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CENTRAL TEXAS ■ ENVIRONMENT

Trucking company, landfill reach deal on waste

After decade of dispute, Penske to move lead-tainted TV tubes

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AMERICAN STATESMAN STAFF

A decade-long, rancorous dispute between a Travis County landfill and a national trucking company over the disposal of hazardous waste has come to an end.

Under an agreement filed by Texas Disposal

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Systems Inc. and Pennsylvania-based Penske Truck Leasing in state District Court in Travis County on Tuesday, Penske will haul waste containing broken TV picture tubes to a hazardous waste facility.

The agreement will end a host of lawsuits

and counter-suits that have involved the two companies, the Texas Commission on Environmental Quality and the environmental group Texas Campaign for the Environment.

Had the waste been classified as non-hazardous by authorities, the case could have undermined the whole premise of toxic waste regulations nationally, said Texas Disposal Systems landfill operator Bob Gregory.

Under a separate, sealed agreement signed

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WASTE: Landfill to get some money from deal

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Friday by Texas Disposal Systems, Penske and electronics company Zenith, the landfill will receive some compensation, Gregory said.

Gregory said he is not at liberty to say how much money Texas Disposal Systems is getting. "Nobody will ever know what strain this has put on us," Gregory said as he choked up during an interview. "It's been millions of dollars and thousands upon thousands of hours of my time. And we did it right, and it's ending right."

At issue was whether hazardous material can be mixed enough with household waste to make it nonhazardous. Texas Disposal Systems insisted that the material remained hazardous; Penske had argued that it no longer is.

The case stretched back to October 1997, when a Penske truck packed with a cargo of Zenith TV picture tubes overturned near Buda on its way to a Mexican assembly factory. The picture tubes — just about all 1,248 of them, each containing 3½ pounds of lead — broke, and they became hazardous waste.

The damaged tubes were dropped off at the nearby Texas Disposal Systems landfill in Creedmoor, which is licensed to handle nonhazardous waste. The landfill and Penske then began a protracted fight over the fate of the waste and over

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Texas Disposal Systems
landfill operator

which side was responsible for disposing of it properly.

Several lawsuits were ongoing, and the parties were nearing a trial date in state District Court in Hays County in which Texas Disposal Systems was asking for more than \$5 million in damages and legal fees.

The Travis County court resolution states that the environmental commission will back off any fines or penalties against the landfill or the trucking company and that appeals of agency rulings in the matter filed over the years would be withdrawn.

The case has little significance for average consumers and the disposal of small amounts of electronic waste, said Robin Schneider, executive director of Texas Campaign for the Environment, which had joined Texas Disposal Systems in arguing the waste be disposed of as hazardous.

Gregory said that had the waste been recharacterized as nonhazardous, it would have undermined hazardous waste regulations.

"If someone can get it diluted, any toxic waste can be disposed of in a municipal solid waste landfill or left on someone else's property just because it has been left in the soil," said Gregory, who said laws hold that hazardous waste needs to be characterized that way from cradle to grave.

"When you throw that out, the whole premise of hazardous waste regulations goes out the window," he said. "From the standpoint of protecting the environment, (the agreement) is critically important, and for people living near landfills, it's critically important."

The struggle between the parties had run bitter at times.

"In the blind zeal with which you have pursued this private dispute through the courts and the (Texas Commission on Environmental Quality)," Penske lawyer Mike Duff wrote in a November 2004 letter to Gregory, "you have stopped at nothing in your efforts to establish that Penske is a despicable entity, deserving of nothing more than a multi-million dollar fine."

"Obviously, we're very happy that after a decade, we're going to get all the matters resolved," Duff said in an interview Tuesday.

Duff said Penske within a month will haul away the waste, which is contained in 99 above-ground containers. "Over that length of time, positions get hardened. Everyone has spent a lot of time, effort and money on this matter. It's a testament to all the parties that they decided to put it behind them and move on to other more productive things."

The two sides appeared close to settling the case ever since the environmental commission ruled this summer that Penske must truck the waste away. But even finalizing a settlement went in fits and starts over the past several months.

The resolution marks a victory for H.S. Buddy Garcia, the new chairman of the agency, in a case that had frustrated both his predecessors and a host of state lawmakers.

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