



**MICHAEL A. DUFF**  
SENIOR VICE PRESIDENT AND GENERAL COUNSEL

October 12, 2004

**VIA FACSIMILE--(512) 243-4123**

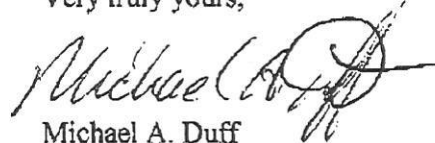
Gary T. Newton, Esquire  
General Counsel  
Texas Disposal Systems, Inc.  
P.O. Box 17126  
Austin, Texas 78760-7126

Dear Gary:

I received your letter and want to correct both your view of what is required under the Glenn Shankle letter as well as your characterization of our conversation. On September 16, the TCEQ Commissioners rejected TDSI's view that the 1660 cubic yards you accumulated are a hazardous waste as a matter of law and sent the matter back to the Executive Director without any instructions. Pursuant to that total remand, Mr. Shankle has authorized the testing of the material off-site so that we can conclusively determine "that no D008 waste at the level that is characteristically hazardous remains." As I stated on the phone, we intend to remove the rolloffs to a permitted facility and then test the material; we believe this testing will again confirm our longstanding view that the material is not hazardous.

We hope you will cooperate with Mr. Shankle's directive.

Very truly yours,

  
Michael A. Duff

jmm

cc: Glenn Shankle  
John F. Steib, Jr.