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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

July 28, 2004

Mr. Bob Gregory
President and CEO
Texas Disposal Systems, Inc.
12200 Carl Road
Creedmoor, Texas 78610-2184

Dear Mr. Gregory:

On July 8, 2004, we informed you that the Texas Commission on Environmental Quality (TCEQ) would begin sampling and analysis of the commingled waste materials stored in roll-off containers at the Texas Disposal Systems Landfill (TDSL) in Creedmoor. This sampling and analysis was initiated as a result of concerns about the characteristics of the waste and Penske Truck Leasing's (Penske) plan for disposal as special waste.

The sampling and analysis has been completed. The results that we provided you on Monday, July 26, 2004, indicate that all samples were well below the 5 mg/l lead leachate threshold for characteristically hazardous waste. We have instructed Penske to proceed with their plan for disposal of this waste as special waste.

Although the sampling results reflect that this waste material in its current form is not hazardous waste, we acknowledge that, as reflected in the information we have been provided, the CRT tubes delivered to the TDSL site in 1997 were declared hazardous by the generator (Penske). However, when the waste arrived at the landfill, it was inadvertently mixed with other landfill waste. The waste in its current form no longer exhibits hazardous waste characteristics. Under these circumstances, we have concluded that classification as special waste is appropriate for disposal of this waste at this time. We note that while dilution as a substitute for adequate treatment is prohibited, applicable rules and guidance provide that the actual waste that results may be considered non-hazardous if it no longer exhibits hazardous waste characteristics. See, for example, 54 Fed. Reg. 48372 and 55 Fed. Reg. 22520. It is also relevant to note that only a low volume of CRT tubes remained at the landfill and was inadvertently commingled with approximately 3,000 cubic yards of non-hazardous waste. Penske proposes to remove all of this commingled waste. Please be advised that this agency will not hold TDSL liable for the associated waste storage, removal or disposal, now, or in the future, provided that TDSL fully cooperates with the removal of this waste from the TDSL site.

We urge you to provide your full cooperation and support to Penske as they arrange for removal and disposal. Please feel free to contact me at (512) 239-5100 if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "John F. Steib, Jr.", written over a printed name.

John F. Steib, Jr., Deputy
Office of Compliance & Enforcement