

## Deadline passes, but lead-tainted trash stays put

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The ongoing feud over the fate of 1,600 tons of lead-tainted garbage hit another impasse Wednesday, as the state's **deadline** for proper disposal **passed** with the garbage still sitting in 99 above-ground containers at an Austin-area municipal waste landfill.

Representatives of Penske Truck Leasing Co., under order by the executive director of the state's environmental commission to remove the hazardous waste from the Texas Disposal Systems Inc. landfill by Wednesday, said they could not do so because the landfill owner has set unreasonable conditions. "We believe (Texas Disposal Systems) does not want the containers removed because they think it might hurt their lawsuit seeking millions of dollars from Penske," said Michael Duff, Penske's senior vice president and legal counsel.

Texas Disposal co-owner Bob Gregory and his lawyers said in letters during the past two weeks that his company would allow Penske's contractor to haul off the waste -- something Gregory has sought for seven years -- but only if Penske follows the commission's instructions to have it legally shipped as hazardous waste, with the appropriate federal manifest, to a licensed hazardous waste facility.

The consequences of the stalemate remained unclear Wednesday evening, as Glenn Shankle, executive director of the Texas Commission on Environmental Quality, spoke with both sides and worked to broker a resolution, said commission spokesman Andy Saenz.

"We need this issue taken care of, resolved," Saenz said.

The passing of the **deadline** is the latest development in a high-profile legal dispute between the Reading, Pa.-based trucking company and the owners of the landfill where, state regulators have ruled, Penske illegally sent tons of hazardous lead waste in 1997 after a trucking accident near Buda. Some of the lead, from TV tubes the truck was hauling, was mixed into the regular garbage at the landfill near Creedmoor, south of Austin.

Wednesday's removal-and-disposal **deadline** was triggered by the environmental commission's 2-1 vote Sept. 16 to overturn Shankle's decision that the mixed waste was no longer hazardous.

On Sept. 24, Shankle issued a new order that the material must be hauled from Texas Disposal as hazardous waste no later than Wednesday.

Both sides have appealed Shankle's new ruling but for vastly different reasons, and Penske is asking the commissioners to reconsider their Sept. 16

Gregory said he's concerned that Shankle opened the door for Penske to again have the mixture improperly retested, declared nonhazardous and sent to any municipal waste dump in Texas.

Lawyers for Penske have argued that the commissioners did not legally determine the waste was hazardous and acted arbitrarily and capriciously in blocking the disposal of the mixed waste in a municipal waste landfill.

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