

# BAKER BOTTS LLP

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December 16, 2005

BY CERTIFIED MAIL & FAX

Mr. Troy Hill  
Associate Director for RCRA  
U.S. Environmental Protection Agency Region 6  
1445 Ross Avenue, Suite 1200, MC 6PD  
Dallas, Texas 75202-2733

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Re: TDSL's Petition for Withdrawal of Program Approval for Texas RCRA  
Hazardous Waste Program; Docket No: W/Petition - TX/RCRA-06-2006-0001.

Dear Mr. Hill:

I represent Penske Truck Leasing Co., L.P. and Penske Logistics, Inc. ("Penske"). On November 14, 2005, Texas Disposal Systems Landfill, Inc. ("TDSL") filed a Petition for Withdrawal of Approval of the Hazardous Waste Program of the State of Texas ("Petition."). The sole basis for TDSL's petition is the alleged improper management of certain waste accepted for disposal by TDSL consisting of municipal solid waste, soil, and allegedly containing television picture tubes.

On December 1, 2005, Mr. Richard Greene sent a letter stating that Region 6 is informally investigating the matter and to direct any future communications to your attention. While Penske is not a named party to TDSL's Petition, we are certainly an interested party and stand ready to provide any background information or relevant briefing from the related and ongoing matters involving Penske and TDSL. Because the Texas Commission on Environmental Quality ("TCEQ") and Texas Courts are already actively addressing the relevant issues, there is no basis for the EPA to become involved in these disputes. Rather, TDSL's Petition is simply an attempt to misuse the EPA administrative process to try and gain some form of leverage that it can use in the pending disputes. Below is a brief update on the other pending matters.

TDSL sued Zenith Electronics Corp. ("Zenith"), and my clients over seven years ago in Texas court in Hays County, Texas, concerning the same material accepted for disposal by TDSL in 1997. The case is set for a second trial (the first ended in a mistrial) on June 19, 2006. In addition, multiple appeals are currently pending in District Court in Travis County, Texas relating to certain TCEQ decisions concerning the waste in question.

TDSL's baseless Petition has everything to do with an attempt to influence these pending actions and nothing to do with protecting the environment or enforcing hazardous waste regulations. TDSL, not hiding this fact, has even asked the trial judge to stay the case that it filed against Penske and Zenith back in 1998 until the resolution of its Petition. If TDSL honestly believed that the waste was hazardous as alleged in its Petition, it would not have managed the

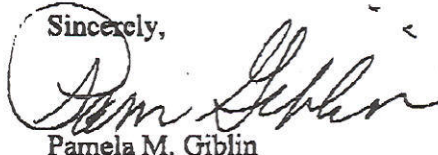
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waste and continued to store it for seven years without a permit in violation of applicable hazardous waste regulations. TDSL's Petition is improper, without merit, and should be denied.

Please do not hesitate to contact me directly with any questions or concerns.

Sincerely,



Pamela M. Giblin

cc: The Honorable Alberto R. Gonzales, U. S. Attorney General  
The Honorable Rick Perry, Governor of Texas  
The Honorable Greg Abbott, Attorney General of Texas  
The Honorable Kathleen Hartnett White, Chairman, TCEQ  
Glenn Shankle, Executive Director, TCEQ  
Stephen L. Johnson, Environmental Protection Agency  
Richard Greene, Regional Administrator, Region 6  
David Gillespie, Attorney, Region 6  
Phillip Comella, Seyfarth Shaw, LLP, Counsel for Zenith  
Kinnan Golemon, Brown McCarroll, LLP, Counsel for TDSL  
Kerry Russell, Russell, Moorman & Rodriguez, LLP, Counsel for TDSL  
James B. Blackburn, Jr., Blackburn & Carter, Counsel for TDSL  
Richard W. Lowerre, Lowerre & Frederick, Counsel for TDSL  
Kirk Watson, Hughes and Luce LLP, Counsel for TDSL