

June >, 1995

Mr. David L. Quarterson
Florida Tire Recycling, Inc.
9675 Range Line Road
Port St. Lucie, FL 34987

St. Lucie County
SW - FTRI
Enforcement Files

RE: Letter of Correspondence Deated May 25, 1995

Dear Mr. Quartereson:

We have reviewed your letter responding to the Penalty Computation Worksheet concerning the FTRI facility. Below is a response to each of your concerns and the rationale for the adjustment of the penalty therein for each item as calculated by the Department between the dates of February 2, 1990 till Decemeber 10, 1993 inclusive.

ITEM #1 - EXCEEDING WASTE TIRE PILE DIMENSIONS, NO FIRE LANES & STORAGE REQUIREMENTS

We concur with your comments as stated, however, there were two (2) inspections which clearly documented this violation, not one as stated. The dates of those inpsctions were February 2, 1990 and April 10, 1992. Consequently, the penalty would be reduced from \$54,000.00 to ~~\$18,000.00~~.

ITEM #2 - NO PERMIT MODIFICATION TO MAINTAIN A WASTE TIRE SITE TO INCREASE STORAGE

We concur with your comments as stated and the penalty for this item has been eliminated. For your information, we contacted the DEP offcies in the Northwest Distrcit and the Southwest District concernig your allegations about the Department's handling of other enforcment cases and penalties associated with those cases.

First, in the Escambia County case, the Northwest District solid waste section has notified us that to the best of their knowledge, there has been no case where there was a penalty calculated to be "\$2.54 million dollars". There was a waste tire case in Wakulla County where approximately 1.2 million tires had accumulated on a private parcel of land. Enforcement action was taken against the operator of the site ordering him to abate the waste tire site and pay a fine of \$492,000.00. The waste tire site was not abated. The Dpeartment filed a complaint in Wqkulla County. A Final Order was entered into by a Wakulla County judge against the operator. The court ordered the operattor to abate the waste tire site and to pay the fine. The operator did neither and the judgement still stands. Cosequently, the Dpeartment took enforcement against the landowner. The landowners fine was computated utilizing the same penalty sheets, as done for your facility, to be \$40,000.00. The landowner abated the waste tire site at a cost of \$800,000.00. The fine was waived.

Second, in the National Tire Recycling (NTR) case, this site never had

a permit to operate. A Consent Order, #90-1298, was executed between the Department and NTR. Under the terms of the Consent Order, NTR was allowed to operate until such time a permit was either issued or denied for their facility. NTR applied for a permit but was denied on September 13, 1993. In February 1994, the Department's Southwest District Office sent a letter to NTR notifying them that continued operation of this unpermitted facility beyond September 15, 1994 was a violation of the Consent Order and that stipulated penalties of \$11,300.00 had accrued to that point. NTR and a representative of Viking Recycling (VR) met with the Department in March 1994 and informed the Department that VR was in the process of purchasing NTR and that VR was willing to abate the waste tire site after a permit was obtained as a waste tire processing facility. A Consent Order was drafted outlining deadlines and removal rates which both NTR and VR would be responsible for. The Consent Order also included the pre-stipulated penalty of \$11,300.00. The Department then awaited VR's acquisition of NTR for several months. VR applied for a waste tire processing permit but was denied. During this interim period, NTR continued to work on site stabilization and removal of the waste tires at the site. NTR made significant progress in the opinion of the Southwest District staff for maintaining waste tire piles in accordance with Chapter 62-711, F.A.C., consequently no additional pre-stipulated penalties were sought. A revised Consent Order was recently sent to NTR which still includes the former \$11,300.00 penalty previously.

ITEM #3 - MODIFIED M.S.S.W. - NO PERMIT

Both FTR and the Department's letters concur. No penalty adjustment is necessary. The penalty would remain the same at ~~\$900.00~~.

ITEM #4 - LATE YEARLY REPORTS

The yearly reports required for all Waste Tire Processing Facilities were late. In fact, the yearly reports for 1989-1990, 1990-1991 and 1991-1992 were not submitted until June 1992. Consequently, the penalty would be reduced from \$1,600.00 to ~~\$1,200.00~~.

ITEM #5 - LACK OF YEARLY FINANCIAL CLOSURE COST ESTIMATES

FTR didn't submit the yearly closure cost estimates for the first three years after the permit was issued. Consequently, the penalty would be the same at ~~\$1,200.00~~.

ITEM #6 - INADEQUATE FINANCIAL RESPONSIBILITY

FTR has not been in compliance with financial responsibility soon after this facility was permitted and as you know, FTR will not be in compliance with financial responsibility for at least another year or longer. Consequently the penalty would remain the same at ~~\$1,600.00~~.

ITEM #7 - NO WASTE TIRE DECAL ON TRACTOR

Both FTR and the Department's letters concur. No penalty adjustment is necessary. The penalty would remain the same at ~~\$400.00~~.

ITEM #8 - FAILURE TO RECYCLE/REMOVE 75% OF WASTE TIRES YEARLY

Previous records of FTR were not as accurate as the current records are according to FTR personnel. Visual inspections conducted by Department personnel from the ground surface and from aerial photography of this facility indicate that FTR did not meet this requirement as claimed during the first years of operation. Consequently, the penalty would be reduced to ~~\$1,200.00~~.

The revised total amount of the penalty is \$23,300 plus \$35,240.21 for costs which equals ~~\$58,540.21~~.

~~\$~~ 59,740.21

24,500