

BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE

PO Box 88 Glendale Springs, North Carolina 28629

Phone 336-982-2691 ~ Fax 336-982-2954 ~ Email BREDL@skybest.com

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WMI's Record: Environmental and Contract Crimes **Waste Management Inc. has a 19 year record of environmental violations and contract crimes, that is, violations directly related to its business.**

WMI, headquartered in Houston, Texas, is a holding company whose subsidiaries are in the business of collecting, transporting and disposing of solid waste, hazardous waste, and radioactive waste for residential, municipal, commercial and industrial customers. WMI operates 302 landfills, more than any other company. Currently, WMI is liable for 79 sites on the National Priority List of CERCLA (Superfund). WMI was formerly known WMX. The company changed its name after USA Waste Service, Inc. acquired WMX in 1998. This report is only a partial record of violations by WMI and its subsidiaries.

1983: WMI convicted for price fixing, paid \$350,000 fine.

1985: WMI convicted of price fixing in Dade and Broward Counties, Florida.

1985: EPA fines WMI \$350,000 for hazardous waste violations in Oregon.

1985: EPA fines WMI \$350,000 for hazardous waste violations in Alabama.

1986: WMI official is convicted of bribery of the Mayor of Fox Lake, Illinois

1986: In Florida, David Travel Co., filed a class action antitrust civil case against Waste Management of Florida, et al. The case was settled for \$1,200,000 in 1988.

1987: WMI and Browning Ferris Industries (BFI), another waste hauling company, were convicted of price fixing and fined \$1 million.

1988: WMI pleads no contest to price fixing in Broward and Dade Counties, Florida and pays \$1 million. Chemical Waste Management (CWM) paid a \$12.5 million in for environmental violations in Vickery, Ohio including mixing PCB's with oil and selling it as fuel.

1989: Los Angeles County District Attorney wins \$1 million anti-trust case against WMI, the largest anti-trust case in California history. WMI pleads no contest.

1989: WMI pleads guilty and pays \$1.5 million for price-fixing in Orange and San Diego Counties, California.

1990: EPA fines WMI \$1,300,000 for violating deep well injection regulations. Since 1985 WMI has been fined \$2.5 million at the same site.

1990: Philadelphia grand jury hands down decision to prosecute both WMI and BFI in a \$50 million collusion and price-fixing case involving 60 counties in 13 states. Both companies settle without conviction by agreeing to pay the \$50 million jointly.

1990: EPA fines Chemical Waste Management \$750,000 for waste lagoon violations in Vickery, Ohio.

1990: Chemical Waste Management paid \$3,750,000 to settle federal charges concerning dangerous practices at a Chicago hazardous waste incinerator. In 1991 an explosion shut down the operation and brought another fine of \$2.5 million.

1990: Chemical Waste Management promised that their Emelle, Alabama HW landfill would “promise safe containment for hazardous wastes for 10,000 years.” Between 1984 and 1986 the appraised value of the town mayor's home dropped from \$60,000 to \$15,000 because of the landfill. In 1987 Alabama DEM reported contamination of monitoring wells. In 1989 Alabama state troopers found 740 safety violations in 312 CWM trucks. In 1990 CWM paid \$123,000 for disposing sludge without proper treatment. Sumter County unemployment rose from 5.8% to 21% between 1978 and 1986.

1991: WMI fined \$4.1 million for dumping more trash than permitted in Erie, Pennsylvania landfill.

1991: The Sheriff of Ventura County, California issued a report on September 21 describing 225 different criminal and civil actions over 13 years against WMI and subsidiaries costing \$52,321,933 in fines and penalties (misdemeanors, administrative misdeeds, and felonies). Consent agreements allow government to claim victory and WMI to avoid trial and conviction.

1991: A report from the Chairman of the New York State Assembly's Environmental Conservation Committee found that WMI illegally dumped liquid hazardous waste in municipal landfills. A witness stated, “A rolloff is an open top container much like a dump body truck. The average capacity is twenty cubic yards. We have heard Mr. Kaufman discuss placing toxic or hazardous materials in the rolloff with plastic, putting sand at the base of it in the corners and putting absorbent-type solid waste material into the rolloff and then emptying the drum of liquid hazardous waste material into that rolloff....Approximately sixty drums containing hazardous or liquid waste can be disposed of in one container. This container is then hoisted on a chassis truck and taken to a sanitary landfill where it is disposed of as solid waste or garbage....”

Detective Sergeant Dirk Ottens, Organized Crime's Involvement In the Waste Hauling Industry, February 6, 1991

1992: The San Diego Report found that WMI's methods of doing business and history of civil and criminal violations established a predictable pattern which has been fairly consistent over a significant number of years. The report stated:

“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.”

“The 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.”

“It is clear that Waste Management engages in practices designed to gain undue influence over government officials”

“These practices suggest an unseemly effort by Waste Management to manipulate local government for its own business ends...[and] may have a corrupting impact on local government and lead to decisions unsuitable to the best interests of the public.”

1992: A spokesman for Waste Management attempted to deflect criticism by attacking the report by the Attorney General of San Diego. He said, “The San Diego Report seems to be pretty much a complete rehash of a couple of reports compiled by a couple of pretty extreme environmental groups.” *Kingsport, Tennessee Times-News July 17, 1992*

1992: A rival waste disposal company filed a \$50,000 lawsuit against Dade County, FL when the government negotiated solely with WMI for a \$125 million disposal contract following Hurricane Andrew. WMI also was involved in collusion with another company to split the contract, but the County Commission voted to award the contract anyway.

1992: WMI came to east Tennessee to open a commercial solid waste dump. Greer Tidwell, Jr. a partner in the Nashville branch of Baker Worthington is the son of Greer Tidwell, Sr., who was then Regional EPA Director in Atlanta. Baker Worthington's Howard Baker, former Tennessee Senator and Reagan Administration Chief of Staff, was also a major stockholder in WMI and sat on their Board of Directors. Jeff Anderson, Johnson City Commissioner, was a partner at Baker Worthington's Johnson City branch. According to BREDL member Douglas Cartera Johnson City attorney opposed to a local WMI's landfill when the landfill site was first proposed the city hired Law Engineering to do a geological report on the site. Law Engineering found serious problems on the old shale mining site, including a stream that ran through the middle of the proposed dump. The report was unacceptable to WMI and city, so in 1992 a

new firm was brought in to do an updated geological report. The new firm was SEC Donahue, a subsidiary of Waste Management Inc. According to Mr. Carter, “The problems cleared right up.” In addition to the incestuous business relationships, the local newspaper found that WMI’s track record also looked bad: “What we have are strong familial and business connections between Waste Management Inc., the law firm of Baker Worthington, the Johnson City Commission, and Region IV EPA....According to an October 12 article in the Wall Street Journal, Waste Management was recently penalized \$11.6 million in fines for violating environmental laws. In 1990 the company paid out \$5.4 million in fines, and in 1991 \$8.1 million. Waste Management claims it is trying to become more responsible in its practices, but the numbers seem to indicate the opposite.” *Johnson City Weekly Beat November 16, 1992*

1996: WMX was found guilty of cheating, fraud, misrepresentation, greed, and other crimes against the original owners of the hazardous waste dump in Emmelle, Alabama. The citizens of Emmelle got nothing, but the original owners of the Emmelle dump received \$91 million. Federal Judge Odell Horton awarded the plaintiffs contract damages of \$76 Million and punitive damages of \$15 Million. He wrote, “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. ... It seems Defendant and its corporate officers still believe that they did not do anything wrong.”

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

1996: Waste Management Inc. reported its resources for Superfund cleanups were reduced by about 90% from previous years. At the time WMI was responsible for 114 Superfund sites, but WMI attempted to avoid clean ups. For example, on in 1993 the Ohio EPA determined that a remedial action would cost approximately \$20.5 million, for which WMI would bear major responsibility. The groundwater contamination included volatile organic compounds: 2-Butanone, acetone, 4-methyl 2-pentanone, xylenes, and toluene. WMI did some testing and claimed that there was no danger from the landfill; the company recommended that there be no major cleanup.

1997: On June 13 the Indiana Commissioner of the Department of Environmental Management (IDEM) Michael O’Connor denied the request of Waste Management to expand its Fort Wayne Adams Center Hazardous Waste Treatment and Disposal Facility. O’Connor said, “Indiana’s Good Character law allows IDEM to effectively deny a permit application if the applicant has not demonstrated good environmental stewardship.” He continued, “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 Waste Management Inc.

This victory culminated a prolonged citizen fight to stop and close the landfill. An associate attorney for the city of New Haven, Indiana said the state “would have to grant a permit to Satan before they could grant a permit to this outfit.” IDEM listed five years of violations:

1. Guilty pleas to six criminal felony violations and \$3 million penalties (Case No. CR-22-253).
2. \$25,000 penalty in Alabama hazardous waste case (Case No. 92-156-HW - 7/4/92);
3. \$25,000 penalty for California hazardous waste tank spill (Case No. 723347 - 7/29/92);
4. Various operational violations in California \$65,000 penalty (Case No. HWCA 92/93-022 - 11/13/92);
5. \$15,000 penalty regarding analysis methods for incinerator ash at Port Arthur, Texas (Case No. RCRA VI-204-H - 4/8/94);
6. \$17,400 Penalty for violations of Toxic Substances Control Act in USEPA Region V (Case No. TSCA-V-C-30-93 - 8/1/94) plus eight more cases.

The IDEM Commissioner also found that CWM apparently lied in its application by claiming they no longer were associated with Chem Waste. O'Connor found through some attempted dummy corporation slight of hand that Waste Management attempted to hide their very direct affiliation. Waste Management was caught lying again. Indiana enacted "Good Character" law in 1990. Waste Management and CWM challenged the law but lost before the Indiana Supreme Court in 1994. *Indianapolis Star, June 14, 1997* <http://www.ebic.org/pubs/wmx.html>

1998: Waste Management wrote off \$3.54 billion of earnings which it had falsely reported during the previous ten years. *Waste News, April 6, 1998*
<http://www.ebic.org/pubs/wmx.html#8>

1999: WMI violated the antifraud, books and records, and internal controls provisions of the Securities Exchange Act. The Securities and Exchange Commission ruled, “The fact that the deficiencies in WMI’s systems prevented management from receiving timely and reliable data about the company’s performance does not excuse the company for making statements without a reasonable basis or without disclosing material facts necessary to make the statements not misleading.” The company settled with the SEC by complying with a cease and desist order.
<http://www.sec.gov/litigation/admin/34-42222.htm>

2001: The SEC’s action was followed by a WMI shareholders class action lawsuit. The headlines read: “Waste Management Settles Lawsuit for \$457 Million,” (*New York Times*, November 8, 2001). Also, WMI’s accountant Arthur Andersen was found guilty of malpractice in the case and paid \$27 million. <http://www.ebic.org/pubs/wmx.html#8>

2002: As of December 31, 2001, the company is involved in four proceedings which could result in penalties of \$100,000 or more. These actions include 1) exceeding incinerator air pollution limits, 2) a hazardous waste disposal violation, 3) landfill gas emissions at an NPL site, and 4) work under an EPA unilateral administrative order. Another unresolved case involves a 1998 EPA notice of violation of chlorofluorocarbon (CFC) disposal regulations. The EPA

ordered WMI to comply with CFC regulations and is conducting a civil investigation. *WMI Annual Form 10-K for FY 2001, Securities and Exchange Commission*

Louis Zeller
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