

## Environmental commission makes right move on waste

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The Texas Commission on Environmental Quality did right in overruling its staff by assigning to Penske Truck Leasing Inc. the responsibility for proper disposal of waste the commission said must be treated as hazardous. The ruling, on a 2-1 vote, was a victory for Bob Gregory, owner of the Texas Disposal Systems' landfill near Austin, where the waste had been mistakenly shipped seven years ago after a truck accident. Ever since, Gregory has been fighting to have Penske foot the bill and dispose of the waste, fighting both before the state environmental agency and going to court.

It never should have taken seven years.

The hazardous waste involved broken Zenith television picture tubes, which contained lead. Lead is a threat to human health and, if not properly disposed of, can leach into underground water supplies.

Most of the smashed tubes were removed from Texas Disposal's landfill before they were mixed with other trash and sent elsewhere. But some had already been mixed up with other trash, and Gregory isolated it in 99 metal shipping containers.

What followed was a long bureaucratic and legal battle over who should foot the bill for the proper disposal of the waste. Penske argues that, because the picture tube waste had been so diluted with other trash, it was no longer hazardous to public health. Therefore, Penske said, there was no need for special disposal, and the commission's executive director, Glenn Shankle, agreed.

Gregory -- who has won awards for running a model landfill -- has fought largely alone to force Penske to pay the costs he incurred in treating the waste and to get rid of the 99 containers. But in recent months he has gotten support from others who say that more than money was at stake should the commissioners uphold the staff. Those others included state lawmakers of both parties, as well as commission lawyers charged with representing the public interest.

The danger, they said, was that the staff position would tempt companies disposing of hazardous waste to send it to a public landfill rather than a more expensive licensed hazardous waste dump.

If they weren't caught, hazardous wastes would pile up in landfills, endangering public health. If caught, they could duck responsibility for proper disposal by saying the bad stuff had been so diluted it wasn't a problem anymore -- somewhat like speeder arguing to a traffic cop that he shouldn't get a ticket because, after all, he's no longer speeding and thus endangering no one.

In voting to overturn the executive director's position, Commission Chairman Kathleen Hartnett White and Commissioner Larry Soward upheld laws and regulations designed to protect the public and avoided a potentially dangerous precedent to weaken them.