

BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

TCEQ DOCKET NO. 2004-0984-IHW-E

REPORT OF MARIANNE LAMONT HORINKO

SEPTEMBER 8, 2004

1. IDENTIFICATION

My name is Marianne Lamont Horinko, 4710 Benjamin Cross Court, Chantilly, Virginia, 20151, telephone 202-997-3318.

2. CREDENTIALS

From 2001 to 2004, I served as Assistant Administrator of the Office of Solid Waste and Emergency Response (OSWER) at the U.S. Environmental Protection Agency (EPA), including service as Acting Administrator of EPA from July through November, 2003. OSWER is the office responsible for administration of the federal Resource Conservation and Recovery Act (RCRA) and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) programs. From 1992 to 2001, I served as President of Clay Associates, Inc. (and Executive Vice President and General Counsel of its predecessor organization, Don Clay Associates, Inc.), a national environmental consulting firm specializing in hazardous waste policy. From 1990 to 1992 I served as Attorney Advisor to Don Clay, the Assistant Administrator for OSWER, responsible for RCRA and CERCLA policy. From 1986 to 1990 I practiced law at Morgan, Lewis & Bockius, specializing in RCRA and CERCLA. From 1983 to 1985 I was a staff scientist at ENVIRON Corporation, specializing in risk assessment and environmental regulation. A copy of my resume is attached as Exhibit A.

3. SUBJECT MATTER

This report provides my expert opinion as to the regulatory status of commingled hazardous waste, generated as a result of the traffic accident on I-35 involving damage to

approximately 1,248 color television cathode ray tubes (CRTs) from a Penske Truck Leasing Co., L.P. truck on October 9, 1997 in Hays County, Texas, and municipal solid waste at the Texas Disposal Systems Landfill (TDSL).

4. GENERAL SUBSTANCE OF MENTAL IMPRESSIONS AND OPINIONS AND BRIEF SUMMARY OF BASIS FOR THEM

A. FRAMEWORK FOR REGULATION OF HAZARDOUS WASTE UNDER RCRA

Since 1980, EPA has developed a comprehensive regulatory framework under Subtitle C of RCRA for identifying, transporting, treating, storing, and disposing of hazardous waste. The regulations (set forth at 40 C.F.R. Part 261-299) center around two broad objectives: to prevent releases of hazardous wastes and constituents through a comprehensive and conservative set of management requirements (commonly referred to as "cradle-to-grave" management), and to minimize the generation and maximize the legitimate reuse, recycling, and treatment of hazardous waste and constituents.

The RCRA regulations generally apply to any "solid waste." EPA defines "solid waste" as garbage, refuse, sludge, or other discarded material (including solids, semi-solids, liquids, and contaminated gaseous materials). If a material is a "solid waste," the generator must then determine if it is a "hazardous waste." *It is the responsibility of the generator either to test the waste or use its knowledge of the waste to make a determination about its properties, either before or at the time of generation.* EPA generally defines hazardous waste as either "listed"

waste, which is a specific waste stream designation based upon the specific hazardous properties of that waste stream, or "characteristic" waste, which is a generic waste stream that exhibits a characteristic of hazardous waste. There are four categories of characteristic waste: ignitable, corrosive, reactive, and toxic. For toxic wastes, EPA has published a schedule of concentration levels for leachability testing of specific toxic chemicals, above which wastes are deemed to be hazardous.

The RCRA statute further mandates that hazardous wastes be treated to minimize threats to human health and the environment prior to land disposal. EPA has developed a set of regulations, the Land Disposal Restrictions (LDR), that apply to each listed and characteristic hazardous waste to ensure that they are treated properly prior to land disposal. These regulations are needed to fulfill the intent of the law that hazardous wastes be treated so as to "substantially reduce the toxicity of the waste or migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized." RCRA Section 3004(m)(1). *In other words, it is not permissible to simply dilute a waste in order to reduce the toxicity below the characteristic leachate level; the waste must be treated to comply with the law.*

B. THE SPILLED CRTS FROM THE PENSKE TRUCK WERE HAZARDOUS WASTES UNDER RCRA

In the instant matter, the CRTs being shipped by Penske ceased being useful products and became "discarded" (and thus, solid wastes under RCRA) when the Penske truck accident

occurred at approximately 12:51 p.m. on October 9, 1997. (This situation is analogous to the train derailment which occurred in California in the early 1990s involving a spill of meram sodium, a toxic pesticide; in that situation, EPA testified that the pesticide product became discarded and thus, subject to RCRA when the train left the tracks.) Under its contractual arrangement with the shipper, Zenith Electronics Corporation (Zenith), Penske was on official notice that any discarded CRTs would be hazardous waste because of their high lead content. Zenith routinely managed all of their other discarded CRTs as D008 hazardous waste. Furthermore, contractual arrangements between Zenith and Penske specified that any discarded CRTs would be managed as D008 waste. Thus, both Zenith and Penske had knowledge that the materials would be hazardous if discarded, and at the time the CRTs spilled from the truck and were no longer usable as intended or for other purposes, they became discarded under RCRA. (Indeed, EPA itself specified that discarded commercial CRTs are hazardous D008 waste in a rule proposing to exempt recycling of CRTs under certain conditions to safeguard their handling from the hazardous waste management requirements. 67 Fed. Reg. 40508).

Zenith's assertion that the CRTs are essentially harmless is mistaken. In fact, EPA is on the record as having great concern about the growing amount of CRT waste - that is why the Agency proposed the CRT recycling rule, to keep the discarded CRTs out of landfills. EPA also convened a stakeholder group, the National Environmental Product Stewardship Initiative, to develop consensus on how to stop disposal of discarded CRTs. Last year California enacted legislation to mandate CRT recycling, and a number of states are considering landfill bans on CRTs.

Both Zenith, as the owner of the CRTs, or Penske, as the operator of the truck carrying the CRTs, could be considered the "generator" for purposes of RCRA. As generator of a solid waste, Penske had the obligation to determine whether the material was "hazardous" under RCRA upon occurrence of the accident and then ensure its proper treatment and disposal. Thus, Penske should have either relied upon its knowledge to report the materials as hazardous, or tested the spill materials to determine actual hazard, prior to allowing the spilled materials to be sent to a municipal landfill in error.

Penske was also obliged to provide proper notification to public authorities under CERCLA that a release of a hazardous substance above its reporting threshold had occurred. Public safety officials responding to the traffic accident relied upon the Penske driver's misrepresentation that the CRT waste (i.e., shattered glass materials containing leachable lead) was not hazardous to send the materials to the TDSL facility in error. Penske's assertion that the emergency responders and receiving facility were responsible for the hazardous waste designation runs counter to the RCRA rules, which rely upon generator testing or knowledge.

At the time of the truck accident, the discarded CRTs should have been managed as D008 hazardous waste. After the passage of several hours and upon realizing its error, Penske appears to have taken some proper steps to correct its error and to ensure responsible and legal management of the waste CRTs (other than those that had been placed into the landfill face because of the truck driver's misrepresentation). Penske headquarters, prior to discovering the error, caused seven dump truck loads to be taken to TDSL and unloaded at the landfill face.

Thereafter, after Penske's notification to TDSL that the discarded CRT waste was hazardous, two dump trucks originally directed to TDSL from the accident scene were returned to the scene. Penske mobilized a licensed hazardous waste handler, Code 3, to containerize these two dump truck loads and the remaining discarded CRT waste in rolloff boxes, separate out the CRT waste, and manage it as hazardous waste. However, Penske is irresponsible in not managing the mixture of municipal solid waste and hazardous waste as D008 hazardous waste. Once the hazardous waste characteristic attaches at the point of generation under EPA's rules (i.e., the accident scene in this instance), that waste code carries through until the materials are properly treated to remove the hazardous waste characteristic and meet the LDR requirements. As discussed below, simply diluting the hazardous waste to reduce the levels of toxic constituents below the characteristic is impermissible.

The September 2, 2004 letter from Charles J. Sheehan, EPA Regional Counsel, Region 6 (Dallas) to Lydia Gonzalez Gromatzky, TCEQ supports this reading of the regulations. Sheehan correctly notes that a waste which does not meet the characteristic levels at the point of generation does not require disposal in a RCRA Subtitle C hazardous waste landfill. Sheehan further emphasizes that improper dilution, such as mixing with municipal solid waste, may not be used to achieve these levels and avoid adequate treatment under RCRA, and a regulating agency may take such enforcement action as is necessary to ensure that proper treatment of such waste occurs.

C. MIXING THE SPILLED HAZARDOUS WASTE WITH MUNICIPAL SOLID WASTE DOES NOT DEFEAT THE MATERIALS' HAZARDOUS WASTE DESIGNATION UNDER RCRA

The RCRA statute expressly mandates that hazardous waste be treated to minimize threats prior to land disposal. This statutory requirement applies to both listed and characteristic wastes. In promulgating the regulatory treatment levels for each RCRA waste stream, EPA divided the task into manageable packages or "thirds." The treatment standards for characteristic wastes were included in the so-called "third-thirds" rulemaking (note that the designation of wastes into each "third" was something of a misnomer, given that the last "third" actually contained much more than a third of the RCRA waste streams).

In promulgating the "third-thirds" rule, which contained the LDR standards for characteristic wastes, EPA faced the dilemma of whether to set treatment standards for these waste streams that might be below the characteristic concentration levels. In other words, could EPA mandate treatment to levels below which the waste was clearly hazardous? EPA found that soundest reading of the RCRA statute would indeed require such treatment, noting the "statutory goals and policies of seeking to reduce the uncertainties inherent in the land disposal of hazardous waste by substituting a system whereby hazardous wastes are pretreated in such a way that minimizes threats to human health and the environment." 54 Fed. Reg. 48490.

In reaching this policy result, EPA recognized that the characteristic of toxicity is defined by levels higher than the health-based levels that have been the basis for delisting many

hazardous wastes. In other words, the toxicity characteristic concentration levels are those at which the wastes clearly present a substantial hazard, and that lower levels also may pose a hazard. In addition, characteristic wastes may also contain other hazardous constituents, and only by mandating treatment beyond simply removing the characteristic will allow EPA to reach these other hazardous chemicals. EPA indicated that this broad reading of its statutory authority was the only way to reduce the characteristic waste's toxicity and mobility in a way that further minimizes the threat to human health and the environment. Indeed, EPA noted that this reading was the only way to implement the Congressional admonition against dilution in lieu of treatment.

More critically, EPA also addressed the important issue of whether dilution could be used to defeat the hazardous waste characteristic - not just meet the LDR standards. EPA specifically stated: "It is not permissible to dilute a waste to render it non-hazardous in lieu of proper treatment under section 3004(m)" of RCRA. 54 Fed. Reg. 48495. In reaching this conclusion - that characteristic toxic wastes cannot be mixed with non-hazardous wastes in order to render them non-hazardous - EPA noted that its authority to mandate LDR treatment standards below the characteristic level would be largely meaningless if a person could dilute the waste to remove the characteristic rather than treating it. The legislative history of the statute clearly indicates Congress' intention that dilution not be used as a substitute for treatment, noting that "a prohibition of this type of dilution is particularly important where regulations are based on concentrations of hazardous constituents." *Id.* In the final "third-thirds" rule, EPA found that "in many cases dilution simply increases the volume of the waste without reducing or immobilizing

the mass of hazardous constituents,” and that “characteristic wastes may also contain significant concentrations of other hazardous substances.” 55 Fed. Reg. 22653. Thus, the Agency “adheres to the position that the act of impermissibly diluting a prohibited waste so that it no longer exhibits a characteristic (or is rendered delistable) is illegal.” 55 Fed. Reg. 22666. The dilution prohibition clearly applies to removing the characteristic, not just complying with the RCRA land disposal restrictions.

Penske's assertion that EPA conclusively asserted that the currently containerized mixture of characteristic toxic waste and non-hazardous waste that was impermissibly diluted is automatically non-hazardous under the "third-thirds" rule is also wrong. Indeed, such a policy result would be contrary to the RCRA statute and also detrimental to the environment. Allowing Penske to classify all of the material as non-hazardous and dispose of the material without treatment violates the RCRA statutory mandate that hazardous waste be treated to minimize threats to human health and the environment. Any other result would remove the incentive for generators to treat their wastes responsibly, as well as allow them to reap an unfair economic benefit by evading the costs of proper waste management and disposal. Penske was responsible for the generation of hazardous waste and for potentially allowing hazardous waste to be disposed in a manner that may have caused risk to human health had TDSL not immediately isolated and stored the waste for proper treatment and disposal. Penske's preferred disposal option, to place the waste in a nonhazardous waste landfill, does nothing to reduce the toxicity or volume of waste material - it simply moves the problem to another hazardous waste landfill. Irresponsible behavior should not be rewarded by selecting, and the Texas Commission on

Environmental Quality (TCEQ) approving, the path of least resistance.

D. FAILURE TO MANDATE PROPER TREATMENT AND DISPOSAL OF THIS
MATERIAL PLACES TDSL AND ITS CUSTOMERS AT UNFAIR RISK OF SUPERFUND
LIABILITY AND EXPOSURE TO CITIZEN SUIT LITIGATION

The Superfund law places liability of cleanup of releases of hazardous substances upon four classes of individuals: Owners of facilities from which there has been a release; operators of such facilities; transporters of the hazardous substances; and those who "arranged for disposal" (or generators) of such substances. Liability is strict, joint, and several, meaning that each of those entities is potentially liable for the entire cost of cleanup. Cleanup of a Superfund site can be extremely expensive, often in excess of \$25 million per cleanup. Many municipal solid waste landfills have ended up on the Superfund National Priorities List, in part because of the erroneous engineering perspective in past decades that the best way to dispose of hazardous waste was to mix it with MSW (at that time, it was viewed that MSW would act as a "sponge" for the hazardous waste. We now know, of course, that the hazardous waste simply leaked through the landfill and the large volume of MSW simply rendered the cleanup much more expensive.

Liability under Superfund attaches regardless of the concentration of the hazardous substances in the waste. As a result, simply removing the RCRA toxicity characteristic and rendering the hazardous waste more dilute does nothing to ameliorate potential Superfund

liability. If Penske is allowed to remove this material and improperly dispose of it, resulting in future cleanup under Superfund, TDSL and the generators of the associated MSW may be potentially liable for the entire costs of the cleanup. Furthermore, such liability may attach regardless of whether the site where the waste was disposed ends up on the National Priorities List. Under the Superfund law, not only the Federal government, but also the state, a local government, or even private parties can sue to recover the costs of cleanup. Furthermore, the RCRA statute also includes a citizen suit provision, under which TDSL could be liable for cleanup resulting from any "imminent and substantial endangerment" caused by the improperly-managed waste. As a result, assurances from the state that it will not pursue TDSL for any cleanup costs do not insulate TDSL from any other prospects of future liability for improper management of the Penske waste.

E. PENSKE SHOULD ASSUME RESPONSIBILITY FOR ITS MIXTURE OF HAZARDOUS AND SOLID WASTE BY REMOVING THE MATERIALS FROM THE TDSL PREMISES TO AN AUTHORIZED HAZARDOUS WASTE DISPOSAL FACILITY AND DETERMINING WHAT TYPE OF TREATMENT IS APPROPRIATE PRIOR TO LAND DISPOSAL IN ORDER TO MEET THE RCRA REQUIREMENT TO MINIMIZE THREATS

The TCEQ, as the state agency authorized to administer the RCRA statute in this case, should require that Penske utilize the same approach to the materials at issue here as the other discarded hazardous wastes generated at the truck accident scene. That is, Penske should hire a licensed hazardous waste contractor to remove the discarded material mixed with other waste to an authorized hazardous waste facility, manifested as D008 hazardous waste. The licensed

contractor should then assist Penske and regulatory authorities in determining the appropriate treatment protocols and disposal options that will comply with the RCRA requirement that wastes be treated to minimize threats, reduce the toxicity and volume of material, and ensure proper disposal.

While I believe the law mandates treatment of the co-mingled materials as a hazardous waste, even if the Commission assumes for the sake of argument that there exists some flexibility under the law, they should still adhere to this course of action for a number of compelling policy reasons. Most important, of course, is protect the public health, ensure treatment to minimize threats consistent with RCRA, and disincentivize impermissible dilution. The Commission should also send a strong message that cavalier attitudes toward improper waste management and irresponsible corporate stewardship such as Zenith's and Penske's won't be tolerated in the state of Texas. Finally, the Commission should take steps to ensure that emergency responders and responsible actors helping out after an accident are insulated from liability for their actions. Thus, the proper course of action is to manifest the waste to a licensed RCRA hazardous waste handler and determine through proper testing and analysis whether treatment will immobilize the lead.

5. LIST OF DOCUMENTS, REPORTS, AND DATA COMPILATIONS THAT HAVE BEEN RELIED UPON IN PREPARATION OF THIS REPORT

A list of documents, reports, and data compilations that have been relied upon in preparation of this report is attached as Exhibit B. Should additional material or facts come to

light, I reserve the right to amend my opinion.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M L Horinko'. The signature is fluid and cursive, with a distinct 'M', 'L', and 'H'.

Marianne Lamont Horinko

EXHIBIT A:

Marianne Lamont Horinko

Marianne L. Horinko is a Visiting Scholar at the Environmental Law Institute, a non-profit organization devoted to the study of U.S. and international environmental law. She is an internationally-recognized author and speaker on the topics of environmental cleanup policy, hazardous waste regulation, waste reduction and recycling, emergency response and homeland security, and "brownfields" revitalization.

Ms. Horinko was named Assistant Administrator for the Office of Solid Waste and Emergency Response at the U.S. Environmental Protection Agency by President George W. Bush in June 2001, a position she held until June 2004. She served as Acting EPA Administrator from July through November, 2003 during the interim between Administrators Christine Todd Whitman and Michael O. Leavitt.

During her tenure as Assistant Administrator, Ms. Horinko refocused the goals of her office around five major priorities: Homeland Security/Emergency Response; One Clean-up Program; Land Revitalization; Energy Recovery, Recycling & Waste Minimization; a Retail Environmental Initiative (the Resource Conservation Challenge) and Workforce Development.

Following the events of September 11, Ms. Horinko learned that she had both war time and peace time responsibilities, and spent her first few months at EPA in the unprecedented and unexpected

role of assisting in environmental cleanup activities at Ground Zero in lower Manhattan, the Pentagon in Washington DC, and the U.S. Capitol due to anthrax contamination. In 2003, as National Program manager, she oversaw EPA's response to the Columbia Space Shuttle Disaster. As a result of these experiences, she has led the way in crafting the groundbreaking National Approach to Response.

She brought new approaches to environmental protection using partnerships, flexibility and innovation to create environmental improvement. The Brownfields program, signed into law by President Bush in 2002, is a model for many of her efforts, as it is the embodiment of these new approaches to environmental protection. Under her leadership, the budget for the Brownfields program more than doubled.

During the first Bush Administration, Ms. Horinko was Attorney Advisor to Don Clay, EPA's Assistant Administrator for Solid Waste and Emergency Response. In that capacity she was responsible for RCRA regulatory issues and Superfund reauthorization. Subsequently, she served as President of Clay Associates, Inc., a national environmental policy consulting firm, where she launched the RCRA Policy Forum, a membership organization comprised of federal and state governments, environmental groups, Hill staff, and industries interested in furthering constructive dialogue to improve the nation's waste programs.

Ms. Horinko is an alumna of the University of Maryland, College Park (B.S. in analytical chemistry, 1982) and Georgetown University Law School (J.D., 1986). From 1986 to 1990, Ms. Horinko was an attorney at Morgan, Lewis & Bockius, involved in the areas of pesticides and hazardous waste

counseling, Clean Water Act and Superfund litigation, and environmental audits in connection with business transactions. She was responsible for both the Superfund Settlements Project and the Information Network for Superfund Settlements, a policy group of over 120 companies, law firms, and other organizations aimed at cooperative efforts to streamline cleanups.

She is married and has two children.

Bio Dated 8/17/04

EXHIBIT B - List of materials reviewed or relied upon in developing report

1. U.S. Environmental Protection Agency, "Land Disposal Restrictions for Third Third Scheduled Wastes," Final Rule, 55 Fed. Reg. 22520.
2. U.S. Environmental Protection Agency, "Land Disposal Restrictions for Third Third Scheduled Wastes," Proposal Rule, 54 Fed. Reg. 48372.
3. May 25, 2004 Letter to Bob Gregory, TDSL from Glenn Shankle, TCEQ re: Zenith Cathode Ray Tubes (CRT); Truck accident of October 9, 1997 and subsequent handling of CRT waste accident debris at the accident scene and at the TDSL landfill; TCEQ Permit No. 2123; Travis County.
4. TCEQ Docket No. 2004-0984-IHW-E, Penske Truck Leasing Co., L.P.'s Response to Texas Disposal Systems Landfill, Inc.'s Motions to Overturn, August 2, 2004.
5. June 30, 2004 Letter to John Steib, TCEQ from Gary Newton, TDSL re: June 18, 2004 letter to Marc Althen of Penske Truck Leasing Co. on Hazardous CRT Waste and Penske's Request for Authorization for Disposal of a Special Waste.
6. October 10, 1997, Fax from Charles J. Smith, Jr., Penske Truck Leasing, to Jim Gregory, Texas Disposal Systems Landfill, noting Penske as generator of spilled materials.
7. November 5, 1997 Letter from Chris Smith, TCEQ to Mark Althen, Penske Truck Leasing, re: Penske Truck Leasing Spill Located at South IH-35 near Buda, Hays County, Texas.
8. December 2, 1997 Letter to Chris Smith, TCEQ from Marc Althen, Penske Truck Leasing re: Penske Logistics Spill IH-35 Near Buda, Hays County, Texas.
9. January 15, 2004 Letter to Bob Gregory, TDSL from Wade Wheatley, TCEQ re:

- Commingled Cathode Ray Tube Regulated Hazardous Waste, Texas Disposal Systems
Landfill, Inc., TCEQ Permit No. MSW-2123, Travis County, Texas.
10. May 12, 2004 Letter to Glenn Shankle, TCEQ from Kerry Russell, Russell, Moorman,
and Rodriguez, L.L.P. re: May 6, 2004 TDSL Meeting.
 11. May 13, 2004 Letter to Brian Hard, Penske Truck Leasing from Glenn Shankle, TCEQ re:
Notice of Violation for the Sill Investigation at JH-35 South, near Exit 221, Buda, Hays
County, Texas.
 12. May 13, 2004 Letter to Bob Gregory, TDSL from Glenn W. Shankle, TCEQ re: Zenith
Cathode Ray Tubes (CRT); Accident of October 9, 1997.
 13. May 14, 2004, Opinion of Keith Hopson, Attorney-at-Law.
 14. September 2, 2004 Letter to Lydia Gonzalez Gromatsky, TCEQ from Charles J. Sheehan,
Regional Counsel, EPA Region 6.
 15. June 1, 2004 Letter to John Steib, TCEQ from Marc Althen, Penske Truck Leasing re:
Proposed Removal Plan, Notice of Violation dated May 13, 2004, Spill Investigation at
IH-35 South, near Exit 221, Buda, Hays County, Texas.
 16. June 4, 2004, Report of Robert M. Zoch, Jr., P.E.
 17. June 16, 2004, Letter to Lydia Gonzalez-Gromatsky, TCEQ from Gary Newton, TDSL re:
Response to May 20, 2004 letter regarding Cathode Ray Tube Regulated Hazardous
Waste, TCEQ Permit No. MSW-2123, Travis County Texas.
 18. June 18, 2004 Letter to Marc E. Althen, Penske Truck Leasing from John F. Steib, Jr.,
TCEQ.
 19. June 21, 2004 Request for Authorization for Disposal of a Special Waste from Waste

- Management, Inc. to TCEQ.
20. Penske/Zenith Hazardous Waste Handling General Timeline
 21. TCEQ Docket No. 2004-0984-IHW-E, In the Matter of the Authorization of Disposal of Waste as Special Waste Issued by the Executive Director, Executive Director's Response to Texas Disposal Systems Landfill, Inc.'s Motion to Overturn.
 22. TCEQ Docket No. 2004-0984-IHW-E, In the Matter of the Authorization of Disposal of Waste as Special Waste Issued by the Executive Director, Zenith Electronics Corporations's Response to Motion to Overturn.
 23. July 28, 2004 Letter to Bob Gregory, TDSL from John Steib, TCEQ.
 24. July 28, 2004 Letter to Gary T. Newton, TDSL from Michael A. Duff, Penske Truck Leasing.
 25. July 27, 2004 Letter to Mike Duff, Penske Logistics from Gary Newton, TDSL re: Response to your July 23, 2004 letter.
 26. July 23, 2004 Letter to Gary Newton, TDSL from Michael A. Duff, Penske Truck Leasing.
 27. July 8, 2004 Letter to Bob Gregory, TDSL from John F. Steib, Jr., TCEQ.
 28. TCEQ Docket No. _____, In the Matter of the Authorization of Disposal of Waste as Special Waste Issued by the Executive Director to Penske Truck Leasing Co., L.P., Texas Disposal Systems Landfill, Inc.'s Motion to Overturn the Executive Director's June 30, 2004 Decision.