

CIVIL PENALTY AUTHORIZATION  
SOUTHEAST FLORIDA DISTRICT

Investigators: Joseph Kahn & Joseph Lurix *JK*

Date Submitted: December 13, 1993

1. VIOLATOR(S): Florida Tire Recycling Inc. (F.T.R.)  
Susan K. & John J. Wilson
2. LOCATION OF VIOLATION: 9675 Range Line Road  
Port St. Lucie, Florida
3. NATURE OF VIOLATION:

F.T.R. owns and operates a Waste Tire Processing Facility on 32.83 acres of property. The property consists of two adjacent parcels; the first is an 8.4369 acre parcel deeded to Trinity Holding Co., Inc. (merged into F.T.R.) and the second is a 24.34 acre parcel deeded to F.T.R.

On May 25, 1989, the Department received a Waste Tire Processing Facility permit application which identified only the 8.4369 acre parcel. On August 28, 1989, the Department issued a permit to John J. Wilson to operate a Waste Tire Processing Facility (WT 56-165345). The Permit authorizes F.T.R. to process and store a maximum of 1500 tons/day of waste tires, and included the following specific conditions:

1. The permittee shall not accept any waste tires for processing when this facility has reached its storage limit. The storage limit for this facility is 1500 tons/day. (Based upon 30 times the daily through-put of the processing equipment used which is 50 tons).
2. The permittee shall process, remove for disposal, recycle or dispose of in a permitted solid waste management facility at least 75 per cent of both waste tires and processed tires that are delivered to or are contained on the site of the waste tire processing facility at the beginning of each calendar year.
3. The permittee shall submit to the Department an annual report on DER Form 17-711.900 (4), that summarizes all of the information collected under Subsection 17-711.530 (3) (c), Florida Administrative Code.
4. All waste tires and processed tires shall be stored in accordance with the waste tire site requirements in Rule 17-711.510, Florida Administrative Code.

On February 2, 1990, the Department conducted an inspection of the Florida Tire Facility and Department personnel observed that: the volume of waste tires outdoors were 8,300 tons; and the size of the shredded piles exceeded 50 feet in width, 200 feet in length and 15 feet in height.

On April 10, 1992, the Department conducted an inspection of the Florida Tire Facility and Department personnel observed that: the volume of outside storage of whole waste tires and processed waste tires totaled approximately 36,000 tons; and the size of the whole and shredded waste

St. Lucie County-Unauthorized Waste Tire Site

tire piles exceeded 50 feet in width, 200 feet in length and 15 feet in height. Waste tires were stored on both the 8.4369 and 24.34 acre parcels. The Permit only authorizes the operation of a waste tire processing facility on the 8.4369 acre parcel. There were more than 1,000 waste tires accumulated outdoors on the 24.34 acre parcel by F.T.R. Therefore, F.T.R. was maintaining (and continues to maintain) a waste tire site as defined by Section 403.717 (1)(g), Florida Statutes, and Rule 17-711.200 (15), Florida Administrative Code.

On April 21, 1992, the Department sent John J. Wilson of F.T.R. a Warning Letter informing him of violations of Chapter 17-711, Florida Administrative Code. On June 30, 1992, a site inspection was conducted by the Department's contractor. Based on the site visit, the contractor estimated that the whole tire piles at the Florida Tire site contained 596,000 passenger tire equivalents and that the shredded tire piles contained 4,094,000 passenger tire equivalents. A passenger tire equivalent is equal to twenty pounds of whole or shredded tire material and 100 passenger tire equivalents equals one ton. Fire lanes are not provided for this site as required by rule.

On or about September 10, 1992, F.T.R. provided the Department with a waste tire estimate from its consultant. The consultant estimates the presence of 326,000 whole tires at the Florida Tire site. The report does not include the volume or number of shredded tires. The amount of financial responsibility is estimated by F.T.R.'s consultant to be \$241,849. F.T.R. has only provided financial assurance for \$15,000.

On January 8, 1993, the Department conducted an inspection of the Florida Tire Facility and Department personnel observed that: 1) the volume of tires on the site had increased from the previous inspection and numerically were up to twenty-six times the volume allowed by the permit; 2) twenty of the waste tire and processed tire piles greatly exceeded the maximum dimensions allowed by Rule 17-711.540(2)(b), Florida Administrative Code; and 3) Florida Tire still failed to maintain adequate financial responsibility.

On January 27, 1993, the Department sent John J. Wilson a letter of noncompliance informing him of violations of Chapter 17-711, Florida Administrative Code, at the Florida Tire site. On March 11, 1993, the Department's contractor again inspected the Florida Tire site, and based on that visit, estimated that as of March 11, 1993 the whole tire piles contained 849,000 passenger tire equivalents and the shredded tire piles contained approximately 4,885,000 passenger tire equivalents. In total, the Florida Tire site was estimated to contain a total of 5,734,000 passenger tire equivalents.

The Florida Tire Waste site contains a large pile of shredded tires occupying approximately 115,000 square feet. The large shred pile extends within 50 feet at ground level of high voltage electrical transmission lines and within approximately 30 feet of a railroad spur on which railroad tank cars containing chlorine gas, sulphuric acid, hydrochloric acid and caustic soda were located at the time of inspection on July 28, 1993.

On December 10, 1993, an aerial reconnaissance inspection revealed that F.T.R. is digging drainage canals along the western and southern property boundaries. Two culverts were installed at the southeast corner of

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F.T.R.'s property connecting the surface waters from F.T.R. to the drainage canal system along the west side of Range Line Road. Range Line Road drainage canals convey surface water to the C-24 Canal. F.T.R. does not possess a permit for the management and storage of surface waters at this site from the Department.

The immense size and configuration of the whole and shredded tire piles at the Florida Tire facility creates a serious fire hazard. An accumulation of whole and shredded tires of the size existing at the Florida Tire facility represents a potentially significant source of air and water pollution in the event of a fire. Combustion of the large tire and shred piles would be virtually impossible to extinguish and would be expected to generate large quantities of dense black smoke and pyrolytic oils for an extended period of time. If pyrolytic oils and heavy metals penetrate the surface soil, the resulting water table contamination could create a hazardous waste site requiring substantial remediation costs. An accumulation of whole and shredded tires of the size existing at the Florida Tire site creates a public health threat by providing a breeding area for mosquitoes which carry St. Louis Encephalitis and Eastern Equine Encephalitis. The Asian Tiger Mosquito (Aedes albopictus), an aggressive day biter, and Aedes aegypti have been identified at the Florida Tire site. Aedes aegypti is a vector for Yellow Fever, Dengue, and Dog Heartworm and Aedes albopictus is a vector for Yellow Fever, Dengue, Eastern Equine Encephalitis and St. Louis Encephalitis.

4. PENALTY RATIONALE:

In accordance with Department Penalty Guidelines, penalties are being sought for the aforementioned violations.

- 1) The exceedance of the waste tire pile dimensions, exceedances of storage requirements and lack of fire lanes are determined to be a MAJOR potential for harm and a MAJOR extent of deviation. The mid-range of \$9,000 was selected.
- 2) Increasing the storage capacity of this site without applying and receiving a modification of the permit is determined to be a MAJOR potential for harm and a MAJOR extent of deviation. The mid-range of \$9,000 was selected.
- 3) F.T.R. had received a General Permit from South Florida Water Management District (S.F.W.M.D.) for constructing a storm water control system on 8.4369 acres. F.T.R. signed notarized affidavits that F.T.R. owned less than ten acres and no other contiguous property. On November 8, 1993, S.F.W.M.D. revoked the General Permit and requested F.T.R. to apply and receive a storm water permit from the Department. The construction of a storm water control system without a permit is determined to be a MINOR potential for harm but a MAJOR extent of deviation. The mid-range of \$900 was selected.
- 4) The failure to submit a) yearly reports; b) updated financial estimates; c) inadequate financial responsibility; d) failure to place the Waste Tire Collector's Decal on the driver's door of the vehicle; and e) failure to recycle 75% of the processed and whole waste tires off site are determined to be a MINOR potential for harm and a MODERATE extent of deviation. The mid-range of \$400 was selected.

St. Lucie County-Unauthorized Waste Tire Site

5. PENALTY RECOMMENDATION:

I recommend that the civil penalties be sought against F.T.R. as calculated on the attached worksheet.

Vish Kamath

Waste Programs Administrator

May Williams

Director of District Management

for Kenneth J. Plante  
Virginia Wetherell, Secretary

☒ Approved

☐ Disapproved

Date: 12/22/93

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PENALTY COMPUTATION WORKSHEET

Violator's Name: JOHN J. WILSON & SUSAN K. WILSON

Identify Violator's Facility: FLORIDA TIRE RECYCLING, INC

Name of Department Staff Responsible for the Penalty Computations:

JOSEPH LURIX & CAROL MEEDS (6-12-92 original calc.) & JOSEPH LURIX & JOSEPH KAHN (12-13-93)

Date: 12-13-93

PART I - Class B (no penalty) Determination

Rationale for Class B determination: \_\_\_\_\_

PART II - Class A Penalty Determinations

Violation Type	Potential for Harm	Extent of Dev.	Matrix Amount	Multi-day	Adjustments	Total
1. EXCEEDING WASTE PILE DIMENSIONS, NO FIRE LANES & STORAGE REQUI	IA.1. (Pg 17)	IA.1.2.				
NO PERMIT MOD. TO MAINTAIN A WASTE TIRE SITE OR INCREASE	IC.1. (Pg 7)	IC.1.				
2. STORAGE	MAJOR	MAJOR	9,000	x 6 -	based on 6 inspections	54,000
MODIFIED	MAJOR	MAJOR	9,000	x 6 -	based on 6 inspections	54,000
3. MSSW-NO PERMIT	Pg 18 - W.M.I.	1.	900	x 1		900
LATE YEARLY	MINOR	MINOR				
4. REPORTS	ID. (Pg 20)	2.	400	x 4 -	based on 4 years without reports	1,600
LACK OF YEARLY	MINOR	MODERATE				
5. FINANCIAL EST.	ID. (Pg 20)	2.	400	x 3 -	based on 3 years	1,200
INADEQUATE	MINOR	MODERATE				
6. FINANCIAL RESP.	ID. (Pg 20)	2.	400	x 4 -	based on 4 years	1,600
TRANSPORTING	MINOR	MODERATE				
7. WASTE TIRES - NO DEAL	MINOR	MODERATE	400	x 1		400
FAILURE TO	IA.					
8. RECYCLE/REMOVE 75% WT. YEARLY	MINOR	MINOR	400	x 4 -	based on 4 years	1,600
9.						

Total Penalties for all Violations: 115,300  
+ Costs & expenses + 35,240.81  
\$150,540.81

(Attach Part III for each violation for which an adjustment on multi-day penalty is determined.)

PENALTY COMPUTATION WORKSHEET

Part III - Multi-day Penalties and Adjustments

ADJUSTMENTS

Dollar Amount

Good faith/Lack of good faith prior to discovery: \_\_\_\_\_

Justification: \_\_\_\_\_

Good faith/Lack of good faith after discovery: \_\_\_\_\_

Justification: \_\_\_\_\_

History of non-compliance: \_\_\_\_\_

Justification: \_\_\_\_\_

Economic benefit of non-compliance: \_\_\_\_\_

Justification: \_\_\_\_\_

Ability to pay: \_\_\_\_\_

Justification: \_\_\_\_\_

Total Adjustments: \_\_\_\_\_

MULTI-DAY PENALTIES

Dollar Amount

Number of days adjustment factor(s) to be applied: \_\_\_\_\_

Justification: \_\_\_\_\_

Or

Number of days matrix amount is to be multiplied: \_\_\_\_\_

115,300 TOTAL

Justification: Items #1 & 2 → 6 TIMES

Item #3 & 7 → 1 TIME

Item #4 & 8 → 4 TIMES

Item #5 → 3 TIMES

Item #6 → 4 TIMES

9.5M

PENALTY COMPUTATION WORKSHEET

Part IV - Other Adjustments Made After Meeting with the  
Responsible Party

ADJUSTMENTS

Dollar Amount

Relative merits of the case:

\_\_\_\_\_

Resource considerations:

\_\_\_\_\_

Other justification:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Director of District Management

**Memorandum**

**Florida Department of  
Environmental Protection**

TO: Larry Morgan  
Deputy General Counsel

FROM: Mary E.S. Williams *MESW*  
Director of District Management

DATE: December 13, 1993

SUBJECT: St. Lucie County - Unauthorized Waste Tire Site.

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Attached is a Civil Penalty Authorization for the above referenced case.  
This document is client-attorney privileged and is not a public record.

RECEIVED  
JAN - 5 1994  
DEPT. OF ENV. PROTECTION  
WEST PALM BEACH



Accounting of Costs and Expenses

<u>Position</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Environmental Specialist II	50	17.12	\$ 856.00
Engineer I	8	11.50	92.00
Engineer IV	180	29.89	5,380.20
Environmental Manager	11	29.06	319.66
Professional Engineer	67.5	27.14	1,831.95
Program Administrator	10	32.87	328.70
Tallahassee Contractors	--	--	23,328.50
Film	12 rolls(24) + enlargements		672.00
Aerial Photo's-Redi Maps			1,480.00
Mileage	6 inspections at \$0.21 per mile x 120 miles		151.20
Depositions			800.00
	Total		\$35,240.21