



Florida Tire Recycling, Inc.

(VIA FACSIMILE 407-433-2666 AND US MAIL)

May 2, 1993

Joseph Kahn, P.E.
SOUTHEAST DISTRICT
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
PO Box 15425
West Palm Beach, FL 33416

Dear Mr. Kahn,

As promised and required by Paragraph 10.L. of the Stipulation Order of January 14, 1994, FLORIDA TIRE RECYCLING, INC. (FTR) requests that DEP immediately issue its written authorization for FTR to proceed with relocation of shredded material from the FP&L easement area to those areas of the property which lie within the "loop road" and the depositing of those materials in accordance with the storage plan contained in the Company's pending MSSW permit application. The associated pads which must be constructed underlying each such storage location will be constructed as required and in accordance with the submitted application.

All of the foregoing assumes that FTR will otherwise comply with the regulations of the DEP and will not place the materials in jurisdictional wetlands or on the perimeter roads and fire lanes and that the requirements of Chapter 17-711, F.A.C. will be met.

FTR's urgent request for this written authorization arises out of the following circumstances: (1) in Paragraph 10.L. of the Stipulation Order DEP promised that it would give such written authorization in this type of circumstance; (2) various oral communications from DEP Southeast District personnel have advised FTR that it cannot relocate the FP&L easement materials to the intended final configuration locations, necessarily involving the construction of the associated pads, until the MSSW permit is issued; (3) DEP's inexplicable and unjustified change of position in late April 1994 first indicating that DEP is now tolling the 180 day time period associated with this reconfiguration during the pendency of FTR's MSSW permit application; and, (4) conflicting oral communications contradicting simultaneous written communication regarding this subject.

So that the fourth point is clear, please find attached a copy of DEP Attorney, Janet Bowman's correspondence of April 25, 1994. Therein Attorney Bowman indicated that FTR could reconfigure the shreds without the need for the MSSW permit. Based upon this advice FTR was making preparations to move forward with the

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construction of the pads and the reconfiguration of the materials. Accordingly, FTR informed Mr. Coffelt, on April 26, 1994, that it was doing so. However, almost simultaneously Attorney Bowman called the Company Attorney, James R. Brindell, on April 26, 1994, and verbally informed him that FTR could not proceed with the construction of the pads (necessary for compliance with the MSSW plan) until the MSSW permit was issued. Mr. Brindell asked her to put this in writing, but she declined.

DEP is required by its agreement with FTR (see Paragraph 10.L.) to give it definitive written guidance on this specific issue of whether or not DEP is or is not permitting FTR to reconfigure the shreds located in the FP&L easement in accordance with the currently submitted plan for reconfiguration and before the issuance of an MSSW permit (i.e., also allowing it to construct the required pads). The DEP has written ambiguous letters to FTR and then made "clarifying" and contradictory phone calls which have the effect of prohibiting the Company from doing that which it needs to be able to do to implement the Stipulation Order. If it will not issue such unequivocal guidance, FTR will understand that it must await the issuance of the permit.

Moreover, FTR disagrees with the DEP's announcement in late April 1994 that the reconfiguration of these materials is not dependent upon the permitting associated with the site utilization. Similarly, it is not good faith for DEP to suggest that FTR can move thousands of tons of materials on multiple occasions just to satisfy DEP while the Company awaits DEP required approval actions. It was for this reason that the tolling provision was placed in the Stipulation. This is a bad faith position by an agency which gave its assurances of utmost good faith in connection with the Stipulation Order. DEP's having taken this position has already adversely affected FTR's ability to raise capital to go forward with its business plan. Nevertheless, the Company is prepared to move forward at the earliest possible time, if DEP will live up to the terms of the Agreement.

FTR is meeting or exceeding all other requirements of the Stipulation which are within its control. We are currently disposing of more material in the form of TDF than is required by the administrative regulation. If DEP will work with FTR to achieve the goal of doing that which makes the most environmental and economic sense, FTR's operation will be a model of what the Florida Legislature envisioned. Please help us accomplish this by being part of the solution.

Sincerely,



Skip Robinson
FLORIDA TIRE RECYCLING, INC.

cc: James R. Brindell, Esquire
encl

FROM: DEP LEGAL

TO:

4076555677

APR 25, 1994 3:55PM H062 P.01



Lawton Chiles
Governor

Florida Department of Environmental Protection

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Virginia H. Wetherell
Secretary

April 25, 1994

James R. Brindell, Esq.
Gunster, Yoakley & Stewart, P.A.
Phillips Point, Suite 600 East
777 South Flagler Drive
West Palm Beach, Florida 33401-6194

Dear Jim:

I was out of the office Friday and therefore did not receive your fax of April 22, 1994 until today. As I stated in my letter of April 21, 1994, removal of the tire shreds from the Florida Power & Light easement is not contingent upon receipt of the Management and Storage of Surface Waters permit and must be achieved 180 days from the issuance of Judge Smith's order. The material can either be removed from the site and properly disposed of or recycled, or temporarily moved elsewhere on the Florida Tire site as long as: 1) the material is not placed in jurisdictional wetlands or on the perimeter roads and fire lanes and 2) the pile size requirements of Chapter 17-711, F.A.C., are met. As the Department expects Florida Tire to timely construct the MSSW system upon receipt of a MSSW permit, it would be prudent for Florida Tire to avoid moving shreds into the location of the proposed MSSW system by either removing the shreds off-site or locating temporary piles elsewhere on the site outside of the FP & L easement.

If you have any questions, please call me at
(904) 488-9730.

Sincerely yours,

Janet E. Bowman
Janet E. Bowman

cc. Mary E.S. Williams
Joe Kahn
Marion Hedgepeth

Post-It™ brand fax transmittal memo 7671		# of pages 1	
To	Jim Brindell	From	Janet Bowman
Co.		Co.	DEP
Dept.		Phone	488-9730
Fax	407-655-5677	Fax	488-2439