

WASTE MANAGEMENT OF TEXAS, INC.	~	IN THE DISTRICT COURT
	~	
Plaintiff	~	
	~	
vs.	~	
	~	OF TRAVIS COUNTY, TEXAS
	~	
GREGG ABBOTT, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL OF THE STATE OF TEXAS, and COUNTY OF WILLIAMSON	~	
	~	261st JUDICIAL DISTRICT
	~	
Defendants	~	

MOTION FOR HEARING OR TRIAL ON THE MERITS

TO THE HONORABLE JUDGE OF THIS COURT:

Comes now Intervenor Kurt E. Johnson (hereinafter “Johnson” or “Intervenor”) and files this MOTION for a hearing to show cause for a short trial date, or in the alternative, for setting a date for expedited trial on the merits.

REASON FOR THE EXPEDITED SCHEDULING OF A TRIAL

With every day that passes in delaying this matter in getting to judicial resolution, disclosure to the public and to the justice system continues to be frustrated while Waste Management of Texas continues to determine self-charges involving landfill tipping fees six days of every week (except holidays) at a landfill which is a public asset. Because the public's right to know the extent of this self-dealing is frustrated on a day-to-day basis, the self-dealing of Waste Management of Texas in determining the charges assessed to its own hauling company continues on a day-to-day basis, consuming the capacity of this public asset landfill with an “on-the-cheap” tipping fee schedule which the owner of the landfill, Williamson County, refuses to disclose and refuses to defend its right to disclose within this very lawsuit. The public has a right to the information regarding the financial details of this circumstance which involves a public, taxpayer-owned asset. The failure to disclose the tipping-fee information violates the Texas Public Information Act and also

frustrates the opportunities which otherwise should be available to the public to know the true and specific financial facts of this matter so that the county officials responsible for this public asset can be held accountable for not stopping the abuse of this public asset which is being promulgated by a private company. It appears that with every day that passes, this practice of abuse continues.

INTERVENOR HAS SHOWN THAT THE ABUSE IS OCCURRING AND IS ONGOING; THE INFORMATION SOUGHT WOULD CONFIRM THE EXTENT OF THE ABUSE

Johnson attached to his Intervenor filing in this case on December 14, 2009 a copy of his *Response to the Attorney General* filed on September 28, 2009, giving evidence and showing good cause for concluding that tipping fee pricing abuse has occurred and continues to occur. The evidence and good cause are shown in the last paragraph on Page 7 within that document.¹

WILLIAMSON COUNTY HAS ABDICATED REGARDING ITS RESPONSIBILITY TO MAKE THE SOUGHT INFORMATION PUBLIC AND/OR THE PUBLIC'S RIGHT TO KNOW

Despite the fact that on November 6, 2009, the Attorney General of Texas issued an opinion letter² to Williamson County stating that certain information should be released to Johnson (subsequent to Williamson County's admission that it did not make timely response to Johnson's Open Records Request received by the county on August 11, 2009), Williamson County nonetheless has failed to participate in this lawsuit as a Defendant in protection of the public interest consistent with the opinion letter issued by the Attorney General. Williamson County did not file an official *Appearance* in a timely manner as a Defendant in this case. On January 12, 2010, after the regular meeting of the Williamson County Commissioners Court, Mr. Henry Prajean, Williamson County's lead counsel in this case, told Johnson that

1 Johnson's Intervention document and his Response to the Attorney General are available at: <http://www.gismedia.com/agreement> .

2 The Attorney General's opinion letter is available at <http://www.gismedia.com/agreement> .

the county is a “disinterested party” and will not contest Waste Management's effort within this case to withhold the records, even though doing so is contrary to an opinion issued by the Attorney General.

CONCLUSION AND PRAYER

Wherefore, Intervenor Johnson requests that the court grant his MOTION and expeditiously schedule either a HEARING so that Johnson may show cause regarding the continuing, daily abuse of self-dealing landfill tipping fees by Waste Management, an ongoing abuse regarding which the public has a right to know. The public and the landfill asset owned by the public suffer with each continuing day that the abuse occurs.

Respectfully submitted,

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CERTIFICATION OF SERVICE

I hereby certify that a true and correct copy of this document has been served on this 25th day of January, 2010, via USPS, to the following:

Bickerstaff Heath Delgado Acosta LLP, 3711 S. MoPac Expressway, Building One, Suite 300, Austin TX 78746

Attorney General Greg Abbott, 209 W. 14th St., Austin TX 78701

Williamson County Attorney, 405 Martin Luther King St., Suite 240, Georgetown TX 78626