

# Rachel's Environment & Health News

## #91 - What We Must Do -- 4: A License To Pollute

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Our series, What We Must Do (see HWN #88, #89 and #90) is describing the root causes of the toxics problem in America. The waste haulers serve as frontline soldiers, disposing of toxics for industries that produce them, so we've focused on the haulers first. In coming weeks, we'll turn to the toxics-producing industries themselves, and finally we'll consider remedies.

In past articles in this series, we've shown that:

The waste haulers are enormous and growing like a cancer; both Waste Management, Inc., and Browning-Ferris Industries (BFI), the nation's biggest haulers, are growing about 20% per year, doubling their size every 3.5 years; together, they already control nearly 50% of the nation's privately-owned trash business. A handful of companies are cornering the market for these essential municipal services. Waste Management now owns 772 subsidiaries, most of which used to be its competitors. This year alone, Waste Management has announced plans to buy out 100 more competitors; the Justice Department's anti-trust division looks the other way. "Can the antitrust division challenge each merger that comes up? We'd be doing nothing else," says J. Robert Kramer III, a Justice Department attorney in Washington.

The waste industry is convincing local governments to build the largest public works projects every undertaken at the municipal and county level--trash incinerators with complex pollution control systems and associated ash landfills; the debt will take a generation to pay off; the projects themselves are often technically ill-conceived and will be major sources of environmental damage; the ash landfills will become the next generation of superfund sites; since local governments are going into these toxic landfill projects with their eyes open, they may well be held liable for water pollution problems that are certain to occur. They won't be able to say, "We didn't know."

Leaders of the waste industry operate by a pattern of bribery, price-fixing, bid-rigging and suppression of competition, a pattern that government seems unable or unwilling to curb.

Government often hasn't sufficient expertise or clout to monitor and regulate the waste hauling industry, which has the best expertise, and the most influential friends, that money can buy;

There's a revolving door from government to industry, so some government regulators may not even try to control the waste haulers in hopes that the sleepest regulators can look forward to retiring on high salaries in the waste industry;

Between 1980 and 1983, Waste Management was issued 547 citations and orders; 19 involved groundwater pollution. Since 1984, citations have grown to 632 and the groundwater violations have quadrupled to 88. BFI was cited 196 times between 1980 and 1983, 12 times for groundwater infractions. Since 1983, BFI's citations more than doubles to 464 and groundwater infractions tripled to 36.

What's more disturbing is that the government has become "hooked" on services provided by the waste hauling industry. Thus even when the industry breaks important rules of civilized society, the government cannot "debar them," (prevent them from taking government contracts) because their work has become essential.

Between them, Waste management and BFI have cornered 40% of all EPA-financed toxic cleanups, according to the Ft. Lauderdale (Fla.) Sun Sentinel.

The federal EPA (U.S. Environmental Protection Agency) has procedures for barring outlaw companies from getting government contracts. But the waste giants provide essential services that the government needs. As a result, the government levies fines against outlaw firms--but these amount to no more than a normal cost of doing business. "Criminal fines amount to little more than a license

to pollute," says Laurel Price, a New Jersey assistant attorney general. "The deterrent is not great," she says. Fines are bargained away; when the government sought \$2.2 million from Waste Management for dumping hospital waste illegally, they finally collected \$423, after two years of haggling.

Even when the EPA temporarily barred Waste Management from accepting waste at one of its leaking landfills in California back in 1984, other government agencies (Department of Defense, for example) sent 8,300 tons of cleanup wastes to the site while the EPA looked the other way.

"They have facilities located in areas where we need to use them," says Elaine Stanley, who directs an EPA enforcement branch. "We don't have too much of a choice in some cases."

"If we blacklist hazardous waste haulers in an area where they are the only haulers, we put ourselves in a bad situation. We need someone to move that waste," says Bob Meunier, compliance chief for an EPA grants division. The EPA has no workforce of its own to handle chemical cleanups.

The EPA does have its own laboratory facilities but they are too small to analyze all the samples required by law. Instead, the government relies on the waste haulers to hire private labs, or to set up labs of their own. The labs report the results to government and the government takes them at face value. One of the private labs used most often by Waste Management, Inc. was started by Doug Costle after he finished his term as head of EPA under President Carter. When former EPA officials run a lab, it lends unwarranted credibility to the clients of that lab. And it further tightens the already-snug relationship between the regulators and those they regulate.

In 1985, EPA found Waste Management was filtering water samples before it sent them off for lab testing. The EPA said this practice could make pollution look less serious than it was. The company disputed this claim, according to the Ft. Lauderdale (Fla.) SUN SENTINEL, and the company continues to filter samples at more than 100 landfills it operates. Furthermore, the EPA did not alert state governments to the problem. "You can look at that as a flaw in the system if you want. I guess it is," says Fred Haber, who monitors labs for an EPA office in Edison, NJ.

The EPA is about to lose even more control over Waste Management. The giant hauler is spending \$20 million constructing a new laboratory to test samples from its 117 landfills, where it will have complete control over all the analytic results.

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--Peter Montague

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Descriptor terms: waste hauling industry; chemical production; chemical industry; bfi; wmi; msw; antitrust; j robert cramer; doj; incineration; ash; landfilling; sara; hazardous waste industry; federal; revolving door; groundwater; water pollution; lawsuits; arrests; regulation; monitoring; epa; laurel price; organized crime; corruption; lawyers; illegal dumping; leaks; ca; dod; elaine stanley; enforcement; doug costle; jimmy carter; fl; fred haber; laboratories;