

October 20, 2006

Margo Reid Brown, Chair  
California Integrated Waste Management Board  
1001 I Street  
P.O. Box 4025  
Sacramento, CA 95812-4025

Dear Ms. Brown:

This letter is written on behalf of the two California Tire Dealers Associations (CTDA), North and South, and its intent is to provide you, the other Board Members and CIWMB Tire Program Staff with issues that are important to the Associations as you consider the biennial update of the Five-Year Plan for the Waste Tire Recycling Management Program.

Because tire retailers collect from their customers \$1.75 on the sale of every tire in order to provide \$35 million to \$40 million annually for the Tire Recycling Fund they have a keen interest in how that money is spent.

As you know, one of my roles on behalf of CTDA is to ensure that the Board spends Tire Recycling Funds only on tire programs, not programs dealing with other wastestreams that would be more suitably funded from other accounts. To this end, we offer the following comments and observations of the Board's tire programs:

- 1) The \$1 portion of the tire fee (from the original 25-cents) that goes to the CIWMB was triggered by the huge tire fires in Tracy and Westley in the late 1990's. The resulting legislation, SB 876 (Escutia, Chapter 838, Statutes of 2000), promised to reduce the likelihood of such fires occurring by instituting a tire hauling manifest system and requiring the Board to set aside \$6.5 million annually to clean up illegal tire piles.
- 2) A secondary rationale for the fee increase was to help tire recycling stakeholders become self-sustaining, thereby reducing the number of tires disposed in landfills.

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- 3) Finally, the following language was included SB 876: *"To pay the administrative overhead cost of this chapter, not to exceed 5 percent of the total revenue deposited in the fund annually, or an amount otherwise specified in the annual Budget Act."*

As you develop a new Five-Year Plan, we ask you to consider the following questions:

- 1) Which programs have fulfilled their mission and can be scaled back or eliminated?
- 2) Which programs are necessary to maintain in perpetuity to ensure that California will never again have a dangerous illegal tire pile problem?
- 3) Which programs should be given the green light temporarily, but should be placed on a "watch list" for future reduction or elimination?

In witnessing the development of the CIWMB's tire programs since the early 1990's, I have seen both successes and failures. Overall, I commend the job that the Board has done in cleaning up illegal tire piles, establishing an enforcement infrastructure to prevent new tire piles and regulate tire haulers, and helping tire-derived product manufacturers achieve a modicum of stability through research, grants and loans. That being said, I would answer the above three questions in the following manner:

- 1) Mission accomplished: Remediating large illegal tire piles. Nearly \$6 million annually is currently set aside for Clean up, Abatement and Remedial Action and that number could be whittled down to maybe \$3 million (\$1 million for small tire pile clean-ups, \$1 million for local government grants for clean-ups and amnesty days, and \$1 million for the Emergency Reserve Account).

In all fairness, the Farm and Ranch Solid Waste Clean up and Abatement Grant program that receives almost one-half of its annual \$1 million allocation from the Tire Recycling Fund should receive all or most of its funds from the Integrated Waste Management Account Fund (IWMA). As an example, the last three projects cost the program over \$190,000 (about \$90,000 from the Tire Recycling Fund) and remediated a total of 420 tires. As I have stated on several occasions, this is an example of using the Tire Recycling Fund as a "cash cow" for a program that should be funded by the IWMA.

- 2) Programs needed on an ongoing basis: Waste Tire Hauler and Manifest Program (\$776,482 annually) and Enforcement and Regulations Relating to the Storage of Waste and Used Tires (\$8,120,948 annually). Both need to be monitored annually to see how much funding is appropriate, particularly as more reports are received through Electronic Data Transfer.

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- 3) Programs that should be re-examined in two years, during the next Five-Year Plan update: Research (\$669,368 to \$1,169,368 annually) and Market Development and New Technology Activities (\$14 million annually, plus or minus). While promoting self-sustaining tire processors and tire-derived product manufacturers is both laudable and necessary in order to divert most of the state's 40 million waste tires from landfills, some products have already achieved sustainable markets and may do not need continued "subsidies" from the CIWMB.

Asphalt rubber (RAC) is the most likely candidate for scrutiny since its benefits clearly outweigh properties of conventional asphalt and it is widely accepted in the engineering and road paving communities.

Another issue for the Board to consider is whether the grants are driven by product sustainability—which should be the only criterion for the Board—or are they in place to help local governments in times of fiscal uncertainty.

Overall, while the state's tire programs are generally headed in the right direction and Tire Program Staff are thoroughly professional and competent in administering them, the Board needs to take a fresh look at what it is trying to accomplish with the nearly \$40 million it receives each year.

Both California Tire Dealers Associations believe that the CIWMB could fulfill its statutory obligation to divert tires from landfills and prevent illegal waste tire stockpiles with \$20 million annually, or about one-half the amount it now receives from the tire fee. While it is rare for a state board to voluntarily support a proposal to reduce revenues for one of its high profile programs, I believe that in the next couple of years the case for a reduced tire fee will be all the more evident. Here are some compelling reasons:

- 1) The original move from 25-cents to a \$1 tire fee via SB 876 was predicated on removing large illegal tire piles. That goal has been accomplished.
- 2) While there is a need to retain an enforcement infrastructure and a hauler registration system, a self-sustaining tire-derived product marketplace through research and market development programs are near fruition. Providing a local jurisdiction with a grant for RAC or a running track is looking more and more like a subsidy for the city or school. A weaning process needs to be developed and publicized so that dependency does not develop. Grants, if needed, should be focused on first-time users in order to introduce them to the variety and quality of tire-derived products.
- 3) While the Board's legal counsel can argue that the 5% administrative overhead cost cap included in SB 876 relates only to the pro-rata sharing of executive management, accounting, human resources, etc., I believe the intent of Senator Escutia's legislation was to hold all tire program staffing and administration to the

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5% cap. That is why we raise this issue from time to time, as the amount of direct and indirect administration and staffing varies between 15% and 17% of annual tire fee revenues.

- 4) The Fund Balance (unspent tire fee money) of the Tire Recycling Fund is \$24,537,000 this year and expected to stay above \$20 million in Fiscal Year 2006/07 (assuming the State Legislature and Governor approve the Board's \$5 million BCP). That is still a huge amount that could be ripe for "borrowing" should the state find itself in fiscal straits. The \$15 million or so that the state borrowed from the Tire Recycling Fund a few years back indicates how easy such funds can be expropriated. The Fund Balance indicates to us that the Board receives more money in tire fee revenue than it has programs to spend it on.

To add fuel to the fire, should the Legislature return the \$15 million loan in 2009 as promised, the Fund Balance would be all the more indefensible. This infusion of money—however unlikely or improbable—would be coming at a time that the Board may be reducing or eliminating tire programs.

As mentioned earlier in this letter, the California Tire Dealers Associations, North and South, simply want to convey some thoughts and offer some questions you may wish to raise as the Board considers its Five-Year Plan. While we have always argued that there are better ways to fund the tire programs than a fee on the sale of new tires, we also understand the necessity to regulate the industry so that California never again faces the proliferation of illegal tire piles and the devastating effects of tire fires.

To reiterate, we believe that a viable and effective tire program can be shaped with \$20 million annually, equivalent to a 50-cent tire fee.

The Associations appreciate the opportunity to comment on the Plan and participate in this process as you attempt to forge a fair and economically sensible Tire Recycling Fund budget in meeting your statutory requirements.

Sincerely,

Terry Leveille

Representing:  
Ed Cohn, Executive Director  
CTDA-South  
Ejnar Fink-Jensen, Executive Director  
CTDA-North

cc: CIWMB Members  
Jim Lee, Deputy Director of Special Waste