

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

Sensitivity: COMPANY CONFIDENTIAL

Date: 26-May-1995 03:50pm EST
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TO: Janet Bowman TAL
TO: Janet Bowman TAL

(BOWMAN_J @ A1 @ DER)
(BOWMAN_J @ A1 @ DER)

CC: Joe Kahn WPB
CC: Vivek Kamath WPB

(KAHN_J)
(KAMATH_V)

Subject: FTR penalty response

Janet, I have forwarded a copy of FTR's penalty response letter to you dated May 25, 1995. Based upon your direction that I can't utilize those inspections that were included in the original penalty calculation as client-attorney information, below is a response for your consideration utilizing the same numerical sequence of FTR's May 25th letter. This penalty calculation was from February 1990 to December 10, 1993 only.

1. "Exceeding waste pile dimensions for whole waste tires".

Matrix amount is **\$9,000** times **2 days** documented (2-2-90 & 4-10-92) equals **\$18,000 not \$9,000;**

2. This is a correct statement, no penalty assessed;
3. "Modified MSSW without a permit".

No change, **\$900;**

4. "Late yearly reports".

Four yearly reports were late, not one as stated, therefore, the penalty would still be **\$1,600;**

5. "Failure to submit yearly closure costs estimates for financial responsibility".

Three yearly estimates were not submitted at all and the fourth was late, therefore the penalty remains as originally calculated as **\$1,600.**

6. "Inadequate financial responsibility for site".

This is still in violation and therefore the penalty remains as originally calculated as **\$1,600.**

7. "No waste decal on vehicle".

The penalty remains the same as **\$400.**

8. "Failure to recycle 75% of the waste tires each calendar year".

FTR admits through their own previous responses that their records

for the amount of tires onsite were poor and not accurate. Based upon inspections from the ground surface and aerial surveillance conducted, I disagree that they recycled 75% each year as claimed. FTR lost the contract with SLC for free disposal of shreds in March 1992. Therefore the penalty should be calculated up till the Georgia Pacific contracts were obtained, or for at least 3 years in violation. The penalty amount would be **\$1,200**.

The total amount of the penalty between the aforementioned dates calculated is adjusted to - **\$25,300**. This figure doesn't include Department costs and expenses, nor the outstanding penalties from the dredge and fill section. FTR utilizes the costs to comply with the SA in 1994 to justify the penalty reduction calculated from 1990 to 1993. Also the length of time to pay seems quite excessive, 2- six month installments. I cannot comment on how the penalty was calculated by the SW District Office. Maybe you can ask your OGC counter part on the CO and the penalty issue in that case.

If the penalty was calculated based upon those inspections that were conducted after December 1993 that are in the public records files, then the following penalty for each of the above items would be readjusted to:

1. "Exceeding waste pile dimensions for whole waste tires".

Matrix amount is **\$9,000** times **6 days** documented (2-2-90, 4-10-92, 2-17-94, 3-08-94, 6-06-94 & 4-18-95) equals **\$54,000** not \$9,000;

2. The rule concerning processed waste tires was adopted on 2-28-94. Therefore the penalty would be **\$9,000** times **3 inspections** (3-08-94, 6-06-94 & 4-18-95) equals **\$27,000**.

3. "Modified MSSW without a permit".

No change, **\$900**;

4. "Late yearly reports".

Four yearly reports were late, not one as stated, therefore, the penalty would still be **\$1,600**;

5. "Failure to submit yearly closure costs estimates for financial responsibility".

Three yearly estimates were not submitted at all and the fourth was late, therefore the penalty remains as originally calculated as **\$1,600**.

6. "Inadequate financial responsibility for site".

This is still in violation and therefore the penalty would be adjusted to **\$2,000**.

7. "No waste decal on vehicle".

The penalty remains the same as **\$400**.

8. "Failure to recycle 75% of the waste tires each calendar year".

FTR admits through their own previous responses that their records for the amount of tires onsite were poor and not accurate. Based upon inspections from the ground surface and aerially surveillance conducted, I disagree that they recycled 75% each year as claimed. FTR lost the contract with SLC for free disposal of shreds in March 1992. Therefore the penalty should be calculated up till the Georgia Pacific contracts were obtained, or for at least 3 years in violation. The penalty amount would be **\$1,200**.

The total amount of the penalty between the aforementioned dates calculated is adjusted to - **\$88,700**. This figure doesn't include Department costs and expenses. The only adjustment for FTR would be the costs involved for the magnetic separators for each tire shredder to make TDF, since this is not required by rule. FTR told me that the magnetic separators cost **\$14,000** times 2 units equals **\$28,000**, plus the loading hoppers at Georgia Pacific at **\$30,000**. Therefore **\$88,700** minus **\$58,000** equals **\$30,700**.