

Pg 1

FTRI 5-15-95

- Joe Friscia will meet w/ Greg Coffelt on 5-18-95.
- Friscia has only 1 question that needs to be addressed prior to submission of application by 6-1-95

② - How often does SLECC meet? Dennis Murphy - does it require C.C. approval before FTR can construct?
Is this an amendment?
5-15-95 4 PM I called for Dennis Murphy

③ Jack wants provision that permits must be issued before he starts. MSSW 3-1-96 based upon amendment of Exhibit A.

- remove whole tires w/in 30 days
- "dress area" of fire lanes
- end of Sept. Interim Fire Lanes
- Nov. "Unconfined Area"
- 80% of 6,000 tons at end of 6 mos., but must make up the difference by 6-1-96 deadline.

Penalty Issues - Unfairly Treatment of Sites

- recycler - Waste Magic - BC
- Nat. Tire Recycling - Tampa (operated 8 yrs. -)
- proposed fine \$11,300 + 500 costs & expenses

④ copy of penalty calc's sheets

FRI

- \$500,000 cost

- Carlos w/ check w/ Tampa; look for similarities in cases

- cost beyond rules

- give us a counter proposal to generate 3rd market
 - good faith vs. bad faith efforts, payment plans
 - to respond in 3-4 weeks ~~try to~~ possibly
 - making policy guidelines - Janet will lead
 to Jim Brinkell

(A)

(N)

and responsive to DQ.

(N)

Breakdown of TLP. Contractor costs
 of \$23,328.50

FTRI Meeting - Sign In Sheet

5/15/95

11 AM

Joe Swirf

FDEP

407/433-2650 110

JOSEPH KAHN

FDEP

" x 112

CARLO DEAGUILAR

"

"

Janet Br

FDR-OLC

904-488-9730

V. Kamath

FDEP/Waste

407/433-2650 x242

W. J. P. P.

FIA RECYCLING

407/465-0477

Jim Brill

GYV-FS

407/650-0511

Jack White

F.T.R.

407/465-0477

DRAFT

DRAFT

DRAFT

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.

AMENDMENT TO STIPULATION AND CONSENT FOR INJUNCTION

Plaintiff, State of Florida, Department of Environmental Protection ("DEP" or "Department") and Defendant, Florida Tire Recycling, Inc. ("Florida Tire"), hereby enter the following stipulated Amendment to the "Stipulation and Consent for Injunction" filed in this case and state:

1. On January 14, 1994, the Court entered an order adopting the "Stipulation and Consent for Injunction" (Consent Injunction) attached hereto as Exhibit A.
2. The Consent Injunction requires Florida Tire to reduce and reconfigure the volume of 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 tire material 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 material present at the site was 24,642 tons of waste tires.
3. On November 7, 1994, the Department issued MSSW permit #56-2451186 to Florida Tire. The MSSW permit authorizes construction of improved roadways, storage pads for waste tire material and stormwater storage capability. Construction of the MSSW system had not commenced as of December 31, 1994.

4. 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 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.

5. In order to complete the required activities set forth in the Stipulation and Consent For Injunction" the Department and Florida Tire agree to amend the Consent Injunction as follows:

A. Paragraph 10E is amended to state:

1. Commencing June 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 tire material 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 June 1, 1995 and continuing through November 30, 1995. By summing the actual amount of material 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 tire material 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 tire material intake and removal on a daily basis. *or 80% (4,800 tons) & include 20% via June 1, 1996.*

2. At the end of the six month period from June 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 six month period, Florida Tire shall, commencing December 1, 1995 and continuing through May 31, 1996, remove at least 1500 tons of waste tire material per month in addition to the volume of tire material received at the site during the calendar month.

3. If Florida Tire fails to achieve the removal requirements for the period from June 1, 1995 to November 30, Florida Tire shall, by December 31, 1995, submit to the Department a plan to remove all of the waste tire material from the site, and shall cease bringing waste tire material to the site as of December 31, 1995. The Department shall notify Florida Tire by letter as to compliance with the first six month removal

requirements no later than December 15, 1995.

4. During the sixty day period from June 1, 1995 to July 31, 1995, Florida shall clear all waste tire material and establish fire lanes between and around the piles located in the interim storage area as shown in Exhibit A attached hereto. Beginning August 1, 1995, Florida Tire shall, in achieving the 1000 ton/per day removal requirement set forth above, must first process and remove the loose waste tire material 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, Florida Tire shall have initiated construction of the MSSW system either as set forth in Permit No. 56-2451186, or as modified by the Department. By March 1, 1996, 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.

6. If Florida Tire fails to meet the deadlines set forth in the Amendment to the Consent Injunction, the Department may file a motion with the Court to enforce the Amendment to Stipulation and Consent for Injunction and/or to be granted access to the site to perform stabilization and abatement, including the removal of whole and processed waste tires from the site.

7. This Amendment to the Consent Injunction does not resolve DEP's claims for civil penalties, damages, attorneys fees, expert witness fees, or costs (hereinafter, "penalties") and shall not be construed as settlement of DEP's Complaint.

8. The Court shall retain jurisdiction to enforce the terms of this "Amendment to Stipulation" as well as the "Stipulation."

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 May, 1995.

James R. Brindell
Gunster, Yoakely, Valdes-Fauli
Stewart, P.A.
Phillips Point, Suite 500 East
Flagler Drive

West Palm Beach, Florida
33401-6194
P.O. Box 4587
West Palm Beach, FL
33402-4587

Janet E. Bowman
Assistant General Counsel
State of Florida
Department of 777 South
Environmental Protection

2600 Blair Stone Road
Tallahassee, FL
32399-2400

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

I N T E R O F F I C E M E M O R A N D U M

Date: 12-May-1995 03:30pm EST
From: Janet Bowman TAL
BOWMAN_J@A1@DER
Dept: Office General Counsel
Tel No: (904)488-9730
SUNCOM:

TO: Joe Lurix WPB

(LURIX_J@A1@WPB1)

Subject: May 15, 1995 Meeting Draft

JOE, attached is a draft amendment for your review and comment. Let me know what you think.

DRAFT

DRAFT

DRAFT

DRAFT

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THE NINETEENTH JUDICIAL
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On this ___ day of May, 1995.

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