

November 29, 2007

Richard E. Greene
Regional Administrator, EPA Region 6
U.S. Environmental Protection Agency
1445 Ross Avenue, Ste. 1200
Mail Code: 6RA
Dallas, TX 75202-2733

Re: Determination as to Whether Cause Exists to Withdraw the Texas RCRA Program, May 16, 2006; Docket No.: W/Petition-TX/RCRA-06-2006-0001.

Dear Mr. Greene:

Texas Disposal Systems Landfill, Inc. ("TDSL"), Penske Truck Leasing Co., LP, Penske Logistics, LLC (together, "Penske"), Zenith Electronics Corp. ("Zenith") and Texas Campaign for the Environment ("TCE") jointly request that the U.S. Environmental Protection Agency ("EPA") withdraw, revise, or supplement its "Determination as to Whether Cause Exists to Withdraw the Texas RCRA Program," issued on May 16, 2006 (the "EPA Determination").

TDSL, Penske, Zenith and TCE ask the EPA to withdraw, revise, or supplement the EPA Determination because the issue on which the EPA Determination was based has been resolved. Specifically, the exhumed cathode-ray tube waste (the "CRT Waste") on which TDSL based its November 15, 2005 petition for withdrawal of approval of the Hazardous Waste Program of the State of Texas (the "TDSL Petition") will soon be removed from TDSL's premises. When removed, the CRT Waste will be manifested, transported, treated and disposed of as hazardous waste at an authorized hazardous waste facility. Such removal will be consistent with the terms of a July 30, 2007 order issued by the Texas Commission on Environmental Quality (the "TCEQ Order"), a copy of which is attached to this letter as Exhibit A. The TCEQ Order is no longer subject to challenge or appeal, and is therefore a final order. With any question about the proper means of handling the CRT Waste now resolved, TDSL, Penske, Zenith and TCE agree that the EPA should withdraw, revise, or supplement the EPA Determination.

Although withdrawal of the EPA Determination would be most appropriate, TDSL, Penske, Zenith and TCE agree that, at a minimum, the EPA Determination should be revised or supplemented to ensure that it is not mischaracterized as having some kind of binding legal effect beyond merely denying the TDSL Petition, or as somehow limiting EPA's ability to exercise discretion in similar matters. The unnecessarily detailed nature of the EPA Determination has caused confusion as to whether it is a regulatory decision or determination that goes beyond simply communicating the EPA's decision to deny the TDSL Petition.

To resolve such confusion by revising the EPA Determination, the EPA could substitute the EPA Determination with an alternative limited strictly to the relevant procedural history and the EPA's decision to deny the TDSL Petition.

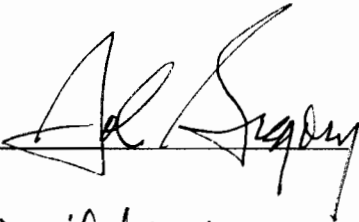
Alternatively, the EPA also could resolve any confusion resulting from the EPA Determination in its present form by supplementing it with a separate letter in response to this request. Such a letter would make clear that the EPA believes no court is bound by the EPA Determination, and other authorities should not rely on it for any purpose. For example, in briefs the EPA has filed in federal litigation with TDSL challenging the EPA Determination, the EPA has stated the EPA Determination was issued for no purpose other than "explain[ing] EPA's basis for refusing to commence proceedings to withdraw Texas' RCRA authorization . . ." and "merely determines whether cause exists to commence withdrawal proceedings for Texas' hazardous waste authorization program." Cautioning against misusing the EPA Determination in other proceedings, the EPA further stated in its briefs that the EPA Determination "has no effect on any regulation or requirement"; "has no binding regulatory effects on interested parties"; "does not make formal findings about future regulatory actions to be undertaken"; "lack[s] any cognizable binding legal effect"; "is not binding on its face, nor is it applied by the Agency in a way that indicates it is binding"; and "does not regulate anyone's behavior." Confirming the substance of these statements in a short letter supplementing the EPA Determination would dispel any misconceptions about its purpose or effect.

Additionally, withdrawing, revising, or supplementing the EPA Determination will resolve the two remaining proceedings initiated by TDSL in federal court to appeal it. Of course, if the EPA withdraws, revises or appropriately supplements the EPA Determination, TDSL and TCE also will take whatever steps are possible to withdraw the TDSL Petition in response to which the EPA Determination was issued.

Accordingly, for all of the foregoing reasons, TDSL, Penske, Zenith and TCE respectfully urge the EPA to withdraw the EPA Determination, to replace it with a substitute that simply denies the TDSL Petition, or to appropriately supplement it.

Thank you for your attention to this request.

Sincerely,

Name: 


Title: President & prime owner

Texas Disposal Systems Landfill, Inc.

Name: 

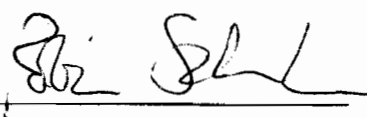
Title: Counsel for

Zenith Electronics Corp.

Name: 

Title: MICHAEL A. DUFF
SENIOR VICE PRESIDENT
AND GENERAL COUNSEL

**Penske Truck Leasing Co., LP
Penske Logistics LLC**

Name: 

Title: Executive Director

Texas Campaign for the Environment