



Department of Environmental Protection

Lawton Chiles
Governor

Southeast District
P.O. Box 15425
West Palm Beach, Florida 33416

Virginia B. Wetherell
Secretary

JUL 20 1995

Certified Mail
Return Receipt Requested

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: Your Letter Dated May 25, 1995

Dear Mr. Quarterson:

We have reviewed your letter responding to the Penalty Computation Worksheet concerning the Florida Tire facility. We disagree with much of your rationale for a penalty reduction. However, in the interest of settling this issue, we have adjusted the penalty for two of the citations. Our comments are as follows.

There were numerous inspections which clearly documented the violations of dimensions fire lanes and storage requirements between February 2, 1990 through December 10, 1993, not one as stated. Specifically, violations were noted February 2, 1990, April 10, 1992, January 8, 1993, July 15, 1993, July 28, 1993, October 15, 1993, and November 2, 1993. Six of these dates were originally selected for the penalty calculation. Four of the related inspections were conducted at the request of the Office of General Counsel and the reports are attorney work product. These are not available as a public record. The original penalty of \$54,000 is consistent with the Department's penalty policy. However, as discussed above, in the interest of settling this issue, we will use a 5% adjustment factor for each day the violation was documented instead of 100%. The penalty will thus be adjusted to \$11,700 for these violations.

The failure of Florida Tire to obtain a modification to its permit to increase storage at its facility has been clearly documented. Again, in the interest of settlement, the penalty for these violations will be based on a 5% adjustment factor and reduced to \$11,700.

Regarding the MSSW requirements the penalty would remain at \$900.00.

The yearly reports, which are 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 not be reduced from \$1,600.

Florida Tire Recycling, Inc.
Page Two

Florida Tire did not submit the yearly closure cost estimates for the first three years after the permit was issued. Consequently, the penalty would remain at \$1,200.00.

Florida Tire has not been in compliance with the financial responsibility requirements since soon after this facility was permitted and continues to remain in non-compliance with financial responsibility. Consequently the penalty would remain the same at \$1,600.00.

Regarding the waste tire decal, the penalty would remain at \$400.00.

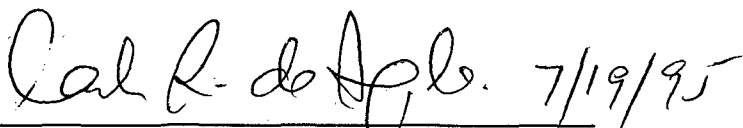
Regarding recycling 75% of the incoming material, inspections conducted by the Department indicate that Florida Tire did not meet this requirement as claimed. Consequently, the penalty would not be reduced from \$1,600.

We discussed the other enforcement cases you cited with staff from the appropriate district office. The Northwest District solid waste staff were unable to recall a case in Escambia County as you describe. Regarding the National Tire Recycling case, the information we have obtained from the South District solid waste staff shows that this site was not of the same magnitude of the Florida Tire site, and the cases are not comparable. Note that from the State's perspective, the Florida Tire site has the largest accumulation of tires, and remains the State's primary concern.

The total amount of the revised penalty is \$30,700 plus \$35,240.21 for costs, which equals \$65,740.21.

I trust this clarifies the Department's position. Please advise us within ten (10) days if this offer is acceptable.

Sincerely,

 7/19/95

Carlos Rivero-deAguilar
Director of District Management

VK
CRA/VK

cc: Janet Bowman, OGC
Jan Clark, SW/TLH
Vivek Kamath, SED