

WASTE MANAGEMENT, INC.

A TRUSTWORTHY PARTNER FOR MARIN?



by Joseph H. Therrien January 2006

Updated: November 2007



- Richard Blair

This paper was prepared for No Wetlands Landfill Expansion (NWLE), a grassroots environmental group dedicated to protecting the Petaluma Marsh and River Estuary.

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David Yearsley - Friends of the Petaluma River

Executive Summary

Waste Management, Inc. (WMI) is the largest garbage company in the nation. It owns the Redwood Landfill, located just north of Novato along San Antonio Creek and the Petaluma Marsh. WMI has asked Marin to approve a huge (82 percent) expansion of the landfill to convert it into a regional dump where in 2006 over 50 percent of the garbage came from outside of Marin. Recently, WMI has taken heed of the public outcry against the major expansion, but it is still seeking to increase considerably the permitted amount of waste that can be dumped on historical bay wetlands.

The dump is located in an environmentally sensitive location, right next to tidal wetlands that lead to ailing San Pablo Bay. A dump at this site would never be approved today. The Final Environmental Impact Report for the expansion lists dozens of negative environmental impacts. WMI says that it wishes to convert the dump into more of a resource recovery park. “Trust us,” they say, “give us the expansion first, then we’ll talk about the resource recovery, composting, and alternative energy generation.” But despite its new “green” advertising, history has proven that government agencies alike must impose real, verifiable requirements or WMI will ignore what’s best for the environment.

As the public record summarized in this paper shows, WMI’s way of doing business includes a callous disregard for permit requirements and environmental safeguards. WMI’s conflicts with local, state and federal agencies have resulted in scores of citations, lawsuits and fines for repeated violations of waste handling and hauling laws. In the last six years alone (thru 2006), at least 34 incidents have resulted in fines and required remediation payments of over \$25 million, plus up to another \$60 million in liability shared with other companies for landfill clean-ups in two states.

WMI’s recent illegal conduct includes: dumping prohibited infectious

medical waste, crushing appliances resulting in the release of ozone-depleting refrigerants, improper disposal of capacitors containing PCBs, landfill height permit violations, falsification of waste-receipt records, illegal transporting of hazardous waste, odor control violations, failure to cover waste, failure to maintain records, failure to construct in accordance with approved landfill plans, leachate spills, failure to replace broken leachate pumps, sludge disposal violations, failure to control landfill gasses, exceeding permitted landfill gas flow rates, burial of banned materials such as tires and CRTs and recyclables, release of hazardous substances, failure to maintain sedimentation ponds resulting in pollution run-off. A number of these were prosecuted as environmental crimes.

WMI's dismal national track record, as well as WMI's questionable dealings in Marin, raise a significant question whether it is a company that can be trusted to observe its permit requirements and implement good environmental practices. The proposed expansion would increase the risk. In the absence of adequate county staff and budget to oversee the Redwood Landfill, an independent monitor paid for by mitigation fees may be Marin County's best chance to avoid the environmental dangers that have befallen other communities which faced the same question of trust.



Endangered California Clapper Rail

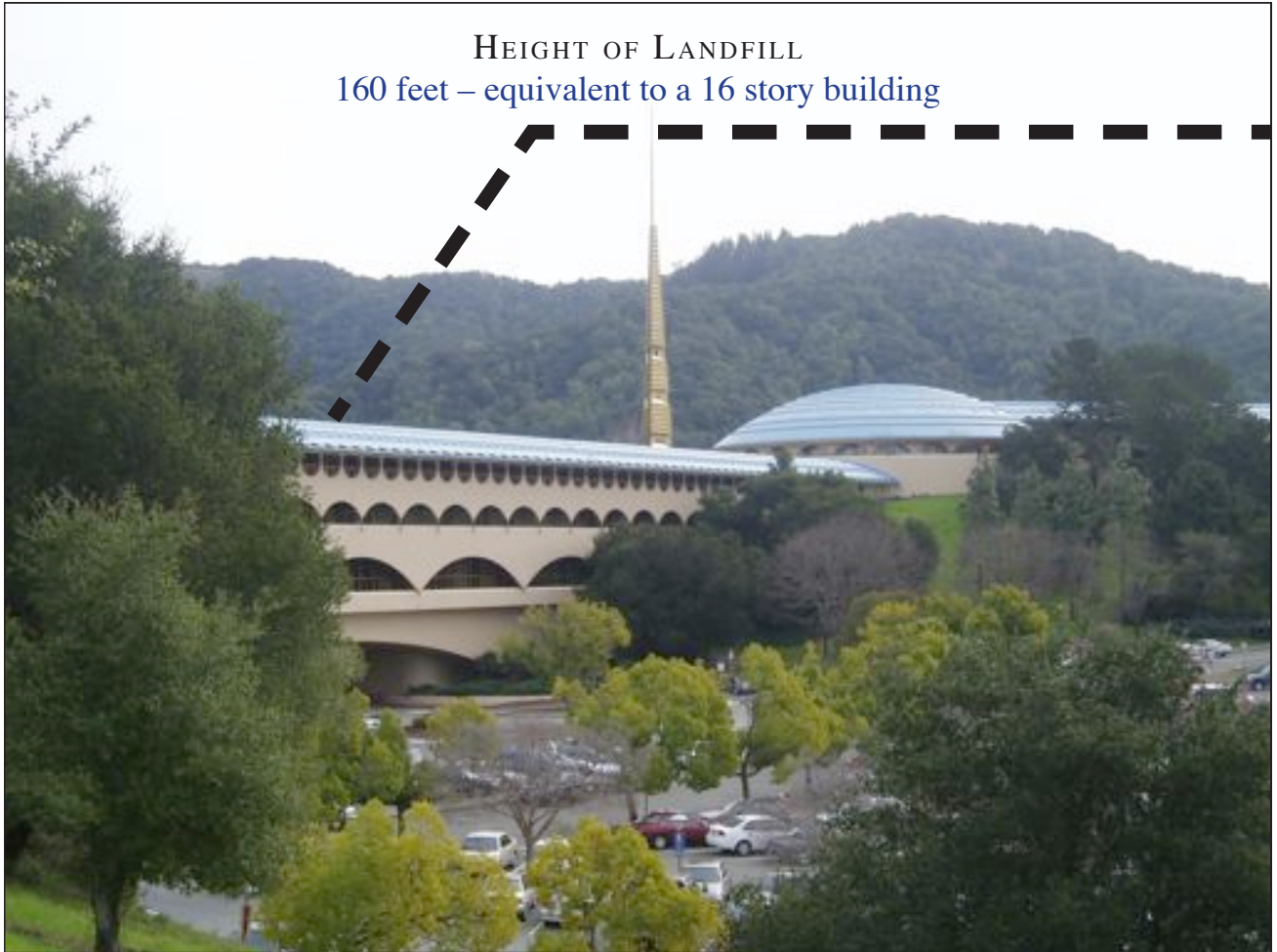
- Peter LaTourrette

¹ Documented endangered California Clapper Rails are found along San Antonio Creek in close proximity to the landfill. FEIR comment letter, Jules Evens, Avocet Research Associates. See page 33

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HEIGHT OF LANDFILL
160 feet – equivalent to a 16 story building



The Situation

Waste Management, Inc. (WMI) is the largest garbage company in the United States. It dominates the industry with 2004 revenues over \$12.5 billion and net income of more than \$939 million.

WMI owns Marin's Redwood Landfill, located on County lands off Route 101 just outside Novato. It has owned and operated the dump, one of 286 it owns in the U.S., since the early 1990s.

In 2003, WMI put forward an expansion proposal for the dump, seeking to convert it from a mostly local operation into a fully regional facility. The proposal calls for an 82 percent increase in presently permitted dump volume - from 19 million cubic yards of waste to more than 34.5 million, 75 percent of which will come from outside Marin.²

In addition to its goal of making Marin a major garbage importer, the proposal has many other consequences - all of them negative for Marin. They include greatly increased environmental dangers, exposure to new risks, and amnesty for past dump mismanagement. The principal reason to reject WMI's proposal, however, may be its bad national reputation in waste management and environmental stewardship.

This paper will briefly review the physical reasons why the proposal should be rejected. It will dwell at greater length on those which pertain to WMI's decades-long record of clashes, convictions, fines and no-contest pleas in its

waste management dealings with local and state governments throughout the country.

It will note as well prosecutions by the U.S. Environmental Protection Agency and the Department of Justice. Finally, it will highlight similarities between its Marin operation and those elsewhere which have created its reputation for shady dealing and dangerous waste management practices.



-David Yearsley

² WMI, in recent weeks, has informally stated it may reduce its expansion request to some 31 million cubic yards of waste. That would still be a substantial increase above the currently permitted amount of 19.1 million cubic yards, especially considering that the dump today contains only 14 million cubic yards by WMI's own estimate.

Expansion Now is Unnecessary

According to the Final Environmental Impact Report³ (FEIR) prepared by Marin's own environmental consultant, the dump has 19 more years of life at present permitted fill rates. That's more than enough time to develop and execute an effective plan for future waste disposal, including adopting a "Zero-Waste" program. A growing number of other California communities have adopted Zero Waste strategic plans to reduce their reliance on Landfills. For Marin, the state leader in solid waste recycling, this would be a natural extension of present practices.

WMI says expanding the dump is necessary in order to prolong its life until 2037. In 1995, when WMI's last expansion request was approved, they calculated the dump's life expectancy as 2039. Their proposal does not explain what happened in the 8 years between 1995 and 2003, when the latest expansion request was put forward, to require 82 percent more volume in order to stay open for 2 fewer years.

It is possible that WMI's practice of undercutting the so-called "tipping fees" charged by other Bay Area dumps has something to do with it. WMI can operate the dump at a lower cost than other, competitive facilities because, due to its age it has no liner and an experimental collection system for the polluted liquid, known as leachate, draining

from it. Lower operating costs mean lower "tipping fees" and more imported garbage.

While the dump doesn't need to be expanded to meet Marin County's solid waste needs, an expansion will benefit WMI's bottom line. Because of accounting rules, the more capacity remaining in the dump, the more value WMI can carry for it on its books. The dump expansion proposal is driven by WMI's desire for increased profits, rather than Marin's waste disposal need. The same increased capacity ploy is being tried by WMI at 24 of its 40 western region dumps⁴.



-David Yearsley

³ The FEIR was published for public comment in July 2005. The public comment period closed in September. As of January 2006, Marin County's Community Development Agency was still reviewing those comments and preparing a written response with assistance from the County's environmental consultant. A public hearing on the FEIR may be held as soon as February before the Marin County Planning Commission to determine whether to certify the FEIR as complete. After that, the Marin County Environmental Health Services Division will consider whether to grant WMI's solid waste facility permit expansion.

⁴Waste Management Inc., From conversations with WMI staff.

An Unsuitable Location -Dangerous to the Environment

The dump's 222 acres are in the least suitable location imaginable for a large regional garbage facility. In commenting on the expansion proposal, the California Integrated Waste Management Board said:

If proposed today as a new facility in California, Redwood Sanitary Landfill would not have been located in such an environmentally sensitive wetland as it is now situated. The unfortunate location of the facility has resulted in serious concerns in the areas of traffic, air quality, plant and animal habitat and impacts subsurface and surface water”⁵

The site is on diked Baylands and borders San Antonio Creek and the wetlands of Petaluma Marsh, which drain into the Petaluma River and San Pablo Bay. These wetlands are the largest ancient tidal marshland in all of California, and their health, or the lack of it, has a powerful influence on the health of the surrounding habitat - San Pablo Bay just beyond.

San Pablo Bay is sick. The respected Bay Institute says it is one of the most polluted areas of the San Francisco Bay Estuary.⁶ Its fish populations are down 73 percent from 1991, an ominous sign since sea life typically collapses from the top down. Like someone with a compromised immune system, it's in danger from a nearby source of infection. No one has ruled out whether the source could be WMI's dump.

In places, the unlined base of the dump is no more than two feet above groundwater a conduit for polluted leachate draining from the dump into the wetlands and San Pablo Bay.

Without a liner and with only an experimental leachate collection system, the dump has little to protect the wetlands from spillage except a shallow ditch and an old levee. As New Orleans taught us, old levees will fail under stress. And the dump has already experienced an 8.6 million gallon rainy season leachate spill.⁷

The dump sits on a flood plain in an earthquake zone close to two known fault lines. Despite this, WMI proposes heaping the expanded garbage deliveries into a 160 foot high, steep-sided mountain of waste, 110 feet taller than the dump's current height. Except for a few radio antennas, it would be the tallest man-made structure in Marin or Sonoma County. One geotechnical engineer, commenting on the expansion plan, concluded that the seismic design is fundamentally flawed because it does not conform to maximum probable earthquake ground motion requirements.⁸

⁵ Comment letter by CIWMB staff on the Preliminary Environmental Impact Report (on file with Marin County).

⁶ The Bay Institute Ecological Scorecard, San Francisco Bay Index 2005.

⁷ This incident occurred in 1998, as documented in RWQCB's files.

⁸ Herzog Geotechnical Report, attached to comment letter on the FEIR submitted by No Wetlands Landfill Expansion. (on file with the County; available at: www.noexpansion.org)

Expansion Means Increased Danger and New Risks, Forgives Dump Mismanagement

WMI's expansion request includes a two-thirds increase in daily truck traffic into and out of the dump – from 830 trips to 1380 – with a proportionate increase in diesel pollution.

“Specially designated waste” is that which because of its additional risks requires special handling procedures. The expansion will increase such waste ten fold – from 20 to 200 tons a day. And up to 100 daily tons of petroleum-contaminated soil, not presently allowed in the dump at all, will be permitted.

The expansion proposal calls for a seismically risky dump design and an inadequate perimeter levee. It has failed to consider the impact of a rising sea level due to global warming, failed to analyze the health effects of smog and particulate matter pollution, failed to identify and consider off-site alternatives and cumulative impacts.

The expansion proposal will relieve WMI of three of its critical obligations:

1. to remove waste dumped earlier without permit over an 11 acre area of the site;
2. to reconstruct the old levee which is supposed to separate and protect the wetlands from dump spillage in the event of heavy rains or a flood - which was a condition of its approved 1995 expansion;
3. to come into compliance with state law requiring an appropriate dump liner and a five foot separation between waste and groundwater.

Even considering all of the above, however, the greatest risk to the environment is the absence of an independent monitor, funded by the dump operator, to assure that proper waste management procedures are followed.

This was required by Alameda County when WMI expanded its Altamont Landfill. It should be mandatory because of WMI's record of permit violations and broken promises throughout the country. Marin does not have the resources to perform that task alone and Marin's taxpayers should not have to pay the bill. As the next section shows, WMI cannot be trusted to monitor itself.



Threatened Black Rail -Peter LaTourrette

Waste Management, Inc. - A Track Record of Bad Dealings

Waste Management, Inc. has been in existence for 37 years. It was formed in 1968 by the merger of three smaller garbage companies – two in Chicago and one in Florida. It went public in 1971 and since then has expanded aggressively, becoming, by 1992, the largest waste disposal firm in the United States and possibly the world. In 2001 it had 1,674 subsidiaries.

Since its inception, WMI and its subsidiaries have been constantly embroiled in disputes, lawsuits and investigations into its waste disposal activities throughout the country.

The historic extent of WMI's bad dealings can be seen in any of the many published summaries of them – Greenpeace, Blue Ridge Environmental Defense League, Rachel's Environmental and Health Weekly, Environmental Background Information Center, Stop WMX, among others. Greenpeace, for instance, estimated that in the period 1980-1992, WMI had paid \$43 million in fines, penalties and out of court settlements related to alleged violations of environmental laws at its dump sites. A frequent defense offered by WMI when confronted with its track record is that those offenses are the work of "rogue employees" or occurred under "previous management" That is simply not so. Rogue employees could not account for offenses which occur regularly throughout WMI's network and its serial pollution continues unabated to the present day.

Some Recent History -

"Waste Management has been hit with a bewildering array of fines and citations for environmental violations. The Wall Street Journal reports that the company has paid more than \$50 million in penalties and related settlements for environmental violations. At least 45 WMI waste sites have been found to be out of compliance with federal or state environmental regulations, according to Greenpeace, and, between 1984 and 1987, the company was issued more than 600 pollution violations.

In recent years WMI and CWM (a subsidiary, Chemical Waste Management) have been slapped with some record environmental penalties. In February 1990, Chemical Waste Management agreed to pay the state of Illinois \$280,000 to settle violations stemming from the release of a cloud of toxic gas from its Sauget, Illinois hazardous waste incinerator. In July 1990, CWM settled charges that it had accepted waste banned from its Emelle, Alabama landfill for \$123,000.

In September 1990, CWM agreed to pay \$3.75 million to settle EPA charges that the company had frequently overstuffed its South Side Chicago hazardous waste incinerator, disconnected monitoring equipment,

and routinely spilled PCBs without reporting the accidents.”⁹

That’s only a sample, and a small one at that. The continuity of the track record is clear, as just two examples demonstrate. First, the Chicago hazardous waste incinerator mentioned above had an explosion the following February which brought another fine of \$2.5 million. And, in 1996, the original owners of the Emelle dump received \$91 million from WMI for contract and punitive damages.

The federal judge who made that award had this to say:

“During the trial of this case, it became crystal clear to this Court, based upon the totality of the evidence in the record, that Defendant’s top corporate officers decided upon and followed a well defined plan to cheat Plaintiffs out of money rightfully due them under the terms of the purchase agreement for the Emelle hazardous waste disposal facility. Nothing more, nothing less. What is troubling about this case is that fraud, misrepresentation and dishonesty apparently became part of the operating culture of the Defendant corporation. Even more so, Defendant and its corporate officers apparently refused to recognize their duties as required by the totally unambiguous contract.”¹⁰



-Richard Blair

San Diego Board of Supervisors Report

In 1992, the District Attorney of San Diego delivered to the San Diego Board of Supervisors the report it had requested on Waste Management, Inc. two years earlier. The report notes, among other findings:

“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

⁹ From Multinational Monitor, September 1991 – Volume 12-Number 9 “Trashing the Future” by Brian Lipsett.

¹⁰ Mark W. Gregory, et al., vs. Chemical Waste Management, Inc. (WMI), (Case No.93-2343-H/V) December 11, 1996. Hon. Odell Horton.

does not include the amount of money spent by Waste Management in defending itself.”

“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 Board of Supervisors or any other governmental entity contemplating any contrac-

tual or business relationship with Waste Management.”¹¹

WMI sued the District Attorney, not for any portions of the report that were critical of its antitrust and environmental violations, public corruption cases and unfair business practices, but for what it alleged were his efforts to link WMI to organized crime. The suit was dismissed by both the District Court and U.S. Court of Appeals for the Ninth Circuit.¹²

Indiana Department of Environmental Management

In 1997, the Indiana Commissioner of the Department of Environmental Management (IDEM) denied a WMI request to expand its Fort Wayne Adams Center Hazardous Waste Treatment and Disposal Facility. He said, in part, “Indiana’s Good Character law allows IDEM to effectively deny a permit application if the applicant has not demonstrated good environmental stewardship. With Chem Waste’s poor environmental track record, I could not approve their expansion request.” (Chem Waste is Chemical Waste Management, a wholly owned subsidiary of WMI).¹³

¹¹ Final Report Waste Management, Inc., Edwin L. Miller, District Attorney San Diego County, op.cit

¹² No. 97-55336, United States Court of Appeals for the Ninth Circuit D.C. No. CV-92-01584-JNK appeal from the United States District Court for the Southern District of California Submitted August 26, 1999, Filed September 2, 1999

¹³ Blue Ridge Environmental Defense League report dated October 2002, “WMI’s Record: Environmental and Contract Crimes”, also cites Indianapolis Star, June 14, 1997.



-Richard Blair

United States Securities and Exchange Commission

In 2002, the United States Securities and Exchange Commission (SEC) sued the founder and five other former top officers of Waste Management, Inc. charging them with perpetrating a massive fraud lasting more than 5 years. The SEC official who brought the charges stated: “Our complaint describes one of the most egregious accounting frauds we have seen... For years, these defendants cooked the books, enriched themselves, preserved their jobs, and duped unsuspecting shareholders.”¹⁴

On August 29, 2005, the SEC finally settled its fraud case against WMI. Following are excerpts from the SEC’s press release:

Waste Management, Inc. Founder And Three Other Former Top Officers Settle SEC Fraud Action for \$30.8 Million.

The Securities and Exchange Commission announced today that, on August 26, 2005, the United States District Court for the

Northern District of Illinois entered final judgments as to defendants Dean L. Buntrock, Phillip B. Rooney, Thomas C. Hau, and Herbert A. Getz. The settling defendants, who consented to the Judgments without admitting or denying the allegations in the Commission’s complaint were senior officers of Waste Management, Inc.

The Judgments permanently bar Buntrock, Rooney, Hau, and Getz from acting as an officer or director of a public company, enjoin them from future violations of the anti-fraud and other provisions of the federal securities laws, and require payment of \$30, 69,054 in disgorgement, prejudgment interest, and civil penalties.

The Commission alleged that, beginning in 1992 and continuing into 1997, defendants engaged in a systematic scheme to falsify and misrepresent waste Management’s financial results with profits being overstated by \$1.7 billion. The fraud resulted in a restatement in February 1998, which at the time was the largest restatement in history.

According to the complaint, the scheme was accomplished through false and misleading disclosures and a variety of non-GAAP accounting practices designed to defer current period expenses whenever possible. For example, the company manipulated its calculation of depreciation expense by repeatedly extending the useful lives and overstating the salvage value of its trucks and containers, thus reducing periodic depreciation expenses. The Company also failed to write off

¹⁴ SEC Litigation Release No. 2002-44 (March 26, 2002)

impaired assets carried on its balance sheet, improperly capitalized interest and other current period expenses, understated its income tax expenses, under-accrued reserves, misapplied acquisition accounting principles, and improperly reversed reserves into income. All of these practices boosted current period earnings by reducing current period expenses.”¹⁵

Interestingly, according to the Chicago Sun-Times of August 29, 2005, “Waste Management, Inc. agreed to pay \$26.8 million to cover most of the costs of a settlement between four former Chicago area executives and the U.S. Securities and Exchange Commission.” WMI paid \$17.1 million for Buntrock, \$7.6 million for Rooney, \$1.15 million for Hau and \$950,000 for Getz.



-David Yearsley



-David Yearsley

¹⁵ SEC Litigation Release No. 19351 (August 29, 2005).

A Persistent, Consistent Serial Polluter

WMI's difficulties with fines, penalties and disputes with local, state and federal government agencies have continued under current management to the present day. 31 samples, collected from published reports covering the five years 2001-2005 follow, in roughly chronological order. The total penalties for these offenses, including long-term remediation charges, which WMI must pay are at least \$21.7 million and might reach \$26.7 million. In addition to these individual penalties, WMI shares with others another \$60.7 million obligation for landfill cleanups in two states.¹⁶

WMI's persistent pattern in these samples - a judgment against it roughly every other month on average - is troubling enough, but its willingness to repeat the same violations over and over is even more disturbing. In Massachusetts, for example, it was fined \$3.4 million in 2002 for - among other violations - picking up and crushing refrigerators and air conditioners, releasing ozone-depleting chemicals into the atmosphere. In 2005 it was fined again for accepting restricted materials, including major appliances, into one of its Massachusetts solid waste transfer stations.

In Virginia it was fined \$150,000 for four different incidents over three years (1997, 1998, 1999) of dumping prohibited infectious medical waste from New York City into a ru-

ral landfill. In Pennsylvania in 2003 it was fined \$75,000 for exactly the same offense - transporting infectious medical waste from New York City to a Pennsylvania landfill.

The Pine Grove (Pennsylvania) landfill expansion requested by WMI was denied in November 2005 because, in the words of the state Department of Environmental Protection's Northeast Regional Director, "Given the landfill's past problems, this facility has not proven it can operate in compliance with the department's regulations and be a good neighbor in the community." He was referring to a near decade-long record of complaints, citations, fines and civil penalties for violations, operational problems and community impacts at the landfill.

It should be born in mind when reading these samples that they are a record only of the incidents in which WMI was caught and prosecuted/penalized and the results publicized.

From the March 2001 issue of Pollution Litigation Review:

"On March 23, 2001, it was reported that a California court ordered Waste Management of Alameda County to pay 95% of the costs of pumping and treating leachate from the soil underneath Oyster Bay Regional Park. The park was built over a landfill which the waste management company subsequently gave to the park district. Waste Management had previously spent \$4 million in cleanup costs at the 194 acre site and was seeking to

¹⁶ The articles and other sources quoted below may be found by performing a Google search.

recover this from the park district. The court denied the company's request for reimbursement and it must now spend between \$10 and \$15 million more on pump and treat operations. The company must also reimburse the park district \$429,000 for its past cleanup costs."

From an October 11, 2001 News Release from the Commonwealth of Pennsylvania:

Waste Haulers and Truck Drivers Fined More Than \$2 Million For Violations During 'Operation Clean Sweep'.

"During Operation Clean Sweep, inspectors from DEP (Department of Environmental Protection), State Police and Penn DOT fanned out across the state to conduct surprise inspections of trash trucks at every landfill. They inspected more than 40,000 trucks.

Houston-based Waste Management, Inc. was charged the largest penalty, \$815,000 to settle environmental and safety violations."

Two months earlier, in July, Pennsylvania's DEP had announced the results of another 'Operation Clean Sweep'. In this one, more than 11,000 violations were found and the leader was Waste Management, Inc. with nearly 1,000 environmental and safety violations – more than twice as many as the next firm.¹⁷

From the U.S. Environmental Protection Agency, Press Advisory, Friday, May 10, 2002:

\$3.4 million Settlement Reached With Boston Trash Hauler

EPA reached a \$3.4 million settlement with Waste Management of Massachusetts Inc. to resolve claims of multiple violations of the Clean Air Act (CAA). The proposed consent decree requires the company to pay a \$775,000 civil penalty and spend \$2.6 million on environmental projects that will improve Boston's air quality and revitalize public waterfront property on Chelsea Creek in East Boston."

"Under EPA regulations, waste haulers who dispose of household appliances that may contain CFCs or HCFCs, including refrigerators, freezers and air conditioners, must take steps to ensure that these chemicals are not released to the atmosphere. Waste Management was accused of picking up and crushing appliances such as refrigerators and air conditioners during curbside trash pickup operations in Boston, resulting in the probable release of ozone-depleting refrigerants."

From the U.S. Environmental Protection Agency, Region 2 June 19, 2002:

"The U.S. Environmental Protection Agency has reached a settlement with Chemical Waste Management, Inc. for illegally disposing of 180 large capacitors containing polychlorinated biphenyls (PCBs) at its Model City, NY landfill during the fall of 2000.

¹⁷ July 2001 News Release from the Pennsylvania Department of Environmental Protection

Federal law requires that such electrical items be destroyed via high temperature incineration. EPA has assessed a penalty of \$78,754 against the firm for this and other violations of Toxic Substances Control Act regulations.”

From a Notice of Open House, Public Meeting, Arkansas Department of Environmental Quality, June 30, 2002:

“Waste Management, Inc. (WMI), operated Class 1 and Class 4 landfills at the Tontitown site. On April 26, 2002, the ADEQ directed the firm to cease accepting wastes at both landfills. The ADEQ action was taken after a former employee of the landfill provided the agency with information which raised concerns about the landfill’s operation and the integrity of its liner, and after ADEQ inspectors made an unannounced visit to the site and found violations of the facility’s permit.

The ADEQ filed a formal notice of violation against the landfill with a proposed penalty of \$558,000. WMI has appealed the enforcement action, and the matter will be heard by the Arkansas Pollution Control and Ecology Commission.

The ADEQ authorized WMI to reopen the Class 4 facility May 28, 2002 after WMI was able to demonstrate that it had corrected the permit violations and other problems found by ADEQ inspectors, and after WMI signed a consent order agreeing to the corrective actions and an administrative penalty of \$50,000.”

From a 2002 article “Waste Management of Missouri Pays Settlement”:

The Missouri Department of Natural Resources and Waste Management of Missouri have reached an agreement with the help of the State Attorney General’s Office to settle alleged violations at the Courtney Ridge Landfill in Sugar Creek.

“The \$1 million settlement includes a penalty of \$250,000 that was paid to the Jackson County School Fund and \$750,000 that was paid for tonnage fees owed to the department’s Solid Waste Management Fund.

The \$250,000 penalty addresses alleged violations relating to overfill and to material from the Corps of engineers Blue River Project re-channelization. During the first six months of 2000, Courtney Ridge Landfill exceeded its permitted height by placing more than 300,000 cubic yards of waste above the landfill’s approved contours.

‘The overfill is serious because it violates a basic condition of the permit, which limits where waste can and cannot be placed at a permitted disposal area’, Jim Huss, director of the department’s Solid Waste Management Program, says.”

From Solid Waste Digest, Weekly News: Jan. 30-Feb, 5, 2003:

Pennsylvania Charges Haulers With Medical Waste Violations.

Pennsylvania’s Environmental Crimes Section has charged Waste Management of New York and Kephart Trucking of Bigler, Clearfield County, with alleged violations of the state’s environmental crimes laws for illegally

transporting infectious medical waste from a Brooklyn, New York, transfer station on Interstate 80 in Columbia County. Inspections were done as part of Operation Clean Sweep, a program to inspect waste hauling vehicles along Interstate 80 conducted by the Pennsylvania State police, Pennsylvania Department of Transportation and the Department of Environmental Protection. In May 2001, Waste Management of New York employees at the Varick Transfer Station allegedly mixed infectious hospital waste with municipal hospital waste and loaded it into Kephart's truck destined for the Shade Landfill in Somerset County. Both Waste Management of New York and Kephart Trucking are charged with three counts each of violating the Infectious and Chemotherapeutic Waste Disposal Act. Each count is a third-degree misdemeanor and carries a penalty of up to \$25,000 per count."

In 1997, 1998 and 1999, WMI was discovered doing exactly the same thing four different times in Virginia – dumping medical waste from New York, via its Brooklyn Transfer Station, in its Charles City County Landfill. It paid a \$150,000 penalty in 1999.¹⁸

From Waste Industry News Update, January 2-8, 2003:

Waste Management Will Pay \$2.1 M Fine For Landfill Violations.

"The Pennsylvania Department of Environmental Protection has announced that Waste Management of Pennsylvania will pay \$2.1

million in penalties as part of a settlement agreement for falsification of waste-receipt records discovered during a five-month DEP audit of the company's Evergreen Landfill in Center township, Indiana County. The agreement also requires the Evergreen Landfill to fund two community environmental projects valued at \$377,912. According to the DEP, Evergreen employees intentionally falsified the landfill's records to conceal violations of the maximum daily volume of waste the landfill could accept on 63 different occasions between Jan. 5, 2000 and August 20, 2001. To cover up these violations, company employees had to falsify records for a total of 139 days to show the daily volume was not exceeded.

From a March 12, 2003 News Release from the Wisconsin Department of Justice:

"Attorney General Peg Lautenschlager announced today that her office has settled an environmental lawsuit against Waste Management of Wisconsin, Inc. for violations of laws regulating the transportation of solid wastes.

Lautenschlager said *Waste Management, a company engaged in the transport and disposal of solid waste, has agreed to pay \$25,000 in forfeitures and penalties, assessments and costs for a total amount of \$33,841 for violations related to the operation of a waste processing and transfer facility in Door County.*"

¹⁸ News Release, Office of Virginia Governor Gilmore 2/11/99, Richmond Times-Dispatch 2/17/99.

From a June 13 2003 Florida Department of Environmental Protection Press Release:

Waste Handler Penalized for Hazardous Waste Violations. DEP assesses \$85,000 in penalties.

“The Florida Department of Environmental Protection (DEP) recently resolved environmental violations involving one of Jacksonville’s largest solid waste handlers, Refuse Services, Inc., a subsidiary of Waste Management, Inc., which provides solid waste collection and disposal services, agreed to pay nearly \$85,000 in penalties for violations of the state’s hazardous waste laws.

In August 2002, DEP received and investigated a tip that Refuse Services, Inc., improperly transported and disposed of hazardous waste. Investigators found environmental violations connected with the transportation of lead-tainted construction and demolition debris, which was also disposed of at a facility not permitted to accept hazardous waste.

Violations included:

- Transporting hazardous waste without proper shipping documents that identify the type, amount and destination of the material.
- Transporting hazardous waste without meeting liability insurance requirements.
- Transporting hazardous waste without a required U.S. Environmental Protection Agency Identification number.

- Disposal of lead-contaminated material at a facility not permitted to accept hazardous waste.

After correcting the discovered violations, Refuse Services, Inc. entered into a Consent Order with DEP and agreed to pay \$84,700 in penalties.”

From a July 29, 2003 article in the Austin (TX) American-Statesman:

“The State of Texas has levied a historically large fine against Waste Management, Inc. for environmental violations at the company’s landfill off U.S. 290 just northeast of Austin.

The Houston-based company must pay \$239,370 for the violations last year that state officials said probably contributed to odor problems in nearby neighborhoods.

The Waste Management penalty is the largest against a landfill since the Legisla-

ture gave the Texas Commission on Environmental quality the authority to issue fines in 1986, said Commission spokeswoman Adrial Dawidczik.

Residents who live near the landfills have complained for almost two years to the state



and Travis County, saying the smell often becomes unbearable in the winter and after it rains. For them the fine is not large enough.”

From the Georgia Public Policy Foundation- Commentary August 15, 2003:

“Waste Management Inc.’s Live Oak Landfill is situated on 200 acres, on property split by the DeKalb-Fulton County line.

Until last year, the landfill, which accepts 1.25 million tons of trash annually, was the disposal site for Atlanta’s trash and sewage sludge. Neighbors complained about the stench; in April, 2002, activists protested outside the Capitol. With appropriate campaign-season indignation, Gov. Roy Barnes promised to close the landfill as soon as possible and ordered the Environmental Protection Division to investigate.

The EPD found eight violations. Among them: that Live Oak was slow in covering waste; was not reducing the landfill working face at night; did not ensure that arriving sludge trucks used appropriate tarps; had too few gas collection-and-control wells in older areas; and could not produce some maintenance records.

The governor magnanimously announced that Live Oak would have to close shop in December 2004. The company has appealed the EPD’s order to close the landfill, as well as its proposed fines for the violations – an unprecedented \$1.245 million.”

From the 2003 Annual Report of the Pennsylvania Department of Environmental Protection:

October 10 that Waste Management, Inc. was paying \$1.37 million in civil penalties for violations at three landfills in northeastern Pennsylvania (Alliance, Grand Central and Pine Grove) during the past year. ‘These actions were necessary to bring the landfills into compliance with our regulations and halt operational violations, many of which affected the quality of life of residents living near the facilities,’ Secretary McGinty said.”

Bakersfield, California Violations

On December 22, 2003, Chemical Waste Management (WMI subsidiary) signed a consent order with the State of California Environmental Protection Agency, Department of Toxic Substances Control and paid a fine of \$12,500 for violations at its Bakersfield facility.¹⁹

From The Michigan Department of Environmental Quality:

“On April 5, 2004, the DEQ entered into a Consent Order with Waste Management of Michigan, Inc.(WMMI) to resolve alleged violations of part 115 at its Woodland Meadows Recycling and Disposal Facility. The DEQ’s consistency review of the construc-

¹⁹ State of California EPA, Department of Toxic Substance Control, Docket HWCA 20030251, 12/22/03

tion certification submitted by WMMI revealed that a portion of the landfill had not been constructed in accordance with the engineering plans approved by the DEQ. WMMI rebuilt the leachate collection sump piping to conform to the approved plans. WMMI paid a \$9,000 civil fine under the terms of the Consent Order.”

From Solid Waste Digest, National Edition, June, 2004:

“The city of Denver, Waste Management of Colorado, Inc., and Chemical Waste Management, Inc. have agreed to pay a \$265,000 fine for failing to clean up a Super fund site at the Lowry Landfill. The fine resolves a lawsuit brought by the Justice Department charging that the entities failed on several occasions to follow EPA orders to clean the site.

Waste Management operates the site and Chemical Waste [a WMI subsidiary] transported wastes to the site.”

From the Commonwealth of Pennsylvania, Department of Environmental Protection, September 10, 2004:

DEP fines Phoenix Resources \$27,428 For Numerous Landfill Violations In Tioga County. The Department of Environmental Protection has fined Phoenix Resources, Inc. [Phoenix Resources, Inc. is owned and operated by Waste Management, Inc.] \$27,428 for numerous violations discovered in May at its

construction/demolition waste landfill in Duncan Township, Tioga County, Regional Director Robert Yowell said.

“The violations DEP discovered during our inspection in May were not routine, and they did cause harm to the environment,” Yowell said. “We expect Phoenix Resources to do a much better job of operating this landfill in the future.”

DEP staff inspected the landfill twice in May. During the first inspection, a number of leachate outbreaks were discovered, with leachate flowing across the landfill’s access road into a sedimentation trap.

During the second inspection two days later, DEP staff found violations of the landfill’s operations plan for obtaining soil from more than a three-acre plot at one time; for constructing a rip-rap channel without first obtaining a permit modification; for discharging sediment-laden runoff water from the soil borrow area to an off-site stream; for surface water runoff causing sediment to be depos-



ited off-site in an area east of a sedimentation pond; and for the leachate flows discovered two days earlier.”

From the Pennsylvania Department of Environmental Protection, November 5, 2004:

“In June, a DEP inspector witnessed his own residential recyclables being mixed in with the rest of the residential trash on the street in Hempfield Township, Westmoreland County. The inspector interviewed the driver of the Waste Management Inc. of Pennsylvania truck to learn that the company allegedly had dispatched a driver to pick up missed pickups of waste and source-separated recyclables in the same vehicle. Subsequent DEP investigations and interviews revealed that this type of violation occurred periodically with missed pickups in the company’s North Huntington Division. Waste Management paid a fine of \$16,000 for the violation.”

From the Massachusetts Department of Environmental Protection, November 3, 2004:

Waste Management of Massachusetts Fined \$25,000 For Solid Waste Violations at Springfield Site

“The Department of Environmental Protection (DEP) has fined Waste Management of Massachusetts, Inc., the operator of a landfill closure project on Cottage Street in Springfield, \$25,000 for violations of the state’s Solid Waste Management regulations.

The violations observed by the DEP consisted of mismanagement of shaping and grading materials. Specifically, materials were delivered and accepted at the Cottage Street site, which contained greater than the 35 percent organic content allowed. The 35 percent standard for organic content is a critical standard to ensure that the materials brought to the site are predominantly inert; which is a key factor in controlling any additional environmental impacts from the landfill. As part of the settlement agreement, the landfill operator has agreed to abide by the 35 percent standard.”

From the Massachusetts Department of Environmental Protection, December 15, 2004:

“Chicopee Landfill Operator Fined \$13,000 For Solid Waste Management Violations. The Department of Environmental Protection (DEP) has entered into a settlement agreement with Connecticut Valley Sanitary Waste Disposal Inc., a subsidiary of Waste Management of Massachusetts, Inc., for violations of the state’s Solid Waste Management regulations at their Chicopee landfill facility.

Connecticut Valley Sanitary Waste Disposal was fined \$13,000 for violations at their Solid Waste landfill located off of New Lombard Road in Chicopee. The violations observed by the DEP consisted of the release of turbid stormwater from the site to Fuller Brook during the month of April; and the failure to replace, during the month of September,

failed pumps within the main leachate pump station in accordance with the timeframe required by applicable permits and the Landfill's Operation and Maintenance Plan. The two violations, while separate and distinct events, were both observed to occur immediately following significant rains.

'It is critical, especially during significant storm events, that proper operational safeguards at landfill facilities be followed and properly maintained,' said Michael Gorski, director of the DEP's Western Region."

"DEP Penalizes Waste Management, Inc. \$11,000 For Solid Waste Violations At The Dedham Transfer Facility. Waste Management, Inc. (WMI), the operator of the Dedham Transfer Station at One incinerator Road, has agreed to pay an \$11,000 penalty after solid waste violations were found during an inspection by the Department of Environmental Protection (DEP) on February 26, 2004.

"DEP's inspection in February found the facility to be out of compliance in three areas: construction and demolition debris was being deposited, or 'tipped', to the ground surface rather than into an open top container; the facility's overhead doors were not operable; and, the facility's hours of operation were not posted. In addition to paying the penalty, WMI has agreed to correct all violations."

From Environment Reporter, March 25, 2005:

Twelve Parties Agree to Pay \$2.63 Million For Cleanup Costs at New Jersey Landfill.

"A group of 12 responsible parties has agreed to pay \$2.63 million for cleanup work at a former New Jersey landfill under a proposed settlement with the environmental Protection agency (United States v. Chemical Waste Management, Inc., D. N.J., No. 02-2077, 3/08/05).

The parties, which include Waste Management, Inc. and Transtech Industries, Inc. also would spend more than \$900,000 on a supplemental environmental project to restore and protect a 100 acre tract of land in Edison, N.J. that includes a wetlands area, according to EPA."

From the agenda of the Texas Commission on Environmental Quality, April 13, 2005:

Item 13. Docket No. 2004-0384-MLM-E.

Consideration of an Agreed Order assessing administrative penalties against Waste Management of Texas, Inc. in Travis and Jefferson Counties; for petroleum storage tank and sludge disposal violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 5,7, and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. Approved the agreed order; all agree."

The penalties were not specified.

From the U.S. Environmental Protection Agency, Region 9, May 5, 2005:

U.S. EPA reaches a \$47,500 settlement with Chemical Waste Management for monitoring violations.

The U.S. Environmental Protection agency recently reached a \$47,500 settlement with Chemical Waste Management regarding its alleged failure to conduct monthly monitoring at one of four PCB disposal units at its Kettleman City, California facility. “

Kettleman City has been the scene of many other WMI incidents and violations, dating back to the mid-1980’s. The landfill was breached and a landslide occurred there in 1988; the State Department of Health Services fined Chemical Waste Management, Inc. \$363,000 for violations in the manner in which it operated the site; it was also assessed an \$80,000 fine in connection with a landfill fire in 1988; during 1984 the EPA fined Chemical Waste Management \$2.5 million more for a total of 130 violations, which included allowing leaks from the landfill to contaminate local water supplies.²⁰

From the Commonwealth of Pennsylvania Department of Environmental Protection, May 6, 2005:

Waste Management To Pay \$100,000 for Air Quality Violations At Pottstown Landfill.

“Environmental Protection Southeast Regional Director Joseph A. Feola today announced that Waste Management Disposal Services of PA will pay \$100,000 in civil penalties for exceeding permitted landfill gas flow rates at the company’s Pottstown Landfill.

From the U.S. Department of Justice, August 22, 2005:

“Municipal, Corporate Parties Will Pay \$13.9 Million For Cleanup Of Major Superfund Site Near Denver.

“The Department of Justice and the Environmental Protection Agency today announced a settlement under which the City and County of Denver, Waste Management of Colorado, Inc. and six other companies agreed to pay \$13.9 million to reimburse money spent by the United State in connection with the Lowry Landfill Superfund site near Denver, Colorado. The settlement, which resolves three years of litigation, also requires that the settling defendants continue site cleanup and pay costs incurred by the United States with respect to the site in the future. Although initial cleanup of the site is nearly complete, long-term maintenance is expected to cost \$43 million and continue for more than 30 years.”

²⁰ Adams Mine Archives, “The History of Waste Management, Inc. (WMI)” Criminal Activity. Also , San Diego Report on Waste Management by District Attorney Miller, op.cit.

From the Massachusetts Department of Environmental Protection, August 30, 2005:

“Waste Management Incorporated (WMI) has agreed in a consent order signed with the Massachusetts Department of Environmental Protection to a \$30,000 penalty for violations involving solid waste regulations. An inspection of the solid waste transfer station at 10 Poplar Street in Somerville found that WMI, which operates the facility, had failed to follow waste-ban procedures established in its permit.

MassDEP determined during its investigation that the landfill in Granby, Massachusetts recorded 68 shipments from the Somerville facility containing restricted materials such as tires, white goods (major appliances) and cathode ray tubes (televisions and computer monitors). Under state regulations these items, along with lead acid batteries, glass, metal, plastic containers, recyclable paper and yard waste are prohibited from disposal.”

From The Federal Register, November 2, 2005, Page 66463:

“A Consent Decree was lodged with the U.S. District Court for the District of Colorado on October 18, 2005 by means of which the Settling Defendant, Chemical Waste Management, Inc. agreed to pay \$1,025,442 for the recovery of past costs incurred by the Environmental Protection Agency in connection with the release of hazardous substances at the Weld County (CO) Disposal Facility.”

From a November 3, 2005 Press Release from the Pennsylvania Department of Environmental Protection:

“The Pennsylvania Department of Environmental Protection today announced that it has reached a settlement with Pine Grove Landfill, Inc. [owned by Waste Management, Inc.] of Pine Grove Township, Schuylkill County, that limits expansion of the Pine Grove landfill and sets a closure date for the facility within 54 months of operations.

Pine Grove Landfill, Inc., previously appealed DEP’s June 2004 denial of its expansion application. DEP had determined the social and economic benefits of the proposed expansion did not clearly outweigh the environmental harms posed by it. The failure to clear the harms/benefits test was based on a previous lack of compliance with environmental regulations at the landfill.

“We stopped this expansion in its tracks because the landfill operator was not fulfilling its commitment to protect public health and the environment of the Pine Grove community,” Environmental Protection Northeast Regional director Michael Bedrin said.

The troubled operation of the Pine Grove Landfill goes back at least to the mid 1990’s.

In June, 2004, the DEP announced that it was denying the Landfill’s harms/benefits analysis for the proposed expansion of the facility.

DEP's Northeast Regional Director at that time said, "Given the landfill's past problems, this facility has not proven it can operate in compliance with the department's regulations and be a good neighbor in the community."

The June 2004 DEP press release goes on to say:

"The landfill submitted its environmental assessment for about two additional acres in November 2001. DEP held a municipal involvement meeting on the application in January 2002 and a public hearing in January 2003. In making its decision, DEP carefully weighed comments presented at that public hearing and submissions by the landfill.

The most significant factor in the denial was the landfill's poor compliance history.

Twice in the mid-1990s, Pine Grove Landfill failed to control landfill gasses and caused nuisance odors throughout the community. The facility was required to implement additional gas management control systems and paid a civil penalty.

Since 1997, the facility has been cited by DEP for other operational problems involving the lack of daily cover material, inadequate daily cover material, litter control and dust and mud violations.

Pine Grove Landfill also was cited by DEP for leachate management problems in late 2002 that resulted in a surface leachate spill. Waste Management, Inc., which owns the landfill, agreed to pay a \$167,500 civil penalty for those violations in October 2003.

During that same timeframe, the landfill mismanaged its gas collection system and again caused significant off-site odor problems in the surrounding community. These violations resulted in another DEP field compliance order directing the landfill to install additional gas management and control systems.

Later in 2003 and early 2004, DEP identified erosion and sedimentation violations due to a lack of vegetation on areas that had been capped. The landfill failed to install adequate erosion controls and did not adequately maintain sedimentation ponds, all of which led to off-site sediment pollution to a tributary of Swatara Creek.

In the letter accompanying the landfill's response to comments received at the January 2003 public hearing, Waste Management, Inc., wrote: 'Pine Grove Landfill continues to be a well-run disposal operation, conscientious of and attentive to all applicable environmental regulations.' Since the time of that correspondence, Pine Grove Landfill has been cited by DEP nearly 20 times for violations, operational problems and community impacts."

From The Portland Oregonian, November 13, 2005:

Kayak crusaders persuade polluters to come clean.

"Between the reporting and compliance violations, [Northwest Environmental Defense Center] has evidence that WMO has violated its 1200-COLS permit several thousand times', the group wrote last year to Waste

Management of Oregon, a garbage handling company with property draining into the slough (the Columbia Slough).

Its list of violations went eight pages.

'Every time NEDC staff and volunteers have been in the vicinity of WMO's out-falls on the Columbia Slough, we have directly witnessed a vivid oil and grease sheen on the surface of the water,' it said.

NEDC anticipates filing suit against you 60 days from the date of this notice in Oregon Federal District Court, and requesting penalties, as well as injunctive relief.'

In about three months, the company installed equipment to catch the pollution, and agreed to cover NEDC's \$10,000 in legal costs and donate \$35,000 toward restoration and environmental education in the slough. It promised to donate up to another \$10,000 if its runoff violated standards.

'They brought it to our attention, and then we took the preventative steps that they helped us identify,' said Dean Kampfer of Waste Management. 'We want to be a good steward of the environment.'"

WMO had held the permit in question for 4 years by the time NEDC warned them of an impending lawsuit, but claimed they were unaware of their violations or the steps needed to prevent them.

From the Los Angeles Daily News, December 13, 2005:

Settlement struck over Bradley Landfill odors.

"For repeatedly failing to correct foul odors at Bradley Landfill, Waste Management agreed to pay \$20,000 in fines, fix its odor problems and donate \$75,000 to charities, according to a settlement announced Tuesday. The agreement ends more than a year of negotiations among the landfill company, South Coast Air Quality Management District and City Attorney Rocky Delgadillo.

'Through this settlement Bradley has become a responsible neighbor, and the environmental resources of our community have been protected,' Delgadillo said in a statement.

The settlement stems from odor, sewer and noise problems at the landfill from 2002-2004."



-Richard Blair

Addendum - November 2007

In 2006, Waste Management continued to acquire fines for violations of waste handling and hauling laws and to clash with neighbors at its landfill sites. At least \$5,208,000 in fines were imposed by state authorities in Hawaii, New Hampshire, California and Pennsylvania.

From the State of Hawaii, Department of Health News Release February 2, 2006

DOH CITES WASTE MANAGEMENT OF HAWAII AND CITY AND COUNTY OF HONOLULU.

Waimanalo Gulch Landfill Permit Violations.

HONOLULU - The Department of Health (DOH) has issued a notice of violation and order against Waste Management of Hawaii, Inc. (WMH) and the City and County of Honolulu (City) for violations of their joint permit and State solid waste management rules in the operation of Waimanalo Gulch Sanitary Landfill (WGSLF). DOH alleges that WMH and the City committed 16 types of violations over a two year period and the Department has imposed an Administrative penalty of \$2.769 million dollars.

Laurence Lau, Deputy Director for Environmental Health said, "These are serious violations that warrant a large penalty. Exceeding the permitted height and excessive leachate at the bottom of the landfill raised serious concerns that the department worked on at length to resolve last year, and the fail-

ure to cover solid waste daily violated a basic principle of landfill management. Failures to report violations on time are serious because they hurt the department's ability to monitor the landfill and deal with problems early."

During a six-month investigation of the WGSLF, the DOH cited major violation of overfilling areas of the ash monofil and municipal solid waste (MSW) landfill above permitted heights for over a year.

Additional violations include:

Failure to place daily soil cover on the active MSW landfill workface on at least 27 days

Failure to submit annual operating reports in a timely manner

Failure to report the overfilling in a timely manner

Allowing excessive leachate (liquids) in landfill sumps for over 120 days

Failure to measure and maintain records of leachate levels in landfill sumps for over a year

Failure to record the location of asbestos disposal and maintain records for over six months

Failure to monitor methane gas and maintain records for two years

Failure to comply with other conditions of the Solid Waste Management Permit, Special Conditions

From the American Bar Association "Environmental Enforcement and Crimes Committee Newsletter

Major Landfill Suit Settled in New Hampshire

The Attorney General of New Hampshire and the Department of Environmental Services announced March 1, 2006, that a state court has approved a \$1.75 million settlement with Waste Management of New Hampshire, Inc. for alleged environmental violations at the Turnkey Landfill in Rochester. The original lawsuit alleged violations of air pollution rules and permits starting in 2002, including failure to control landfill gases produced by decomposing solid waste at the landfill. According to reports, the company has committed to installing new flares that burn off the gases and adding air monitors around the landfill to confirm that landfill gases do not pose any threat to the health of local residents.

From Cal/EPA – Air Resources Board (page updated September 5, 2006)

\$75,000 Fine to be Paid by Waste Management Collection and Recycling, Inc.

A Southern California trash hauling company has agreed to pay more than \$75,000 in penalties in connection with violating state air

quality regulations. An investigation by the ARB showed that Waste Management Collection and Recycling, Inc. of Santa Ana (a WMI subsidiary) failed to properly self-inspect their diesel trucks to assure the trucks met state smoke emission standards. To settle the case Waste Management agreed to the \$75,000 penalty and to comply with the PSI program. The trash hauling company has also paid the ARB an additional \$1200 in penalties for vehicles that were checked by ARB inspectors and failed to meet smoke emission standards.

From eFacts, Pennsylvania's Environment Facility Application Compliance Tracking System

Facility: Grows Landfill

Program: WM Municipal Waste

Enforcement Id: 205881

Enforcement Type: Consent Order and Agreement

Date Executed: 3/20/06

Taken Against: Waste Management Disposal Services of PA, Inc. (A WMI subsidiary)

Total Amount Collected: \$614, 915.36

Twelve numerically designated but not otherwise described Violation Ids were addressed by this enforcement and penalty action.

In November 1994, WMI paid \$60,000 to settle a class action lawsuit charging im-

proper cleanup and monitoring of groundwater contaminated at Waste Management's GROWS landfill in Bucks County, PA. (Greenwire 11/4/94)

On May 12 1995, WMI signed a Consent Order and Agreement and paid a \$42,000 fine for GROWS landfill odors emanating offsite. An additional penalty of \$13,500 was paid the same day because gas fired turbine engines were not installed within 1 year of issuance of air quality plan approval. (Stop WMX)

From the Spring 2006 Southern Environmental Law Center's Newsletter

Keeping Trash Out of Our Rivers: VA Case sets New Industry Standard

SELC has reached a settlement with one of the nation's largest waste management companies that will set new standards for the trash barging industry in Virginia and nationwide. The settlement has now led to the adoption of a bill by the Virginia General Assembly that requires the use of a new leak-proof container for barging garbage on the James River – one of Virginia's most beautiful and historic waterways.

On behalf of the James River Association, SELC has been pushing for the adoption of new trash barging regulations to replace inadequate standards already in place. SELC was successful last year in challenging a sweetheart deal reached between Waste Management, Inc and Virginia's Waste Man-

agement Board that would have allowed the company to use containers that were not demonstrated to be leakproof in the barging of up to 12,000 tons of garbage and hazardous medical waste per day up the James River. Our settlement with Waste Management introduces a barge container that has been shown to be leakproof. We are confident that this new model will quickly become the industry standard for trash barge containers nationwide.

From the Los Angeles Times, May 28, 2006

Neighbors' Values Clash Over Landfill Expansion Proposal; Backers of Enlarging the Bradley Site in Sun Valley Tout Clean Power and Recycling, But Advocates for the Poor Feel Dumped Upon.

Debate among advocates of the poor and environmentalists of the Bradley Landfill ("Landfill") in the East San Fernando Valley has increased. The Landfill, which is located in an area with predominantly poor residents, generates clean electrical power for 10,000 homes, but also represents a great potential health hazard due to the traffic and debris that emanates from it. Residents near the Landfill attribute numerous asthma cases of school children to the Landfill, in articulating that "their conditions are exacerbated by the [L]andfill's proximity and by the swarms of trucks that serve it." Waste Management, the Landfill's owner, has attempted to tout the environmental benefits of the Landfill by distributing outreach materials and holding meetings in English and Spanish. Despite

these efforts, environmental justice groups such as One LA, however, have helped to galvanize opposition to Waste Management. They assert that Waste Management should better serve poor residents and find alternate locations, other than the Landfill to recycle and bury trash.



Record In Marin

There is little basis to distinguish WMI's record in Marin County from its record elsewhere in the United States. The warning which District Attorney Edwin Miller gave to the San Diego Board of Supervisors 13 years ago is equally applicable today for the Marin County Board of Supervisors, namely:

"[T]he company's history requires extreme caution by the San Diego Board of Supervisors or any other governmental entity contemplating any contractual or business relationship with Waste Management."²¹

Taking Advantage

In terms of local land use regulation, WMI only has to abide by a general condition to follow other laws and regulations. This is because its 1958 page and-a-half land use permit requires no more than that. That is far less than local land use regulation requires of today's business owners and even residential users of county land. In contrast to the

Redwood Landfill, the Altamont Landfill in Alameda County, also operated by WMI, must submit to modern environmental requirements and safeguards as defined in a 40 page permit which was drawn up after a lawsuit several years ago, as a condition of its expansion.

WMI has taken advantage of its lower cost operation here to cut prices or "tipping fees" at the dump and thus attract garbage to it from other communities. Marin is importing garbage now while Alameda is purchasing and upgrading open space for its citizens with the proceeds it raises from mitigation fees collected from out-of county haulers.

Accommodating the huge volume increase called for by the expansion could be accomplished either by growing laterally or vertically. A lateral expansion would require WMI to comply with an updated land use permit to protect the environment and the public, so their strategy is to expand vertically.

160 feet tall and steeply sided – a 3:1 angle – the proposed mountain of garbage will be an ugly and dangerous topographical Marin feature for generations to come. And it will be constructed, at least in part, because WMI does not want the strictures of a modern land use permit to inhibit its profit-making ability.

Casual Violations and ongoing Mismanagement²²

²¹ Final Report Waste Management, Inc. Edwin L. Miller San Diego District Attorney op.cit.

²² From the comment letter on the FEIR filed by No Wetlands Landfill Expansion on September 12, 2005 with the Marin County Community Development Agency,

Over the past two years, WMI has often exceeded its daily tonnage limits under its solid waste facility permit.

At the end of 2004, WMI began making slope changes inconsistent with its current solid waste facility permit, anticipating approval of the proposed project.

The dump's methane gas flare came out of compliance with its air quality permit, requiring WMI to request a variance while it was replaced.

WMI increased the lateral footprint of the dump, without approval, from 210 to 222.5 acres and dumped waste over the additional 11.5 acres inconsistent of past and current permits.

WMI is out of compliance with California's standards which, for water protection concerns, require a five foot separation between waste and the highest anticipated elevation of underlying groundwater.

WMI has not reconstructed the old levee which separates and protects the wetlands from dump spillage in the event of a flood or heavy rain, even though such reconstruction was a condition of its previously approved expansion in 1995.

WMI will be relieved of responsibility for correcting all these if its expansion request is approved.

Questionable Statements and Information from WMI in Marin

In response to a question from a Marin Independent Journal reporter in September 2005, WMI's Site Manager claimed a perfect record of environmental stewardship and said that the dump "never" had "a significant water quality impact."²³ In fact, during the 1998 rainy season the dump released an 8.6 million gallon leachate overflow into San Antonio Creek, for which the San Francisco Bay Regional Water Quality Control Board admonished them in a May 4, 1998 letter. The same letter pointed out that several constituents of the overflow greatly exceeded limitations. The average zinc concentration was three times greater than permitted, nickel 12 times greater.

During a Novato City Council meeting in September 2005, the WMI Marin Site Manager was asked by Novato's Mayor to support WMI's claim that dump expansion and the importation of waste from other counties is required because operating the dump is otherwise unprofitable. WMI's Site Manager refused to provide supporting financial information. The Mayor also asked the Site Manager to comment on WMI's national record. He declined to do so.

²³ Marin Independent Journal "Showdown Shapes Up Over Dump Expansion" September 27, 2005.

Such unwillingness to provide justification for claims about a critical local issue or defend corporate reputation should be troubling to citizens and elected officials alike and a clear warning to Marin about putting confidence in WMI's statements.

Much of the Final Environmental Impact Report (FEIR) for WMI's proposed expansion in Marin relies on information and data provided by WMI. It consists of hundreds of pages of technical text and analysis, and it took WMI and Marin County staff almost two years to make changes in it responding to comments on the preliminary FEIR.

If the FEIR is not certified as complete and accurate, the expansion cannot take place. Given WMI's track record of dishonest conduct, detailed above, there are significant questions about much of the information provided by WMI.

Perhaps chief among them is the absence of a reliable volume calculation for the dump.

Virtually every calculation relating to the design and stability of the dump expansion and many resulting impacts and proposed mitigation measures are premised on an accurate current volume calculation – literally, how much garbage the dump contains at present.

This key figure is at best uncertain. First, WMI said it was 25 million cubic yards. That was in August, 2003 at a hearing before the Marin Planning Commission. The WMI spokesperson was its engineer. Now, WMI says that the engineer misspoke at that time, that what he meant was 25 million cubic yards is the permitted volume. But the per-

mitted volume is actually 19.1 million cubic yards and now WMI claims that the current volume is 13.9 million cubic yards.

These are a few examples of the lack of candor and consistency in WMI's dealings with Marin officials and the public. The issue is raised whether Marin can or should trust WMI to protect its northeastern wetlands and the health and welfare of its citizens.



-David Yearsley

Conclusion

It is clear from the foregoing, all of which is in the public record, that WMI is an organization which has been and continues to be characterized by clashes with citizens, local authorities, state agencies and federal regulators take place.

Its national track record is one of inattentive execution, misrepresentation, and unwillingness to be bound by regulations or genuine environmental concern.

The question comes down to this: whether, based on the record, WMI is a trustworthy partner for Marin or an operator that requires close, continual monitoring by a competent independent source to assure that laws and regulations are carefully observed

The lessons which other communities have learned from their dealings with WMI must not be lost on Marin.

Governor Jim Gilmore of Virginia said, “Waste Management has shown a callous disregard for the citizens of the Commonwealth of Virginia. As Governor, I will not tolerate this action.”²⁴

Attorney General Peg Lautenschlager of Wisconsin said, “Waste Management is being held accountable for its failure to adhere to Wisconsin’s environmental laws on solid waste disposal and transport. The message is clear that the price of attempting to evade the laws that keep Wisconsin’s natural environment safe is costly to the violators, and will be fully enforced by my office.”²⁵

Pennsylvania Department of Environmental Protection Secretary Kathleen A. McGinty said, in announcing a \$1.37 million fine of WMI for violations at three of its landfills, “These actions were necessary to bring the landfills into compliance with our regulations and halt operational violations, many of which affected the quality of life of residents living near the facilities.”²⁶



-David Yearsley



Endangered California Clapper Rail

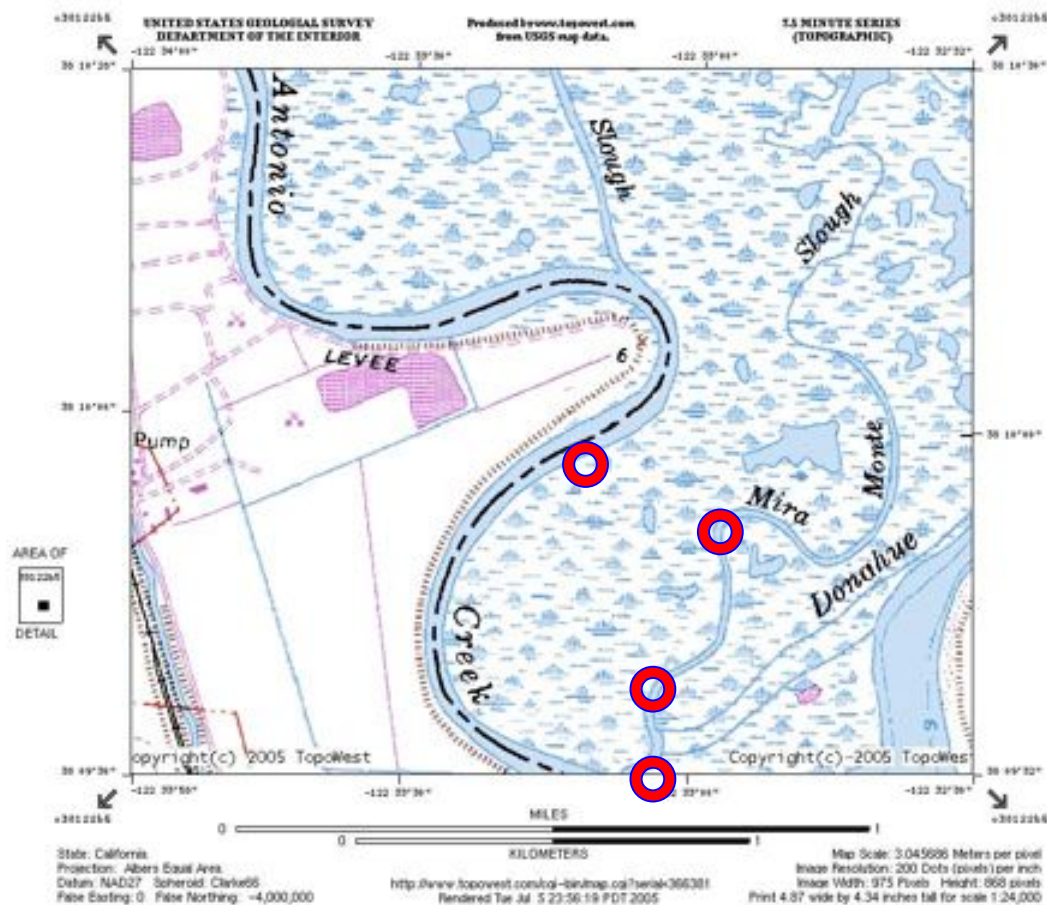
-Peter LaTourrett.

²⁴ News Release, Office of Virginia Governor Gilmore, op. cit.

²⁵ News Release, Wisconsin Department of Justice, op. cit.

²⁶ Annual Report Pennsylvania DEP, op. cit.

Vicinity of 38.09.30N, 122.33.00W



2.

Clapper Rail detections at San Antonio Creek, Marin County California.

Red circles indicate locations of California Clapper Rails (*Rallus longirostris obsoletus*) detected during a synoptic survey of San Francisco Bay tidal wetlands in the early 1990s. Subsequent field investigations have not been conducted, however the continued presence of this species at Black John Slough, Bahia Channel, and contiguous wetlands downstream suggest continued presence in the San Antonio Creek drainage.

Reference:

Collins, J., J.G. Evens, and B. Grewell. 1994. A synoptic survey of the distribution and abundance of the California clapper rail, *Rallus longirostris obsoletus*, in the northern reaches of the San Francisco Estuary during the 1992 and 1993 breeding seasons. Technical Report to California Department of Fish and Game.

Jules Evens, Avocet Research Associates. 415/663-1148 <jevans@svn.net>



No Wetlands Landfill Expansion

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