Final Report

WASTE MANAGEMENT, INC.



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District Attorney

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INTRODUCTION

In late 1990, Waste Management, Inc., filed for a major use permit seeking to develop a privately owned and operated landfill site to be located at Gregory Canyon in San Diego North County. For this project to proceed, the San Diego County Board of Supervisors needed to approve a number of permit and zoning change applications presented by Waste Management, Inc. On November 21, 1990, prior to such approval, the Board passed a resolution requesting that the District Attorney conduct an investigation of Waste Management, Inc. In a memorandum to this office, dated December 10, 1990, Supervisor Susan Golding listed the following specific concerns regarding Waste Management, Inc.:

Allegations of price-fixing and other anti-trust violations

Allegations of criminal conduct

Allegations of environmental contamination and illegal dumping of toxic and hazardous materials

Allegations of inadequate liability insurance held by WMI on their municipal and hazardous waste operations

Allegations of organized crime connections

Initially, we anticipated the full cooperation of Waste Management, Inc., which ... would have included the company granting waivers of confidentiality and defamation

liability. We considered these conditions essential for a full and complete investigation, since it would have included unlimited access to company records. However, the company refused to grant these waivers.

Our investigation has consisted of acquiring information from a number of sources including the public media, the public records of various governmental bodies, prior investigations conducted by both public and private organizations and the reports and records of other law enforcement agencies.

In 1987, the <u>News Sun-Sentinel</u> of South Florida published the results of an investigation conducted by a team of reporters who examined the nationwide operations of Waste Management, Inc., and Browning-Ferris Industries, Inc. [A copy of that report is included as Attachment A.]

Waste Management, Inc., is currently involved in efforts to open a privately operated landfill in Ventura County near Ojai. A member of the Ventura County Board of Supervisors, Maggie Erickson-Kildee, requested that the Ventura County Sheriff's Department conduct a background investigation of the company and its activities. On September 20, 1991, the Ventura County Sheriff's Department issued their report. The Ventura report includes a survey of environmental and anti-trust violations committed by the company. The fines and settlements related to these violations total approximately \$52.3 million. [A copy of the report is included as Attachment B.]

Our investigation also included an inquiry into the activities of Waste Management, Inc., in San Diego County. District Attorney investigators interviewed a number of witnesses who had either past or present associations with Waste

Management, Inc., to determine if the company or its associates had committed criminal violations of law while engaging in local political or business activities.

A synopsis of our investigation and initial conclusions was presented in an interim report to the San Diego County Board of Supervisors in August 1991. At that time our investigation was still underway, so the Interim Report was presented confidentially. This Final Report is a public document and contains all the data which appeared in the Interim Report as well as additional material developed from the investigation from August 1991 to the present.

COMPANY HISTORY

In 1968, Waste Management, Inc., was formed by the combination of three smaller companies. Those companies were Ace Scavenger Service and Acme Disposal Company of Chicago, and Southern Sanitation Service of Fort Lauderdale, Florida. Ace Scavenger Service was owned and operated by Dean and Elizabeth Huizenga Buntrock. Southern Sanitation Service was owned by Mrs. Buntrock's cousin, Wayne Huizenga. The main principal of the third company, Acme Disposal, was Lawrence Beck. Dean Buntrock, Huizenga and Beck became the principal officers of the corporation with Mr. Buntrock as chairman of the board and president.

The company is incorporated under the laws of the State of Delaware and its headquarters are located in Oak Brook, Illinois (a suburb of Chicago). The company went public in 1971 and since that time has exhibited an aggressive and rapid rate of growth. The primary method of expansion has been acquiring and assimilating smaller waste hauling companies. Once having acquired a smaller company as a subsidiary, it was the general practice to maintain the management of that company in place. A number of these subsidiaries have continued to do business under their original business titles. An example of the rate of growth of the company can be seen in its corporate acquisitions from 1980 through 1986. During that period, the company acquired over 350 businesses involving the transfer of over \$250,000,000

and 5.5 million shares of stock. Waste Management, Inc., is currently the largest waste disposal firm in the world, with operations throughout the United States, Europe, Asia, Latin America and the Middle East. The company's operations include municipal and rural trash cartage, hazardous waste cartage, the operation of waste landfills, hazardous waste incineration and municipal recycling programs. In 1990, its revenues exceeded \$6.03 billion, with earnings of \$684.8 million.

In addition to the proposed Gregory Canyon landfill project, Waste Management has a considerable presence in San Diego County which include the following companies: Waste Management of San Diego, Waste Management of North County, Universal Refuse Removal of El Cajon, Independent Waste of Fallbrook, and Oceanside Disposal.

ENVIRONMENTAL PROBLEMS

Since its establishment, Waste Management, Inc., and its subsidiaries have been defendants in a significant number of legal actions involving environmental violations. Most of these alleged violations arose from operations involved with the storage and incineration of hazardous wastes. The fines and assessments levied as a result of these environmental law violations have totaled millions of dollars. For instance, the combined fines and civil settlements levied in cases involving Waste Management sites located at Vickery, Ohio, and Emelle, Alabama, have amounted to over \$30 million. This figure does not include the amount of money spent by Waste Management in defending itself.

Greenpeace has estimated that since 1980 the company has paid over \$43 million in fines, penalties and out-of-court settlements related to alleged violations of environmental laws at its dump sites. At least forty-five Waste Management owned or operated waste sites have been found to be out of compliance with Federal or State environmental regulations, and at least five sites have been ordered closed by regulatory agencies.

Greenpeace has also reported that between 1980 and 1983 over 547 citations and orders related to pollution violations were issued against Waste Management.

Supreme Court determined that the states retain responsibility for pollution costs at disposal sites acquired from private entities, even if the property interest is merely an easement. Since environmental damage may not be discovered for many years after a facility has been shut down and the operator's withdrawal, the potential for future governmental liability bears serious consideration. Although lower courts have ruled that the granting of permits to private enterprise to operate waste dumps does not confer liability on the government, this issue has yet to be addressed by the Supreme Court. In the event that a private party falls victim to the pollution of a bankrupt permittee's wrongdoing, the Court may rule that public policy mandates that a governmental body must assume a <u>de facto</u> underwriter's position when granting a permit for the enterprise.

It is difficult, if not impossible, to compare Waste Management's environmental record with that of the industry or its competitors. Given the fact that it is nearly twice the size of its nearest competitor, and in many instances enjoys a virtual monopoly of certain aspects of the hazardous waste disposal market, the figures simply do not lend themselves to meaningful comparison.

SIGNIFICANT ENVIRONMENTAL CASES

What follows is a discussion of some of the more significant environmental cases revealed during the investigation. Many of the cases took a number of years to resolve while some remain active cases. The cases are listed as examples only and represent only a portion of the environmental law violations charged against the company.

Alabama:

Chemical Waste Management (a 70-percent owned subsidiary of Waste Management, Inc.) is a company handling hazardous waste disposal nationwide. The company operates the largest hazardous waste landfill in the United States, which is located in Sumter County, Emelle, Alabama.

In January 1984, the EPA charged Waste Management with thirty-eight counts of improper disposal of highly toxic polychlorinated biphenyl (PCB) chemicals. Later that year, traces of PCB were found in a drainage ditch and swamp located outside the landfill. Well test samples indicated there had been chemical migration from the landfill into local water supplies. Six months later, laboratory tests indicated that dioxin, a highly toxic chemical, was present in the site at unacceptable levels. At the end of 1984, the EPA entered into a consent decree with Waste Management which

included fines of \$600,000 for improper handling and storage of PCB. During April 1985, a fire at the Emelle site required the evacuation of all personnel from the area. Later that year, a pipe failure caused over a quarter of a million gallons of liquid waste to flow onto adjacent properties. In 1987, the landfill emitted a chemical cloud which caused headaches and eye irritations to the adjoining residents.

Waste Management, Inc., has been awarded several major cleanup contracts under federal Superfund legislation, including those from the Department of Defense. In 1983, the company certified to the Pentagon that all hazardous DDT military waste entrusted to it had been incinerated; when, in fact, an undetermined amount of the DDT waste had been mixed with 250,000 gallons of other toxic chemicals at the Emelle, Alabama, disposal site.

California:

Chemical Waste Management operates a chemical and hazardous waste dump at Kettleman Hills, California. In 1985, the EPA and Waste Management agreed to a consent decree involving fines of \$4 million stemming from the mishandling of hazardous waste, including PCB.

Since March 1988, a number of problems have occurred at the Kettleman Hills landfill. The integrity of the hazardous waste site was breached when a landslide surged forward and downslope, tearing out part of the liner system and displacing waste deposited at the site. In July 1989, Chemical Waste filed a lawsuit against Encom Associates of San Jose, charging that the accident was caused by design

failure. Encom designed the facility's plans and specifications, including depth, degree of slope, waste capacity and operational requirements. An independent investigation of the accident concluded that the slide was caused by incorrect fill configuration. In reply to this allegation, Encom's president, Thorley Briggs, stated the company did not accept any liability for the accident or admit any negligence or guilt and added, "This is a very complicated technical issue and frankly no one is quite sure what happened." While the accident caused no injuries or environmental damage, the EPA has ordered Chemical Waste to suspend operations, excavate more than one million cubic yards of waste, and repair the liner system before operations can resume. Encom Associates agreed to a \$5 million settlement with Chemical Waste Management, Inc. Grundle Lining Systems, Inc., of Houston, Texas (manufacturer and installer of the liner) agreed to pay Chemical Waste an undisclosed amount.

The California Department of Health Services imposed a fine of \$363,000 against Chemical Waste Management, Inc., for violations in the manner in which it operated its Kettleman Hills facility. The fine was imposed for eleven administrative and operational violations in the operation of its hazardous waste landfill. During 1988, the company was assessed a fine of \$80,000 in connection with a fire at the landfill.

During 1984, the EPA fined Chemical Waste Management \$2.5 million for a total of 130 violations at the Kettleman Hills landfill. Among other incidents, the EPA charged the company had allowed leaks from the landfill to contaminate local water supplies.

A lawsuit has been filed against Chemical Waste Management, Inc., alleging civil rights violations in its attempts to install and operate a toxic waste incinerator at its Kettleman Hills facility. The suit alleges Chemical Waste Management made a pattern of singling out poor, minority-populated communities as incinerator sites.

During March 1989, the <u>San Jose Mercury News</u> reported that the Kirby Canyon Sanitary Landfill (operated by Waste Management in Santa Clara County) was leaking toxic substances which posed a threat to the ground water assets of the County. Waste Management's initial response was to deny that any toxins were leaking beyond the site of the landfill. For the next year, the Regional Water Quality Control Board sought Waste Management's cooperation in identifying the source of the leakage and to take steps to rectify it. During July 1990, Waste Management was advised that at least part of the leakage was attributable to a six-inch leachate line which had ruptured and was leaking its contents into the surrounding earth. Although the pipeline ultimately was repaired, the environmental damage caused by the leakage has yet to be determined. Contrary to Waste Management's assertions, it is clear that the toxins have leaked beyond the boundary of the Waste Management landfill site.

Illinois:

During 1983, Chemical Waste Management was subject to a \$2.2 million suit filed by the Illinois Attorney General for violations of environmental laws at its CID Landfill located at Calumet City, Illinois.

The EPA fined Waste Management, Inc., \$37,250 in penalties for environmental violations at the hazardous waste dump located near Joliet, Illinois. The EPA cited Waste Management for failure to provide the agency with adequate information on ground water monitoring and waste treatment activities at the site. An EPA statement said Waste Management has "violated Federal Resource Conservation and Recovery Act regulations regarding the management of hazardous waste."

The EPA proposed a \$22,800 fine against SCA Chemical Services, Inc. (a subsidiary of Waste Management, Inc.). The EPA charged in its complaint that SCA chemical Services failed to follow regulations to undertake a more aggressive monitoring program to learn the type and amount of chemicals located at its facility in Chicago. SCA Chemical Services was alleged to have operated a toxic waste incinerator without having checked for ground water contamination after indications of chemical seepage. Under regulations of the Federal Resources Conservation and Recovery Act, SCA Chemical Services was required to check monitoring wells for seepage from four ponds located at the site. Samples taken from the wells in July 1986 showed contamination.

The Illinois Environmental Protection Agency filed a suit to temporarily shut down the SCA Chemical Services, Inc.'s, southeast Chicago, toxic waste incinerator for environmental control irregularities. It was alleged that air monitoring devices at SCA were disconnected at least four times during 1986 and 1987 and that chemical waste containing toxic PCB was fed into the incinerator at rates 30 percent higher than allowed under state and federal permits.

Chemical Waste Management, Inc., (the parent company of Trade Waste Incineration, located in Sauget, Illinois) agreed to pay a \$250,000 penalty to the State of Illinois and make payment of \$30,000 to Illinois' hazardous waste fund instead of fighting a suit alleging that the company was in violation of the Illinois Environmental Protection Act. Trade Waste was acquired by Chemical Waste Management, Inc., in 1983. It has four incinerators used to destroy industrial and institutional hazardous waste. It was alleged that the company failed to properly monitor its incineration process and that as a result hazardous wastes were emitted into the air. In addition to paying the fines, the disposal company agreed to make improvements in its operating procedures.

Chemical Waste Management's incinerator No. 4, located at Sauget, failed test burns conducted during 1990. The unit was issued a permit in 1988 by the Illinois Environmental Protection Agency on the condition that such test burns occur prior to its full operation. Due to these failures of the facility to pass the test burns, the company faced significant delays in obtaining applications for two hazardous waste incinerators to be located in Niagara County, New York.

Mayor William Ottilye of Geneva, Illinois, asked the Geneva City Attorney to investigate the possibility of filing a complaint with the Illinois Environmental Protection Agency against the Settler's Hill disposal facility (operated by Waste Management, Inc.). The residents had complained, over a period of months, about the odors emanating from the disposal site. Those complaints resulted in a shut down of the operation for a short time during 1990 and officials of Waste Management,

Inc., vowed to address the problem. A company spokeswoman stated that the firm had temporarily closed the facility it operated near Grayslake because of complaints about the odor, but stated the company would be seeking a Lake County permit to resume operations as a compost facility.

According to the January 19, 1990, issue of the <u>Belleview News Democrat</u>, a spokesman for the Illinois Environmental Protection Agency had stated that a chemical cloud released at Trade West Incineration, Inc., could have endangered people if it had floated over a populated area. The cloud was organic acid created from a chemical reaction in a machine used to blend waste products before they are burned. The company claimed the cloud was harmless; however, 70 employees were evacuated from the site. The company faces a maximum fine of \$10,000 for the release of the chemical into the environment.

Under a settlement announced by the EPA, Chemical Waste Management will pay a record \$3.75 million fine for pollution violations at its hazardous waste incinerator located on the south side of Chicago. The EPA called it the largest administrative penalty ever imposed on a single facility in EPA history. The fine stems from agency investigations of a whistle-blower's charges that during 1987 employees disconnected air pollution monitors while overloading the incinerator with highly toxic PCB. The EPA originally proposed a \$4.47 million fine for the monitor tampering last year, and Chemical Waste Management chose to appeal. Under the settlement, the company will drop its appeal and pay the reduced fine, but does not have to admit any wrongdoing at the plant.

Kansas:

During 1982, the Kansas Department of Environmental Health shut down the Waste Management disposal site at Furley, Kansas, (near Wichita) when toxic chemicals were found to have leaked into ground water.

New York:

In 1988, Chemical Waste Management was facing up to \$1.3 million in EPA fines for failing to comply with PCB handling regulations. The EPA said that the company was in violation for not testing every truckload of PCB tainted sludge that came into the Porter, New York, disposal facility from February to June 1985. A fine of \$25,000 a day for 48 days during the four month period was being assessed. The company also faced fines of \$85,000 for a series of separate, lesser violations during 1985 and 1986. Those violations also arose as a result of failure to comply with federal regulations for handling PCB.

Chemical Waste Management was fined \$1.32 million by the EPA for violations in its operation of a PCB Detoxification Unit at its Model City toxic waste disposal plant in Niagara County. Daniel Kraft, Chief of the EPA's Toxic Substances Section, said that the \$1.32 million fine stemmed from Chemical Waste Management's 1985 purchase of a mobile unit from Accurex Waste Technologies designed to dechlorinate the PCB. Kraft stated that when Chemical Waste Management applied to have the unit transferred from Accurex to Chemical Waste Management, they did not notify the officials that the unit had undergone "major modification." Initially, the EPA proposed

a fine of \$890,000; however, on June 18, 1990, the penalty was raised to \$1.32 million, after determining that the unit had been in use for a longer time than first reported.

York, filed suit to intervene in a lawsuit between National Solid Waste Association and Chemical Waste Management, Inc., regarding the disposal of hazardous waste at Chemical Waste Management's No. 12 landfill in Porter. The communities and other environmental groups were opposed to the disposal of hazardous waste imported from other jurisdictions for disposal at a landfill they claimed was suffering from leaks and problems with its leak detection system.

Chemical Waste Management faces fines of \$7 million by the EPA stemming from charges that it was involved in improperly disposing of PCB contaminated sludge at its Model City plant in Niagara County, New York. The EPA complaint alleges that General Motors shipped 31,000 tons of the contaminated sludge between February 1, 1984, through August 15, 1987. Of that total, 10,000 tons went to Chemical Waste Management for disposal of which 2,500 tons were shipped to Chemical Waste Management's facility in Emelle, Alabama. General Motors and Cecos International were also charged in the complaint.

Ohio:

Chemical Waste Management's site at Vickery, Ohio, has given rise to a number of actions brought by the EPA and the Ohio Attorney General's Office. During 1983, the EPA charged the company with numerous violations of permits related to the handling of hazardous waste. The charges included selling home heating oil contaminated with PCB and dioxin. During 1984, the Ohio Attorney General's Office and Chemical Waste Management entered into a stipulated settlement whereby the company agreed to pay fines and assessments amounting to \$10 million. During 1985, the EPA brought actions against Chemical Waste Management alleging violations of the Toxic Substances Control Act and the Resources Conservation Recovery Act and sought fines in the amount of \$6.8 million. However, later that year, Chemical Waste Management agreed to pay a penalty of \$2.5 million to settle the suits. Since 1985, Chemical Waste Management has been cited for a number of other violations occurring at the Vickery site. The most recent violation arising in 1988 involves fines that may total as much as \$2 million.

Oregon:

Chemical Waste Management operates a hazardous waste disposal site at Arlington, Oregon. During 1985, the company was fined \$360,000 by the EPA for failing to keep proper records of what types of waste were received at the dump. The settlement also involved a \$250,000 donation by the company to the Oregon Environmental Fund.

Texas:

Chemical Waste Management operated a chemical waste dump at Port Arthur, Texas. During 1985, the State of Texas imposed a \$1 million fine for operations which included violations for an improper collection system and inadequate ground water monitoring.

Wisconsin:

During 1986, the Wisconsin Attorney General filed suit against Waste Management, Inc., and Waste Management of Wisconsin alleging that the companies failed to comply with rules and regulations for the operation of their landfill known as Omega Hills North. The complaint alleged that nearby ground water had been contaminated by hazardous materials leaking from the landfill and that the company had a deficient ground water monitoring program. In April 1989, Waste Management, Inc., and its subsidiary entered into a stipulated judgment with Wisconsin wherein they agreed to pay fines in the amount of \$800,000. This was the largest fine payment ever made in an environmental lawsuit in the State of Wisconsin.

Mexico:

Chemical Waste Management, Inc., owns a \$20 million incineration plant, Tratamientos Industriales Tijuana Internacional, S.A., located approximately five miles south of the international boundary on the Pacific coast near Tijuana. Despite company assurances to the contrary, local and national environmental groups have expressed concern over the manner in which the plant may be operated and the threat that it poses to the environment.

Canada:

Waste Management, Inc., lost a \$28 million recycling contract in Vancouver due to its record of convictions.

ORGANIZED CRIME CONNECTIONS

Historically, the refuse industry has been reputed to be infiltrated by members of organized crime. In many instances, this is a well-deserved reputation. The waste cartage business in certain areas of the country, primarily the northeastern seaboard, continues to be known as an industry with strong ties to traditional organized crime families. Where organized crime is involved in the hauling industry it is common to find a "property rights" system at work wherein customers are considered the "property" of the hauling company. Thus, there is no competition and the companies are free to set high service fees without concern that customers will be lost to competitors. Where organized criminals are involved in waste storage or landfill operations, fee skimming and money laundering are commonly applied schemes. In many instances, the disposal companies associated with organized crime have been fairly blatant in their disregard for state and federal environmental regulations. However, such unlawful business practices have not been limited to organized crime operated businesses.

The definition of "organized crime" is generally assumed to be merely another term for the Mafia, or traditional organized crime families. However, now the term "organized crime" may be applied to many criminal enterprises with divergent

interests. Any enterprise which is organized to circumvent the law for profit may properly be described as "organized crime."

In early 1960, Dean Buntrock (one of the founding members of Waste Management, Inc.) was charged with unfair business practices along with eleven other individuals. Most noteworthy are allegations that those charged had used threats of physical harm and intimidation against their competitors. The allegations in the complaint describe behavior and methods most typically associated with organized crime operations. Among the eleven individuals named in the lawsuit were relatives of John Mandella (a former head of the Librizzi-Mandella organized crime family of Milwaukee, Wisconsin).

Prior to the formation of Waste Management, Inc., Dean Buntrock operated Ace Scavenger Company. In 1962, the Wisconsin Attorney General filed suit in Milwaukee Circuit Court against eleven trash hauling companies, including Ace Scavenger. The companies were charged with engaging in a "conspiracy to restrain trade, to willingly injure the business of others, to hinder others from performing lawful acts, and an attempt to monopolize the rubbish collection, waste removal or disposal business in and around Milwaukee County." The owners of the companies, including Buntrock, were charged with "threatening physical harm to the owners of competing firms. . .and their families and destruction or damage to their property and equipment, or threaten to haul all their accounts for nothing" if they competed against the accused firms. The Milwaukee Circuit Court issued an injunction against the firms which remained in effect for eight years. During 1970, the action was dismissed after

the company owned by Buntrock and a number of the other accused firms became subsidiaries of the newly formed Waste Management, Inc. [See Attachment C.]

Ace Scavenger was a member of the Chicago Refuse Corporation, a trade association of trash haulers. During 1971, the Chicago Refuse Corporation was sued for price fixing and harassing competitors for the prior six years. The lawsuit was settled when Chicago Refuse Corporation paid \$50,000 as part of a consent decree, a clause of which indicated that the settlement did not involve an admission or denial of guilt.

During 1980, Waste Management, Inc., and SCA Services, Inc., were jointly charged with price fixing and restraint of trade in a federal anti-trust case in Georgia.

In 1984, Waste Management, Inc., proposed a tender offer for the acquisition of SCA Services, Inc. At that time, SCA Services, Inc., was the third largest waste handling firm in the nation with 1983 revenues of approximately \$391 million.

In September 1984, the United States Department of Justice announced the filing of a civil anti-trust suit, challenging the proposed acquisition, and a consent decree which resolved the alleged anti-trust violations. Under the terms of the consent decree, Waste Management, Inc., would promptly divest itself of about 40 percent of SCA Services, Inc., revenue-producing operations to a third company, Genstar Corporation of Canada.

SCA Services Inc., was the target of numerous Justice Department investigations into its alleged ties with organized crime figures. The president of SCA Services Inc., Thomas C. Viola, was described by federal law enforcement officials

to a congressional subcommittee investigating the rubbish industry as being "a. business associate of organized crime." Viola had operated one of the largest trash hauling firms in northern New Jersey since 1952 until he sold it to SCA Services Inc., in 1972. In 1959, he was indicted in New Jersey in two cases involving bid rigging in connection with the rubbish industry; however, following the disappearance of a prosecution witness, Viola was found not guilty. The other case was dismissed.

During 1980, Peter lommetti, owner of a New Jersey waste company, was observed and photographed at a meeting held with a high ranking organized crime figure and Ernest Palmeri, the business agent for the Teamster's local that helped organized crime elements enforce turf rights in the New Jersey rubbish industry. During 1972, lommetti and his brother sold their solid waste company to SCA Services, Inc., however, they continued as managers.

During 1972, Ralph Mastrangelo, owner of a rubbish firm, was involved in extortion with August Vergaletto. According to law enforcement intelligence sources, Vergaletto was closely associated with the acting boss of the De Cavalcante organized crime family in New Jersey. In 1973, Mastrangelo sold his rubbish company to SCA Services, Inc., but remained in the business as an officer of SCA Services, Inc. During 1976, a New Jersey rubbish operator, Alfred Di Nardi, was murdered. Di Nardi had been underbidding SCA companies. After Di Nardi's death, a "peace meeting" was held in East Harlem, New York, by Mafia figures and the rubbish representatives. They decided that SCA Services, Inc., should get back some of the territories taken by Di Nardi. In one instance, SCA Services, Inc., was the sole

bidder for some of Di Nardi's old contracts, despite attempts by the user of the service to solicit eight other bidders.

During 1978, Gabriel San Felice (another New Jersey rubbish operator) was murdered. He had been contesting the rubbish "property rights" of Crescent Roselle, owner of a subsidiary of SCA Services, Inc. On December 22, 1980, Roselle was murdered and a congressional witness testified that Roselle might have failed to abide by the East Harlem agreements. During 1980 and 1981, a congressional subcommittee heard testimony from federally protected witnesses and law enforcement officials who charged that the New Jersey rubbish industry was essentially controlled by the Gambino and Genovese organized crime families, as well as the New Jersey Teamster's Union Locai.

In 1972, Waste Management, Inc., acquired Universal By-products located in Los Angeles. This acquisition included the subsidiary known as Universal Refuse Removal Company of El Cajon, California. The owner of Universal By-products was Louie Visco. Visco had been the target of organized crime investigations for some period of time prior to 1972. He gained considerable notoriety in 1955 when Los Angeles Mayor Norris Poulson labeled him the "San Fernando Valley Rubbish Czar." A State Assembly subcommittee investigating the rubbish industry in Los Angeles was presented taped conversations in which Visco claimed to control the Los Angeles City Council, Board of Supervisors and the State Legislature. At the time of the merger, Visco owned 22 percent of Universal Refuse Removal. He was reported to have received \$1.7 million in Waste Management stock and options equal to 5.39 percent

of the outstanding stock. During 1981, J. Steven Bergeson, General Counsel of Waste Management, contended that Visco had divested himself of all stock he had acquired as a result of the merger. It is unknown what role or influence Visco has had in Waste Management, Inc., subsequent to 1981.

PUBLIC CORRUPTION

The waste hauling and disposal industry is one subjected to constant regulation and review by public agencies, including operations, franchises and contracts. The waste industry has a fairly significant history of public corruption, although it is generally quite difficult to detect and prove violations of the law. Nevertheless, officials of Waste Management, Inc., subsidiaries have been the targets of corruption investigations and in some instances have been convicted of criminal offenses. In nearly all cases, company management has denied prior knowledge of the offender's conduct or official company involvement.

The SEC conducted an investigation into the operations of Waste Management in Florida regarding allegations that unlawful political contributions were being made. They alleged that Waste Management was skimming dump fees and using the proceeds to create an illegal "slush fund" to be used for political contributions. During 1976, Waste Management agreed to cease making "unlawful political contributions."

During 1983, three of five Hillsborough County commissioners were indicted and ultimately convicted on charges of attempting to extort \$75,000 from a developer. Harvey Sharp (an operations manager in the employ of Waste Management, Inc.) testified under a grant of immunity that he had offered bribes and gratuities to the county commissioners as a means of influencing their votes on

matters pertaining to waste hauling contracts. Sharp later stated that his activities were unknown to Waste Management corporate leadership.

In 1984, Florida State Representative Jack Tobin and four other individuals were indicted on bribery and unlawful compensation charges by a Broward County grand jury investigating alleged corruption in Margate city government. One of those indicted, Hal Stocket, was an official of Waste Management, Inc., which at the time dominated Broward County's waste management disposal industry. Among the allegations investigated was the award of a five-year garbage collection contract to Waste Management in spite of the fact that a competitive bid had been made which was \$884,640 less than the bid by Waste Management. Apparently no convictions emanated from this prosecution.

During 1985, John Forack (the general manager of HOD Disposal, a Waste Management, Inc., subsidiary in Illinois) was indicted and charged with mail fraud and Racketeer Influenced and Corrupt Organizations (RICO) forfeiture charges. It was alleged that he had bribed the mayor of Fox Lake, Illinois, and another public official in order to obtain a waste hauling contract. Forack was convicted after a jury trial, sentenced to jail and fined \$25,000. Waste Management officials maintained that Forack acted on his own and without corporate knowledge. Forack testified that he had paid the bribe money with his own funds, but expected he would be reimbursed by Waste Management officials.

During 1987, Raymond Akers, Jr., (a lobbyist and marketing representative for Waste Management, Inc.) was indicted along with Chicago Alderman Clifford Kelley.

The United States Justice Department sought the indictments at the conclusion of an investigation entitled, "Operation Incubator." They alleged that Akers had bribed Kelley in order to acquire an option to buy land for a waste transfer facility. Prior to trial, both Akers and Kelley pled guilty. Waste Management claimed that Akers acted on his own and not in the interest of the company.

On October 6, 1988, the superintendent and the director of the Department of Sanitation of New Orleans, Louisiana, reported that two municipal employees conducting an investigation of alleged over-charging of the city by American Waste, a Waste Management subsidiary, were threatened by employees of the company. The allegations were investigated by the Department of Justice, but no criminal indictments were issued.

During October 1988, Commissioner Garry McIntyre, of Clay County, Florida, was indicted for allegedly taking unauthorized payments from Waste Management, Inc. The prosecution alleged that McIntyre had applied for a job with Waste Management, Inc., at the same time that he was chairman of the Waste Disposal Committee with the Clay County commission. Charges against McIntyre were ultimately dropped.

VII.

ANTI-TRUST AND UNFAIR BUSINESS PRACTICES

Over the years, Waste Management, Inc., and its subsidiaries have been the targets of numerous investigations related to anti-trust activities. The company, its subsidiaries and employees have faced anti-trust lawsuits and government investigations in 17 states. Waste Management and its subsidiaries have paid millions of dollars in fines and other settlements for price fixing, bid rigging and other alleged illegal means of discouraging competition and establishing monopolies.

There appears to be a fairly consistent pattern of attempts by Waste Management, Inc., to dominate the market by acquiring smaller, independent operators, or forcing them out of the market by using predatory pricing methods. Given the size and resources available to the company, few, if any, of its competitors are capable of resisting its efforts to control local markets.

Following is a discussion of some of the more significant cases involving Waste Management, Inc., including three cases involving the company's activities in Southern California, two of which are directly related to its operations in San Diego County.

Arizona:

During July 1976, the Attorney General of the State of Arizona filed a complaint against Universal Waste Control of Phoenix (a subsidiary of Waste Management, Inc.) and its general manager, Joseph Klimoski, alleging that in 1973, Universal Waste Control began to acquire other local trash hauling companies and in so doing gained a substantial amount of the business in and around Phoenix. The Attorney General alleged that Universal Waste Control engaged in predatory practices to exclude competitors and that they also solicited agreements from competitors not to compete with Universal Waste Control. The suit was settled with the company agreeing not to violate anti-trust laws and to pay a \$15,000 fine. Klimoski was fined \$2,500.

During October 1976, Universal Waste Control was named in a federal civil anti-trust action filed by two competitors in Phoenix charging that the company had violated anti-trust laws by conspiring to fix prices since 1971.

During December 1981, a class action lawsuit was filed by the same two companies in Maricopa County Superior Court, Phoenix, Arizona, against Waste Management, Inc., Universal Waste Control and two other haulers. The complaint alleged violations of anti-trust laws and was ultimately settled with Waste Management, Inc., and Universal Waste Control agreeing to jointly pay \$80,000 of the \$110,000 settlement.

California:

In June 1987, the Los Angeles District Attorney filed a criminal anti-trust action against Waste Management of California (a subsidiary of Waste Management, Inc.) and Western Waste Industries of Gardena and Angeles Houston, Inc., (a Los Angeles garbage hauling firm). The firms, along with five employees, were charged with operating an illegal cartel which divided up customers among themselves, eliminating competition and inflating prices to artificially high levels. Wiley A. Scott, Jr., the operations manager of the Waste Management subsidiary, and Clifford R. Chamblee, the general manager for the Gardena, California, operations, pleaded no contest to criminal charges. Waste Management agreed to pay a \$1 million fine to settle what prosecutors later dubbed, "The largest criminal anti-trust case in California history."

On December 28, 1989, an information was filed against Dewey's Rubbish Service (a subsidiary of Waste Management, Inc.). The company was charged with engaging in customer allocation and price fixing in Orange County, California. On February 13, 1990, the company entered a plea of guilty and was fined \$1 million. [See Attachment D.]

On February 13, 1990, Waste Management of California, Inc. (doing business as Daily Disposal Service) pled guilty to one count of a criminal violation of the Sherman Anti-trust Act in connection with a conspiracy to allocate customers and fix prices of commercial and industrial trash hauling services in San Diego County beginning in 1983 and continuing thereafter through 1984. The company agreed to pay a fine in the amount of \$500,000 in settlement of the case. [See Attachment E.]

In November 1990, Waste Management, Inc., agreed to pay \$19.5 million to settle a class action civil anti-trust lawsuit charging price fixing for container refuse service. The lawsuit alleged that Waste Management, Inc., and Browning Ferris Industries, Inc., of Houston, (the nation's two largest waste haulers) had engaged in a nationwide conspiracy to violate anti-trust laws. San Diego County was named as one of the jurisdictions affected by the anti-trust activities of the companies. [See Attachment F.]

In September 1991, an investigation by the San Jose Police Department resulted in the execution of a search warrant upon the offices of Waste Management of Santa Clara County (a subsidiary of Waste Management, Inc.). The investigation revealed that Waste Management trucks were making collections outside the contract area for the City of San Jose, but were dumping the trash collected at the Newby Island landfill site claiming that it was collected within the franchise area. The City of San Jose's contract with BFI Inc., operator of the landfill, provided a rate nearly half of the regular "gate rate" for non-franchise area trash haulers. Thus, Waste Management of Santa Clara County was paying only half what it should have been for dump fees, while at the same time using up volume allocations reserved for the City of San Jose under its contract. [A copy of the affidavit for the search warrant is included as Attachment G.]

Florida:

During 1986, the manager of United Sanitation Services (a Florida subsidiary of Waste Management) was fined \$10,500 and sentenced to two years probation in an anti-trust action alleging price fixing and customer allocation.

On January 15, 1988, Waste Management, Inc., pled no contest in federal court to charges involving anti-trust activity occurring in Dade and Broward counties, Florida. The company was fined \$1 million.

In February 1988, United Sanitation Services of Florida (a subsidiary of Waste Management, Inc.) settled a long-running anti-trust case brought against it by the Florida Attorney General. The cases involved allegations of illegal customer allocation schemes headed by United Sanitation. The two civil anti-trust cases were settled for a total of \$725,000 in fines paid by Waste Management. In November 1987, Waste Management filed a plea of nolo contendere in federal court in Fort Lauderdale, Florida, to criminal charges based on the same anti-trust activity occurring in south Florida.

During 1990, Mid American Waste sued Waste Management, Inc., in Jacksonville, Florida, under Florida's new "Bad Boy Law" to enjoin Waste Management from being granted a \$34 million city disposal contract since they fall within the jurisdiction of the "Bad Boy" legislation. The legislation forbids government entities in Florida from doing business with companies which have been convicted of felonies. Mid American also filed an additional lawsuit claiming that Waste

Management, Inc., undercut Mid American's bid by charging prices lower than they charge other Florida cities.

Georgia:

During May 1980, Georgia Waste Systems (a subsidiary of Waste Management, Inc.), SCA Services, Inc., and two other solid waste disposal companies and their respective managers, were indicted by a federal grand jury in Atlanta, Georgia, for conspiring to fix prices and allocate customers during the years 1974 through 1979. The action was dismissed before trial based on a challenge to the grand jury's selection process.

During 1983, Georgia Waste Systems was found guilty of conspiring to fix prices in an anti-trust suit and was ultimately fined \$350,000. The general manager of the subsidiary was also found guilty and sentenced to a jail term which was suspended on condition of successful completion of probation.

Illinois:

During 1971, an Illinois anti-trust action resulted in fines totaling \$50,000 and consent decrees involving three Waste Management subsidiaries and a number of other Chicago area companies.

New York:

During 1986, Bestway Disposal (a subsidiary of Waste Management, Inc., located in Henrietta, New York) was charged with anti-trust violations and with engaging in an agreement to allocate customers. During 1988, the company entered a plea of nolo contendere and was fined \$250,000.

Ohio:

In October of 1987, Waste Management, Inc., and Browning Ferris, Inc., of Houston, Texas, pled guilty to criminal felony charges involving price fixing and customer allocations in Toledo, Ohio. Each was fined \$1 million.

Pennsylvania:

On October 7, 1991, the Wall Street Journal reported that Waste Management, Inc., had been fined \$4.1 million for exceeding volume limits allowed under permits granted for a 470-acre dump in Erie, Pennsylvania. The fine was assessed because Waste Management dumped 38,319 tons in excess of the allowed amount between April 24, 1990, and July 4, 1990. The article reported that Waste Management's dump managers are paid bonuses based, in part, on profit. Since costs for landfill operations are mostly fixed, additional volume over permit levels is almost entirely profit.

CONCLUSION

Waste Management, Inc.'s, methods of doing business and history of civil and criminal violations has established a predictable pattern which has been fairly consistent over a significant number of years. The history of the company presents a combination of environmental and anti-trust violations and public corruption cases which must be viewed with considerable concern. Waste Management has been capable of absorbing enormous fines and other sanctions levied against it while still maintaining a high earnings ratio. We do not know whether these sanctions have had any punitive effect on the company or have merely been considered as additional operating expenses.

We have reviewed recent practices and problems and our concerns have not diminished. The company's recent business practices and violations do not appear to be different from the past. We have been unable to determine whether Waste Management's history, as reflected by this report, has been due to a failure of proper management, or has been the result of deliberate corporate policy. Whatever the case, the company's history requires extreme caution by the San Diego County Board of Supervisors or any other governmental entity contemplating any contractual or business relationship with Waste Management.

Our examination of the activities of Waste Management in San Diego County causes us additional concern. When viewed in the context of their established history

of business practices, it is clear that Waste Management engages in practices designed to gain undue influence over government officials.

One such practice was demonstrated by the treatment of Councilman Mark Lewis. First, a favor was offered; then, there appears to have been attempts at coercion to bring about Lewis's cooperation. Another such practice has been Waste Management's penchant for donating large sums of money, all with the appearance of altruistic or beneficent ends, to charitable entities or projects which are targeted for the greatest impact on persons exercising crucial approval authority over Waste Management business projects which are either proposed, pending or under review. This kind of practice appears to be Waste Management's primary reason for their \$50,000 contribution to the financially troubled Sail San Diego. These practices suggest an unseemly effort by Waste Management to manipulate local government for its own business ends. If unchecked, these practices, like other more direct forms of improper attempts to gain influence, may have a corrupting impact on local government and lead to decisions unsuitable to the best interests of the public.

In view of the obvious ramifications of Waste Management's contribution to Sail San Diego, we believe that Supervisor Brian Bilbray would be well advised to abstain from voting on current Waste Management projects pending before the San Diego County Board of Supervisors. Such action will avoid any further appearance of impropriety or conflict of interest.