

## Landfill odor

The price tag on an "intolerable ... sickening odor" was nearly \$19 million for Houston-based **Waste Management Inc.** — but most of that is dedicated to corrective action at the Lenox Township-based Pine Tree Acres Landfill.

Thirteen plaintiffs, including Frank Hellebuyck, owner of New Haven-based **H&B Auto Electric Inc.**, filed a proposed class-action lawsuit in August on behalf of hundreds of residents and business owners with property near the landfill on 29 Mile Road.



Honigman

At issue was an alleged recent increase in "blowing debris, dust and odor" from the 840-acre landfill.

Neighbors sued for nuisance, negligence and violations of the Michigan Environmental Protection Act.

They claim land values suffered after processing equipment at Pine Tree could no longer keep up with gaseous emissions.

"The waste disposal site's noxious emissions became really bad ... about four or five years ago," said David Honigman, partner at Troy-based **Mantese Honigman Rossman & Williamson P.C.** and lead attorney for the neighbors.

"(There was an) inability of the existing plant and equipment to process the growing volume of waste and the changing character of the waste stream. As a result (of the settlement), Waste Management agreed to dramatically increase the capacity of the site to process emissions."

The lawsuit was proceeding to

■ **Venue:** Macomb County Circuit Court, Judge Donald Miller

■ **Case filed:** Aug. 18, 2009

■ **Settlement:** \$18.76 million according to plaintiffs, \$3 million according to defendants; Dec. 14, 2009

■ **Plaintiffs:** Frank Hellebuyck, April Heiler, Jeffrey and Marnie Ickes, Jack Domanski, Dennis Dorgosch, Dreanna and Joseph Fileccia, Don and Shelly Vavro

■ **Lead counsel:** David Honigman, partner, Mantese Honigman Rossman and Williamson P.C., Troy

■ **Defendants:** Pine Tree Acres Inc., Waste Management Inc., Waste Management of Michigan

■ **Lead counsel:** Steven Berry, partner, Berry Johnston Szykiel & Hunt P.C., Zeeland

case evaluation before Macomb County Circuit Judge Donald Miller when the parties reached the settlement Dec. 14 for \$18.76 million. The case was formally dismissed last month.

The settlement includes a "commitment to pursue in good faith" an estimated \$15 million in plant improvements that will boost Pine Tree Acres' ability to convert landfill gas into electrical power.

But Tom Horton, vice president of Midwest public affairs at Waste Management, said that proposed expansion is subject to getting a power purchase agreement from a utility company for the enhanced power output.

Exclusive of the waste-to-energy plant expansion, Waste Management estimates its obligation includes around \$2.2 million in other plant improvements and \$750,000 to the plaintiffs and their attorneys.

— Chad Halcom

## our Litigation + Trial Team



Former Chief Justice of the Michigan Supreme Court, Clifford W. Taylor, joins our Lansing, Michigan and Naples, Florida offices. With 16 years of judicial experience, his vast experience adds to our appellate practice. He appears on behalf of *amici curiae* on appeals, consults on appeal strategy, court decisions and justices, settlement strategy, and participates in mock appeals and preparation for oral argument. He also serves as an arbitrator and mediator.



Dean A. Dickie brings more than 30 years of patent, trademark, trade dress, and trade secret trial experience in federal and state courts throughout the country. He has successfully resolved jury and non-jury cases involving a variety of business and commercial matters, as well as securities, product liability, and professional liability claims. Joining him are litigation associates Katharine N. Dunn, Kathleen E. Koppenhoefer and Robert C. Levels.

Miller Canfield assisted Valassis Communications, Inc. in concluding the chapter in its legal battle with News America, Inc., a part of Rupert Murdoch Corporation. As part of a comprehensive settlement, News America agreed to \$500 million and enter into a 10-year shared mail distribution agreement with



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