

Under the first of the three Consent Decrees, nine corporate defendants (Bayer Corp.; Dupont; Grower Service Corp.; Kaiser Aluminum & Chemical Corp.; Mobil Oil Corp.; Novartis Crop Protection (formerly Ciba-Geigy); Olin Corp. Shell Oil Co.; and Union Carbide Corp.) agree to implement the remedial design and remedial action for EPA's selected remedies for contaminated soil and groundwater at all five Areas comprising the Site and to pay \$8,568,686.01 of the United States' past response costs, plus future oversight costs. This decree is referred to as the "RD/RA Decree."

Under the second Consent Decree, Yadco of Pinehurst will pay \$125,000 in partial reimbursement of the United States' response costs. This second Decree is referred to as the "Yadco Decree."

Under the third Consent Decree, Dan Maples, Partners in the Pits; Pits Management Corp. and Maples Golf Construction will collectively pay \$600,000 in partial reimbursement of the United States' response costs. This third Decree is referred to as the "Maples Decree."

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments concerning the proposed Consent Decrees. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Washington, D.C., 20044, and should refer to *United States v. Estate of J.M. Taylor, et al.*, D.J. Ref. 90-11-3-323.

The proposed Consent Decrees may be examined at any of the following offices: (1) The Office of the United States Attorney for the Middle District of North Carolina, 101 South Edgeworth, Greensboro, North Carolina; (2) the U.S. Environmental Protection Agency, Region 4, 100 Alabama Street, S.W., Atlanta, Georgia; and (3) the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (telephone (202) 624-0892).

A copy of the proposed Consent Decrees may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. Please refer to the reference case and identify the particular decrees desired. There is a photocopying charge of \$0.25 per page. All checks should be made payable to "Consent Decree Library."

For a copy of the RD/RA Consent Decree with all attachments, please enclose a check for \$136.00. For a copy of the RD/RA Decree without the attachments, enclose a check for \$43.25.

For a copy of the Yadco Consent Decree, please enclose a check for \$6.75. For a copy of the Maples Consent Decree enclose a check for \$8.75. There are no attachments to the Yadco or Maples Consent Decrees.

**Joel M. Gross,**

*Chief, Environmental Enforcement Section,  
Environment & Natural Resources Division.*

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## DEPARTMENT OF JUSTICE

### Antitrust Division

[Civil Action No. 497-CF 564 E]

### Public Comment and Response on Proposed Final Judgment; United States and State of Texas v. Allied Waste Industries, Inc.

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)-(h), the United States of America hereby publishes below the comment received on the proposed Final Judgment in *United States and State of Texas v. Allied Waste Industries, Inc.*, Civil Action No. 497-CV 564 E, filed in the United States District Court for the Northern District of Texas, together with the United States' response to the comment.

Copies of the comment and response are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, N.W., Washington, DC 20530, telephone: (202) 514-2481, and at the office of the Clerk of the United States District Court for the Northern District of Texas, Room 310, 501 W. 10th Street, Fort Worth, TX 76102. Copies of any of these materials may be obtained upon request and payment of a copying fee.

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

Independent Environmental Services, Inc.,  
October 10, 1997.

J. Robert Kramer II  
Chief, Litigation II Section  
Antitrust Division

United States Department of Justice  
1401 H Street, N.W., Suite 3000  
Washington, DC 20530

Dear Mr. Kramer: This letter addresses our company's concerns regarding the merger or takeover of USA Waste Services, Inc., Fort Worth by Allied Waste Industries, Inc., Fort Worth. Our company, Independent Environmental Services, Inc. (IESI), is an independent hauler located and doing business in Tarrant County. To my knowledge, we are the only independent hauler in the municipal residential business in Tarrant County and one of a very few competing in the commercial and industrial business in Tarrant County. As I am sure you

are aware, Allied Waste Industries controls all of the assets that were owned by USA Waste Services, Triple A Waste Services, Consolidated Waste Services, Laidlaw Waste Industries, Sanifill, and Tarrant County Waste. This combination has reduced competition in our market and has resulted in higher landfill disposal fees to independent competitors like IESI. As you are no doubt aware, the large public solid waste companies often seek to control their markets and eliminate competition by charging excessive disposal rates to independent operators like IESI.

IESI received a letter from Laidlaw advising us of the opportunity to purchase air space at their newly acquired Crow Landfill as well as additional space at their existing Turkey Creek Landfill. We submitted a proposal to buy air space at the Crow Landfill. My concern is that I also received a letter and phone call from Allied/Laidlaw, which raises our cost of disposal 23% for residential and compacted industrial waste. I have also been advised that my front load commercial disposal rates have been increased 63.4%.

When David Bickel from the US Justice Department interviewed me, I expressed a concern that only Waste Management and Sanifill/USA Waste owned landfills that were strategically and economically located for disposal in Tarrant County. It is also interesting to point out that, prior to the Allied acquisition, Sanifill was not a competitor in the hauling business and was very competitive and accommodating and desirous of our disposal business. These recent price increases by Allied/Laidlaw represent a strategic plan to leverage this capacity and utilize it against us, particularly, since our disposal alternatives are extremely limited.

Allied/Laidlaw has seen fit to measure our front loader trucks differently than the truck manufacturer and the 2 previous landfill owners. I cannot help but think the term "anti-competitive, monopolistic, unfair practices, price gouging, and driving the little guy out of business" all aptly describe the action taken by Allied/Laidlaw. It is also rumored that BFI would be purchasing the air space at Crow. The rumor is supported by the fact that Allied/Laidlaw needs disposal capacity in another market where BFI can accommodate their needs. From an accounting perspective, you can imagine the "pencil whipping" that can take place in that type of an arrangement. A deal could easily be structured or better yet, two deals easily structured in which anyone reviewing the merits would have no idea of the actual accommodations that have taken place. It also further enhances my belief of the desire by the Laidlaw management to drive us out of business.

I'm sure that your decision to approve (subject to conditions) the Allied acquisition did not contemplate the current activities demonstrated by Allied/Laidlaw. If your final judgment is not yet final, we would like to discuss our concerns so that our company may continue to survive.

Your immediate concern to this problem is appreciated.

Respectfully yours,  
Charles "Mickey" Flood,  
*President and CEO.*

U.S. Department of Justice,  
Antitrust Division, 1401 H Street, City Center  
Building, Washington, DC 20530,  
December 8, 1997.

Mr. Charles "Mickey" Flood  
President and CEO  
Independent Environmental Services, Inc.  
3330 North Beach Street  
Haltom City, TX 76111

Re: *United States, et al., v. Allied Waste  
Industries, Inc., C.A. No. 497-CV 564 E  
(N.D. TX)*

Dear Mr. Flood: This letter responds to your letter dated October 10, 1997 commenting on the proposed Final Judgment in the above-captioned civil antitrust case challenging the acquisition by Allied Waste Industries, Inc. ("Allied") of the Crow Landfill in Tarrant County, Texas owned by USA Waste Services, Inc. The Complaint alleges that the acquisition violates Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, because it is substantially likely to lessen competition for the disposal of municipal solid waste ("MSW") generated in Tarrant County. Under the proposed Final Judgment Allied is required to divest 880,000 cubic yards of disposal space at the Crow Landfill to a purchaser(s) who would have the right to use this airspace for five years or the life of the Crow Landfill, whichever is longer. Allied is also required to divest 560,000 cubic yards of disposal space at the Turkey Creek Landfill to a purchaser(s) who would have the right to use the airspace for a ten-year period.

In your letter you expressed concern that since acquiring the Crow Landfill Allied has increased disposal rates and changed the way trucks are measured that dispose of waste. You indicated in a telephone conversation with the staff that when USA Waste owned the Crow Landfill that the front-load hopper on the truck was not measured for waste being deposited. Your letter indicates that your disposal rates increased by 23% and the change in the method of measuring trucks has resulted in a total 63.4% increase to IESI. Additionally, your letter states that before the acquisition, USA Waste was not a competitor in the hauling business and therefore the Crow Landfill was desirous of IESI's disposal business. As Allied is also in the hauling business, you believe the acquisition represents a plan to raise prices for disposal which will place IESI at a disadvantage in competing with Allied for hauling business since there are few disposal alternatives to IESI. Your letter indicates that large waste companies seek to control markets by charging "excessive" disposal rates to independent haulers, and you believe BFI, a large waste company, will be sold the airspace in return for assets by Allied in another location.

We have looked into the concerns expressed in your letter. We can report that Allied has increased the rates at the Crow Landfill (now called Mill Valley) and claims that the increase is necessary because of capital costs for the upkeep and maintenance of the landfill. We understand the rates at the

Crow Landfill are now \$6 for compacted MSW and \$4.70 for loose MSW. Our investigation has revealed that these prices are set at levels which are generally comparable to prices charged at other landfills in the Tarrant County area. With regard to the measuring of trucks, it is our understanding that the other landfill operated by Allied specified in the Complaint, Turkey Creek, and the landfills in the Tarrant County area not owned by Allied all measure trucks in the same fashion as now used by Allied at Mill Valley.

Although the price increases instituted by Allied do not appear out of line with prevailing prices in the Tarrant County area, the increase reinforces the belief of the United States that a Final Judgment requiring Allied to sell airspace at the Crow Landfill (now Mill Valley) and the Turkey Creek Landfill is necessary to protect competition both in landfills and hauling in the Tarrant County area. Divestiture will allow one or more purchasers to obtain airspace rights that they can use to compete directly for local solid waste contracts or to resell to other local haulers. As you know, Allied has started the process of obtaining bids for airspace rights. As we understand the bidding process so far, the prices being offered for the airspace are at levels which could allow the winning bidder(s) to resell space at prices below those being currently charged by Allied. Your company has an opportunity to bid on that airspace and we understand it has done so.

Your letter also expresses a concern that BFI, a large national waste company, is bidding for and may win the airspace rights. Should BFI be a bidder in the process or become the winning bidder, this development would not necessarily constitute an anticompetitive effect of the merger. The antitrust laws are not designed to promote the interests of any one competitor but to protect competition as a whole. We will, however, examine any proposed sale to ensure that it complies with the terms of the Final Judgment.

The Antitrust Division appreciates you bringing your concerns to our attention and hopes this response will alleviate them. Pursuant to the Antitrust Procedures and Penalties Act, a copy of your letter and this response will be published in the **Federal Register** and filed with the Court. Thank you for your interest in the enforcement of the antitrust laws.

Sincerely yours,

**J. Robert Kramer II,**  
*Chief, Litigation II Section.*

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## DEPARTMENT OF JUSTICE

### Antitrust Division

#### **United States v. Tom Paige Catering, Inc. and Valley Foods Inc., Proposed Final Judgment and Competitive Impact Statement**

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act,

15 U.S.C. 16(b) through (h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the Northern District of Ohio in *United States v. Tom Paige Catering, Inc. and Valley Foods Inc.*, Civil Action No. 1:97CV3268.

The Complaint in this case alleges that the defendants formed a joint venture in order to lessen and eliminate competition for food service contracts with the Cleveland, Ohio, Head Start program, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

The proposed Final Judgment orders the defendants to dissolve their joint venture and enjoins them from (A) agreeing with any other food service contractor to fix prices on food service contracts; (B) participating in future discussions or communications about the prices they quote on food service contracts; (C) agreeing with other food service contractors on the customers or territories they bid for or serve; (D) entering into any agreement with any non-defendant food service contractor before notifying the plaintiff. Each defendant is also required to appoint an antitrust compliance officer and establish an antitrust compliance program with specified requirements. Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to William J. Oberdick, Acting Chief, Great Lakes Field Office, Antitrust Division, Department of Justice, Plaza 9 Building, 55 Erieview Plaza, Suite 700, Cleveland OH 44114 (*Telephone: 216/522-4074*).

**Rebecca P. Dick,**  
*Director, Civil Non-Merger Enforcement.*

### Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

(1) The parties consent that a final judgment in the form hereto attached may be filed and entered by the Court at any time after the expiration of the sixty (60) day period for public comment provided by the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), without further notice to any party or other proceedings, either upon the motion of any party or upon the Court's own motion, provided that plaintiff has not withdrawn its consent as provided herein;

(2) The plaintiff may withdraw its consent hereto at any time within said period of sixty (60) days by serving notice thereof upon the other party