

LOBBY WATCH



TEXANS FOR PUBLIC JUSTICE 609 W. 18TH ST., SUITE E, AUSTIN, TX 78701 PH: (512)472-9770 FAX: (512)472-9830

Plutonium Plutocrat:

February 24, 2011

Nuclear-Waste Kingpin Helps Anti-Lawsuit PAC Raise \$6.9 Million

**Simmons' Liability Legacy to Haunt Texas for Thousands of Years.
Texans for Lawsuit Reform Recruits New Litigious Donors.**

Texas' fattest PAC raised \$6.9 million in the 2010 election cycle, a 50 percent jump over what Texans for Lawsuit Reform (TLR) raised in the 2008 cycle.¹ Nuclear-dump kingpin Harold Simmons emerged as TLR's No. 1 donor this round, giving a record \$825,000. In just one cycle, Simmons surpassed the \$575,000 that he gave TLR PAC over the preceding eight years.

To reduce the cost of negligently harming other people, in other words, Texas' biggest PAC took 12 cents of every dollar that it raised from a billionaire who's imposing unprecedented liabilities on Texans by importing staggering volumes of toxic and radioactive waste into West Texas.

Simmons' Waste Control Specialists has promised that the dangerous wastes that it's stockpiling in Andrews County will not leach into nearby aquifers and people. If the dump leaks during the millennia in which it will be radioactive, will the polluter pay for the damages he inflicts? Or will he shift those costs to Texas taxpayers and the communities and families who surround this radioactive legacy? Simmons and the other tycoons who bankroll Texans for Lawsuit Reform pay politicians not to ask such fundamental

questions. They maximize their profits by socializing the costs of their negligence.

Simmons could make billions of dollars converting part of Andrews County into the nation's default nuclear waste dump. As an intelligent profit seeker, Simmons considers his legal liabilities in designing and operating his dump. If he were held fully accountable for his venture he would invest more in safety than he will if his liabilities are capped at a fraction of the actual risks posed by his dump.

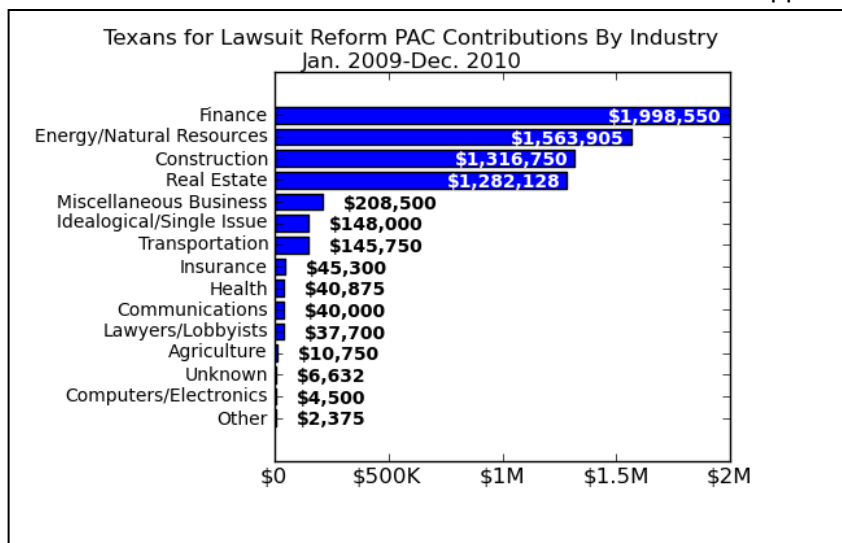
Waste Control has state permits to accept a nasty array of toxic and radioactive wastes. Recent attention has focused on Waste Control's "compact" permit. It covers low-level radioactive waste from at least 36 states, as well as from federal sites.² According to Texas law, the state took "right, title and interest in land and buildings" at the compact site when it issued the compact license. The state will assume "right, title, and interest in *compact waste*" before the 15-year, renewable license expires.³ Yet the same statute says that this transfer "does not relieve" Waste Control "of liability for any act or omission" before the transfer occurs.⁴

Texas PACs Raising the Most Money, Jan. 2009 Through Dec. 2010

Amount Raised	General-Purpose PAC	Description
\$6,887,155	Texans For Lawsuit Reform	Business PAC pushing severe limits on legal liabilities
\$5,327,618	TX Democratic Trust	Late Dallas trial lawyer Fred Baron's effort to revive party
\$4,518,355	TX Assn. of Realtors PAC	Realtors PAC supporting candidates
\$4,226,027	Back to Basics PAC	Houston trial lawyer Steve Mostyn backing Democrats
\$3,503,335	Associated Republicans of TX	Business-oriented Republican PAC
\$3,463,291	TX Assn. of Realtors Mobilization PAC	Realtors PAC active in local initiatives.
\$3,120,700	Texans for Insurance Reform	Trial lawyer PAC
\$2,847,292	House Democratic Campaign Com.	Backs Democrats in the House
\$2,560,940	BNSF Railway Co. PAC	This railroad PAC spent little in Texas state races
\$2,412,917	TX Democratic Party	State Democratic Party
\$2,402,845	Annie's List	Supports predominantly Democratic women candidates
\$2,333,228	TX Medical Assn.	Doctor trade group
\$2,263,110	Union Pacific Corp. Fund	This railroad PAC spent little in Texas state races
\$2,249,877	Harris Co. Republican Party	Republican Party's top county PAC.
\$2,154,353	Republican State Leadership Com.	National group promoting state Republican candidates

Legally the dump's liabilities are sufficiently murky that Simmons and advocates of the "polluter-pays" doctrine probably both would like to clarify it in their respective favors. But who holds the cards? Over the past decade, Simmons personally plowed \$6.5 million into Texas state political campaigns. This includes \$1,120,000 to Governor Rick Perry, whose appointees regulate this dump. Over the same period, Waste Control paid Texas lobbyists up to \$9.3 million. Meanwhile, Texans for Lawsuit Reform PAC spent \$22 million over the past decade to reduce the cost of negligently hurting people.

TLR raises most of its money from tycoons who made fortunes in litigious industries. The PAC's 40 top donors (listed on the next page) accounted for 81 percent of the \$6.9 million that TLR raised in the 2010 cycle. The Finance Industry was the biggest source of TLR's money this round. Led by Simmons, this sector accounted for 29 cents of every dollar TLR raised. TLR got 23 percent of its money from the Energy and Natural Resources industry. Houston Texans owner Robert McNair, who made a fortune in electric generation, led this sector. The Construction and the Real Estate industries each supplied 19 percent of TLR's money. Homebuilder Bob Perry and strip-mall developer Richard Weekley led those sectors.



A quarter of the tycoons that rank among TLR's top 40 contributors never previously supported this PAC. The Energy and Natural Resources industry accounted for four of these new donors, led by natural gas titans Trevor Rees-Jones and Kelcy Warren (who gave TLR \$250,000 apiece this cycle). TLR also got \$250,000 from new contributor H. Ross Perot, Jr. and \$100,000 from new contributor Andrew Beal, a Plano banker.

Top Contributors To Texans for Lawsuit Reform PAC

Amount 2009-2010	Amount 2001-2008	Contributor	City	Company
\$825,000	\$575,000	Harold C. Simmons	Dallas	Contran Corp.
\$600,000	\$1,731,000	Bob & Doylene Perry	Houston	Perry Homes
\$515,000	\$250,000	A. Anthony Annunziato	Houston	AAA Capital Management
\$500,909	\$965,578	Richard W. Weekley	Houston	Weekley Properties
\$500,000	\$1,375,000	Robert C. McNair	Houston	Cogen Technologies/Houston Texans
\$250,000	\$6,000	Peter & Julianna Holt	Blanco	Holt Companies/San Antonio Spurs
\$250,000	\$0	H. Ross Perot, Jr.	Plano	Hillwood Development
\$250,000	\$0	Trevor D. Rees-Jones	Dallas	Chief Oil & Gas LLC
\$250,000	\$0	Kelcy Warren	Dallas	Energy Transfer Partners
\$175,000	\$190,000	Peter & Edith O'Donnell	Dallas	O'Donnell Foundation
\$100,000	\$0	Andrew Beal	Plano	Beal Bank
\$100,000	\$28,500	Woody L. & Gayle Hunt	El Paso	Hunt Corp.
\$90,000	\$804,247	Harlan & Katherine Crow	Dallas	Crow Holdings
\$90,000	\$121,000	Trammell S. Crow	Dallas	Crow Holdings
\$75,000	\$0	Nancy Kinder	Houston	Kinder Foundation
\$75,000	\$25,000	James Doug Pitcock	Houston	Williams Brothers Construction
\$75,000	\$200,000	David M. Weekley	Houston	David Weekley Homes
\$51,500	\$115,000	Louis A. & Julie Beecherl	Dallas	Beecherl Co's
\$50,000	\$0	Randy Best	Dallas	Voyager Expanded Learning
\$50,000	\$30,000	J. Ralph & Joy Ellis	Irving	Belmont Oil & Gas Corp.
\$50,000	\$151,000	Michael G. Manners	Spring	ELAN Development
\$50,000	\$185,000	Frank McGuyer	Houston	McGuyer Homebuilders
\$50,000	\$50,000	Drayton McLane	Temple	McLane Company, Inc.
\$50,000	\$86,000	John L. & Barbara E. Nau	Houston	Silver Eagle Distributors, LP
\$50,000	\$1,137,000	T. Boone Pickens	Dallas	BP Capital
\$50,000	\$124,000	Robert Weekley	Los Angeles	Lowe Enterprises
\$45,000	\$91,000	William R. Lummis	Houston	Howard Hughes Estate
\$40,000	\$57,000	Patrick R. Rutherford	Houston	Rutherford Oil Co.
\$36,000	\$1,500	James C. Walter	Houston	Walter Oil and Gas
\$35,000	\$25,000	Lawrence & Susan Kellner	Houston	Continental Airlines, Inc.
\$35,000	\$60,000	Jeff Davis Sandefer	Austin	Sandefer Capital Partners, LP
\$35,000	\$0	Kenny & Lisa Troutt	Dallas	Mt. Vernon Investments, LLC
\$30,000	\$32,000	B.J. 'Red' McCombs	San Antonio	Red McCombs Auto. Group
\$30,000	\$27,500	John B. Poindexter	Houston	JB Poindexter & Co.
\$25,000	\$0	William & Nancy Davis	Fort Worth	Davoil, Inc./Quorum International
\$25,000	\$0	Paul L. Foster	El Paso	Western Refining Co.
\$25,000	\$66,500	Robert H. Graham	Houston	AIM Management Group
\$25,000	\$0	John Victor Lattimore	McKinney	Lattimore Materials
\$25,000	\$75,000	Robert & Terry Rowling	Irving	TRT Holdings, Inc.
\$25,000	\$75,000	John Speer	Houston	Royce Homes

These 40 donors gave this PAC 81 percent of the \$6.9 million that it raised in the 2010 cycle.

Plaintiffs for Lawsuit Reform

Some of TLR’s top new contributors are righteously litigious dudes. Lawsuits filed by Dallas developer H. Ross Perot, Jr., for example, helped establish Victory Park and the American Airlines Center as a premiere arena for misbehaving billionaires.

After selling most of the Dallas Mavericks to fellow billionaire Mark Cuban, Perot dribbled between the basketball court and civil court. Perot sued Cuban in a 2009 squabble over profits at American Airlines Center. An arbitrator ruled for Cuban in the matter.⁵ A 2010 Perot lawsuit then alleged that Cuban mismanaged the Mavericks into insolvency.⁶

Perot’s Hillwood Development and its partners discussed involving developer Related Companies in their Victory Park project. When negotiations broke down in 2002 Hillwood filed a preemptive lawsuit to dissuade Related Companies from suing Hillwood. A federal judge threw out Perot’s bizarre litigation in 2006, [finding](#) little evidence that Related Companies intended to sue Hillwood in the first place. TLR needs this kind of bold new thinking. Aggressively filing preemptive lawsuits could prevent a staggering number of lawsuits—both real and imaginary.

Three Energy Transfer Partners executives including TLR fan Kelcy Warren invested heavily in a Lehman Brothers private-equity fund.⁷ The Energy Transfer boys later sued to recover their money after Lehman’s 2008 bankruptcy. Citing the heaps of disclaimers that these sophisticated investors signed going into the deal, a Delaware state judge [threw out their claims](#) in 2010.

Energy Transfer Partners itself won the lawsuit lottery in 2004. That’s when a Dallas jury awarded it \$48 million in actual and punitive damages for claims that another company reneged on a propane deal (a judge reduced the award to \$18 million).⁸

Billionaire Andrew Beal’s bank often wagers that troubled assets are less troubled than they seem. When troubled assets don’t payoff, Beal Bank often dashes to the courthouse. In 2000 Beal Bank bought thousands of loans that the U.S. Small Business Administration made after Hurricane Hugu hit the Virgin Islands. Beal Bank then robbed the islands of their virginity, filing 175 collection lawsuits.⁹

Beal Bank unsuccessfully appealed all the way to New York’s [highest court](#) in 2007 after a trial judge ruled that the bank could not unilaterally circumvent other creditors to sue a bankrupt casino.¹⁰ And the Federal Deposit Insurance Corp. paid \$90 million in 2008 to settle a Beal lawsuit. Beal Bank sued over mortgage loans that the regulator issued while trying to auction off failed subprime lender Superior Bank. After buying these loans, Beal Bank sued Uncle Sam, alleging that the FDIC’s lax lending practices prompted massive loan defaults.¹¹

Four top TLR contributors attracted national news coverage in the last election by collectively moving \$16 million in corporate and individual contributions to American Crossroads. Run by Karl Rove, American Crossroads spent \$22 million in the 2010 cycle on independent ads attacking Democrats. This contributor crossover is fitting. Rove pioneered the use of tort law to raise millions of Republican dollars.

Top Contributors to American Crossroads and Texans for Lawsuit Reform

American Crossroads Amount	TLR Amount	Contributor	City	Company
\$7 million	\$600,000	Bob Perry	Houston	Perry Homes
\$5 million*	\$25,000	Robert Rowling	Irving	TRT Holdings, Inc.
\$2 million*	\$825,000	Harold Simmons	Dallas	Contran Corp.
\$2 million	\$250,000	Trevor Rees-Jones	Dallas	Chief Oil & Gas, LLC
\$16 million	\$1,700,000	TOTALS		

*American Crossroads got two \$1 million corporate checks from Simmons companies and \$2.5 million apiece from Robert Rowling and Rowling’s TRT Holdings.¹²

Notes

¹ TLR PAC raised \$4.6 million in the 2008 cycle.

² "[Don't Trash Texas—Unless You Pay Perry \\$1.1 Million](#)," *Lobby Watch*, December 20, 2010.

³ See Texas Health and Safety Code [§401.205](#).

⁴ See Texas Health and Safety Code [§401.211](#).

⁵ "Perot Jr. Expected To Drop Cuban Suit," *Dallas Morning News*, February 23, 2011.

⁶ "Perot Sues Cuban, Says Mavs Insolvent," *Dallas Morning News*, May 11, 2010. "Mavs' Suit Not a Clash For Cash," *Dallas Morning News*, May 14, 2010.

⁷ "3 Energy Transfer Execs Want Out of Lehman Venture," *Dallas Business Journal*, March 8, 2009.

⁸ "Energy Transfer Partners, L.P. Announces Favorable Outcome of SCANA Litigation," *Business Wire*, October 22, 2004. See also the company's annual report for the fiscal year ending August 31, 2006.

⁹ "Loan Ranger: Maverick Banker in Texas Chases Distressed Assets," *Wall Street Journal*, January 13, 2005.

¹⁰ "Court Rules 'Vulture Fund Has No Right To Sue,'" *Law360.com*, March 23, 2007.

¹¹ "FDIC To Pay \$90 Million To Settle Beal Lawsuit," Reuters, January 16, 2009.

¹² The Simmons companies Dixie Rice Agricultural Corp. and Southwest Louisiana Land, LLC gave \$1 million apiece to American Crossroads.