

Senators concerned about lead-tainted garbage

Chairman of environmental panel vows to investigate why waste is still in municipal landfill

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AMERICAN-STATESMAN STAFF
Wednesday, November 10, 2004

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The chairman of the Texas Senate committee that oversees environmental issues on Tuesday promised an investigation into what he termed the perplexing years-long failure of top state regulators to see that 1,600 tons of lead-tainted garbage is disposed of safely and legally.

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Sen. Ken Armbrister, D-Victoria, was among several members of the Senate Natural Resources Committee who, during a hearing Tuesday, expressed dismay that the lead waste remained stranded at an Austin-area municipal landfill months after the senators assumed the issue was being resolved.

The senators also said they were concerned about potentially dangerous precedents in the case after Monday's statements by Glenn Shankle, the Texas Commission on Environmental Quality's executive director, that he is poised to drop the violation case.

Shankle had alleged in May that Penske Truck Leasing Inc. illegally sent tons of hazardous lead to the landfill in 1997.

Shankle said the Texas Disposal Systems Inc. landfill, by challenging the validity of the federally required shipping manifest that the trucking company wanted to use to remove the waste, was to blame for the recent delays and that he was thus considering dropping the violation case against Penske.

"After I saw the copy of the (May violation notice) letter sent by the executive director . . . I assumed the matter was resolved," Armbrister told the commission's waste permits chief, Wade Wheatley, who was testifying about planned changes in state landfill rules. "Now, we're a little bit perplexed.

"This committee is going to continue to investigate this to determine what . . . is going on."

After the hearing, which had been intended as a pre-session hearing on environmental issues, Armbrister said the panel would send staff members to the agency to investigate how the case has been handled.

In one of several swipes senators took at the performance of the senior agency staff, Armbrister told Wheatley, who said he has not been involved in the lead case for several months: "You deserve a little bit better continuity of management. Maybe we should ask Glenn Shankle to explain himself."

Neither Shankle nor his deputy directors, who have been handling the matter, attended Tuesday's meeting.

After getting a report on Tuesday's hearing, Shankle said, "We are trying to do everything possible to settle this issue."

Michael Duff, a senior Penske executive, said his company would follow the law and that the senators should not be concerned about improper shipment or disposal.

"We share everyone's frustration that this matter has not been resolved," he said. Texas Disposal "has stirred up unfounded fears that there will be improper disposal of the waste."

The routine hearing diverged into a critique of Shankle's decision and the agency's performance after Sens. Gonzalo Barrientos, D-Austin, and Craig Estes, R-Wichita Falls, asked Wheatley whether he thought the lead-tainted garbage was hazardous waste and whether it could be reclassified as non-hazardous because it was mixed and diluted with tons of garbage and clay.

Penske officials have argued that the tainted garbage is no longer hazardous waste and that Shankle initially agreed, though his decision was overturned.

Wheatley said such dilution was not legally acceptable. But he said he could not answer additional questions because he has not been involved in the case for months.

Armbrister and Estes, who praised Texas Disposal as "the gold standard in landfills," said they were most concerned that Shankle embraced a position that could allow hazardous chemicals and metals to be sent to municipal landfills intentionally and, after being mixed and diluted with garbage, allowed to remain.

"This is not about someone picking on a friend of a senator," Armbrister said, noting that he has known Texas Disposal owner Bob Gregory for many years. "They are doing something that jeopardizes every (community) in the state of Texas."

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