

*MEMORANDUM OF UNDERSTANDING*

*THIS Memorandum of Understanding*, executed in duplicate, made and entered into this 27 day of JANUARY, 1997, by and between the Office of Waste Management ("OWM") of the West Virginia Division of Environmental Protection, party of the first part, and the Office of Mining and Reclamation ("OMR") of the West Virginia Division of Environmental Protection, party of the second part.

*WHEREAS, OMR*, duly established and empowered under the provisions of W.Va. Code §22-1-7(2), to, among other things, regulate surface mining in this state as set forth in W.Va. Code §22-3-1 et seq., and, more specifically issue permits as well as administer the Surface Coal Mining and Reclamation Act;

*WHEREAS, OWM*, duly established and empowered under the provisions of W.Va. Code §22-1-7(6), to, among other things, control the disposal of solid waste as set forth in W.Va. Code §22-15-1 et seq., more specifically, the placement of waste tires as said term is herein defined;

*NOW, THEREFORE*, for and in consideration of the mutual obligations and covenants hereinafter set forth, the parties hereto agree as follows:

1. The **OWM** agrees that the placement of waste tires at mining permits issued pursuant to Article 3, Chapter 22 of the W. Va. Code does not require a permit issued pursuant to Article 15, Chapter 22 of the W. Va. Code so long as the conditions hereinafter set forth are adhered to, to wit:

- A. "Waste tires" shall mean off road mining equipment tires generated at the permitted mining operation. (Note: This specifically excludes tires from vehicles licensed to operate on county, state, or federal highways.)

- B. The permittee shall be required to revise the surface mining permit to reflect waste tire disposal. This permit revision shall be subject to a one time advertisement and ten day comment period. The application for such permit revision must contain, at a minimum, the following:
- (1) Notarized, written permission from the surface owner to place waste tires on the permitted area.
  - (2) A plan which outlines that the permittee will comply with all conditions specified herein.
  - (3) A suitable map which identifies the general area for the planned waste tire disposal.
- C. Waste tires must be generated by the permitted operation. (Waste tires generated elsewhere are prohibited).
- D. Waste tires may not be placed in the 100 yr. flood plain, wetlands or within 100 feet of a surface drainage channel or within the limits of proposed valley fills.
- E. Waste tires must be placed in a single layer, under a sufficient depth of overburden in a manner that will assure that the waste tires do not emerge, create a potential for fire, or provide harborage for disease-carrying vectors. The media where waste tires are disposed shall have a minimum of 5.0 pH (Std. Units) and the depth of cover shall be greater than twenty (20) feet in all directions. Waste tires shall be placed on solid ground and covered in a manner that will ensure long-term stability, prevent surface subsidence and ponding of surface water.

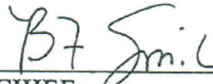
F. The permittee shall maintain at the mine-site or nearest office, monthly reports detailing the number, origin, and size of all waste tires disposed on the permitted site. The permittee must maintain a site map of the exact location of waste tire disposal and shall record a deed notation with the County Clerk's Office that shall be available with the deed. This will notify any potential purchaser that waste tires have been disposed of on the site. A copy of the site map and reports must be made available for review to the local inspector upon request and a copy submitted to the regional DEP office annually.

2. The OMR will notify the OWM of all mining permits which are revised to provide for placement of waste tires. The OWM agrees that mining permits upon which notification has been received will be inspected by OMR to assure compliance with the terms of this agreement and the revised permits.


3. This agreement may be cancelled at any time by either of the parties hereto upon written notice of the other party.

*IN WITNESS WHEREOF*, the parties hereto have caused their respective names to be signed by their duly authorized representative.

OFFICE OF WASTE MANAGEMENT  
WEST VIRGINIA DIVISION OF  
ENVIRONMENTAL PROTECTION

  
\_\_\_\_\_  
CHIEF

OFFICE OF MINING AND RECLAMATION  
WEST VIRGINIA DIVISION OF  
ENVIRONMENTAL PROTECTION

  
\_\_\_\_\_  
CHIEF