

Texas Disposal Systems Landfill, Inc.
Discarded Hazardous CRT/Color Television Tubes mixed with MSW and Clay Cover Soils
SEQUENCE OF EVENTS RELATING TO
HANDLING AFTERMATH OF 10/9/97 PENSKE TRUCK
ACCIDENT TRANSPORTING ZENITH CRTs
Through MAY 6, 2004 See Comments
Thereafter, only dates of letters and filings are listed,
except for short summaries of activities

Date	CST-Range	Narrative—Sequence of Events
10/09/97	12:50 p.m.	The load consists of 1,248 Zenith color television tubes, otherwise known as cathode ray tubes (CRTs). Accident occurs approximately 4½ miles from TDSL on IH-35 near Exit 221 in Buda, Hays County, Texas on a rainy day with wet pavement. The Penske truck and trailer overturned and slid down IH35 and came to rest straddling a bar-ditch and blocking the Buda Loop 4 Exit and extending onto a portion of the interstate highway. The trailer is broken open on the top and side and a portion of the load is spilled and broken on the pavement and in the bar-ditch. CRTs were being transported by Penske Truck Leasing and Penske Logistics for Zenith Electronics Corporation from its CRT manufacturing plant near Chicago to its Maquiladora television set assembly plant.
10/09/97	12:51 p.m.	<p>Penske driver, who is not injured, notifies Penske dispatch officer that accident has occurred before climbing out of the wrecked truck using an in cab satellite Qualcomm communication unit.</p> <p>Penske driver also borrows cell phone from someone who stopped to help and calls Penske dispatch to report accident and load damage. No mention of hazardous classification to Penske driver. Driver, who transported CRTs daily, had never been told to treat damaged CRTs as hazardous waste.</p> <p>Driver's supervisor calls Penske Risk Management after getting the call from the driver. No mention of hazardous classification.</p> <p>Driver's supervisor follows up later that day by filling out accident report and faxes a copy to Penske Logistics Safety Manager. No apparent mention of hazardous classification.</p>
10/09/97	12:51 p.m.	Call comes in to Hays County Sheriff's Office police radio notifying authorities of accident.
10/09/97	1:00 p.m.	TxDOT is notified of wreck and sends crew to restore traffic flow and to replace damaged highway signage.
10/09/97	1:01 p.m.	<p>DPS/TxDOT arrives at scene of accident. The DPS investigation found no basis to consider the load contents as hazardous. Site cleanup is handled as a nonhazardous total loss cargo.</p> <p>DPS accident report states that the 18-wheeler Penske Truck is not carrying Hazardous Materials. Report states that Hazardous Materials are not spilled in the accident. Penske driver tells DPS officer and other emergency response personnel the CRT's are not hazardous and later confirms his statements in sworn testimony.</p>

CST – Central Standard Time

Updated August 7, 2007

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		<p>There is no notice of hazardous classification if CRTs are broken or discarded on either the shipping manifest, the driver’s accident kit, the CRT’s, or the truck or trailer. There is no Material Safety Data Sheet (MSDS) in the truck that would have shown the CRTs to be hazardous if broken or discarded. Zenith represents there is approximately 42,000 pounds of CRT waste. Penske and Zenith made no effort to salvage any of the CRT waste. Zenith considered the damaged load of CRTs to be a total loss.</p> <p>Penske representatives later testify that the driver and other Penske personnel directly responsible for transporting and handling the CRT’s were not informed or trained concerning the hazardous classification and what to do when CRTs were damaged in a truck accident.</p>
10/09/97	1:30 p.m.	<p>Penske driver’s supervisor calls Zenith to advise of the accident.</p> <p>Zenith manager arranges to remind Penske representatives, including the Penske dispatcher, ‘if any of the tubes were broken, they must be considered hazardous and handled by and through approved hazardous waste carrier and landfill.’ Zenith acknowledges these instructions were given 40 minutes after the accident happened and prior to the start of any up righting of the trailer and any site cleanup.</p> <p>No communication is made to Penske driver, on site emergency response personnel, the TNRCC or to TDSL that the CRT’s are classified as hazardous if broken or discarded and must be manifested and disposed as hazardous waste.</p>
10/09/97	1:30 p.m.	<p>Penske Logistics, calls Penske Truck Leasing Company’s Service On Site (SOS) Department to report accident. SOS says if there are no fuel spills, no need to take any action.</p>
10/09/97	2:55 p.m.	<p>Penske driver calls Penske dispatcher at 800-310-4929 for 1 minute on the wrecker driver’s cell phone. No mention of hazardous classification to driver.</p>
10/09/97	2:58 p.m.	<p>Penske driver calls Penske dispatcher again at 800-310-4929 for 18 minutes on the wrecker driver’s cell phone. No mention of hazardous classification to driver.</p>
10/09/97	3:15 p.m.	<p>TxDOT representative calls TxDOT office and says that the truck was loaded with picture tubes. They are getting a front end loader to help clean up CRTs spilled on highway. TxDOT will finish the operation. TxDOT has no indication of hazardous classification so TxDOT employees become involved in cleanup without knowing hazardous nature of debris.</p>
10/09/97	3:19 p.m.	<p>Emergency response personnel assisting with the clean-up has a 6-minute call with TDSL. No mention of hazardous classification.</p>
10/09/97	3:36 p.m.	<p>Emergency response personnel assisting with the clean-up has a 2-minute call with Jim Gregory of TDSL. Mr. Gregory asks whether the State has any problem with TDSL accepting the waste. The response was no, it is just television picture tubes. At this point, no one at the accident scene, at TCEQ, or at TDSL knew that television tubes could or should be considered a hazardous waste if broken or discarded.</p> <p>TDSL begins receiving dump truck loads of CRT waste that had been loaded by TxDOT and that is incorporated into the working face of the TDSL</p>

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		landfill along with nonhazardous municipal solid waste from households and businesses. TDSL receives signed gatehouse receipt from the transporter for each load certifying that no hazardous waste was within any of the 7 dump truck loads before loads accepted for disposal.
10/09/97	3:56 p.m.	Penske Truck Leasing is advised by Penske Logistics that the driver was hauling TV picture tubes and ‘they are all over the road so we need to get a crew on the scene to clean it up.’
10/09/97	3:57 p.m.	Penske SOS finally calls Penske Environmental Manager and informs him that Zenith says the CRTs are hazardous for lead.
10/09/97	4:03 p.m.	Emergency response personnel involved in the clean-up has phone call with TDSL for 1 minute on cell phone. No mention of hazardous classification.
10/09/97	4:03 p.m.	Environmental Manager advises Penske that he will call the State of Texas Spill and Hazardous Material reporting line ‘to try to get info on the status’ of the accident cleanup.
10/09/97	4:04 p.m.	Emergency response personnel involved in the accident debris cleanup has 1 minute call with Jim Gregory to request roll-off containers to assist in the cleanup. No mention of hazardous classification.
10/09/97	4:05 p.m.	Penske SOS calls local Penske office ‘District Nbr 7802-14 (512) 326-3126),’ District advises that ‘no one in the shop. DREF – understaffed’. Penske still has not communicated with the emergency response personnel regarding the hazardous classification of the waste.
10/09/97	4:14 – 4:15 p.m.	Penske SOS calls Special Automotive, wrecker operator, who advises Penske ‘they are cleaning it up now with a couple of dump trucks and a loader.’
10/09/97	4:27 p.m.	TDS roll-off containers, arrive at accident scene as requested by emergency response personnel.
10/09/97	4:33 p.m.	Jim Gregory, TDSL co-owner and landfill manager, arrives at accident scene and Penske driver borrows his cell phone to call Penske dispatcher at 800-310-4929 for 34-minute call. The driver, DPS, TxDOT, and Jim Gregory eventually take turns talking to the Penske Environmental Manager, who notifies the parties at the accident scene, for the first time, that the damaged CRTs are a hazardous waste. All site cleanup stops.
10/09/97	4:44 p.m.	Penske Truck Leasing/PTL SOS Report notation: “STOP!! Consult with MH 6723”. Penske finally establishes communication with Penske driver at the accident to tell him the CRTs are hazardous waste.
10/09/97	4:45 p.m.	Jim Gregory contacts TDSL gatehouse and landfill equipment operators by radio to stop accepting CRT’s, immediately after Penske Environmental Manager tells Mr. Gregory the CRT’s are classified as hazardous. Mr. Gregory received the information from Penske on the cell phone conversation that began at 4:33 p.m. referenced above. TDSL had already received 7 dump truck loads with about 98 cubic yards of CRT waste. TDSL rejected and turned away 2 loaded dump trucks that had not yet dumped their loads, moved the active landfill working face unloading activities to another area, and isolated the area of the landfill containing the commingled hazardous CRT waste, so that no additional waste could be added or contaminated.

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10/09/97	4:45 p.m.	<p>TxDOT is called by TNRCC to ask what is going on. TNRCC has received a call from Penske advising that the TV picture tubes at the accident scene contain lead and phosphorous.</p> <p>TxDOT representative calls TxDOT office at same time to report that wrecker company had a call from Environmental Protection Agency (EPA) about the hazard. TxDOT representative tells office ‘stopped the operations and started working on getting someone to cleanup.’ All on site cleanup operations cease, until a hazardous waste cleanup contractor arrives to complete the job.</p>
10/09/97	After 6 p.m.	<p>TNRCC gives authorization for remainder of hazardous CRT waste to be transported to TDSL and stored in containers on TDSL property until proper disposal can be arranged. Code 3, Inc., a hazardous waste remediation contractor, was brought in at Penske’s expense to complete the accident cleanup.</p>
10/10/97		<p>TDSL requests that Penske remove all the hazardous CRT waste from TDSL. Penske represents to TDSL that it will take care of the situation and properly dispose of the hazardous CRT waste mixed with other waste in the landfill and stored in containers on the landfill site.</p> <p>Penske sends TDSL a fax identifying Penske as the generator of the hazardous CRT waste. Penske sends Code 3, Inc. a fax identifying Penske as the generator of the hazardous CRT waste.</p> <p>TDSL removes all visible hazardous CRT waste, CRT load packing materials and other municipal solid waste (MSW) visibly contaminated with shards of CRT glass from the surface to the landfill working face and placed in 2 roll-off containers. These containers were placed with other roll-off loads of the CRT waste loaded by Code 3, Inc. and hauled from the accident scene.</p> <p>TNRCC informed TDSL that all remaining hazardous CRT waste must be removed from the landfill cell by either separating out the pieces of CRT waste from the MSW or removing whole commingled waste volume, which was estimated to be approximately 1660 cubic yards.</p> <p>TNRCC allowed commingled MSW and hazardous CRT waste to be stored both in the landfill and in containers while TDSL, Penske, and Zenith worked out the arrangements for proper handling and disposal.</p>
10/10/97		<p>TDSL places additional clay soil “daily cover” over commingled hazardous CRT waste since Penske/Zenith has not removed their CRT waste or made a firm commitment to remove hazardous CRT waste. The need to protect the public health and environment out weighted the addition of additional volume.</p>
10/16/97		<p>TDSL sends letter to Penske/Zenith requesting that Penske immediately arrange for the removal and proper disposal of all the hazardous CRT waste.</p>
10/20/97		<p>TDSL sends letter to Penske/Zenith demanding that they either arrange for proper disposal of all the hazardous CRT waste or declare that the CRT</p>

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		material that came to the landfill is not hazardous.
10/22/97		TNRCC Region 11 office gives TDSL verbal authorization under their emergency powers to allow the hazardous CRT material to remain at TDSL while pursuing a resolution with Penske/Zenith.
10/23/97		Penske sends letter to TDSL accepting responsibility for the hazardous CRT waste in the containers, but disavowing any responsibility for the commingled hazardous CRT waste stored in the landfill. Penske instead blames the government officials and emergency response companies, including TDSL, for the hazardous CRT waste going to an unauthorized facility, instead of accepting responsibility for the mismanagement of their waste generated at the accident scene.
11/05/97		TNRCC sends a certified letter to Penske initiating an investigation of the incident and requesting documentation “regarding the verification of cleanup as well proper disposal of any waste generated.”
11/11/97		TDSL sends another demand letter to Penske/Zenith detailing Penske’s actions which TDSL believed to be the proximate cause of the hazardous CRT waste being delivered to TDSL.
11/20/97		Zenith responds to TDSL’s 11-11-97 letter with a letter that said, “We do not think there is any doubt that you have stated a basis for Penske’s liability for the disposal of the broken tubes at Texas Disposal.”
12/01/97		TDSL sends another letter to Penske/Zenith with cost estimates for removing the hazardous CRT waste from the landfill. TDSL explained it could not accept hazardous waste for disposal under any conditions.
12/02/97		Penske sends a letter to the TNRCC in response to the 11-5-97, investigation letter from the TNRCC. Penske states it was attempting to properly dispose of the stockpiled waste at a permitted hazardous waste disposal site, without distinguishing the waste in the landfill from the waste in the containers. Penske states in writing the CRT’s were indeed hazardous waste.
12/11/97		TDSL sends letter to Penske/Zenith requesting reimbursement for damages and says CRT material can only stay in the TDSL landfill if it is not hazardous.
12/17/97		Penske responds with counter offer that was deemed insufficient to resolve the matter by TDSL.
01/06/98		Zenith sends information to TDSL, which they said would show the CRT material was nonhazardous, but actually contained analytical results which confirms the CRT’s Toxicity Characteristic Leachate Procedure (TCLP) test as hazardous waste.
01/13/98		Penske hires Code 3, Inc. a hazardous waste remediation company, to separate the hazardous CRT waste from the nonhazardous waste in the roll-off containers stored on TDSL property, but still refuses to address the hazardous CRT waste stored in the landfill commingled with MSW and clay cover soils.
02/03/98		TDSL sends another letter to Penske/Zenith requesting all the hazardous CRT waste be removed and to reimburse TDSL for the damages caused by their actions/inactions.

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02/06/98		Penske letter to TDSL rejecting the proposal in the TDSL 02/03/98 letter.
02/16/98		TDSL sends one last letter in an attempt to resolve matter before filing a lawsuit.
02/19/98		Penske sends letter to TDSL rejecting the TDSL's offer in its letter dated 02/16/98.
02/23/98		TDSL files the Original Petition that initiated legal action against Penske and Zenith. This lawsuit continues to be prosecuted by TDSL today.
02/24/98		TDSL pushed commingled hazardous CRT waste, municipal solid waste and clay cover soils a short distance to the edge of landfill cell for temporary storage and encapsulation under a clay and plastic cover. All waste is pushed under the control of Code 3, Inc. and consistent with TNRCC Regional office inspectors guidelines related to the volume of waste needed to be removed or sorted through to insure that all CRT waste was removed and properly disposed. Commingled CRT waste mixture was photographed and surveyed in place to aide in future removal from the landfill for offsite disposal.
03/23/98		Penske sends two roll-off containers of hazardous CRT waste to a hazardous waste facility for disposal as D008 hazardous for lead. Those loads have the first known hazardous waste manifests related to the accident debris.
03/26/98		Penske directs the shipment of 5 roll-off containers of Code 3, Inc. segregated nonhazardous waste to another MSW landfill for disposal as nonhazardous MSW. Code 3, Inc. had separated the non hazardous waste out of the commingled mixture of hazardous CRT waste, MSW and clay cover soils.
04/29/98		TNRCC annual inspection report for TDSL indicates no violations for CRT incident, or otherwise, and expressly states that the hazardous material may remain at TDSL, allowing TDSL to pursue litigation.
06/10/98		TNRCC Spill Report for the Penske truck accident investigation that began with the 11/5/97 letter. The report states that Penske's hazardous CRT waste in containers was disposed as hazardous waste and the commingled hazardous CRT waste remained at TDSL, which left the matter unresolved for TDSL.
07/24/03		TDSL gives notice to Penske/Zenith that the hazardous CRT waste will have to be removed soon or else it would be covered by other nonhazardous waste, due to the required fill sequence prescribed in the landfill permit site development plan.
12/19/03		Penske sent a letter to TDSL stating that Penske agrees to be listed as the generator and arranger for disposal of the commingled CRT waste, if TDSL pays for the removal, transportation and disposal of the commingled CRT waste at a hazardous waste landfill.
12/30/03		Zenith files motion to the trial court seeking permission to test the commingled hazardous CRT waste.
01/06/04		Zenith represents to the court that it does not matter how the CRT waste is classified as it entered the TDSL landfill; and that all that matters is the hazardous classification on the waste in its commingled state. While reserving his judgment on whether the test would be admissible in the trial, the trial court judge enters an order allowing Zenith to test the commingled

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		hazardous CRT waste to determine whether the commingled waste was hazardous. This was the first indication that Zenith would claim that the CRT waste was non hazardous.
01/09/04		TDSL meets with TCEQ technical staff (Wheatley, Carmichael and Boultinghouse) to discuss issues surrounding the hazardous CRT waste generator regulations, whether a generator classified regulated hazardous waste could be mixed with nonhazardous waste and then tested to determine whether the waste was nonhazardous, and proposed testing, among other things later described in letters and depositions.
01/13/04		TDSL submits letter to TCEQ requesting approval to place commingled hazardous CRT waste in plastic lined roll-off transport containers.
01/15/04		TCEQ sends letter a to TDSL authorizing the containerization and storage of the commingled hazardous CRT waste for future off site disposal. The letter also stated it was against state and federal regulations to mix characteristic hazardous waste with nonhazardous waste to dilute the hazardous waste to render it nonhazardous and that testing on the commingled waste cannot be done to show the characteristic hazardous waste to be nonhazardous.
01/26/04		TDSL submit request to TCEQ for temporary use of synthetic cover as intermediate cover during containerization project
01/27/04		TCEQ approves request for temporary use of synthetic cover for intermediate cover during commingled waste containerization project
01/29/04		TDSL begins containerization of commingled hazardous CRT waste
01/30/04		Deposition of a TCEQ representative; Director of Waste Permits Division, Wade Wheatley
02/02/04		Deposition of a TCEQ representative; Director of Waste Permits Division, Wade Wheatley
02/02/04		TDSL finishes placing approximately 1,600 tons of commingled hazardous CRT waste into plastic lined containers for continued storage and offsite disposal.
02/03/04		Deposition of a TCEQ representative; Industrial/Hazardous Permits team member, Jessie Boultinghouse and Municipal Solid Waste Permits Section Manager, Dr. Richard Carmichael.
03/11/04		TDSL writes TCEQ formally seeking enforcement against Penske and Zenith, as well as urging the immediate removal of the commingled CRT waste stored in roll-off containers on the TDSL site. Follow up letters are sent to TCEQ by TDSL on 4/5/04 and 4/28/04 responding to Zenith, Penske and agency comments and clarifying TDSL's enforcement request.
03/25/04		TCEQ files motion opposing TDSL's efforts to have TCEQ personnel testify on interpretation of TCEQ hazardous waste regulations. The Judge immediately grants TCEQ's motion and prevents TCEQ personnel from testifying on these matters in the upcoming trial.
04/05/04		Follow-up letter from TDSL to TCEQ on Penske/Zenith enforcement matters.
04/12/04		Jury trial begins in Hays County District Court.
04/24/04		Austin American-Statesman publishes article on trial.
04/26/04		Judge grants Penske/Zenith motion for mistrial, based upon their concerns related to the Austin American-Statesman article, even though none of the

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		jurors, or the 2 alternatives, had read the newspaper article. Judge orders another mediation between the parties to be completed by the end of July and scheduled a new trial date for 9/13/04.
04/28/04		Follow-up letter from TDSL to TCEQ on Penske/Zenith enforcement matters.
5/12/04		Letter to Glenn Shankle (TCEQ) from Kerry Russell re: 5/6/04 TDSL meeting.
5/12/04		Letter to John Steib (TCEQ) from Gary Newton in response to 5/6/04 letter from Penske
5/13/04		Letter to BG from Glenn Shankle re: no further action needed from TDSL on 10/9/97 accident
5/13/04		Letter to Brian Hard (Penske) from Glenn Shankle (TCEQ) re: Notice of Violation (NOV) for the spill investigation at IH35 S, Hays County, TX
5/20/04		Letter to Gary Newton from Lydia Gonzalez Gromatzsky (TCEQ) re: 5/12/04 TDSL letter
5/21/04		Letter to Glenn Shankle (TCEQ) from Bob Gregory re: 5/13/04 TCEQ ltr
5/25/04		Letter to Bob Gregory (TDSL) from Glenn Shankle re: 5/21/04 TDSL ltr
6/1/04		Letter to John Steib (TCEQ) from Marc Althen (Penske) re: Proposed removal plan NOV 5/13/04
6/7/04		Letter to TCEQ Commissioners from John Q Citizen re: TDSL
6/16/04		Letter to Lydia G. Gromatzsky (TCEQ) from Gary Newton (TDSL) in response to 5/20/04 letter
6/17/04		Motion to Reconsider and Clarify Ruling in Light of Recent TCEQ Investigation and Findings
6/18/04		Letter to Marc Althen (Penske) from John Steib re: the removal of waste from TDSL
6/23/04		Letter to Lydia G. Gromatzsky (TCEQ) from Phillip Comella (Zenith) in response to TDSL's 6/16/04 letter
6/28/04		Letter to John Steib (TCEQ) from Marc Althen re: proposed removal plan NOV dated 5/13/04
6/30/04		Letter to Marc Althen (Penske) from Wade Wheatley re: NOV Proposed Removal Plan 5/13/04
6/30/04		Letter to John Steib (TCEQ) from Gary Newton (TDSL) in response to the 6/18/04 letter to Marc Althen from John Steib (TCEQ)
7/1/04		Fax to BG (TDSL) from Marc Althen (Penske) re: the removal of waste from TDSL
7/1/04		Fax to Marc Althen (Penske) from Bob Gregory (TDSL) re: the removal of CRT hazardous waste from TDSL
7/2/04		Fax to Gary Newton from Marc Althen (Penske) re: the removal of waste from TDSL
7/2/04		Fax to Marc Althen (Penske) from Bob Gregory (TDSL) re: not releasing the waste until Penske meets all concerns
7/2/04		Plaintiff's Sixth Amended Petition
7/6/04		Fax to Marc Althen (Penske) from Bob Gregory (TDSL) re: confirming and documenting the issues covered in our first ever telephone conversation this afternoon.

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7/7/04		Fax to Bob Gregory from Marc Althen re: the removal of waste located at TDSL.
7/7/04		Fax to Marc Althen from Bob Gregory re: the removal of CRT hazardous waste from TDSL
7/7/04		Letter to John Steib (TCEQ) from Marc Althen (Penske) re; 5/13/04 NOV and Marc Althen affidavits
7/8/04		Letter to BG from John Steib re: notification from Penske that TDSL is refusing to release the waste to Penske
7/9/04		Motion to Overturn
7/12/04		Letter to Richard Greene (EPA) from Bob Gregory (TDSL) re: hazardous cathode ray tube commingled waste stored at the TDSL MSW landfill in Travis County
7/13/04		Legal Memorandum
7/13/04		Letter to Richard Greene (EPA) from Bob Gregory (TDSL) re: hazardous CRT commingled waste stored at TDSL
7/14/04		Letter to Bob Gregory from David Gray (EPA) in response to 7/11/04 TDSL letter to EPA
7/15/04		Plaintiff's Eleventh Supplemental Response to Request for Disclosure under Rule 194.2
7/15/04		Plaintiff's Seventh Amended Petition and Application for Permanent Injunction
7/15/04		Zenith's Response to Motion to Overturn
7/19/04		Plaintiff's Original Petition – TDSL & Texas Campaign for the Environment vs. TCEQ
7/22/04		Letter to Richard Greene (EPA) from Bob Gregory (TDSL) re: a meeting with TDSL on the hazardous CRT waste matter
7/22/04		Brief in Support of Motions to Overturn
7/23/04		Letter to Marc Althen (Penske) from John Steib (TCEQ) re: 7/12/04 test sampling results of CRT waste in TDSL
7/23/04		Fax to Gary Newton (TDSL) from Mike Duff (Penske) re: removing the CRT waste from TDSL on July 26, 2004.
7/26/04		Fax to Bob Gregory from Brent Wade (TCEQ) re: Chain of Custody (COC) tags
7/27/04		Letter to Mike Duff (Penske) from Gary Newton (TDSL) in response to the 7/23/04 letter to TDSL from Mike Duff (Penske)
7/28/04		Letter to BG from John Steib re: the sampling taken on 7/12/04 and that Penske is going to dispose of it as special waste
7/30/04		Penske's response to TDSL's Motion to Overturn
8/4/04		Letter to Mark Vickery (TCEQ) from Gary Newton re: application for Public Information
8/5/04		Zenith's Response to TDS Brief in Support of its Motion to Overturn
8/13/04		ED's Response to TDSL's Motion to Overturn
8/17/04		Letter to Glenn Shankle (TCEQ) from Pamela Giblin (Penske) re: actions taken by Penske in a diligent effort to comply with the action request from TCEQ
8/20/04		Letter to Pamela Giblin from Glenn Shankle in re: to Penske compliance with

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		3/13/04 NOV
8/27/04		TCEQ letter setting date of Motion to Overturn ED Authorization for September 10, 2004 at 9:30 a.m.
8/31/04		Letter from TCEQ with changes of agenda date for Motions to Overturn the Executive Director's decision.
9/1/04		Letter to TCEQ Commissioners from Senator Barrientos
9/2/04		Letter to Lydia Gonzalez-Gromatzsky, TCEQ, from USEPA
9/3/04		Letter to TCEQ Commissioners from Representative Kuempel
9/7/04		Zenith's Supplemental Brief in Opposition to TDSL's Motion to Overturn
9/7/04		Letter to TCEQ Commissioners from Senator Lindsay
9/8/04		Letter to TCEQ Commissioners from Senator Wentworth
9/8/04		TDSL's Reply to the Executive Director's Response to Motion to Overturn
9/8/04		Zenith's Response to Motion to Overturn
9/8/04		Penske's Response to Motion to Overturn
9/8/04		The Public Interest Counsel's Response to Motion to Overturn
9/8/04		Penske's Supplemental Response to TDSL's Motion to Overturn
9/8/04		Executive Director's Supplemental Response to TDSL's Motion to Overturn
9/9/04		Letter to TCEQ Commissioners from Senator Armbrister
9/16/04		Interim Order granting TDSL's Motions to Overturn regarding the Executive Director's June 18, 2004 and June 30, 2004 letters allowing Penske Truck Leasing Co., L.P. to dispose of commingled picture tube waste as municipal solid waste special waste; TCEQ Docket No. 2004-0984-IHW-E (See Hearing Transcript)
9/24/04		TCEQ letter/order to Mr. Marc E. Althen, Senior Vice President, Penske Truck Leasing re: removal of CRT waste no later than October 27, 2004
10/6/04		Penske's Motion for Rehearing, In the Matter of the Authorization of Disposal of Waste as Special Waste issued by Executive Director to Penske Truck Leasing, Co., L.P.
10/7/04		Letter to Gary T. Newton, TDS, from Michael A. Duff, Penske, re: arranging a date for contractors to begin process of removing 99 roll offs for off-site testing
10/8/04		Letter to Michael A. Duff, Penske, from Gary T. Newton, TDSL, re: logistics for transporting the 99 roll off boxes under a Penske hazardous waste manifest and issues regarding same
10/12/04		Letter to Gary t. Newton, TDS, from Michael A. Duff, Penske, re: Penske's intent to remove the roll offs to a permitted facility and then test the material
10/15/04		Letter to Glenn Shankle, TCEQ, from Bob Gregory, TDSL, re: September 24, 2004 Executive Director Order to Penske Truck Leasing Co., L.P. (Penske)
10/15/04		Plaintiff's Original Petition, Plaintiff Penske Truck Leasing Co., L.P., v. Defendant Texas Commission on Environmental Quality
10/15/04		Penske's Motion to Overturn, In the Matter of the Request to Remove Waste Manifested as Hazardous Waste issued by Executive Director to Penske Truck Leasing Co., L.P.
10/17/04		Letter to Gary T. Newton, TDS, from Michael A. Duff, Penske re: their intention to begin the removal of the roll offs at the TDS facility on October

Sequence of Events: Aftermath of Accident

Updated August 7, 2007

Date CST-Range Narrative—Sequence of Events

		25, 2004
10/18/04		Texas Disposal Systems Landfill, Inc.'s Motion to Overturn Portions of the Executive Director's September 24, 2004 Decision
10/18/04		Texas Disposal Systems Landfill, Inc.'s Reply to Penske Truck Leasing Co., L.P.'s Motion for Rehearing
10/19/04		Letter to Bob Gregory, TDSL, from Glenn Shankle, Texas Commission on Environmental Quality, re: clarification of September 24 th letter to Penske Truck Leasing
10/20/04		Letter to Gary Newton, TDS, from Michael Duff, Penske, re: their intent to begin actual removal on October 25 th
10/21/04		Letter to Mr. Michael A. Duff, Penske Truck Leasing Co., L.P., from Gary Newton, TDSL re: Response to your letters dated October 17 th and 20 th of 2004
10/21/04		Letter to Gary Newton, TDS, from Michael A. Duff, Penske, re: Penske's disagreement with conditions set forth by TDSL in order to remove waste
10/22/04		Plaintiff's Original Petition, Penske Truck Leasing Co., L.P. vs. Texas Commission on Environmental Quality`
10/25/04		Letter to Mr. Mark Althen, Penske Truck Leasing Co., L.P. from Bob Gregory, TDSL re: TDSL's understanding of Penske's intent to comply with Glenn Shankle's May 13, 2004 and September 24, 2004 orders to remove the 99 containers of CRT contaminated solid waste from TDSL by October 27, 2004
10/25/04		Plaintiff's Original Petition, Texas Disposal Systems Landfill, Inc. and Texas Campaign for the Environment v. Texas Commission on Environmental Quality
10/25/04		Texas Disposal Systems Landfill, Inc.'s Reply to Penske Truck Leasing Co., L.P.'s Motion to Overturn
10/29/04		Letter to Mr. Bob Gregory, TDS, Inc., from Michael A. Duff, Penske, re: Penske's desire to move waste as shown on attached manifest-to begin process November 3, 2004
10/29/04		Letter to Michael A. Duff, Penske, from Gary Newton, TDSL, re: Response to Draft Penske Manifest
11/8/04		Memo from TCEQ re: Motions to Overturn concerning the Executive Director's September 24, 2004 letter issued to Penske Truck Leasing Co., L.P. – extending the time for the Commission to act on this Motion until November 18, 2004
11/10/04		TDSL and Texas Campaign for the Environment's Original Petition in Intervention, in Cause No. GN403433, Penske Truck Leasing Co., L.P., Plaintiff, vs. Texas Commission on Environmental Quality, Defendant
11/16/04		Letter to Mr. Glenn Shankle, TCEQ, from BG, TDSL, re: November 5, 2004, Meeting regarding Penske/Zenith D008 Hazardous Waste Stored at TDSL Landfill and TDSL recommendations for TCEQ actions
11/17/04		Notice from TCEQ setting TDSL's motion for consideration by the Commission at a public hearing to be held on Wednesday, December 1, 2004, regarding Motions to overturn concerning the Executive Director's September 24, 2004 letter issued to Penske Truck Leasing Co., L.P.
11/19/04		Texas Disposal Systems Landfill, Inc. and Texas Campaign for the

Date CST-Range Narrative—Sequence of Events

		Environment v. Texas Commission on Environmental Quality, Original Answer of Defendant, Texas Commission on Environmental Quality
11/30/04		In the Matter of Texas Disposal Systems Landfill’s Motion to Overturn before the Texas Commission on Environmental Quality, Zenith Electronic Corporation’s Response to TDSL’s Motion to Overturn Executive Director’s September 24, 2004 Letter
11/30/04		Penske Truck Leasing Co., L.P.’s Response to Texas Disposal Systems Landfill Inc.’s Motion to Overturn Portions of the Executive Director’s September 24, 2004 Decision
12/1/04		TCEQ Commissioner’s hearing re: TDSL’s Motion to Overturn (See Hearing Transcript)
02/01/05	1:00 p.m.	Senate Natural Resources Committee Hearing re: Status of material in the TDS Landfill resulting from an October 9, 1997, trucking accident involving Zenith electronic components (TV picture tubes).
10/10/05		Letter to Glenn Shankle, TCEQ, from Pam Giblin, Baker Botts, re: Penske NOV and their intent to proceed with litigation pending in Hays County Court.
10/12/05		Letter to Pam Giblin, Baker Botts, from Glenn Shankle, TCEQ, in agreement with Penske’s stance to handle dispute in Court. Shankle states he plans to take no further action on NOV pending the resolution of court proceedings.
11/05		Due to the ED’s statement that he will take no further action to bring enforcement against Zenith and Penske until after the Hays County trial, and TCEQ’s eight-year refusal to properly enforce RCRA, TDS notifies EPA of its intent to seek removal of TCEQ’s delegated authority to administer and enforce the RCRA hazardous waste program in Texas.
11/05		TDSL files Petition for Withdrawal of Program Approval for Texas RCRA Hazardous Waste Program seeking action by the U. S. Environmental Protection Agency (EPA) to resolve a major ongoing conflict between the hazardous waste program of the State of Texas and federal law.
01/06		New judge is appointed in Hays County case to hear damage issues.
05/06		EPA Region 6 denies TDSL Petition to Withdraw the Texas RCRA Program, based on inaccurate assumptions and inappropriate interpretation of state and federal hazardous waste management regulations. EPA effectively grants an inadvertent dilution exemption for toxic characteristic hazardous waste that is diluted after the point of waste generation. Further, EPA inappropriately finds that no enforcement is warranted.
08/06		Appeals of EPA’s May 16, 2006 “Determination as to Whether Cause Exists to Withdraw the Texas RCRA Program” are filed in three Federal District Courts in the name of TDSL and several environmental organizations.
06/07		New trial date scheduled for October 15, 2007.
06/21/07		TDSL files a Petition to Review the Executive Director’s Action and Order Proper Disposal of Hazardous Waste
7/30/07		TCEQ issued An Order that within 30 days... Penske to remove all waste... under an unconditional... hazardous waste manifest...