University of New Mexico Library, Albuquerque
Zimmerman Library, Albuquerque
New Mexico State Library, Santa Fe
New Mexico State University Library, Las Cruces
Socorro Public Library, Socorro

FOR FURTHER INFORMATION CONTACT: Mr. Art Coykendall, Bureau of Reclamation, Albuquerque Area Office, 505 Marquette Street, NW., Suite 1313, Albuquerque, New Mexico 87102–2162; telephone (505) 248–5351.

SUPPLEMENTARY INFORMATION: The Flood Control Acts of 1948 and 1950 authorize Reclamation to construct and maintain channel works on the Rio Grande between Velarde, New Mexico, and Caballo Reservoir. These works promote the efficient conveyance of water to Elephant Butte Reservoir. Channel works also assist in meeting water delivery obligations required by interstate compact and international treaty. They also assist in providing reliable valley drainage and contribute to the safe passage of flood waters. To ensure that these project purposes continue to be met effectively, Reclamation has proposed to modify the main channel of the Rio Grande and Low Flow Conveyance Channel system.

Factors prompting a reevaluation of the channel system include changes in the flow of the Rio Grande due to climatic variation and infrastructure changes. Chronic sediment management problems, anticipated reductions in federal funding, and new legal constraints on system operations, such as the Endangered Species Act, are also factors prompting this reevaluation.

Purpose and Need for Action

The purposes of the proposed federal action are to convey water to Elephant Butte Reservoir, maintain effective valley drainage, manage sediment, and protect and promote restoration of the riparian and riverine system to help meet the following needs:

- Fulfill obligations to deliver water to Mexico and as required under interstate water compact;
- Sustain agricultural production;
- Maintain high flow capacity in the river;
- Manage costs of system operation and maintenance; and
- Restore native species habitat.

Hearing Process Information

Oral comments at the hearings will be limited to 10 minutes. The hearing officer may allow any speaker to provide additional oral comments after all persons wishing to comment have been heard. All comments will be formally recorded. Speakers not present when called will lose their privilege in the scheduled order and will be recalled at the end of the scheduled speakers. Speakers are encouraged to provide written versions of their oral comments, and any other additional written materials, for the hearing record.

Written comments from those unable to attend or those wishing to supplement their oral presentations at the hearings should be received by Reclamation's Albuquerque Area Office at the address given above no later than November 7, 2000, for inclusion in the hearing record. Under the NEPA process, written and oral comments, received by the due date, are given the same consideration.

Dated: September 1, 2000.

Charles A. Calhoun,

Regional Director.

[FR Doc. 00–23145 Filed 9–7–00; 8:45 am]

BILLING CODE 4310–MN–U

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Allied Waste Industries, Inc. and Republic Services, 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 Complaint, Hold Separate Stipulation and Order, and proposed Final Judgment were filed with the United States District Court for the District of Columbia in *United States* v. *Allied Waste Industrires, Inc., and Repulbic Services, Inc.*, Civil No. 1:00CV 01469 on June 21, 2000. A Competitive Impact Statement was filed on August 15, 2000. The Complaint sought to enjoin the defendants' proposed sales of waste collection assets in the areas of Albany, NY; Augusta, GA; Burlington and Camden Counties, NJ; Clarksville, TN; Columbus, OH; Escambia, Santa Rosa, and Okaloosa counties, Florida; Lakeland, FL; Louisville, KY/Sellersburg, IN; Macon, GA; Memphis, TN; Monmouth County, NJ; Nashville, TN and Norfolk, VA. The Complaint also sought to enjoin the defendants' proposed sales of municipal solid waste disposal assets in the areas of Anderson, IN and New York City, NY. The Complaint alleged that these transactions between Allied and Republic would lessen competition substantially in waste collection and municipal solid waste disposal services in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, requires, among other things, that (1) Allied divest commercial waste collection operations in the areas of Augusta, GA; Escambia, Santa Rosa, and Okaloosa counties, FL; Memphis, TN; Nashville, TN; and Norfolk, VA: (2) Republic divest commercial waste collection operations in the areas of Columbus, OH; Lakeland, FL; Louisville, KY/Sellersburg, IN; and Macon, GA; (3) Allied divest disposal assets in the area of New York City, New York; and (4) Republic divest disposal assets in the areas of Anderson, IN and Macon, GA. The proposed Final Judgment also requires the defendants to alter their existing contracts and offer new contracts meeting certain conditions for (1) commercial waste collection services in the areas of Albany, NY; Augusta, GA; Burlington and Camden Counties, NJ; Clarksville, TN; Columbus, OH; Escambia, Santa Rosa, and Okaloosa counties, FL; Lakeland, FL; Louisville, KY/Sellersburg, IN; Macon, GA; Monmouth County, NJ; and Nolfolk, VA; and (2) roll-off waste collection services in Macon, GA.

A Competitive Impact Statement filed by the United States describes the Complaint, the proposed Final Judgment, the industry, and remedies to be implemented by Allied and Superior. Copies of the Complaint, Hold Separate Stipulation and Order, proposed Final Judgment, and the Competitive Impact Statement are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, NW, Washington, DC, and at the office of the Clerk of the United States District Court for the District of Columbia, Washington, DC. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Public comment is invited within the statutory 60-day comment period. Such comments and response thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, NW, Suite 3000, Washington, DC 20530 (telephone: 202–307–0924).

Constance K. Robinson,

Director of Operations.

Hold Separate Stipulation and Order

It is hereby stipulated and agreed by and between the undersigned parties, subject to approval and entry by the Court, that:

I. Definitions

As used in this Hold Separate Stipulation and Order:

A. ''Acquirer'' or ''Acquirers'' means the entity or entities to whom defendants divest the Divestiture Assets.

B. ''Allied'' means defendant Allied Waste Industries, Inc., a Delaware corporation with its headquarters in Scottsdale, Arizona, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''Republic'' means defendant Republic Services, Inc., a Delaware corporation with its headquarters in Ft. Lauderdale, Florida, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

D. ''Relevant Allied Assets'' means all Relevant Allied Disposal Assets and Relevant Allied Hauling Assets, as further defined below.

E. ''Relevant Allied Disposal Assets'' means, unless otherwise noted, with respect to each transfer station listed and described herein, all of Allied's rights, titles and interests in any tangible assets, including all fee and leasehold and renewal rights in the listed transfer station; the garage and related facilities; offices; all related assets including capital equipment, trucks and other vehicles, scales, power supply equipment, interests, permits, and supplies; and all of Allied's rights, titles and interests in any intangible assets, including all customer lists, contracts, and accounts, or options to purchase any adjoining property.

Relevant Allied Disposal Assets, as used herein, includes each of the following properties:

1. Transfer Stations

a. Anderson, IN. Allied's BFI Anderson Transfer Station, located at 201 North Delaware, Anderson, IN 46016.

b. Macon, GA. Allied's S&S Byron Transfer Station, located at 750 Dunbar Road, Byron, GA 31008.

F. ''Relevant Allied Hauling Assets,'' unless otherwise noted, means with respect to each commercial waste collection route or other hauling asset described herein, all tangible assets, including capital equipment, trucks and other vehicles, containers, interests, permits, supplies; and real property and improvements to real property (*i.e.,* buildings and garages). It also includes all intangible assets, including hauling-related customer lists, contracts, leasehold interests, and accounts.

Relevant Allied Hauling Assets (to be held separate by Republic), as used herein, includes the assets in the following locations:

1. Columbus, OH

Allied's front-end and rear-end loader truck small container routes (hereinafter, ''commercial routes'') 31, 51, 54, 91, 92, 96, and 97 that serve the City of Columbus and Franklin and Delaware counties, Ohio;

2. Lakeland, FL

Allied's commercial routes 901 and 904, that serve Polk County, FL; and

3. Macon, GA

Allied's commercial routes 902 and 903 that serve the City of Macon; and Bibb and Jones counties, Georgia.

For purposes of this Hold Separate Stipulation and Order, the Relevant Allied Hauling Assets to be held separate by Republic shall also include the following:

4. Louisville, KY/Sellersburg, IN

Republic's commercial routes 4, 8, 17, 18 and 26 that serve the cities of Louisville, KY and Sellersburg, IN; Jefferson County, KY; and the parts of Floyd and Clark counties, IN abutting Jefferson County, KY.

G. ''Relevant Republic Assets'' means all Relevant Republic Disposal Assets and Relevant Republic Hauling Assets, as further defined below.

H. ''Relevant Republic Disposal Assets'' means Republic's All City Transfer Station, also known as Republic Services of New York II, LLC, located at 246–252 Plymouth Street, New York, New York. Relevant Republic Disposal Assets includes, with respect to the transfer station listed and described herein, all of Republic's rights, titles and interests in any tangible assets, including all fee and leasehold and renewal rights in the transfer station; the garage and related facilities; offices; all related assets including capital equipment, trucks and other vehicles, scales, power supply equipment, interests, permits, and supplies; and all of Republic's rights, titles and interests in any intangible assets, including all customer lists, contracts, and accounts, or options to purchase any adjoining property.

I. ''Relevant Republic Hauling Assets,'' unless otherwise noted, means with respect to each commercial waste collection route or other hauling asset described herein, all tangible assets, including capital equipment, trucks and other vehicles, containers, interests, permits, supplies; and real property and improvements to real property (*i.e.,* buildings and garages). It also includes all intangible assets, including hauling-related customer lists, contracts, leasehold interests, and accounts.

Relevant Republic Hauling Assets (to be divested by Allied), as used herein, includes the assets in the following locations:

1. Augusta, GA

Republic's commercial routes 204 and 238 that serve the City of Augusta, GA: Richmond and Columbia counties, GA; and Aiken County, SC;

2. Gulf Coast, FL

Republic's commercial routes 1, 4 (a Saturday-only route) and 5 that serve Escambia, Santa Rosa and Okaloosa counties, FL, except for those contracts with route 4 customers also being served on a Republic Gulf Coast route not being divested pursuant to this Final Judgment;

3. Memphis, TN

Republic's commercial routes 51, 52 and 53 that serve Shelby County, TN; Desoto County, MS; and Crittendon County, AR;

4. Nashville, TN

Republic's commercial routes 12, 16, 20, 24 and 30 that serve the City of Nashville, TN; and Davidson, Sumner, Williamson, Rutherford, Wilson, the southeastern part of Robertson, and the eastern part of Cheatham counties, TN; and

5. Norfolk, VA

Republic's commercial routes 1, 2, 3 (except for the Virginia Beach municipal contract), 6, 7, 9, and 10, that serve the cities of Chesapeake, Suffolk, Virginia Beach, Norfolk, Poguoson, Newport News and Plymouth, VA; and York, Surry, James City, Southampton, and Isle of Wright counties, VA.

II. Objectives

The Final Judgment filed in this case is meant to ensure defendants' prompt divestiture of the Relevant Allied Assets and Relevant Republic Assets for the purpose of establishing viable competitors in the municipal solid waste (''MSW'') disposal business and the small container commercial waste collection business, to remedy the effects that the United States alleges would otherwise result from the exchange of assets between Allied and Republic. This Hold Separate Stipulation and Order ensures, prior to such divestitures, that the Relevant Allied Assets and Relevant Republic

Assets remain independent, economically viable, and ongoing business concerns that will remain independent and uninfluenced by Allied or Republic, and that competition is maintained during the pendency of the ordered divestitures.

III. Jurisdiction and Venue

The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

IV. Compliance With and Entry of Final Judgment

A. The parties stipulate that a Final Judgment in the form attached hereto as Exhibit A may be filed with and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

B. Defendants shall abide by and comply with the provisions of the proposed Final Judgment, pending the Judgment's entry by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

C. Defendants shall not consummate the transactions sought to be enjoined by the Complaint herein before the Court has signed this Hold Separate Stipulation and Order.

D. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

E. In the event (1) the United States has withdrawn its consent, as provided in Section IV(A) above, or (2) the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

F. Defendants represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that defendants will later raise no claim of mistake, hardship or difficulty of compliance as grounds for asking the Court to modify any of the provisions contained therein.

V. Hold Separate Provisions

Until the divestitures required by the Final Judgment have been accomplished:

A. Defendants shall preserve, maintain, and operate the Relevant Allied Assets and Relevant Republic Assets as independent, ongoing, economically viable competitive businesses, with management, sales and operations of such assets held entirely separate, distinct and apart from the other operations of Republic, in the case of the Relevant Allied Assets, and from Allied, in the case of the Relevant Republic Asserts. Republic shall not coordinate its service, marketing, negotiation of sales or other business operations with those of any Relevant Allied Asset. Allied shall not coordinate its service, marketing, negotiation of sales or other business operations with those of any Relevant Republic Asset. Within twenty (20) days after the filing of the Hold Separate Stipulation and Order, defendants will inform the United States of the steps defendants have taken to comply with this Hold Separate Stipulation and Order.

B. Defendants shall take all steps necessary to ensure that (1) the Relevant Allied Assets and Relevant Republic Assets will be maintained and operated as independent, ongoing, economically viable and active competitors in the MSW disposal business and the small container commercial waste collection business; (2) the management of the Relevant Republic Assets will not be influenced by Allied, and the management of the Relevant Allied Assets will not be influenced by Republic; and (3) the books, records, competitively sensitive sales, marketing and pricing information, and decision-making concerning the Relevant Republic Asset will be kept separate and apart from Allied's other operations, and the books, records, competitively sensitive sales marketing, and pricing information, and decision-making concerning the Relevant Allied Assets will be kept separate and apart from Republic's other operations. Republic's influence over the Relevant Allied Assets and Allied's influence over the Relevant Republic Assets shall be limited to that necessary to carry out defendants' obligations under this Hold Separate Stipulation and Order and the proposed Final Judgment.

C. Defendants shall use all reasonable efforts to maintain and increase the sales and revenues of the Relevant Allied Assets and Relevant Republic Assets, and shall maintain at 1999 or at previously approved levels for 2000, whichever are higher, all promotional, advertising, sales, technical assistance, marketing and merchandising support for the Relevant Allied Assets and Relevant Republic Assets.

D. Defendants shall provide sufficient working capital and lines and sources of credit to continue to maintain the Relevant Allied Assets and Relevant Republic Assets as economically viable and competitive ongoing businesses consistent with the requirements of Sections V(A) and (B).

E. Defendants shall take all steps necessary to ensure that the Relevant Allied Assets and Relevant Republic Assets are fully maintained in operable condition at no less than their current capacity and sales, and shall maintain and adhere to normal repair and maintenance schedules for the Relevant Allied Assets and Relevant Republic Assets.

F. Defendants shall not, except as part of a divestiture approved by the United States in accordance with the terms of the proposed Final Judgment, remove, sell, lease, assign, transfer, pledge or otherwise dispose of any of the Relevant Allied Assets or Relevant Republic Assets.

G. Defendants shall maintain, in accordance with sound accounting principles, separate, accurate and complete financial ledgers, books and records that report on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues and income of the Relevant Allied Assets and Relevant Republic Assets.

H. Except in the ordinary course of business or as in otherwise consistent with this Hold Separate Stipulation and Order, defendants shall not hire, transfer, terminate, or otherwise alter the salary agreements for any Allied or Republic employee who, on the date of defendants' signing of this Hold Separate Stipulation and Order, either: (1) Works with a Relevant Allied Asset or a Relevant Republic Asset, or (2) is a member of management referenced in Section V(I) of this Hold Separate Stipulation and Order.

I. Until such time as the Relevant Allied Assets and Relevant Republic

Assets are divested pursuant to the terms of the Final Judgment, the Relevant Republic Assets shall be managed by Richard J. Wojahn and the Relevant Allied Assets shall be managed by Raul Rodriguez, Jr. Messrs. Wojahn and Rodriguez shall have complete managerial responsibility for the Relevant Allied Assets and Relevant Republic Assets, subject to the provisions of this Order and the proposed Final Judgment. In the event that either Mr. Wojahn or Mr. Rodriquez is unable to perform this duties, defendants shall appoint, subject to the approval of the United States, a replacement within ten (10) working days. Should defendants fail to appoint a replacement acceptable to the United States within ten (10) working days, the United States shall appoint a replacement.

J. Defendants shall take no action that would interfere with the ability of any trustee appointed pursuant to the Final Judgment to complete the divestitures pursuant to the Final Judgment to an Acquirer or Acquirers acceptable to the United States.

K. This Hold Separate Stipulation and Order shall remain in effect until consummation of the divestitures contemplated by the proposed Final Judgment or until further order of the Court.

For Plaintiff United States of America
David R. Bickel, DC Bar # 393409,

U.S. Department of Justice, Antitrust Division, Litigation II Section, 1401 H Street, NW, Suite 3000, Washington, DC 20530, (202) 307–1168.

For Defendant Allied Waste Industries, Inc.

Tom D. Smith,

Jones, Day, Reavis & Pogue, 51 Louisiana Avenue, NW, Washington, DC 20001–2113, (202) 879–3971.

For Defendant Republic Services, Inc.

Paul B. Hewitt,

Akin, Gump, Strauss, Hauer & Feld, L.L.P., 1333 New Hampshire Ave., N.W., Suite 400, Washington, DC 20036, (202) 887–4000.

Dated: June 21, 2000.

Order

It Is So Ordered On This 21st Day of June, 2000.

Richard M. Urbina,
United States District Judge.

Final Judgment

WHEREAS, plaintiff, the United States of America, having filed its Complaint in this action on June, 2000, and plaintiff and defendants, Allied Waste Services, Inc. (''Allied'') and Republic Service, Inc. (''Republic''), by their respective attorneys, having consented to the entry of this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

AND WHEREAS, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of the Relevant Allied Assets and Relevant Republic Assets by the defendants to assure that competition is not substantially lessened;

AND WHEREAS, the United States requires defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, defendants have represented to the United States that the divestitures required below can and will be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture or other injunctive provisions contained below;

NOW, THEREFORE, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby ORDERED, ADJUDGED, AND DECREED:

I. Jurisdiction

This Court has jurisdiction over each of the parties hereto and over the subject matter of this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, as amended, 15 U.S.C. 18.

II. Definitions

As used in this Final Judgment:

A. ''Acquirer'' or ''Acquirers'' means the entity or entities to whom defendants divest the Relevant Allied Assets or Relevant Republic Assets.

B. ''Allied'' means defendant Allied Waste Industries, Inc., a Delaware corporation with its headquarters in Scottsdale, Arizona, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''Disposal'' means the business of disposing of waste into approved disposal sites.

D. ''Hauling'' means the collection of waste from customers and the shipment of the collected waste to disposal sites. Hauling, as used herein, does not include collection of roll-off containers.

E. ''Landfill'' means a waste management facility where waste is placed into the land.

F. ''MSW'' means municipal solid waste, a term of art used to describe solid putrescible waste generated by households and commercial establishments such as retail stores, offices, restaurants, warehouses, and non-manufacturing activities in industrial facilities. MSW does not include special handling waste (*e.g.,* waste from manufacturing processes, regulated medical waste, sewage, and sludge), hazardous waste, or waste generated by construction or demolition sites.

G. ''Relevant Allied Assets'' means all Relevant Allied Disposal Assets and Relevant Allied Hauling Assets, as further defined below.

H. ''Relevant Allied Disposal Assets'' means, with respect to each transfer station listed and described herein, all of Allied's rights, titles and interests in any tangible assets, including all fee and leasehold and renewal rights in the listed transfer station; the garage and related facilities; offices; all related assets including capital equipment, trucks and other vehicles, scales, power supply equipment, interests, permits, and supplies; and all of Allied's rights, titles and interests in any intangible assets, including all customer lists, contracts, and accounts, or options to purchase any adjoining property.

Relevant Allied Disposal Assets, as used herein, includes each of the following properties:

1. Anderson, IN

Allied's BFI Transfer Station, located at 201 North Delaware, Anderson, IN 46016; and

2. Macon, GA

Allied's S&S Byron Transfer Station, located at 750 Dunbar Road, Byron, GA 31008.

I. ''Relevant Allied Hauling Assets,'' means with respect to each commercial waste collection route or other hauling asset described herein, all tangible assets, including capital equipment, trucks and other vehicles, containers, interests, permits, supplies; and if requested by the purchaser, real property and improvements to real property (*i.e.*, buildings and garages). It also includes all intangible assets, including hauling-related customer lists, contracts, leasehold interests, and accounts.

Relevant Allied Hauling Assets, as used herein, includes the assets in the following locations:

1. Columbus, OH

Allied's front-end and rear-end loader truck small container routes (hereinafter, ''commercial routes'') 31, 51, 54, 91, 92, 96 and 97 that serve the

City of Columbus; and Franklin and Delaware counties, Ohio.

2. Lakeland, FL

Allied's commercial routes 901 and 904 that serve Polk County, FL.

3. Macon, GA

Allied's commercial routes 902 and 903 that serve the City of Macon; and Bibb and Jones counties, Georgia.

J. ''Relevant Republic Assets'' means all Relevant Republic Disposal Assets and Relevant Republic Hauling Assets, as further defined below.

K. ''Relevant Republic Disposal Assets'' means Republic's All City Transfer Station, also known as Republic Services of New York II, LLC, located at 246–252 Plymouth Street, New York, New York. Relevant Republic Disposal Assets include all of Republic's rights, titles and interest in any tangible assets, including all fee and leasehold and renewal rights, in the transfer station; the garage and related facilities; offices, all related assets including capital equipment, trucks and other vehicles, scales, power supply equipment, interests, permits, and supplies; and all Republic's rights, titles and interests in any intangible assets, including all customer lists, contracts, and accounts, or options to purchase any adjoining property.

L. ''Relevant Republic Hauling Assets'' means with respect to each commercial waste collection route or other hauling asset described herein, all tangible assets, including capital equipment, trucks and other vehicles, containers, interests, permits, supplies; and if requested by the purchaser, real property and improvements to real property (*i.e.,* buildings and garages). It also includes all intangible assets, including hauling-related customer lists, contracts, leasehold interest, and accounts.

Relevant Republic Hauling Assets, as used herein, includes the assets in the following locations:

1. Augusta, GA

Republic's commercial routes 204 and 238 that serve the City of Augusta; GA; Richmond and Columbia counties, GA; and Aiken County, SC.

2. Gulf Coast, FL

Republic's commercial routes 1, 4 (a Saturday-only route), and 5 that serve Escambia, Santa Rosa and Okaloosa counties, FL, except for those contracts with route 4 customers also being served on a Republic Gulf Coast route not being divested pursuant to this Final Judgment;

3. Louisville, KY/Sellersburg, IN

Republic's commercial routes 4, 8, 17, 18, and 26 (to be divested by Republic) that serve the cities of Louisville, KY and Sellersburg, IN; Jefferson County, KY; and the parts of Floyd and Clark counties, IN abutting Jefferson County, KY.

4. Memphis, TN

Republic's comemrcial routes 51, 52 and 53 that serve Shelby County, TN; Desoto County, MS; and Crittenden County, AK.

5. Nashville, TN

Republic's commercial routes 12, 16, 20, 24 and 30 that serve the City of Nashville, TN; and Davidson, Sumner, Williamson, Rutherford, Wilson, the southeastern part of Robertson, and the eastern part of Cheatham counties, TN; and

6. Norfolk, VA

Republic's commercial routes 1, 2, 3 (except for the Virginia Beach municipal contract), 6, 7, 9, and 10 that serve the cities of Chesapeake, Suffolk, Virginia Beach, Norfolk, Poquoson, Newport News and Portsmouth, VA; and York, Surry, James City, Southampton, and Isle of Wright counties, VA subject to the following conditions of sale: the new purchaser of the specified hauling assets must obtain a disposal agreement satisfactory to the United States in advance of any divestiture approval from the United States. If the United States, in its sole discretion, deems it necessary for additional tonnages of processible waste to be divested by Allied in the Norfolk area, Allied agrees to supplement the assets already offered for sale with additional waste customers whose total tonnages of processible waste exceed 800 tons per month. Any supplemental asset divestiture by Allied will be limited to no more than one (1) additional front-end loader route, plus the accounts of other Allied waste customers whose total processible waste, in combination with the waste generated from any additional front-end loader route, shall equal 800 tons or more of processible waste per month. The supplemental waste customer accounts shall not be covered by any separate disposal agreement. The supplemental customer accounts need not relate to small container waste.

M. ''Republic'' means defendant Republic Services, Inc., a Delaware corporation with its headquarters in Ft. Lauderdale, Florida, and includes its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

N. ''Small container commercial waste collection service'' means the business of collecting MSW from commercial and industrial accounts, usually in ''dumpsters'' (*i.e.,* a small container with one to ten cubic yards of storage capacity), and transporting or ''hauling'' such waste to a disposal site by use of a front- or read-end loader truck. Typical commercial waste collection customers include office and apartment buildings and retail establishments (*e.g.,* stores and restaurants).

III. Applicability

A. This Final Judgment applies to Allied and Republic, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale or other disposition of all or substantially all of their assets, or of lesser business units that include defendants' Relevant Allied Assets or Relevant Republic Assets, that the Acquirer or Acquirers agree to be bound by the provisions of this Final Judgment.

IV. Divestitures

A. Defendants are hereby ordered and directed, within one hundred and twenty (120) calendar days after the filing of the Complaint in this matter, or five (5) days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the Relevant Allied Assets and Relevant Republic Assets in a manner consistent with this Final Judgment to an Acquirer(s) acceptable to the United States in its sole discretion. The United States, in its sole discretion, may agree to an extension of this time period of up to sixty (60) calendar days, and shall notify the Court in such circumstances. Defendants agree to use their best efforts to divest the Relevant Allied Assets and the Relevant Republic Assets as expeditiously as possible.

B. In accomplishing the divestitures ordered by this Final Judgment, defendants promptly shall make known, by usual and customary means, the availability of the Relevant Allied Assets and Relevant Republic Assets. Defendants shall inform any person making inquiry regarding a possible purchase of the Relevant Allied Assets or Relevant Republic Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment.

Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Relevant Allied Assets and Relevant Republic Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client or work-product privileges. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

C. Defendants shall provide the Acquirers and the United States information relating to the personnel involved in the operation and management of the Relevant Allied Assets and Relevant Republic Assets to enable the Acquirer to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer[s] to employ any defendant employee whose primary responsibility is the operation or management of the Relevant Allied Assets or the Relevant Republic Assets.

D. Defendants shall permit prospective Acquirers of the Relevant Allied Assets and Relevant Republic Assets to have reasonable access to personnel and to make inspections of the physical facilities; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. With the exception of the facilities described in Section II (K), defendants shall warrant to all Acquirers of the Relevant Allied Assets and Relevant Republic Assets that each asset will be operational on the date of sale.

F. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Relevant Allied Assets and Relevant Republic Assets.

G. Defendants shall warrant to the Acquirer[s] of the Relevant Allied Assets and Relevant Republic Assets that there are no material defects in the environmental, zoning or other permits pertaining to the operation of each asset, and that following the sale of the Relevant Allied Assets and Relevant Republic Assets, defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Relevant Allied Assets and Relevant Republic Assets.

H. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV, or by trustee appointed pursuant to Section V, of this Final Judgment, shall include the entire Relevant Allied Assets and Relevant Republic Assets, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Relevant Allied Assets and Relevant Republic Assets can and will be used by the Acquirer(s) as part of a viable, ongoing waste disposal or hauling business. Divestiture of the Relevant Allied Assets and Relevant Republic Assets may be made to one or more Acquirers, provided that in each instance it is demonstrated to the sole satisfaction of the United States that the Relevant Allied Assets and Relevant Republic Assets will remain viable and the divestiture of such assets will remedy the competitive harm alleged in the Complaint. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment,

(1) shall be made to an Acquirer (or Acquirers), that, in the United States's sole judgment, has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in the waste disposal or hauling business; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer (or Acquirers) and Allied or Republic gives Allied or Republic the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

V. Appointment of Trustee

A. If defendants have not divested the Relevant Allied Assets and Relevant Republic Assets within the time period specified in Section IV(A), defendants shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a trustee selected by the United States and approved by the Court to effect the divestiture of the Relevant Allied Assets and Relevant Republic Assets.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Relevant Allied Assets and Relevant Republic Assets. The trustee shall have the power and authority to accomplish the divestiture to an Acquirer[s] acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section V(D) of this Final Judgment, the trustee may hire at the cost and expense of defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the trustee, reasonably necessary in the trustee's judgment to assist in the divestiture.

C. Defendants shall not object to a sale by the trustee on any ground other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI.

D. The trustee shall serve at the cost and expense of defendants, on such terms and conditions as the plaintiff approves, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the value of the Relevant Allied Assets and Relevant Republic Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount.

E. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestiture. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and defendants shall develop financial and other information relevant to such business as the trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information. Defendants shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture.

F. After its appointment, the trustee shall file monthly reports with the United States and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment. To the extent that such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to

acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Relevant Allied Assets and Relevant Republic Assets, and shall describe in detail each contact with any such person. The trustee shall maintain full records of all efforts made to divest the Relevant Allied Assets and Relevant Republic Assets.

G. If the trustee has not accomplished such divestiture within six months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's Judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations. To the extent that such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the plaintiff who shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI. Notice of Proposed Divestiture

A. Within two (2) business days following execution of a definitive divestiture agreement, defendants or the trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the United States of any proposed divestiture required by Section IV or V of this Final Judgment. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Relevant Allied Assets and Relevant Republic Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from defendants, the proposed Acquirer or Acquirers, any other third party, or the trustee if applicable additional information concerning the proposed divestiture, the proposed Acquirer or Acquirers, and any other potential Acquirer. Defendants and the trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from defendants, the proposed Acquirer or Acquirers, any third party, and the trustee, whichever is later, the United States shall provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by defendants under Section V(C), a divestiture proposed under Section V shall not be consummated unless approved by the court.

VII. Financing

Defendants shall not finance all or any part of any purchase made pursuant to Section IV or V of this Final Judgment.

VIII. Hold Separate

Until the divestitures required by this Final Judgment has been accomplished, defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestitures ordered by this Court.

IX. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestiture[s] has been completed under Section IV or V, defendants shall deliver to the United States an affidavit as to the fact and manner of its compliance with Section IV or V of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Relevant Allied Assets and Relevant Republic Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts defendants have taken to solicit buyers for the Relevant Allied Assets and Relevant Republic Assets, and to provide required information to prospective purchasers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by defendants, including limitation on information, shall be made within fourteen (14) days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Relevant Allied Assets and Relevant Republic Assets until one year after such divestiture has been completed.

X. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants, be permitted:

(1) access during defendants' office hours to inspect and copy, or at plaintiff's option demand defendants provide copies of, all books, ledgers, accounts, records and documents in the possession or control of defendants, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the interviewees' reasonable convenience and without restraint or interference by defendants.

B. Upon the written request of the Assistant Attorney General in charge of the Antitrust division, defendants shall submit such written reports, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to the United States, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then the United States shall give defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. No Reacquisition

Defendants may not reacquire any part of the Relevant Allied Assets or Relevant Republic Assets during the term of this Final Judgment.

XII. Revisions to Contracts

A. Allied and Republic shall alter the contracts each uses with its small container solid waste commercial customers in each of the markets specified below to the form contained in paragraph XII (B) below.

B. In each of the markets specified below and for the defendant acquiring the assets as indicated, Allied or Republic shall offer contracts to all new small container solid waste commercial customers as well as to existing customers that sign new contracts for small container solid waste commercial service effective on or after the date that one defendant acquires the other's assets in accordance with the following conditions. No contract shall:

(1) have an initial term longer than two (2) years;

(2) have any renewal term longer than one (1) year;

(3) require that the Customer give Defendants notice of termination more than thirty (30) days prior to the end of any initial term or renewal term;

(4) require that the Customer pay liquidated damages in excess of three times its average monthly charge during the first year the Customer has had service with the Defendant; and

(5) require that the Customer pay liquidated damages in excess of two times its average monthly charge after the first year the Customer has had service with the Defendant.

The contract attached as Exhibit A would satisfy the above conditions. The applicable defendant shall offer such contracts to all other current small container solid waste commercial customers in the respective markets detailed below on or before December 1, 2000:

Defendant	Cities	Counties or areas
Allied	Albany, NY	Albany, Schenectady, Saratoga, and Rensselaer counties, NY.
Allied	Augusta, GA	Richmond and Columbia counties, GA; and Aiken County, SC.
Allied	Clarksville, TN	Montgomery, Dickson, Cheatham, and Robertson counties, TN.
Republic	Columbus, OH	Franklin and Delaware counties, OH.
Allied	Gulf Coast, FL	Escambia, Santa Rosa, and Okaloosa counties, FL.
Republic	Lakeland, FL	Polk County, FL.
Republic	Louisville, KY/Sellersberg, IN	Jefferson County, KY; and Floyd and Clark counties, IN.
Republic	Macon, GA	Bibb, Houston, Peach, Jones and Monroe counties, GA.
Republic	Marlboro, NJ	Monmouth County, NJ.
Republic	Mt. Laurel, NJ	Burlington and Camden counties, NJ.
Allied	Norfolk, VA	Chesapeake, Suffolk, Virginia Beach, Norfolk, Poquoson, Newport News, and Portsmouth, and York, Surry, James City, Southampton, and Isle of Wight counties, VA.

The defendant acquiring small container assets in each specified area agrees that it will not attempt to enforce any contract term affecting small container customers in the specified area that conflicts with or is inconsistent with the above terms, even if those customers choose not to sign a contract with the new terms.

C. In accordance with paragraph XII (D) below, Republic shall alter the contracts it uses with the roll-off customers in Bibb, Houston, Peach, Jones and Monroe counties, Georgia, except those customers that regularly rent or lease compactors from Republic for their roll-off containers.

D. The revised roll-off contracts shall comply with the following conditions:

(1) No contract shall contain an initial term of greater than three (3) years.

(2) During the first year that the company is a customer of Republic, the customer may be forced to pay liquidated damages of no more than six (6) times its prior average monthly charges if the contract is terminated by the customer in manner inconsistent with the termination provisions contained in the agreement. During the second year that the company is a customer of Republic, the customer may be forced to pay liquidated damages of no more than four (4) times its prior average monthly charges if the contract is terminated by the customer in a manner inconsistent with the termination provisions contained in the agreement. After the company is a customer of Republic for two years, the customer may be forced to pay liquidated damages of no more than two (2) times its prior average monthly charges if the contract is terminated by the customer in a manner inconsistent with the termination provisions contained in the agreement.

(3) No roll-off contract may have automatic renewals for terms of more than one (1) year.

E. Republic shall offer roll-off contracts in compliance with these requirements to all new roll-off customers, except those customers that regularly rent or lease one or more compactors from Republic for their roll-off containers (hereinafter referred to as ''compactor customers''), as well as to existing roll-off customers, except for compactor customers, that sign new contracts for non-compactor service effective on or after the date that Republic acquires Allied's Macon, Georgia assets in accordance with the terms of this Final Judgment. Defendant

shall further offer such revised contracts to all of their other non-compactor roll-off customers in Bibb, Houston, Peach, Jones and Monroe counties, Georgia on or before December 1, 2000. Republic agrees that it will not attempt to enforce any term of its current contracts with roll-off contract customers, except for compactor customers, in the Macon area that is inconsistent with the conditions specified above, even if its customers, except for compactor customers, choose not to sign a contract with the new terms.

XIII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIV. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry.

XV. Public Interest Determination

Entry of this Final Judgment is in the public interest.

Date:_____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16

_____

United States District Judge

EXHIBIT A

Contract for Solid Waste Services

Date:_____

Service location (which Business Name shall be deem to include all locations to which the identified location is relocated or reestablished.)

_____

_____

Business Name

_____

Street No. & Name

_____

City Zip

_____

Telephone

_____

Fax

Dear_____

Thank you for choosing [Name of Company] as your waste services company. Our aim is to provide this essential service so responsibly and dependably that you don't need to give it a second thought. We will do our best to keep you satisfied and want you to tell us when we don't. This contract will continue in effect for two years and will renew for successive one-year periods unless terminated in writing at least 30 days prior to the end of a period. You may also terminate when appropriate under ''Our Guaranty.''

Our Mission

Our Mission is to provide the highest quality waste collection, transportation, processing disposal and related services to both public and private customers worldwide. We will carry out our Mission efficiently, safely and in an environmentally responsible manner with respect for the role of government in protecting the public interest.

Our Guaranty

We guarantee the quality of our waste services. If our services do not measure up to the standards described in this contract, and we do not correct the problem within 48 hours (excluding Sundays) after we receive written notice from you (unless the problem is caused by circumstances outside our reasonable control), you may terminate our services and this contract with penalty.

Our Responsibilities

1. The specific services we will provide, and the schedule and initial charges for each service, are listed below. We will give at least 30 days written notice if we increase our charges, which we reserve the right to do from time to time proportionately in connection with increases in cost for disposal, longer transportation distances, fuel, regulatory compliance, taxes, and increases in average weight per container yard. In connection with increases in the cost of disposal, we frequently do not receive advance notice of increases. We reserve the right to pass on to you such increases without 30 days advance notice but will give you as much notice as possible. Customers will be provided in writing with the formula used in calculating increases based upon increases in disposal fees. We will advise Customer in writing of the reason for the increase and do our best to satisfy any concerns you have about any increases. Any other type of price increase requires your written consent.

2. Our employees will be friendly, courteous and responsive. They will, in writing, have gone through a customer satisfaction and safety training program, and will provide quality, professional service.

3. We will provide and maintain the equipment you need for the deposit and other handling of the materials that we have agreed to pick up from you.

4. We are committed to making every pick-up as scheduled, but if we are unable to do so, we will make every effort to let you know in advance and reschedule it within 24 hours.

Your Responsibilities

1. You agree that [Name of Company] will provide the specified services for all your nonhazardous waste. You agree not to deposit any radioactive, volatile, corrosive, highly flammable, explosive, infectious, toxic or hazardous waste in our equipment and will indemnify us from resulting liabilities if you do. Anything else that is deposited in our truck becomes our property at that time.

2. You agree to provide us with access to our equipment over surfaces that can sustain the weight and operation of our vehicles. You also agree not to overload (by weight or volume), abuse or move our equipment, but if it does need to be moved, you will call us.

3. You agree to use your best efforts to keep people from coming into contact with our equipment other than those who are authorized and trained to use. it.

4. You agree to pay our bills monthly, within ten days after they are received. We reserve the right to charge a late fee on all past due payments.

5. If you terminate this contract during your first 10 months as an [Name of Company] customer (other than as provided under ''Our Guaranty''), you agree to pay us, as liquidated damages and not as a penalty, three times your prior average monthly charges. If you terminate after you have been an [Name of Company] customer for more than 10 months (other than as provided under ''Our Guaranty''), you agree to pay us as liquidated damages an amount equal to two months average charges.

We look forward to a long-lasting relationship; so please let us know if you have any problems or concerns as they occur and give us the opportunity to provide solutions. As we deliver our services, we will continuously look for ways to keep you satisfied.

Certificate of Service

I hereby certify that a copy of the foregoing has been served upon Allied Waste Industries, Inc. and Republic Services, Inc. by placing a copy of this Hold Separate Stipulation and Order and proposed Final Judgment in the U.S. Mail, postage prepaid directed to each of the parties in this matter, on this 21st day of June, 2000.

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DC Bar #393409, U.S. Department of Justice, Antitrust Division, Litigation II Section, 1401 H Street, NW, Suite 3000, Washington, DC 20530, 202–307–1168.

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

The United States filed a civil antitrust Complaint on June 21, 2000, seeking to enjoin an exchange of certain waste-hauling and disposal assets by

Allied Waste Industries, Inc. (''Allied'') and Republic Services, Inc. (''Republic''). Allied and Republic had entered into purchase agreements pursuant to which the companies would exchange assets in a number of market areas in the United States. The Complaint alleges that the likely effects of these asset exchanges would be to substantially lessen competition for waste collection and disposal services in several markets in violation of Section 7 of the Clayton Act. This loss of competition would result in consumers paying higher prices and receiving fewer services for the collection and disposal of waste.

At the same time the Complaint was filed, the United States also filed a Hold Separate Stipulation and Order and proposed Final Judgment which are designed to eliminate the anticompetitive effects of the acquisitions. Under the proposed Final Judgment, which is explained more fully below, the defendants are required within 120 days after the filing of the Complaint, or five (5) days after notice of the entry of the Final Judgment by the Court, whichever is later, to divest, as viable business operations, certain waste-hauling and disposal assets. Under the terms of the Hold Separate Stipulation and Order, the defendants are required to take certain steps to ensure that the assets to be divested will be preserved and held separate from the defendants' other assets and businesses. In addition to these asset divestitures, the proposed Final Judgment also requires the defendants to comply with certain conditions in their customer contracts in several identified areas.

The United States and the defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transactions

Allied, with revenues in 1999 of approximately $6 billion, is the nation's second largest waste collection and disposal company, operating throughout the United States. Republic, with 1998 revenues of approximately $1.8 billion, is the nation's third largest waste collection and disposal company. On July 28 and October 7, 1999, Allied and Republic entered into separate asset purchase agreements in which they agreed to exchange certain waste-hauling and disposal assets. The proposed transactions, identified below, would lessen competition substantially in waste collection and/or disposal services: (1) Allied's acquisition of hauling assets in Albany, New York; (2) Allied's acquisition of hauling assets in Augusta, Georgia; (3) Allied's acquisition of disposal assets in New York, New York; (5) Allied's acquisition of hauling assets in Norfolk, Virginia; (6) Allied's acquisition of hauling assets in Okaloosa, Escambia and Santa Rosa counties, Florida (''Gulf Coast, Florida''); (7) Republic's acquisition of disposal assets in Anderson, Indiana; (8) Republic's acquisition of hauling assets in Columbus, Ohio; (9) Republic's acquisition of hauling assets in Lakeland, Florida; (10) Republic's acquisition of hauling assets in Louisville, Kentucky and Sellersburg, Indiana; (11) Republic's acquisition of hauling and disposal assets in Macon, Georgia; and (12) Republic's acquisition of hauling assets in Monmouth, Burlington and Camden counties, New Jersey. These acquisitions are the subject of the Complaint and proposed Final Judgment filed by the United States on June 21, 2000.

B. The Competitive Effects of the Transactions

Waste collection firms, or ''haulers,'' contract to collect municipal solid waste (''MSW'') from residential and commercial customers; they transport the waste to private and public disposal facilities (*e.g.,* transfer stations, incinerators and landfills), which, for a fee, process and legally dispose of waste. Allied and Superior compete in operating waste collection routes and waste disposal facilities.

1. The Effects of the Transactions on Competition in Small Container Commercial Waste Collection Service

a. Small Container Commercial Waste Collection

Small container commercial waste collection service is the collection of MSW from commercial businesses such as office and apartment buildings and retail establishments (*e.g.,* stores and restaurants) for shipment to, and disposal at, an approved disposal facility. Because of the type and volume of waste generated by commercial accounts and the frequency of service required, haulers organize commercial accounts into special routes, and generally use specialized equipment to store, collect and transport waste from these accounts to approved disposal sites. This equipment—one to ten cubic yard containers for waste storage and front-end loader vehicles commonly used for collection and transportation—is uniquely well suited for the provision of small container commercial waste collection service. Providers of other types of waste collection services (*e.g.,* residential and roll-off services) are not good substitutes for small container commercial waste collection firms. In their waste collection efforts, these firms use different waste storage equipment (*e.g.,* garbage cans or semi-stationary roll-off containers) and different vehicles (*e.g.,* rear-load, side-load or roll-off trucks), which, for a variety of reasons, cannot be conveniently or efficiently used to store, collect or transport waste generated by commercial accounts, and hence, are rarely used on small container commercial waste collection routes. Thus, the Complaint alleges that the provision of small container commercial waste collection routes. Thus, the Complaint alleges that the provision of small container commercial waste collection services constitutes a line of commerce, or relevant service, for purposes of analyzing the effects of the acquisitions.

The Complaint alleges that the provision of small container commercial waste collection services takes place in compact, highly localized geographic markets. It is expensive to ship waste long distances in either collection or disposal operations. To minimize transportation costs and maximize the scale, density, and efficiency of their waste collection operations, small container commercial waste collection firms concentrate their customers and collection routes in small areas. Firms with operations concentrated in a distant area cannot easily compete against firms whose routes and customers are locally based. Distance may significantly limit a distant firm's ability to provide commercial waste collection service as frequently or conveniently as that offered by local firms with nearby routes. Also, local commercial waste collection firms have significant cost advantages over other firms, and can profitably increase their charges to local commercial customers without losing significant sales to firms outside the area.

Applying this analysis, the Complaint alleges that the areas of Albany, New York; Augusta, Georgia; Burlington and Camden counties, New Jersey; Clarksville, Tennessee; Columbus, Ohio; Gulf Coast, Florida; Lakeland, Florida; Louisville, Kentucky and Sellersburg, Indiana; Macon, Georgia; Memphis,

Tennessee; Monmouth County, New Jersey; Nashville, Tennessee; and Norfolk, Virginia constitute sections of the country, or relevant geographic markets, for the purpose of assessing the competitive effects of a combination of Allied and Republic in the provision of small container commercial waste collection services.

There are significant entry barriers into small container commercial waste collection. An efficient route usually handles 80 or more containers/customers each day. As most customers have collections once or twice a week, a new entrant must have several hundred customers in close proximity to construct an efficient route. However, the common use of long-term self-renewing ''evergreen'' contracts by existing commercial waste collection firms can leave too few customers available to the entrant in a sufficiently confined geographic area to create an efficient route. These contracts often run for several years and frequently have high liquidated damage terms which make it costly to a customer who wishes to change its collection service without giving proper notice. When giving proper notice, the customer must often inform the firm in writing 60 days before the contract renews. This time period allows the incumbent firm an opportunity to react to a prospective entrant's solicitation to that customer. The incumbent firm can inquire why the customer wishes to change its service, and if a prospective entrant has offered a lower price, the incumbent can lower its price to retain the customer. This can result in price discrimination; *i.e.,* an incumbent firm can selectively (and temporarily) charge unbeatably low prices to some customers targeted by entrants, a tactic that would strongly inhibit a would-be entrant from competing for such accounts, which, if won, may be unprofitable to serve, and would limit its ability to build an efficient route. Because of these factors, a new entrant may find it difficult to compete by offering its services at pre-entry price levels comparable to the incumbent.

The need for route density, the use of long-term evergreen contracts with restrictive terms, and the ability of existing firms to price discriminate raise significant to entry to new firms, which will likely be forced to compete a lower than pre-entry price levels. Such barriers in the market for commercial small container waste collection have allowed incumbent firms to raise prices successfully.

b. Anticompetitive Effects in Small Container Collection Service Markets

(1) Memphis and Nashville Areas. In the Memphis and Nashville, Tennessee market areas, Allied is the acquiring party. Total market revenues for commercial small container waste collection are over 425 million in Memphis and about $31 million in Nashville. Currently, Allied already has a substantial share of the commercial small container collection market in both Memphis and Nashville. In Memphis, the proposed acquisition would reduce from four to three the number of significant firms that compete in small container commercial waste collection service, and in Nashville, it would reduce the number of significant competitors from three to two. After the acquisition, Allied would control roughly 69% of the commercial waste collection market in Memphis, and over 50% of the market in Nashville. In both cities, after the acquisition, two firms would control over 90% of the market.

(2) Lakeland, Macon, Augusta, Norfolk, Columbus, Gulf Coast, and Louisville/Sellersburg Areas. In Lakeland, Florida and Macon, Georgia, the acquisition would reduce from two to one the number of significant firms that compete in the collection of small container commercial waste. After the acquisition, Allied would control about 98% of the market in Lakeland, and Republic would control over 85% of the small container commercial market in Macon. In each market, the annual revenues derived from commercial waste collection are about $5 million.

In Augusta, Georgia and Norfolk, Virginia, the acquisition would reduce from three to two the number of significant firms that compete in the collection of small container commercial waste. After the acquisition, Allied would control over 40% of the market in Augusta, and over 55% of the market in Norfolk. The annual revenues from commercial waste collection are about $8 million in Augusta and about $28 million in Norfolk.

In the Columbus, Ohio; Gulf Coast, Florida; and Louisville, Kentucky/Sellersburg, Indiana areas, the acquisition would reduce from four to three the number of significant firms that compete in the collection of small container commercial waste. After the acquisition, Republic would control over 50%, and two firms over 80%, of the small container commercial waste hauling market in Columbus, which has annual revenues of about $29 million. In Gulf Coast, Florida, after the acquisition, Allied would control over 50%, and two firms more than 90%, of the commercial market, which has annual revenues of about $10 million. In Louisville/Sellersburg, Republic would control over 50%, and two firms would control about 90%, of the market after the acquisition, in a market which has annual revenues exceeding $22 million.

(3) Clarksville, Albany and New Jersey Areas. The acquisition would reduce the number of significant competitors in small container commercial waste collection service from five to four in Clarksville, Tennessee; four to three in Albany, New York and Monmouth County, New Jersey, and from three to two in Burlington, and Camden counties, New Jersey. In Clarksville, Tennessee, Allied would control over 40%, and two firms over 65%, of the market, which has annual revenues of about $5 million. In Albany, Allied would control over 35%, and two firms over 80%, of the market, which has annual revenues of about $17 million. In Monmouth County, New Jersey, Republic would control about 40%, and three firms over 75% of the market, which has annual revenues of about $18 million. In Burlington and Camden counties, New Jersey, Republic would control about 31%, and two firms over 80%, of the market, which has annual revenues exceeding $24 million.

The Complaint alleges that a combination of Allied and Republic in these markets would likely lead to an increase in prices charged to consumers of small container commercial waste collection services. The acquisitions would diminish competition by enabling the few remaining competitors to engage more easily, frequently, and effectively in coordinated pricing interaction that harms consumers. New entry into these markets would be difficult, time-consuming, and is unlikely to be sufficient to constrain any post-merger price increase.

2. The Effects of the Transactions on Competition in Roll-Off Waste Collection Service

a. Roll-Off Waste Collection Service

Roll-off waste collection service is the collection of large volumes and/or bulkier items of waste from sources such as construction sites or industrial plants. Because of its characteristics (*e.g.* construction debris) and volume, roll-off waste is deposited by the customer/generator into a disposal container (usually 20 to 40 cubic yards in size) which is larger than those routinely used in small container commercial collection (usually one to 10 cubic yards in size). When filled, the roll-off container is picked up by roll-off

trucks, which are specifically designed for roll-off waste collection, and driven to a nearby disposal site, where the container's contents are disposed.

Unlike most small container commercial service vehicles, which routinely employ compaction systems on the truck to increase storage capacity and can empty numerous small containers located on a schedule route before being driven to a disposal site, roll-off vehicles have no compaction system on board and are designed to carry only one large container at a time to a disposal site. As a result, roll-off waste collection is often performed on an ''on call'' basis, rather than as part of any route, and pricing is primarily influenced by the distance between the customer's location, the hauler's location, and the disposal site.

The differences in size, type, and volumes of roll-off waste and in the equipment used to collect it distinguish roll-off waste collection from all other waste collection services. These differences mean that roll-off waste collection firms can profitably increase their charges for roll-off waste collection services without losing significant sales or revenues to firms engaged in the provision of other types of waste collection services. Thus, the Complaint alleges that the provision of roll-off waste collection service is a line of commerce, or relevant service, for purposes of analyzing the effects of the acquisitions.

Roll-off waste collection services are generally provided in localized areas because a roll-off truck cannot be efficiently or profitably driven significantly longer distances than those driven by a competitor to collect and dispose of the waste. It is economically impractical for a roll-off waste collection firm to serve metropolitan areas from a distant base. Roll-off waste haulers, therefore, generally establish garages and related facilities within each major local area served.

The Complaint alleges that the Macon, Georgia area is a section of the country, or relevant geographic market, for purposes of analyzing the effects of the acquisitions in the provision of roll-off waste collection service. In this area, local roll-off waste collection firms can profitably increase charges to local customers without losing significant sales to more distant competitors.

A barrier to entry with roll-off waste collection is the nature of the contracts with customers used by some market participants. They are often long-term evergreen contracts which renew automatically unless canceled during a short window, with liquidated damages clauses. These contracts restrict the ability of a new or an existing firm to compete for customers. Entry into roll-off waste collection is also difficult where the major competitors in roll-off collection control the local disposal facilities because new entrants will be at a disadvantage in obtaining access to competitive disposal sites.

b. Anticompetitive Effects in the Macon, GA Area for Roll-Off Collection Service

In the Macon, Georgia area, the acquisition by Republic would combine the two largest firms that compete in roll-off waste collection service. After the acquisition, Republic would control over 60% of the roll-off hauling market, which has annual revenues of about $8 million. In addition, Republic already controls the most accessible landfill in the area. Its acquisition of Allied's transfer station would likely put its roll-off collection competitors at an even greater competitive disadvantage because it would have the ability to raise prices selectively to its roll-off collection competitors at two of the area's best disposal facilities.

The Complaint alleges that a combination of Allied and Republic would likely lead to an increase in prices charged to roll-off waste collection customers in the Macon, Georgia area. The acquisition would diminish competition by the loss of competition between the two largest firms engaging in roll-off waste collection service. Because of the limited disposal options and use of long-term evergreen contracts with a large number of customers, new entry in the area would be difficult and unlikely to be sufficient to constrain any post-merger price increase.

3. The Effects of the Transactions on Competition in the Disposal of Municipal Solid Waste

a. Municipal Solid Waste

Municipal solid waste (MSW) is solid putrescible waste generated by households and commercial establishments. A number of federal, state and local safety, environmental, zoning and permit laws and regulations dictate critical aspects of storage, handling, transportation, processing and disposal of MSW. MSW can be sent for disposal only to a transfer station, sanitary landfill, or incinerator permitted to accept MSW. Anyone who attempts to dispose of MSW in a facility that has not been approved for disposal of such waste risks severe civil and criminal penalties. In many cases, landfills or incinerators may not be located close to where the waste is generated. In such instances, the waste is brought to a nearby transfer station by collection trucks where it is compacted and combined with other waste and transported to the more distant disposal site.

There are no good substitutes for MSW disposal. Firms that compete in the disposal of MSW can profitably increase their charges to haulers of MSW without losing significant sales to any other firms. Thus, for purposes of antitrust analysis, the disposal of MSW constitutes a line of commerce, or relevant service, for purposes of analyzing the acquisitions.

The disposal of MSW generally occurs in localized markets. The Complaint alleges that the Anderson, Indiana and New York City, New York (defined as the Borough of Brooklyn in the Complaint) areas each constitute sections of the country, or relevant geographic markets, for purposes of assessing the competitive effects of the transaction. Virtually all of the MSW generated in each of these areas is disposed of in local transfer stations. Firms that compete in the disposal of MSW generated in the Anderson or New York City areas can profitably increase their charges for MSW disposal without losing significant sales to more distant disposal sites.

There are significant barriers to entry in MSW disposal. Obtaining a permit to construct a new disposal facility or expand an existing one is a costly and time consuming process, which typically takes many years to conclude. Local public opposition often makes it more difficult and costly, and increases the time and uncertainty of successfully permitting a facility. In the Anderson, Indiana and New York City, New York areas, entry by any new MSW disposal facility would be an extremely costly and time-consuming process, and unlikely to prevent market incumbents from significantly raising prices for the disposal of MSW following the acquisition.

b. Anticompetitive Effects in Anderson, Indiana and New York City, New York areas for Disposal of Municipal Solid Waste

In the Anderson, Indiana area, almost all of the MSW generated is disposed of in one of three transfer stations. These three transfer stations are currently owned by Allied, Republic and another competitor. The proposed acquisition would reduce from three to two the number of significant competitors for the disposal of MSW. After the acquisition, Republic would own two of the three transfer stations, which together would control in excess of 65 percent of the MSW disposal market,

which has annual revenues in excess of $3 million.

In the New York City area, the acquisition would reduce from five to four the number of significant firms competing to dispose of MSW. After the acquisition, Allied would control roughly 30 percent—and two firms about 66 percent—of the New York City area MSW disposal market, which has annual revenues of about $40 million.

The Complaint alleges that a combination of Allied and Republic in Anderson, Indiana and New York City, New York would likely lead to an increase in prices for disposal of MSW. The acquisitions would diminish competition in MSW disposal by eliminating actual and potential competition between Allied and Republic in disposal of MSW in these areas and enabling the remaining firms to engage more easily in coordinated pricing. New entry into these markets would be difficult, time consuming and unlikely to be sufficient to constrain any post merger price increases.

III. Explanation of the Proposed Final Judgment

A. Small Container Commercial and Roll-Off Waste Collection Service

The divestiture and contract provisions of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in small container commercial waste collection services in the market areas identified in the Complaint by establishing a new, independent and economically viable competitor in each of those markets and/or reducing the barriers to entry and expansion that the evergreen contracts currently in use raise. The proposed Final Judgment requires defendants, within 120 days after the filing of the Complaint, or five (5) days after notice of the entry of the Final Judgment by the Court, whichever is later, to divest, as a viable ongoing business or businesses, small container commercial waste collections assets (*e.g.*, routes, trucks, containers, and customer lists) in the market areas of Augusta, GA; Columbus; OH; Gulf Coast, FL; Lakeland, FL; Louisville, KY/Sellersburg, IN; Macon, GA; Memphis, TN; Nashville, TN; and Norfolk, VA. On or before December 1, 2000, the proposed Final Judgment also requires the defendants to alter the contracts each uses with its existing and new small container solid waste commercial customers in the market areas of Albany, NY; Augusta, GA; Clarksville, TN; Columbus, OH; Gulf Coast, FL; Lakeland, FL; Louisville, KY/Sellersburg, IN; Macon, GA; Norfolk, VA; Burlington and Camden counties, NJ; and Monmouth County, NJ. On or before that same date, defendant Republic is required to alter the contracts it uses with roll-off customers in the five counties in the Macon, Georgia area. The assets to be divested must be divested in such a way as to satisfy the United States that the operations can and will be operated by the purchaser or purchasers as a viable, ongoing business or businesses that can compete effectively in each relevant market. Defendants must take all reasonable steps necessary to accomplish the divestitures quickly and shall cooperate with prospective purchasers.

In the event that defendants do not accomplish the divestitures within the above-described period, the proposed Final Judgment provides that the Court will appoint a trustee selected by the United States to effect the divestitures. If a trustee is appointed, the proposed Final Judgment provides that the defendant affected will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which divestiture is accomplished. After his or her appointment becomes effective, the trustee will file monthly reports with the parties and the Court, setting forth its efforts to accomplish divestitures. At the end of six months, if the divestiture has not been accomplished, the trustee and the parties will make recommendations to the Court, which shall enter such orders as appropriate in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

1. Memphis and Nashville Areas

The divestiture provisions of the proposed Final Judgment will fully eliminate the anticompetitive effects of the acquisition in small container commercial waste collection services in the Memphis and Nashville, Tennessee areas by divesting all of the assets being acquired to a new, independent and economically viable competitor in each of those markets. The relief sought in the Memphis and Nashville areas will maintain the pre-acquisition structure of each market with no increase in concentration and thereby ensure that consumers of small container commercial waste collection services will continue to receive the benefits of competition—lower prices and better service.

2. Lakeland, Macon, Augusta, Gulf Coast, Norfolk, Columbus, and Louisville/Sellersburg Areas

In these market areas, the Department of Justice determined that competition would be best maintained by obtaining a combination of divestiture and contract relief. The Department's experience after many years of investigating this industry is that contract relief is significant because it lowers entry barriers and is effective at enabling smaller competitors to grow and new competitors to enter. The divestiture relief requires certain small container commercial routes to be divested in each market. In Macon, Georgia, the transfer station is also being divested as attendant to the small container routes and to facilitate disposal of the waste by the purchaser of the divested routes.

In each case the divestiture that has been agreed to is of a size that will create a substantial competitor capable of competing immediately in the market. The divestitures are augmented by decree provisions that obligate the acquiring company to alter all of its contracts with its commercial small container customers to provide terms that are less restrictive in terms of the length of the contracts, the renewal provisions, and the liquidated damages for a customer who wishes to change its service. This contract relief will make it easier for customers to consider competitive alternatives, easier for existing small firms to compete and expand in the future, and will make it more difficult for incumbent firms to price discriminate successfully. The contract provisions also make it easier for new firms to enter a market and raise the prospect that the markets will become less concentrated and more competitive than they were pre-acquisition. In Macon, Georgia, similar contract relief is also required for roll-off waste collection. This relief will make it easier for smaller firms to compete for customers under contract with incumbent collection firms.

a. Norfolk, Columbus and Louisville/Sellersburg Areas

In these market areas (Norfolk, VA; Columbus, OH; and Louisville, KY/Sellersburg, IN), the market shares of the acquiring firm before the acquisition were not as great as in Memphis and Nashville, or there were more market participants. The divestitures required in each market enable a new competitor to restore the competition that otherwise would have been lost. The purchasers of the assets to be divested in each market will have routes producing over two

million dollars in annual sales and at least a 10% market share from those assets.

In Louisville and Columbus, where Republic is the acquiring company, there are two other significant competitors, one large and one small, and several disposal options. With Republic implementing the contract relief specified in the proposed Final Judgment, the purchaser of the divested assets, and other competitors, should be able to gain customers more easily if Republic seeks to raise prices in these markets. In Norfolk, where Allied is the acquiring company, there is only one other significant competitor, but the divestiture creates a substantial competitor and represents over 70% of the open commercial work being acquired from Republic (in addition to certain municipal work). One reason why the Norfolk market has few significant competitors is because the major disposal option in the area has a high volume threshold for a meaningful discount. Only the defendants and the other large competitor have been able to qualify for this discount. The amount of assets required to be divested will make it easer for the purchasing firm to apply for this or a similar disposal discount. The proposed Final Judgment provides that Allied will divest additional customers with acceptable waste if necessary for the purchaser to qualify for this discount. Contract relief should make it easier for the divested firm and other competitors to maintain efficient routes and gain new customers should Allied raise prices.

b. Augusta and Gulf Coast Areas

In these two markets (Augusta, GA and Gulf Cost, FL), the market is small, the acquired firm is significantly smaller than the acquiring firm, and there is another significant competitor. Divestitures with contract relief are desirable in these markets as they will both create a new competitor and help it and other competitors to compete in the market.

In Augusta, where Allied is acquiring assets from Republic, disposal is provided by municipally owned facilities. With the divestiture and contract relief, the existing competitors will be better able to compete because it will be easier for them to expand and gain new customers.

In the Gulf Coast, where Allied is also the acquiring company, disposal is provided by municipally owned facilities. There is also a public company that competes in the market which is constrained in its ability to compete by restrictive long-term contracts used by the defendants. The contract relief provisions in the proposed Final Judgment should help it—and the owner of the divested assets—to compete by making it easier for customers to change collection companies.

c. Lakeland and Macon Areas

In these two areas (Lakeland, FL and Macon, GA), the acquisitions result in market shares greater than those in Memphis and Nashville, but other factors make the partial divestiture obtained and contract relief a better remedy than full divestiture. In both markets, the purchaser of the divested assets will become a significant competitor with over 20% of the open commercial work in the market.

In the Lakeland area, most of the cities are franchised. Haulers in nearby counties and the cities indicated that the merger was unlikely to effect prices for these franchises because haulers in adjacent counties could compete for that work. Administrators of Polk County expect the County will be franchising the remaining areas in the county. Under franchising, the municipality or other franchising authority solicits bids for all of the commercial work in an area so that setting up a route is not difficult and a newcomer can compete with an incumbent company in the bidding process. The divestiture involved requires Republic to divest two of the three routes being acquired from Allied that currently do non-franchised work. The purchaser of the divested asset will have over 20% of the open market and the contract relief should make it easier for it to expand or for firms in neighboring counties to enter if prices are raised by Republic. The major disposal site in the county is controlled by the county, so that no firm has a disposal advantage.

In the Macon, Georgia area, Republic is being required to divest a transfer station and two of the four small container commercial routes being acquired from Allied. Republic and Allied control the two best disposal options in the market. Divesting the transfer station will assist competition by providing a disposal option not controlled by the major competitor. Republic agreed to provide contract relief in Macon for roll-off service as well as commercial service. Small firms often enter an area by starting to provide roll-off service. These firms are in a position to enter the commercial market. by making it easier for roll-off companies to succeed and providing a good disposal option, contract relief should make it easier for the divested firm to expand or new entrants to create an efficient small container route if Republic raises prices.

3. Albany; Clarksville; and the New Jersey Area

In Albany, New York; Clarksville, Tennessee; and the two New Jersey areas (Burlington/Camden counties and Monmouth County) the market share after the transaction created a competitive problem but not one which was as substantial as the market areas above. In all of these markets, the post-acquisition market concentration or change in concentration from the acquisition was lower than the other market areas. In each market, except Clarksville (which has the lowest market concentration), one of the two merging firms had less than a 10% market share. There was more than one other firm as big or bigger than the acquired firm and/or there were a number of other significant competitors in the surrounding area. In these market areas, the acquiring party is required to modify its contracts with customers to make them less restrictive, which will have the effect of lowering entry barriers and making it easier for competing firms to expand if attempts to increase prices occur.

In the Albany market, after the merger, Allied will be only the second largest firm. There is a third firm about the same size as Republic along with a number of small competitors. Disposal is primarily municipally owned. In the Clarksville market, the post-acquisition levels of concentration are lower than in the other markets above, and in addition to the presence of a large competitor, there are three additional competitors about the same size as the acquired firm. As with Albany, disposal is primarily municipally owned. In the Burlington/Camden market the post-acquisition change in concentration is lower than in the other markets described above and the acquired firm has a low (approximately a 6%) market share. In the Monmouth area, the post-acquisition market concentration is lower than the other markets and there are at least two firms with market shares bigger than the acquired firm.

B. Disposal of Municipal Solid Waste in Anderson, Indiana, and New York City Areas

The divestiture provisions of the proposed Final Judgment will fully eliminate the anticompetitive effects of the acquisition in disposal services in the Anderson, Indiana and New York city, New York (defined as the Borough of Brooklyn in the Complaint) areas. The proposed Final Judgment requires divestiture of all the disposal assets

being acquired to a new independent and economically viable competitor in each of those markets. The relief sought will maintain the pre-acquisition structure of each market with no increase in concentration and thereby ensure that users of disposal services in these areas will continue to receive the benefits of competition—lower prices and better services.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. 16(a)), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against the defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and the defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against defendants Allied and Republic. The United States could have continued the litigation and sought preliminary and permanent injunctions against Allied's acquisition of the Republic assets and Republic's acquisition of the Allied assets. The United States is satisfied, however, that the divestiture of assets and the contract relief described in the proposed Final Judgment will preserve competition for small container commercial waste collection services, roll-off waste collection services, and MSW disposal in the relevant markets identified by the United States.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' In making that determination, the court *may* consider—

> (1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment:
>
> (2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e) (emphasis added). As the Court of Appeals for the District of Columbia Circuit has held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1458–62 (D.C. Cir. 1995).

In conducting this inquiry, ''the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.''[1] Rather,

> absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir.), *cert. denied,* 454 U.S. 1083 (1981)); *see also Microsoft,* 56 F.3d at 1448. Precedent requires that

> the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that best will serve society, but whether the settlement is ''within the reaches of the public interest.'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[2]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of

[1] 119 Cong. Rec. 24598 (1973). *See United States* v. *Gillette Co.,* 406 F. Supp. 713, 715 (D. Mass. 1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16 (f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. 93–1463, 93rd Cong. 2d Sess. 8–9 reprinted in (1974) U.S. Code Cong. & Ad. News 6535, 6538.

[2] *United States* v. *Bechtel Corp.,* 648 F.2d at 666 (citations omitted) (emphasis added); *see also, United States*v. *BNS, Inc.,* 858 F.2d at 463; *United States*v. *National Broadcasting Co.,* 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *United States* v. *Gillette Co.,* 406 F. Supp. at 716; see also *United States* v. *American Cyanamid Co.,* 719 F.2d 558, 565 (2d Cir. 1983), cert. denied, 465 U.S. 1101 (1984).

a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it fall short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' [3]

Moreover, the court's role under the Tunney Act is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against that case,'' *Microsoft,* 56 F.3d at 1459. Since ''[t]he court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that the court ''is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States might have but did not pursue. *Id.*

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: August 15, 2000.

Respectfully submitted,

David R. Bickel,
DC Bar #393409.

Arthur A. Feiveson,
IL Bar #3125793.

U.S. Department of Justice, Antitrust Division, Litigation II Section, 1401 H Street, NW, Suite 3000, Washington, DC 20530, (202) 307–0924.

Certificate of Service

I hereby certify that a copy of the foregoing has been served upon Allied Waste Industries, Inc. and Republic Services, Inc. by placing a copy of this Competitive Impact Statement in the U.S. mail, postage prepaid directed to each of the above-named parties at the addresses given below, this 15 day of August, 2000.

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[3] *United States* v. *American Tel. and Tel. Co.,* 552 F. Supp. 131, 150 (D.D.C. 1982) (citations omitted), quoting *United States* v. *Gillette Co.,* supra, 406 F. Supp. at 716 aff'd sub nom. *Maryland* v. *United States,* 460 U.S. 1001 (1983); *United States* v. *Alcan Aluminum, Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985).

DEPARTMENT OF JUSTICE

Office of Justice Programs; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; (Revision of a currently approved collection); Local Law Enforcement Block Grants Program Request for Drawdown.

The Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until November 7, 2000.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Lluana McCann, 202–305–1772, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW, Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluaate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* Revision of a currently approved collection.

(2) *The title of the form/collection:* Local Law Enforcement Block Grants Program—Request for Drawdown (RFD).

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* None.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* State, Local or Tribal Government. Other: None.

The Local Law Enforcement Block Grants (LLEGB) Act of 1996 authorizes the Director of the Bureau of Justice Assistance to make funds available to local units of government in order to reduce crime and improve public safety.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 3,500 respondents will request the one lump-sum draw down of their annual LLEBG grant funds by completing the no more than sixty minutes on-line process.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total hour burden to complete the application is 3,500.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Office, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1220, National Place Building, 1331 Pennsylvania Avenue, NW, Washington, DC 20530.

Dated: September 1, 2000.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

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DEPARTMENT OF JUSTICE

Office of Justice Programs; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; (Reinstatement, without change, of a previously approved collection for which approval has expired); Juvenile Residential Facility Census.