



# Department of Environmental Protection

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August 14, 1995

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Phillips Point, Suite 500 East  
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RECEIVED

AUG 18 1995

Re: Department of Environmental Protection vs.  
Florida Tire Recycling, Inc. OGC NO. 92-1094C.

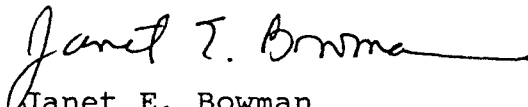
DEPT OF ENV PROTECTION  
WEST PALM BEACH

Dear Jim:

Enclosed for your review and comment is a "Stipulation and Request for Consent Final Judgment" which the Department proposes as settlement of Florida Department of Environmental Protection vs. Florida Tire Recycling, Case No. 93-895 CA.

Please give me a call at (904) 921-9660 after you have had an opportunity to review the Stipulation. If acceptable to Florida Tire, I would like to file the "Stipulation of Settlement" with the Court early next week.

Sincerely yours,

  
Janet E. Bowman

cc. Carlos Rivero-deAguilar  
Vik Kamath  
Joe Kahn  
Joe Lurix

**DRAFT**

IN THE CIRCUIT COURT OF  
THE NINETEENTH JUDICIAL  
CIRCUIT IN AND FOR  
ST. LUCIE COUNTY, FLORIDA

CASE NO. 93-895 CA

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,

Plaintiff,

vs.

FLORIDA TIRE RECYCLING, INC.,

Defendant.

\_\_\_\_\_/

**STIPULATION OF SETTLEMENT AND REQUEST FOR CONSENT FINAL  
JUDGMENT**

Plaintiff, State of Florida, Department of Environmental Protection ("DEP" or "Department") and Defendant, Florida Tire Recycling, Inc. ("Florida Tire"), hereby enter the following Stipulated Settlement Agreement ("Stipulation") and respectfully request the Court to enter a Consent Final Judgment adopting the terms of the Stipulated Settlement Agreement set forth below:

1. The Court has jurisdiction over the subject matter and over the parties hereto.
2. The Department is the administrative agency of the State of Florida having the duty and authority to administer and enforce the provisions of Chapter 403, Florida Statutes.
3. Florida Tire is a Florida Corporation and is a person within the meaning of Sections 403.031(5) and 403.703(4), Florida Statutes.
4. On January 14, 1994, the Court entered an order adopting the "Stipulation and Consent for Injunction" (Consent Injunction) attached hereto as Exhibit A.
5. The Consent Injunction requires Florida Tire to reduce and reconfigure the volume of waste tires at the site, construct stabilized fire roads, construct a Management and Storage of Surface Water System (MSSW), and either obtain a waste tire processing permit from the Department or remove all

of the waste tires from the site by December 31, 1994. Florida Tire has submitted to the Department a Waste Tire Processing Permit application to process and store a maximum of 9700 tons of waste tires at the Port St. Lucie facility. Florida Tire estimates that as of December 31, 1994, the volume of waste tires present at the site was 24,642 tons.

6. On November 7, 1994, the Department issued a Management and Storage of Surface Waters (MSSW permit #56-2451186) to Florida Tire. The MSSW permit authorizes construction of improved roadways, storage pads for waste tires and stormwater storage capability. Construction of the MSSW system had not commenced as of December 31, 1994. On July 17, 1995, the Department issued a permit modification (File No. 272004) to the MSSW permit.

7. Paragraph 10D(6.) of the Consent Injunction requires Florida Tire to, within 180 days of entry of the Consent Injunction, reconfigure the whole and shredded waste tires on the site to piles meeting the pile dimension and fire lane requirements of Chapter 17-711 (renumbered 62-711) F.A.C., and complying with Paragraph 11 and Rules 17-330 (renumbered 62-330), 40E-4, and 40E-40 and 17-312 (renumbered 62-312), F.A.C. As of December 31, 1994, Florida Tire had not completed the reconfiguration of the site following these requirements.

8. The terms of the Consent Injunction entered by the Court on January 14, 1994 are incorporated herein and attached as Exhibit "A". Defendant, Florida Tire Recycling, Inc., agrees to comply with all of the terms of the Consent Injunction as modified by the following:

A. Paragraph 10E of the Consent Injunction is amended to state:

(1) Commencing September 1, 1995, and continuing until November 30, 1995, Florida Tire shall remove each month at least 1,000 tons of waste tires as defined in Chapter 403, Florida Statutes, more than the volume of waste tires received at the site during the calendar month. Compliance with this requirement shall be computed on a calendar month basis starting with the month of September 1, 1995 and continuing through November 30, 1995. By summing the actual amount of waste tires in tons brought on to the site each working day during the month plus 1,000 tons ("base removal amount") and comparing that figure with the total amount of waste tires removed from the site during the month, the total amount removed shall equal or exceed the base removal amount. DEP shall have the right to inspect Florida Tire's records of waste tire intake and removal on a daily basis.

(2) At the end of the three month period from September 1, 1995 to November 30, 1995, the Department shall evaluate whether Florida Tire has achieved the removal requirements set forth above. If Florida Tire achieves the volume removal requirements over the three month period, from September 1-November 30, 1995, Florida Tire shall, commencing December 1, 1995 and continuing through May 31, 1996, remove at least 1500 tons of waste tires per month more than the volume of waste tires received at the site during the calendar month. (The base removal amount for December 1, 1995 through May 31, 1996).

(3) (a) If Florida Tire fails to remove at least 80% of the base removal amount for the period from September 1, 1995 to November 30, 1995, Florida Tire shall, by December 31, 1995, submit to the Department a plan to remove all of the waste tires from the site, and shall cease bringing waste tires to the site as of December 31, 1995. If Florida Tire fails to remove 100% of the volume of tires required to be removed from September 1 through November 30, 1995, but removes over 80% of this volume, Florida Tire must demonstrate to the Department that it is capable of complying with the removal, construction and permitting requirements of this Stipulation. This demonstration shall be submitted to the Department in the form of a report no later than December 10, 1995. If Florida Tire fails to demonstrate to the Department that it is capable of achieving the Stipulation deadlines, Florida Tire shall cease bringing waste tires on to the site as of December 31, 1995 and shall submit to the Department a plan to remove all of the waste tires from the site.

(b) The Department shall notify Florida Tire by letter as to compliance with the first three month removal requirements no later than December 15, 1995.

(4) During the thirty day period from September 1, 1995 to September 30, 1995, Florida Tire shall remove all whole waste tires which are not stacked in piles meeting the dimension requirements of Chapter 62-711, Florida Administrative Code. During the sixty day period from September 1, 1995 to October 31, 1995, Florida Tire shall clear all waste tires and establish fire lanes between and around the piles located in the interim storage area as shown in Exhibit B attached hereto. Beginning September 1, 1995, Florida Tire shall, in achieving the base removal amount requirements set forth above in Paragraph 8.A. (4)., first process and remove the loose waste tires and waste tire shreds located in the interim shredded tire storage area, the unconfigured

shred area and the Florida Power and Light Easement. The loose and unconfigured shreds shall be processed and removed from the site by November 30, 1995.

(5) By November 1, 1995, or thirty days (30) after the Department issues the MSSW permit, whichever occurs first, Florida Tire shall have initiated construction of the MSSW system as set forth in Permit No. 56-2451186, as modified on July 17, 1995. By March 1, 1996, or within 120 days of issuance of the MSSW permit by the Department, whichever occurs first, Florida Tire shall have completed construction and certified completion by a Professional Engineer registered in the State of Florida of the DEP approved MSSW system, including construction of access roads, tire storage pads and stormwater retention areas.

B. Paragraph 10K is amended to read that by June 1, 1996, Florida Tire shall remove and properly dispose of all waste tires for which storage is not authorized by a DEP waste tire processing permit.

9. Florida Tire agrees to pay the Department civil penalties in the amount of \$30,500 and costs and expenses in the amount of \$35,240.21 for a total of \$65,740.21. Florida Tire shall pay the Department one quarterly installment of \$5,740.21 and 20 quarterly installments of \$3,000. The first installment in the amount of \$5,740.21 is due on September 1, 1995. Subsequent to the initial payment, quarterly payments of \$3,000 are due on December 1, March 1, June 1, and September 1, and continuing each quarter, until the sum of \$65,740.21 has been received by the Department. Payment shall be made payable to the "Department of Environmental Protection" and shall include thereon OGC No. 92-1094C and the notation "Pollution Recovery Trust Fund." Payment shall be made to the Department's Southeast District Office, P.O. Box 15425, West Palm Beach, Florida 33416.

10. If Florida Tire fails to meet the deadlines set forth in the "Stipulation of Settlement", the Department may file a motion with the Court to enforce the "Stipulation of Settlement" and/or to be granted access pursuant to Chapter 403.709(4), Florida Statutes, (1994 Supp.), to the site to perform stabilization and abatement, including the removal of whole and processed waste tires from the site.

11. The terms and conditions set forth in this Stipulated Settlement may be enforced by post-judgment motions for specific performance, injunctive relief, contempt for a money

judgment for penalties and costs, or any appropriate relief. The Court shall retain jurisdiction to enforce the terms of this "Stipulation of Settlement."

12. The Department may initiate appropriate legal action to prevent or prohibit future violations of applicable statutes or the rules promulgated thereunder not covered by the terms of this "Stipulation of Settlement," or to compel future compliance with this "Stipulation of Settlement."

WHEREFORE, the Plaintiff, State of Florida Department of Environmental Protection and Defendant, Florida Tire Recycling, Inc., hereby enter the above-described Stipulation and request the Court to enter and Order adopting the terms set forth herein.

On this \_\_\_\_ day of September, 1995.

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