

PRESS RELEASE

For immediate release
Date: December 5, 2001
Re: Westley Tire Fire

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Modesto, California - - - Today, the Stanislaus County District Attorney's Office and the California Attorney General's Office won a large victory in the Westley Tire Fire case. In a court trial on the issue of Ed Filbin's liability for future clean-up of the waste and contaminated soil caused by the fire, the court ruled that Ed and Mary Etta Filbin, are directly liable for creating the nuisance. The Filbins created and maintained the tire pile that caught fire on September 22, 1999, causing one of the biggest environmental disasters in the Central Valley. The court also issued a broader ruling by finding that the Filbins could not seek shelter in their limited liability company, Cal-Neva Ranch Company, LLC, which took title to the tire pile property just six months before the fire.

In March 1999, the Filbins transferred most of their real property in California, including the property where the massive tire pile was located, to a revocable trust, then, in the same day, transferred it to a limited liability company. This transfer came after the State had issued two Cleanup & Abatement Orders naming Ed Filbin as property owner of the tire pile. As property owner, Filbin could be responsible for removing the unlawful tire pile, which could cost upwards of millions of dollars.

The Attorney General and the District Attorney argued that Ed Filbin created the limited liability company in order to avoid the significant liabilities that attached to being owner of a massive and unlawful tire pile. The Court agreed and found that an injustice would occur if the Court allowed the Filbins to avoid personal liability by simply "changing their form" and thus found the limited liability company was not a separate legal entity, but that the company and the Filbins were "one and the same." This interlocutory judgment has the added effect of holding the Filbins, their revocable trust, the Edward Joseph Filbin and Mary Etta Filbin Revocable Trust UAD September 21, 1998, in addition to their limited liability company, Cal-Neva Ranch Company, responsible for future clean-up at the Westley site. The State anticipates the site will be clean by Winter 2002. There is still significant work, however, to be done. It is estimated that the costs of fully remediating the site could be as

high as \$16 million.

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The Attorney General's Office and District Attorney's Office have already settled with two of the five defense groups for a total of \$9.6 million. The two Offices settled with Modesto Energy Limited Partnership ("MELP"), the company that owned the waste tires-to-energy plant, for \$4.1 million and CMS Generation Company, the company that previously owned the energy plant, for \$5.5 million. The bulk of the monies will go toward the continued clean-up of the site. \$80,000 of the MELP settlement is for civil penalties for the alleged violation of waste tire laws prior to the fire. \$65,000 of the MELP settlement will go to a County Environmental Trust Fund to be used for environmental projects such as assisting the County with illegal tire piles.

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