

**BEFORE THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
STATE OF CALIFORNIA**

In the Matter of the Administrative)	
Complaint Against:)	
)	Complaint NO. 2001-16AC
TOTAL TIRE RECYCLING, LLC,)	
MICHAEL BYRNE, individually,)	OAH No. N2001050137
OPERATORS)	
)	
GARY MATRANGA, PROPERTY)	
OWNER)	

DECISION

Administrative Law Judge Muriel Evens, Office of Administrative Hearings, State of California, heard this matter in Sacramento, California, on July 3, 2001.

Lynda Williams, Staff Counsel, represented complainant.

Respondents were not present or otherwise represented.

This matter was submitted on July 20, 2001.

FACTUAL FINDINGS

1. On July 3, 2001, counsel Lynda Williams, acting on behalf of the California Integrated Waste Management Board moved to dismiss the allegations against then respondents William Keller and George Henebury. That motion was granted. Counsel requested the opportunity to submit a written stipulation between the remaining parties that would resolve the matter. The stipulation was awaiting signature. The Board submitted the signed stipulation July 20, 2001.
2. Attached hereto and incorporated herein is the signed Stipulation for Issuance of Administrative Decision.

ORDER

The resolution set forth in the attached Stipulation is hereby adopted as the decision in this matter.

Dated: August 15, 2001

MURIEL EVENS
Administrative Lay Judge
Office of Administrative Hearings

**BEFORE THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
STATE OF CALIFORNIA**

In the Matter of the Administrative)	
Complaint Against:)	
)	STIPULATION FOR ISSUANCE OF ADMINISTRATIVE DECISION
TOTAL TIRE RECYCLING, LLC,)	AMENDED ADMINISTRATIVE COMPLAINT 2001-16AC
MICHAEL BYRNE, individually,)	OAH No. N2001050137
OPERATORS)	
)	
GARY MATRANGA, PROPERTY)	WTF 34-TI-0598
OWNER)	
)	
RESPONDENT.)	

The parties to this stipulation are the CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD (the "CIWMB") and TOTAL TIRE RECYCLING (TTR), MICHAEL BYRNE (BYRNE), Operators, and GARY MONTRANGA (MONTRANGA), Property Owner, located at 8588 Thys Court, (FACILITY) Sacramento CA.

STIPULATED FINDINGS OF FACT

WHEREAS, TTR has obtained a major waste tire facility permit store no more than 10,500 waste tires at the FACILITY at 8588 Thyn Court; and

WHEREAS, the Operators stored in excess of 20,000 waste tires at the FACILITY for five months without first obtaining permission to do so from CIWMB in violation of PRC and CCR; and

WHEREAS, a claim of violation has been filed by the CIWMB as 2001-16AC against for storing in excess of 20,000 waste tires at the FACILITY, in violation of Major Waste Tire Facility Permit, No. 34-TI-0958; and

WHEREAS, the OPERATORS AND OWNER have reduced inventory of waste tires to less than 10,500 waste tire equivalents at their own expense; and

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, the parties hereto agree as follows:

STIPULATED TERMS OF DECISION

The CIWMB, TTR, BYRNE, and MANTRANGA have agreed to settlement of the complain herein, pursuant to which the hereby stipulate as follows:

1. CIWMB agrees to forego imposition of further penalties or fines for violations of the Public Resources Code and the related provisions of California Code of Regulations if TTY, BYRNE, and MATRANGA meet all of the following terms and conditions in a timely matter.
2. OPERATOR TTR and BYRNE stipulate to an Administrative Decision by Stipulation ("Decision") in favor of the CIWMB in the sum of \$45,000, \$37,500 to be stayed for a period of three years as long as the facility at Thys Road remains within its permitted limits. The remainder of the penalty shall be satisfied by quarterly payments in amounts as described herein.
3. CIWMB, TTR, BYRNE, and MANTRANGA authorize the Administrative Law Judge to sign and issue the Decision forthwith. The Decision shall not be converted into a Judgment or otherwise enforced unless TTR, BYRNE, and MATRANGA are in default under the terms of this Stipulation.
4. TTR and/or BYRNE, shall pay to the CIWMB the sum of \$7,500.00, as follows:
 - (a) Payment by TTR and/or BYRNE, to the CIWMB of the sum of \$1,000.00 no later than 90 days after the date that the final decision is served upon them;
 - (b) Payment by TTR and/or BYRNE to the CIWMB of a sum no less than \$1,000.00 on or before April 1, 2002;
 - (c) Payment by TTR and/or BYRNE to the CIWMB of a sum no less than \$1,000.00 on or before October 1, 2002;
 - (d) Payment by TTR and or BYRNE to the CIWMB of the balance of the penalty on or before April 1, 2003;
 - (e) Payments shall be made to the CIWMB, Attn: Kim Kotey at P.O. Box 4025, Sacramento, CA 95812, or to such other person and/or place as the CIWMB or its agent may from time to time designate in writing. If any payment by TTR hereunder is not received within five days of the due date, then TTR shall be deemed in default of this stipulation and the CIWMB or its agent may enforce the Decision.
5. Unless and until TTR applies for and is issued a major waste tire facility permit, TTR is to store no more than 10,500 waste tires at the facility on Thys Road either on the ground or in storage at any time, with the following exceptions:
 - a. Tires that are tagged as part of inventory belonging to customers of TTR that have paid of placed deposit on said tires and a copy of a dated invoice is available for inspection by CIWMB establishing that the tires are customer inventory, with the customer's contact information, shall not be counted as part of the maximum 10,500 waste tires allowed at the site. Tires exempted from counting in this manner shall be removed from the site within 5 working days of purchase or deposit.
 - b. Waste or used tires that are stored indoors for no more than 72 hours.
6. In the event that CIWMB determines that the Thys Road Facility has exceeded the permitted limits of waste tires, TTR and/or BYRNE agree that the remainder of the stayed penalty, or \$37,500, shall be due and owing to CIWMB immediately and the CIWMB will pursue appropriate and immediate action to enforce the terms of the decision and to collect the sums specified within the terms of this stipulated decision. Further, TTR, BYRNE and MATRANGA agree that;
 - a. They shall immediately cease accepting waste tires at the Facility until the excess tires have been removed.

- b. All excess tires shall be immediately removed upon written demand by CIWMB and in no event shall be removed later than 10 days after the written order is received by TTR, BYRNE, and MATRANGA.
 - c. If the tires are transported from the site in order to comply with this provision, TTR shall submit a copy of the relevant waste tire manifest(s) within 7 days of the removal of said tires from the site. These copies shall be faxed or mailed to the CIWMB, Attn: Keith Cambridge, P.O. BOX 4025, Sacramento, CA 95812 or to such other person and/or place as the CIWMB or its agent may from time to time designate in writing.
- 7. If TTR determines that the current limits of 10,500 waste tires is insufficient to sustain its business, TTR agrees that it will not store more than 10,500 waste tires until such time as an application for revision of its existing permit, including increase in financial assurances as CIWMB deems appropriate, has been submitted to the CIWMB and has been duly approved and issued to TTR.
- 8. TTR agrees to regular and at least quarterly inspections of the Thys Road Facility in furtherance of this provision.
- 9. TTR and MATRANGA agree that MATRANGA shall remain the Operations Manager at the Thys Road site.
- 10. MATRANGA agrees, as the Property Owner of the Thys Road site, that in the event the Facility exceeds the permitted capacity at the Thys Road Facility, and TTR, BYRNE or MATRANGA fail to remediate or remove the excess waste tires in the time required by VIWMB through written demand as provided above, the CIWMB shall have permission and authority to enter the Thys Road Facility, absent a finding of liability, and remove the tires from the facility, costs of the removal of excess tires to be borne by MATRANGA. Failure to meet with this term shall result in the reissuance of this complaint as to MATRANGA as well as the imposition of penalties that may be the result from the new violation.
- 11. Failure to meet any of these terms on the part of the TTR and/or BYRNE shall be deemed a default and shall result in any appropriate and immediate action to enforce the terms of the division and to collect the sums specified within the terms of this stipulated decision. CIWMB may also seek further penalties and fines as are indicated by the relevant circumstances.
- 12. No covenant, promise, term, condition, breach or default of or under this Stipulation shall be deemed to have been waived except as expressly so stated in writing by the CIWMB. A waiver by the CIWMB of any breach or default by TTR under this Stipulation shall not be deemed a waiver of any preceding or subsequent breach or default by TTR. Acceptance of payments hereunder which are either untimely or in an amount less than the full amount then due, owing and payable shall not be deemed a waiver of any preceding or subsequent breach or default, nor to deprive the CIWMB of the right to exercise any of its remedies under Paragraph 6 above, on account of any preceding or subsequent breach or default, or on account of the untimely and/or partial payment so accepted.
- 13. TTR, BYRNE and MATRANGA have each freely and voluntarily entered into this Stipulation and each has been afforded the opportunity to consult with counsel prior to entering into this Stipulation. It is expressly understood and agreed that no representations or promises of any kind, other than as contained herein, have been made by any party to enter into this Stipulation, and that said Stipulation may not be altered, amended, modified or otherwise changed except by a writing executed by each of the parties hereto.
- 14. Each party hereto agrees to execute and deliver any and all documents and to take any and all actions necessary or appropriate to consummate this Stipulation and to carry out its terms and provisions.

15. This Stipulation shall be binding and inure to the benefit of the successors, heirs and assigns of the respective parties hereto.
16. This Stipulation and the Decision constitute the entire understanding of the parties concerning the settlement of this proceeding. There are no restrictions, promises, warranties, covenants, undertakings, or representations other than those expressly set forth herein or contained in separate written documents delivered or to be delivered hereto, and the parties expressly acknowledge that each has not relied upon any restrictions, promises, warranties, covenants, undertakings, or representations other than those expressly contained herein.

Dated: July 13, 2001

LYNDA WILLIAMS,

Staff Counsel

CIWMB

Dated: July 3, 2001

Authorizing Agent FOR

TOTAL TIRE RECYCLING

Dated: July 3, 2001

MICHAEL BYRNE

Dated: July 3, 2001

GARY MATRANGA