFORE, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED, AND DECREED as follows:

I.

JURISDICTION

This Court has jurisdiction over each of the parties hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants, as hereinafter defined, under Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

II.

DEFINITIONS

As used in this Final Judgment:

A. "USA Waste" means defendant USA Waste Services, Inc., a Delaware corporation with its headquarters in Houston, Texas, and includes its successors and assigns, and its subsidiaries (including Dome Merger Subsidiary), divisions, groups, affiliates, directors, officers, managers, agents, and employees.

B. "WMI" means defendant Waste Management, Inc., a Delaware corporation with its headquarters in Oak Brook, Illinois, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, directors, officers, managers, agents, and employees.

C. "Relevant Disposal Assets" means, unless otherwise noted, with respect to each landfill or transfer station listed and described herein, all tangible assets, including all fee and leasehold and renewal rights in the listed landfill or transfer station; the garage and related facilities; offices; landfill- or transfer station-related assets including capital equipment, trucks and other vehicles, scales, power supply equipment, interests, permits, and supplies; and all intangible assets of the listed landfill or transfer station, including landfill- or transfer station-related customer lists, contracts, and accounts, or options to purchase any adjoining property.

Relevant Disposal Assets, as used herein, includes each of the following properties:

1. Landfills and Airspace Disposal Rights

a. **Akron/Canton, OH**

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

b. **Columbus, OH**

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

c. **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;

d. **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;

e. Flint, MI

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

f. 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, under the following minimum terms and conditions:
 - (a) The purchaser (or all purchasers combined), or their designee(s), may dispose of up to 360,000 tons of waste/year, or a maximum of 1,200 tons of waste/day, at either, or both of, WMI's Security or Atascocita landfills. If more than one person purchases the airspace disposal rights, the minimum annual and daily disposal rates for each purchaser shall be specified in its purchase agreement, and the total of all purchasers' maximum disposal amounts shall be no less than 360,000 tons/year and 1,200 tons/day;
 - (b) For each purchaser of airspace rights (or their designee), defendants must commit to operate the Atascocita Landfill and Security

Landfill 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 the metropolitan Houston area, except as to price and credit terms;

- (c) At the end of the first five years of the agreement, the purchaser or purchasers will have been considered to have used a minimum of 1.4 million tons of airspace and can have no more than 1.6 million tons left to use under the purchase agreements. If there is more than one purchaser of the airspace, the minimum amounts used during the first five years shall be specified in their purchase agreements, but the total amount shall be no more than 1.4 million tons; and
- (d) At the end of the first seven years of the agreement, the purchaser (or purchasers) will have been considered to have used a minimum of 2.0 million tons of airspace and can have no more than 1.0 million tons left to use under the purchase agreements. If there is more than one purchaser of the airspace, the minimum amount used during the first five years shall be specified in their purchase agreements, but the total amount shall be no more than 2.0 million tons;

g. Los Angeles, CA

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

h. Louisville, KY

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

i. 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, under the following minimum terms and conditions:

- (1) The right to dispose of a maximum of 1.8 million tons of South Florida Waste, over a 20-year time period, as follows:
 - (a) The purchaser (or purchasers) must commit to dispose of no more than 600 tons/day, of South Florida Waste;
 - (b) The total amount of airspace used in each year may not exceed 150,000 tons; and
- (2) Three options for additional airspace at Okeechobee Landfill, exercisable at the sole discretion of the purchaser of the airspace disposal rights, as follows:

- (a) *First Option:* The right to dispose of an additional 1.0 million tons of South Florida Waste at the Okeechobee Landfill, for the remaining term of the agreement, as follows:
- (i) The amount of airspace used each weekday must be at least 500 tons, but not more than 800 tons (including tonnage disposed of under prior air space commitments); and
 - (ii) The amount of airspace used in the year the option is exercised, and in each succeeding year over the term of the agreement, may not exceed 225,000 tons (including tonnage disposed of under prior air space commitments);
- (b) *Second Option:* Exercisable at any time after the second anniversary of the agreement, and after exercise of the first option, the right to dispose of an additional 1.0 million tons of South Florida Waste at the Okeechobee Landfill, for the remaining term of the agreement, as follows:
- (i) The amount of airspace used each weekday must be at least 600 tons, but not more than 1,000 tons/day (including tonnage disposed of under prior air space commitments); and

- (ii) The amount of airspace used in the year Option Two is exercised and in each succeeding year of the life of the rights may not exceed 300,000 tons (including tonnage disposed of under prior air space commitments); and
- (c) *Third Option:* Exercisable any time after the fifth anniversary of the agreement, and after exercise of the second option, the right to dispose of an additional 500,000 tons of South Florida Waste, for the remaining term of the agreement, as follows:
 - (i) The amount of airspace used must be at least 600 tons/weekday, but may not exceed 1,100 tons/weekday (including tonnage disposed of under prior air space commitments);
 - (ii) The amount of airspace used in the year the third option is exercised, and in each succeeding year of the life of the rights may not exceed 300,000 tons/year (including tonnage disposed of under prior air space commitments); provided, that in any event,
- (d) The Okeechobee Landfill Rights shall expire when the purchaser has used the maximum tonnages available under

the rights and any exercised options, or twenty years from the date of purchase of the rights, whichever is sooner; and

- (e) For each purchaser of airspace rights (or its designee), defendants must commit to operate the Okeechobee Landfill, and its 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 Florida, except as to price and credit terms;

j. 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;

k. 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;

l. 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;

m. Pittsburgh, PA

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

n. Portland, OR

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

2. Transfer Stations, Disposal Rights and Throughput Agreements

a. 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:

- (1) 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;
- (2) 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;

b. 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:

- (1) 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 BRESKO), 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;
- (2) 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;

c. Cleveland, OH

At purchaser's option, either USA Waste's Newburgh Heights Transfer Station, located at 3227 Harvard Road, Newburgh Heights, OH 44105 (and 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;

d. Columbus, OH

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

e. Detroit, MI

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

f. Houston, TX

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

g. Louisville, KY

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

h. 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), a copy of which is attached as Exhibit A;

i. New York, NY

(1) 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;

- (2) 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, and known as the Nekboh Transfer Station; and
- (3) USA Waste's All City Transfer Station, located at 246-252 Plymouth Street, Brooklyn, NY 11202; and
- (4) 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

j. 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.

D. "Relevant Hauling Assets," unless otherwise noted, means with respect to each commercial waste collection route or other hauling asset described herein, all tangible assets, including capital equipment, trucks and other vehicles, containers, interests, permits, supplies

[except real property and improvements to real property (*i.e.*, buildings)]; and it includes all intangible assets, including hauling-related customer lists, contracts, and accounts.

Relevant Hauling Assets, as used herein, includes the assets in the following locations:

1. Akron, OH

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

2. Allentown, PA

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

3. Cleveland, OH

WMI's FEL commercial routes that serve the City of Cleveland and Cuyahoga County, Ohio (not including the northwestern quadrant);

4. Columbus, OH

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

5. Denver, CO

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

6. Detroit, MI

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

7. Houston, TX

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

8. Louisville, KY

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

9. 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;

10. Portland, OR

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

11. Tucson, AZ

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

12. Gainesville, FL

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

E. "Hauling" means the collection of waste from customers and the shipment of the collected waste to disposal sites. Hauling, as used herein, does not include collection of roll-off containers.

F. "Waste" means municipal solid waste.

G. "Disposal" means the business of disposing of waste into approved disposal sites.

H. "Relevant Area" means the county in which the Relevant Hauling Assets or Relevant Disposal Assets are located and any adjacent city or county, except with respect to the Modern Landfill [*see* Section II(C)(1)(k)], for which the Relevant Area means Philadelphia, PA, and New York, NY.

I. "Relevant State" means the state in which the Relevant Disposal Assets or Relevant Hauling Assets are located, provided however, that state is a party to this Final Judgment. With respect to the Modern Landfill [*see* Section II(C)(1)(k)], the Relevant State means the Commonwealth of Pennsylvania and the State of New York. With respect to Section VII, the Relevant State means each state in which the disposal or hauling assets to be acquired are located, provided that state is a party to this Final Judgment.

J. "South Florida Waste" means waste collected, or delivered directly from a transfer station located, in Broward, Dade or Monroe County, FL.

III.

APPLICABILITY

A. The provisions of this Final Judgment apply to defendants, their successors and assigns, subsidiaries, directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale or other disposition of all or substantially all of its assets, or of a lesser business unit that includes defendants' hauling or disposal businesses in any Relevant Area, that the acquiring party or parties agree to be bound by the provisions of this Final Judgment.

IV.

DIVESTITURES

A. With the exception of the Brooklyn Transfer Station (Section II(C)(2)(i)(4)), defendants are hereby ordered and directed, in accordance with the terms of this Final Judgment,

within one hundred and twenty (120) calendar days after the filing of the Complaint in this matter, or five (5) days after notice of the entry of this Final Judgment by the Court, whichever is later, to sell all Relevant Disposal Assets and Relevant Hauling 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.

B. 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, defendants are hereby ordered and directed, in accordance with the terms of Sections II, IV, V, and VI of this Final Judgment, within one hundred and twenty (120) calendar days after such anniversary date, to sell WMI's Brooklyn Transfer Station, located at 485 Scott Avenue, Brooklyn, NY 12222, as a viable, ongoing businesses to a purchaser or purchasers acceptable to the United States, in its sole discretion, after consultation with the Relevant State.

C. Defendants shall use their best efforts to accomplish the divestitures ordered by this Final Judgment as expeditiously and timely as possible. The United States, in its sole discretion, after consultation with the Relevant State, may extend the time period for any divestiture an additional period of time, not to exceed sixty (60) calendar days.

D. In accomplishing the divestitures ordered by this Final Judgment, defendants promptly shall make known, by usual and customary means, the availability of the Relevant Disposal Assets and the Relevant Hauling Assets. Defendants shall inform any person making an inquiry regarding a possible purchase that the sale is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Defendants shall also offer to furnish to all bona fide prospective purchasers, subject to customary confidentiality assurances, all

information regarding the Relevant Disposal Assets and Relevant Hauling Assets customarily provided in a due diligence process except such information subject to attorney-client privilege or attorney work-product privilege. Defendants shall make available such information to the plaintiffs at the same time that such information is made available to any other person.

E. Defendants shall not interfere with any negotiations by any purchaser to employ any USA Waste (or former WMI) employee who works at, or whose primary responsibility concerns, any disposal or hauling business that is part of the Relevant Disposal Assets or Relevant Hauling Assets.

F. Defendants shall permit prospective purchasers of the Relevant Disposal Assets or Relevant Hauling Assets to have access to personnel and to any and all environmental, zoning, and other permit documents and information, and to make inspection of the Relevant Disposal Assets and Relevant Hauling Assets and of any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

G. With the exception of the facilities described in Sections II(C)(2)(e), (h) and (i)(2), defendants shall warrant to each purchaser of Relevant Disposal Assets or Relevant Hauling Assets that each asset will be operational on the date of sale.

H. Defendants shall not take any action, direct or indirect, that will impede in any way the operation of the Relevant Disposal Assets or Relevant Hauling Assets.

I. Defendants shall warrant to each purchaser of Relevant Disposal Assets or Relevant Hauling Assets that there are no material defects in the environmental, zoning, or other permits pertaining to the operation of each asset, and that defendants will not undertake, directly

or indirectly, following the divestiture of each asset, any challenges to the environmental, zoning, or other permits or applications for permits or licenses pertaining to the operation of the asset.

J. Unless the United States, after consultation with the Relevant State, otherwise consents in writing, the divestitures pursuant to Section IV, or by trustee appointed pursuant to Section V of this Judgment, shall include all Relevant Disposal Assets and Relevant Hauling Assets and be accomplished by selling or otherwise conveying each asset to a purchaser in such a way as to satisfy the United States, in its sole discretion, after consultation with the Relevant State, that the Relevant Disposal Assets or Relevant Hauling Assets can and will be used by the purchaser as part of a viable, ongoing business or businesses engaged in waste disposal or hauling. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment, shall be made to a purchaser (or purchasers) for whom it is demonstrated to the United States's sole satisfaction, after consultation with the Relevant State, that: (1) the purchaser(s) has the capability and intent of competing effectively in the waste disposal or hauling business in the Relevant Area; (2) the purchaser(s) has the managerial, operational, and financial capability to compete effectively in the waste disposal or hauling business in the Relevant Area; and (3) none of the terms of any agreement between the purchaser and defendants gives any defendant the ability unreasonably to raise the purchaser's costs, lower the purchaser's efficiency, or otherwise interfere in the ability of the purchaser to compete effectively in the Relevant Area.

K. A purchaser of any Relevant Disposal Assets or Relevant Hauling Assets under this Final Judgment must demonstrate to the satisfaction of the United States, after consultation with the Relevant State, that the purchaser will comply with any and all applicable federal, state and local environmental and licensing laws.

L. Defendants may enter into an agreement, after review and approval of the United States, in its sole discretion, after consultation with the Relevant State, with a purchaser or purchasers of the Chiquita Canyon, Brazoria or Carleton Farms landfills (*see* Sections II (C)(1)(g), (f) and (d)) for disposal of commercially acceptable waste collected or transferred from defendants' own route operations.

V.

APPOINTMENT OF TRUSTEE

A. In the event that defendants have not sold the Relevant Disposal Assets or Relevant Hauling Assets within the time specified in Section IV of this Final Judgment, the Court shall appoint, on application of the United States, a trustee selected by the United States, to effect the divestiture of each Relevant Disposal Asset or Relevant Hauling Asset not sold.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Relevant Disposal Assets or Relevant Hauling Assets described in Sections II(C) and (D) of this Final Judgment. The trustee shall have the power and authority to accomplish any and all divestitures at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV, VI, and IX of this Judgment, and shall have such other powers as the Court shall deem appropriate. Subject to Section V(C) of this Judgment, the trustee shall have the power and authority to hire at the cost and expense of defendants any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestitures, and such professionals and agents shall be accountable solely to the trustee. To assist in the sale of the Brent Run Landfill, described in Section II (C)(1)(e) of this Judgment, the trustee also shall have the power and authority to

commit defendants to supply waste from defendants' routes in the Relevant Area to that landfill for up to a five-year time period at the best disposal price then obtainable upon reasonable effort by the trustee. The trustee shall have the power and authority to accomplish the divestitures at the earliest possible time to a purchaser or purchasers acceptable to the United States, in its sole discretion, after consultation with the Relevant State, and shall have such other powers as this Court shall deem appropriate. Defendants shall not object to a sale by the trustee on any ground other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to the United States and the Relevant State and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI of this Final Judgment.

C. The trustee shall serve at the cost and expense of defendants, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of each Relevant Disposal Asset or Relevant Hauling Asset sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of such trustee and of any professionals and agents retained by the trustee shall be reasonable in light of the value of the divested business and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestitures, including best efforts to effect all necessary regulatory approvals. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall

have full and complete access to the personnel, books, records, and facilities of the businesses to be divested, and defendants shall develop financial or other information relevant to the businesses to be divested customarily provided in a due diligence process as the trustee may reasonably request, subject to customary confidentiality assurances. Defendants shall permit bona fide prospective purchasers of each Relevant Disposal Asset or Relevant Hauling Asset to have reasonable access to personnel and to make such inspection of physical facilities and any and all financial, operational or other documents and other information as may be relevant to the divestitures required by this Final Judgment.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestitures ordered under this Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the business to be divested, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to sell the businesses to be divested.

F. If the trustee has not accomplished such divestitures within six (6) months after its appointment, the trustee thereupon shall file promptly with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems

confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it shall deem appropriate in order to carry out the purpose of the trust which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI.

NOTICE OF PROPOSED DIVESTITURES

Within two (2) business days following execution of a definitive agreement, contingent upon compliance with the terms of this Final Judgment, to effect, in whole or in part, any proposed divestiture pursuant to Sections IV or V of this Final Judgment, defendants or the trustee, whichever is then responsible for effecting the divestiture, shall notify the United States and the Relevant State of the proposed divestiture. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the business to be divested that is the subject of the binding contract, together with full details of same. Within fifteen (15) calendar days of receipt by the United States and the Relevant State of such notice, the United States, in its sole discretion, after consultation with the Relevant State, may request from defendants, the proposed purchaser, or any other third party additional information concerning the proposed divestiture and the proposed purchaser. Defendants and the trustee shall furnish any additional information requested from them within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days

after receipt of the notice [or within twenty (20) calendar days after the United States and the Relevant State have been provided the additional information requested from defendants, the proposed purchaser, and any third party, whichever is later], the United States, after consultation with the Relevant State, shall provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice to defendants (and the trustee, if applicable) that it does not object, then the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section V(B) of this Final Judgment. Upon objection by the United States, a divestiture proposed under Section IV or Section V of this Final Judgment shall not be consummated. Upon objection by defendants under the provision in Section V(B), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII.

NOTICE OF FUTURE ACQUISITIONS

A. Defendants shall provide each Relevant State with 30 days' written notice (which period may be shortened by permission of the Relevant State) before acquiring, directly or indirectly, any interest in any business, assets (other than in the ordinary course of business), capital stock, or voting securities of any person that, at any time during the twelve (12) months immediately preceding such acquisition, was engaged in waste disposal or small containerized solid waste hauling in any area listed in Section VII(B), where that person's annual revenues from waste disposal or small containerized solid waste hauling in the area were in excess of \$500,000 annually, or its total revenues were in excess of \$1,000,000 annually.

B. The notice provisions set forth in Section VII (A) above apply whenever defendants seek to acquire any interest in any business, assets (other than in the ordinary course of

business), capital stock, or voting securities of any person that was engaged in waste disposal or small containerized solid waste hauling in any of the following areas:

Relevant State	Area for Which Defendants Must Provide Relevant State Notice of Future Acquisitions
Arizona	Pima Co. (hauling and disposal)
California	Los Angeles and Riverside (hauling and disposal); Ventura and Orange Co. (disposal only)
Colorado	Boulder and Denver Co. (hauling and disposal)
Florida	Brevard, Alachua, Marion, Orange, Osceola, Seminole, Lee, Charlotte, Sarasota, Putnam, Volusia and Flagler Co. (hauling and disposal)
Kentucky	Jefferson and Oldham Co. (hauling and disposal)
Maryland	Baltimore City, Baltimore, Anne Arundel, Harford, Carroll, Howard, Montgomery, and Prince George's Co. (hauling and disposal)
Michigan	Wayne, Macomb, and Oakland Co. (hauling and disposal); Genessee, Shiawassee, Saginaw, Bay, Midland, Wexford, Manistee and Montmorency Co. (disposal only)
New York	New York, Bronx, Kings, Queens, and Richmond Co. (disposal only)
Ohio	Ashtabula, Cuyahoga, Delaware, Fairfield, Franklin, Geauga, Lake, Licking, Lorain, Lucas, Mahoning, Medina, Pickaway, Portage, Stark, Summit, Trumbull, and Wood Co. (hauling and disposal); Carroll, Columbiana, Coshocton, Holmes, Knox, Madison, Tuscarawas, Union and Wayne Co. (disposal only)
Pennsylvania	Allegheny, Westmoreland, Washington, Beaver, Butler, Lehigh, Northampton, Dauphin, Cumberland, and Perry Co. (hauling and disposal); Philadelphia, Bucks, Montgomery, and Delaware Co. (disposal only)
Texas	Brazoria, Chambers, Ft. Bend, Galveston, Harris, Liberty, Montgomery, Walker and Waller Co. (hauling and disposal)
Washington	Cowlitz and Clark Co. (hauling and disposal)
Wisconsin	Milwaukee, Waukesha, Racine, Washington, Kenosha, Ozaukee, Walworth, Jefferson and Dane Co. (disposal only)

C. For purposes of this Section VII, the term "small containerized solid waste hauling" means the provision of solid waste hauling service to commercial customers by providing the customer with a one to ten cubic yard container, which is picked up mechanically using a frontload, rearload or sideload truck, and excludes hand pick-up service, and service using a compactor attached to or part of a container.

VIII.

DEFENDANTS' ADDITIONAL OBLIGATIONS

Defendants are hereby ordered and directed to, in accordance with the terms of this Final Judgment:

A. Offer to extend, for an additional ten-year time period, the Solid Waste Service Agreement, dated August 8, 1996, by and between the Northeast Maryland Waste Disposal Authority and USA Waste's subsidiary, Garnet of Maryland, Inc. (attached hereto as Exhibit B), for the disposal of Anne Arundel County, MD and Howard County, MD waste at the Annapolis Junction Transfer Station;

B. Use their best efforts, prior to its divestiture, to obtain any and all licenses and permits to open and operate USA Waste's Nekboh Transfer Station, described in Section II(C)(2)(i)(2); and for a five-year period following such divestiture, to cooperate and assist the purchaser in obtaining any and all licenses or permits required to operate Nekboh Transfer Station and to refrain from opposing any application by the purchaser to obtain a license or permit to expand the Nekboh Transfer Station;

C. For a one-year period following entry of this Final Judgment, refrain from opposing any application by any person for a permit or license to operate any waste transfer station in any borough of the City of New York, NY;

D. For a five-year period following entry of this Final Judgment, refrain from opposing any application by any person to obtain a license or permit to expand the remaining capacity or the average daily capacity of the Emerald Park Landfill, Glacier Ridge Landfill, or Valley Meadows Landfill, in the Greater Milwaukee, WI area;

E. Refrain from reacquiring any interest in any Relevant Disposal Assets or Relevant Hauling Assets divested pursuant to the terms of this Final Judgment, without prior written notice to, and written consent of, the United States and the Relevant State;

F. Refrain from conditioning the sale of any landfill pursuant to this Final Judgment on any understanding, agreement or commitment, written or understood, that the purchaser (or purchasers) will agree to sell airspace or otherwise permit defendants to dispose of waste in that landfill; provided, however, that USA Waste's Carleton Farms Landfill may be divested subject to USA Waste's obligation to dispose of ash from the Greater Detroit Resource Recovery Center's incinerator at a separate monofill cell on the Carleton Farms Landfill site;

G. Refrain from taking any action to enforce any agreement or understanding that would prohibit any person from competing in Alachua or Marion County, FL; provided, however, that this provision shall not apply to a current or former employee of defendants (other than any employee who may be responsible in any way for route operations subject to divestiture under Sections II(D)(12), IV and V of this Judgment); and

H. Provide access to the gate, scale house and disposal area of the WMI Tucson transfer station, located at 5200 West Ina, Tucson, AZ, under terms and conditions no less favorable than those provided to defendants' own vehicles or to the vehicles of any county or municipality in Arizona.

IX.

AFFIDAVITS

A. Within twenty (20) calendar days of the filing of the Final Judgment in this matter and every thirty (30) calendar days thereafter until the divestiture has been completed whether pursuant to Section IV or Section V of this Final Judgment, defendants shall deliver to plaintiffs an affidavit as to the fact and manner of compliance with Sections IV or V of this Final Judgment. Each such affidavit shall include, *inter alia*, the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the businesses to be divested, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts that defendants have taken to solicit a buyer for any and all Relevant Disposal Assets and Relevant Hauling Assets and to provide required information to prospective purchasers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States, after consultation with the Relevant State, to information provided by defendants, including limitations on information, shall be made within fourteen (14) days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to plaintiffs an affidavit which describes in detail all actions defendants have taken and all steps defendants have implemented on an on-going basis to preserve the Relevant Disposal Assets and Relevant Hauling Assets pursuant to Section X of this Final Judgment and the Hold Separate Stipulation and Order entered by the Court. The affidavit also shall describe, but not be limited to, defendants' efforts to maintain and operate each Relevant

Disposal Asset and Relevant Hauling Asset as a viable active competitor; to maintain separate management, staffing, sales, marketing and pricing of each asset; and to maintain each asset in operable condition at current capacity configurations. Defendants shall deliver to plaintiffs an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavit(s) filed pursuant to this Section within fifteen (15) calendar days after any such change has been implemented.

C. For a one-year period following the completion of each divestiture, defendants shall preserve all records of any and all efforts made to preserve the Relevant Disposal Assets and Relevant Hauling Assets that were divested and to effect the ordered divestitures.

X.

HOLD SEPARATE ORDER

Until the divestitures required by the Final Judgment have been accomplished, defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the sale of any Relevant Disposal Asset or Relevant Hauling Asset.

XI.

FINANCING

Defendants are ordered and directed not to finance all or any part of any acquisition by any person made pursuant to Sections IV or V of this Final Judgment.

XII.

COMPLIANCE INSPECTION

For purposes of determining or securing compliance with the Final Judgment and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the United States Department of Justice, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, or upon written request of duly authorized representatives of the Attorney General's Office of any other plaintiff, and on reasonable notice to defendants made to their principal offices, shall be permitted:

1. Access during office hours of defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, who may have counsel present, relating to the matters contained in this Final Judgment and the Hold Separate Stipulation and Order; and
2. Subject to the reasonable convenience of defendants and without restraint or interference from them, to interview, either informally or on the record, their officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, or upon the written request of the Attorney General's Office of any other plaintiff, defendants shall submit such written reports, under oath if requested, with respect to any matter contained in the Final Judgment and the Hold Separate Stipulation and Order.

C. No information or documents obtained by the means provided in Sections VII or X of this Final Judgment shall be divulged by a representative of the plaintiffs to any person other than a duly authorized representative of the Executive Branch of the United States, or the Attorney General's Office of any other plaintiff, except in the course of legal proceedings to

which the United States or any other plaintiff is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to plaintiffs, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) calendar days notice shall be given by plaintiffs to defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which defendants are not a party.

XIII.

RETENTION OF JURISDICTION

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XIV.

TERMINATION

Unless this Court grants an extension, this Final Judgment will expire upon the tenth anniversary of the date of its entry.

XV.

PUBLIC INTEREST

Entry of this Final Judgment is in the public interest.

Dated _____, 1998.

United States District Judge