

HISTORY OF THE PENSKE/ZENITH ACCIDENT DEBRIS

October 9, 1997: A Penske truck overturns during an accident on IH-35, south of Austin, Texas in Hays County. The load of 1,248 Zenith CRTs is broken/discarded, and toxic characteristic hazardous D008 CRT Waste (“Accident Debris”) is generated at the accident scene.

- The Penske truck driver led the emergency response personnel to believe the Accident Debris was not hazardous. The emergency response personnel then directed nine dump truck loads of the Accident Debris to the TDSL municipal solid waste (“MSW”) landfill for disposal. The Accident Debris is represented as non-hazardous waste to TDSL. Landfill personnel have no prior knowledge that CRTs are hazardous waste. Before TDSL is notified of the correct D008 CRT Waste characterization, seven of these loads are discharged on the landfill working face and compacted with other loads of waste entering the landfill, over a period of approximately 2 hours. Once notified of the proper hazardous waste characterization of the Accident Debris approximately 3.5 hours after the accident, TDSL immediately stops the discharge of D008 CRT Waste and other waste at the landfill working face.
- In accordance with the law, TDSL subsequently does not allow the last two of the nine dump truck loads of Accident Debris to unload that were in route to the working face when Penske makes the proper characterization. TDSL also immediately isolates the landfill working face where the Accident Debris has been buried up to five feet in depth along with other customers’ MSW. TDSL removes from the surface of the working face of the landfill all Accident Debris and other MSW impregnated with broken glass. The estimated amount of D008 CRT Waste in the Accident Debris buried below the surface of the landfill working face is 7,000 to 14,000 pounds. The remaining Accident Debris and MSW are subsequently covered with clay soil daily cover in accordance with TDSL’s permit after Penske decides to not have their hazardous waste remediation contractor, who cleaned up the truck accident scene, to also remove the CRT debris from the landfill.

February, 1998: The Accident Debris, MSW and clay cover soil (“Commingled Waste”) are pushed to a secure storage area on the edge of the landfill cell under the supervision of the same hazardous waste remediation contractor hired by Penske to clean up the accident scene and to separate the hazardous waste from the non-hazardous waste associated with the Penske and Zenith waste not buried in the TDSL landfill, pending final waste removal and disposition of the Commingled Waste.

March, 1998: Penske has its hazardous waste remediation contractor separate the non-hazardous waste from the hazardous waste associated with the load of Zenith television tubes, which had not been buried in the TDSL landfill, and ships the hazardous waste under two manifested loads to a hazardous waste landfill for proper treatment and disposal as D008 toxic characteristic hazardous waste.

January 29-February 2, 2004: The Commingled Waste is removed from its storage site in the landfill and is containerized for proper transport, treatment and disposal at a hazardous waste treatment facility per TCEQ authorization dated January 15, 2004.

May 2004: The TCEQ Executive Director (“ED”) issues a formal Notice of Violation (“NOV”) against Penske for failure to properly characterize and manage the Accident Debris stored at TDSL (copy attached), which was generated at the 1997 accident scene. The ED found no fault with TDSL’s management of the hazardous waste.

July 2004 – December 2007: Several lawsuits are filed by Penske and TDSL against the TCEQ in Travis County challenging certain actions of the agency concerning its various positions on the final disposal of the Commingled Waste.

June 21, 2007: TDSL Petitions TCEQ to order the proper disposal of the Commingled Waste.

July 25, 2007: TCEQ Commission Hearing in which TDSL petition is granted.

July 30, 2007: TCEQ issued an order (copy attached) that within 30 days Penske is to remove all Commingled Waste under an unconditional hazardous waste manifest and dispose of the hazardous waste as either Commingled Waste or sorted hazardous waste at a hazardous waste facility.

November 20, 2007: TDSL, Penske and TCEQ enter an Agreed Final Judgment resolving all disputes in the Travis County cases concerning the ultimate disposal of the Commingled Waste at a hazardous waste facility.

November 28, 2007-December 12, 2007: Penske removes the 99 containers of the Commingled Waste from the TDSL facility and has the entire contents of each container treated and disposed as D008 hazardous waste at a hazardous waste facility pursuant to hazardous waste manifests (one of the copies attached).