

Kathleen Hartnett White, *Chairman*
R. B. "Ralph" Marquez, *Commissioner*
Larry R. Soward, *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

September 24, 2004

Mr. Marc E. Althen
Senior Vice President
Penske Truck Leasing.
P.O. Box 563
Reading, Pennsylvania 19603-0563

Dear Mr. Althen:

On May 13, 2004, the Texas Commission on Environmental Quality (TCEQ) issued Penske Truck Leasing (Penske) a Notice of Violation (NOV) in connection with the spill investigation at IH-35 South near Exit 221 in Buda, Hays County. This NOV required Penske to take certain corrective actions. On June 18, 2004, on my behalf, John Steib, Deputy Director for the Office of Compliance and Enforcement, approved your proposed plan for removal and disposal of the waste located at the Texas Disposal Systems Landfill (TDSL) as special waste. TDSL filed a Motion to Overturn my decision in this matter. On September 16, 2004, the Commission issued an order overturning my decision and remanding this matter.

I now exercise my authority to act in this matter, and by this letter, I am requiring the following actions of Penske. No later than October 27, 2004, Penske must remove all of the waste currently stored in the 99 roll-off containers at the TDSL facility. This waste must be manifested as hazardous waste and disposed of at a permitted hazardous waste facility. Alternatively, Penske may pursue the actions discussed at the September 16th hearing relating to the assessment and any necessary extraction of the waste in the roll-off containers. If Penske pursues this approach, all activities associated with the assessment, characterization and extraction of the contents of the roll-off containers must be conducted at a separate authorized facility in a manner that ensures protection of human health and the environment. Specifically, Penske must ensure compliance with all RCRA requirements, including land disposal restrictions for any D008 waste triggering those requirements. In any case, the roll-off containers must be removed from the TDSL facility by October 27, 2004, and the waste manifested as hazardous waste until such time as it is conclusively determined that no D008 waste at the level that is characteristically hazardous remains.

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Upon completion of this activity, but no later than 90 days from the date of this letter, please submit all documentation necessary to demonstrate that the waste was properly disposed of in accordance with all applicable rules and regulations. Please submit this information to:

Ms. Anna Rodriguez, Special Assistant
Office of Compliance and Enforcement
Texas Commission on Environmental Quality
P.O. Box 13087, MC 163
Austin, Texas 78711-3087

If you have any questions, please feel free to contact Mr. John F. Steib, Jr., Deputy Director, Office of Compliance and Enforcement at (512) 239-5718.

Sincerely,



Glenn Shankle, Executive Director
Texas Commission on Environmental Quality

cc: Ms. Pam Giblin, Baker Botts, LLP
Mr. John F. Steib, Jr., Deputy Director, TCEQ Office of Compliance and Enforcement
Mr. Robert Gregory, Texas Disposal Systems