

BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE

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INTERSTATE WASTE COMMERCE AND THE LAW When Commercial Landfill Companies Enter, Communities Lose Control

In a landmark ruling, *City of Philadelphia v. New Jersey*, the US Supreme Court ruled in 1978 that states cannot directly prohibit waste imports without violating the Commerce Clause of the United States Constitution, Article I.

At a private meeting on March 16, 1989, four representatives of WMI, including the CEO Dean Buntrock, lobbied the head of the EPA to reverse the policy allowing states to restrict hazardous waste imports and the construction of hazardous waste landfills and incinerators. A briefing paper given to EPA's Wm. Reilly stated, "EPA must break its silence immediately. If EPA emphatically restates its opposition to these state actions and indicates that RCRA program withdrawal is the logical result, then cooler heads in the state legislatures will have something to rely on..." Three weeks later EPA reversed its policy and resumed actions to remove North Carolina's privileges under RCRA, the solid and hazardous waste law.

Rachel's Hazardous Waste News

Center Point, Indiana documented 9,000 transfer-trailers carrying out-of-state waste (180,000 tons) into their community landfill over a fifteen month period--5,000 tpd one-third total in Indiana landfills. Two-thirds from NJ & NY, which together accounted for more than half the 15 million tons of trash transported to other states in 1989.

Common Cause Magazine May-June 1991

In 1992 decision in *Fort Gratiot Sanitary Landfill v. Michigan Dept. of Natural Resources*, the Court broadly interpreted the Commerce Clause to strike down a state statute which would have had the effect of limiting waste imports. In 1992 WMI sued North Carolina over the law enacted to prevent the New York garbage barge from unloading here. In 1993 a WMI subsidiary Waste Management of Carolinas, Inc. got a consent order from a federal judge allowing the company to import garbage from five states to its Piedmont Landfill near Kernersville, NC.

Winston-Salem Journal February 4, 1993

A ruling on February 18, 1993 by the Eighth US Circuit Court of Appeals in Minneapolis struck down a trash ordinance set up by two counties that required most of their trash to go to an \$8 million composting plant they built.

Allowing a stream to be eliminated for a WMI landfill in Johnson City violates Tennessee state law. But the Director of the Division of Water Pollution Control termed this a “technical call, not a legal call,” and allowed the landfill permit to proceed.

The Tennessean January 20, 1993

When Waste Management first sought permission to build the Piedmont Landfill in 1988, they said it would serve only parts of Forsyth and Guilford counties. But within two months of opening WM amended its permit to include Virginia, West Virginia, Kentucky, Tennessee, and South Carolina. “We are going to be buried in garbage,” said Bill Parrish, a resident and landfill opponent.

News & Observer, Raleigh, NC, November 21, 1993

Waste Management Inc filed suit in November 1993 to prevent the New Hanover County from enforcing a local ordinance designed to keep the county's waste going to the county incinerator.

Star-News, Wilmington, NC, November 5, 1993

“The Virginia Dept. of Environmental Quality does not track disposal capacity, tonnages, source, or generation rates....A telephone survey done by DEQ estimates that 1,495,000 tones of MSW and 10,000 tons of medical waste had been imported from other states for incineration.”

Letter to D. Lee from Virginia DEQ May 9, 1994

In South Carolina “the current Transfer of Solid Waste Regulation 81-107.7 does not restrict a transfer station from accepting ‘special waste.’”

Letter to Waste Management of North America from SC DHEC January 24, 1994

North Carolina statute NCGS S.130A-309.09D(b) requires the owner/operator of a MSWLF to indicate “to the maximum extent practicable” the county of origin of all solid waste.

Letter to Rep. Foyle Hightower from NC Attorney General's Office May 16, 1994

But there is no definition of “source of generation” in North Carolina Administrative Code to be “recorded and retained” by MSWLF operators.

Letter to Denise Lee from Attorney John Runkle March 22, 1994

“Waste Management, Inc. obtained a preliminary injunction against the enforcement of the out-of-state waste statute on November 2, 1992, thereby enabling the corporation to dispose of solid waste generated in Virginia at its Forsyth County landfill.”

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