SWANA Comments on Court’s Permanent Injunction on the Dallas Flow Control Law

Silver Spring, MD. October 18, 2012– John H. Skinner, Ph.D., Executive Director and CEO of The Solid Waste Association of North America (SWANA) issued the following statement on the October 16 decision by the U.S. District Court to issue a permanent Injunction on the flow control ordinance enacted by the City of Dallas, TX.

“Judge O’Connor’s permanent Injunction opinion is not surprising given what he said when he handed down the preliminary injunction last January. He stuck by his earlier thinking that the ordinance impairs the plaintiffs’ franchise rights under the Contracts Clause of the U.S. Constitution and also found that the ordinance violated Texas law and the Dallas city charter. The city now needs to decide whether to appeal the decision to a higher court.”

“The important point however, is that this decision in no way undermines the constitutional right of local governments to enact ordinances to require haulers to deliver locally generated solid waste to publically owned transfer or disposal facilities, as upheld by the U.S. Supreme Court in the 2007 United Haulers decision. The judge’s ruling is based on how he interprets the hauler franchise agreements at question in this case as well as state and city law issues. Therefore it’s hard to say how the decision might resonate elsewhere in Texas, not to mention other parts of the country. The Dallas decision does emphasize that when local governments institute flow control ordinances they need to be vigilant in observing state and local legal requirements and existing franchise agreements.”

“SWANA continues to believe that flow control can be an effective and legitimate instrument of integrated municipal solid waste management. To the extent it is allowed by law and after public discussion, including the consideration of economic, environmental and social impacts, and input from residents, businesses, and other interested parties, flow control can be implemented without unduly interfering with the free movement of municipal solid waste and recyclables across jurisdictional boundaries.”

About SWANA:
SWANA is a professional association with the mission of promoting environmentally and economically sound management of municipal solid waste in North America and serves over 8,000 members from both the public and private sectors. For 50 years, SWANA, the Solid Waste Association of North America, has been the leading professional association in the solid waste management field. SWANA’s mission is “to advance the practice of environmentally and economically sound management of municipal solid waste.” SWANA serves industry professionals with technical conferences, certifications, publications and a large offering of technical training courses. www.SWANA.org