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FAX TRANSMITTAL FORM

DATE: April 20, 1994

TO: Joseph Kahn
FIRM: DEP
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FROM: James R. Brindell Phone #: (407) 650-0511

ORIGINALS TO FOLLOW: NO

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Message: Your letter to Skip Robinson dated April 18, 1994. See my letter to Janet Bowman attached of same date. We need to resolve (ASAP) this confusion about FTR's ability to move material from the FPL easement to other areas on the property without permits.

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CLIENT/MATTER#: 13936.9000

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OUR FILE NUMBER:

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WRITER'S DIRECT DIAL NUMBER:

April 18, 1994

Via Telecopy

Janet E. Bowman, Esquire
Assistant General Counsel
Florida Dept. of Environmental
Regulation
Office of Counsel
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Re: Florida Tire Recycling ("FTR"), Inc./Port St. Lucie

Dear Janet:

I have been reading correspondence between Joe Kahn and Skip Robinson regarding the relocation of tire material from the Florida Power and Light easement to other portions of the Florida Tire property at the Port St. Lucie facility. Skip is under the impression that moving that material to other locations on the property is subject to the receipt of permits from the South Florida Water Management District which you required in the Stipulated Settlement for the storage and management of surface waters on the Florida Tire site. Please note that pursuant to FTR's MSSW application and engineering design the receiving area has to be prepared to ensure adequate pad elevation to keep the shredded material out of the water during rains. Moreover, on November 8, 1993, the South Florida Water Management District's wetlands personnel informed Florida Tire Recycling it needed a permit for areas of the property to which the material from the FPL easement would be moved. There is, therefore, some question whether or not FTR can use areas designated for storage in its storage plan prior to receiving approval from the appropriate agencies.

As I read Mr. Kahn's response, he apparently believes that tire material can be moved from the FPL easement to such other areas on the site without the necessity of any permits. Consequently, Mr. Kahn also believes the 180-day time period is running as to this requirement. Florida Tire has been under the impression that time

Janet Bowman
April 18, 1994
Page 2

period was not running for the permit reason addressed in the paragraph above. If Mr. Kahn's belief is correct, Florida Tire is ready to move materials from the FPL easement. However, we do not want to have any confusion or subsequent claims that it has done so in violation of some permitting or other requirements.

In order to facilitate the movement of the materials from the FPL easement and to avoid unnecessary controversy over agency requirements, it would seem prudent for the Department and Florida Tire to identify places on the Florida Tire property which immediately can be receiving areas for material from the FPL easement without violating any agency's requirements. In addition, it is important that the relocation of that material be accomplished one time rather than wasting financial resources through repetitive relocations. As I hope you can appreciate, the cost of implementing the Stipulated Settlement provisions are very high. Consequently, Florida Tire cannot justify unnecessary expenditure of financial resources.

This letter is to request that the Department and Florida Tire meet as soon as possible to reach a consensus on acceptable areas for the immediate relocation (assuming that is possible without permits) of tire materials currently in the FPL easement. If it is possible to proceed with that relocation, now is the time to do so before the onset of the rainy season.

Sincerely,



James R. Brindell
For the Firm

JRB/kpb
65987

cc: Skip Robinson (Telecopy)
Donald J. Beuttemuller, Jr., Esq.

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