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U. S. DEPARTMENT OF TRANSPORTATION

SECRETARY BROCK ADAMS AND JOAN CLAYBROOK

on the

FIRESTONE AGREEMENT

October 20, 1978

(TRANSCRIPT OF A TAPE RECORDING)

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P R O C E E D I N G S

1  
2 : This is October 20th, 1978, Secretary Adams  
3 and Joan Claybrook on the Firestone Agreement.

4 SECRETARY ADAMS: Thank you for all coming on short  
5 notice. We're dealing with a very complex case, which is the  
6 recall of certain steel-belted radial tires made by the Fire-  
7 stone Tire and Rubber Company.

8 Now, they have agreed with us to recall these tires.  
9 The reason that we have proceeded with an agreement is that our  
10 chief concern is to get those tires off the road, have them  
11 recalled, have them replaced and protect the consumer.

12 I have been disappointed and I, therefore, called  
13 this on short notice, to say that I think this has taken too  
14 long. And Miss Claybrook and her staff have been pressing  
15 very, very hard to get this agreement. I want it signed today.  
16 I think it will be signed today. I can assure you if it is  
17 not signed today, that we will file suit, even though that  
18 takes a longer period of time and if we file suit, we will go  
19 with all of the various items that are available.

20 Mr. Levin, Miss Claybrook and the others have been  
21 trying to work out this agreement over a series of many months  
22 because it would provide a greater degree of protection to  
23 the consuming public by getting them both off the road and  
24 seeing that the consumers got their money back. I believe  
25 they will-- the company -- redeem these tires and that they will

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1 make and meet their responsibilities, but I wanted to make it  
2 very clear today that we have waited this week to have it done  
3 and that the waiting is over.

4 Joan, why don't you make whatever comments you want,  
5 and then we're both available for questions from all of you?

6 Joan?

7 MISS CLAYBROOK; Well, I think the one thing that I  
8 want to say is that one of the conditions of this agreement  
9 with Firestone was that all of the documents which underlie  
10 this decision are going to be made publicly available. We  
11 insisted on that as a condition of settlement, and within about  
12 a week or two we will get all of those pulled together and put  
13 in the public document file, so that anyone who wants to can  
14 look this over and judge it for themselves. There is quite a  
15 large number of documents involved, but we thought that it was  
16 absolutely essential that the public be able to judge it them-  
17 selves.

18 I think the second point that I want to make, is one  
19 of the key issues in our discussions with Firestone, was  
20 whether or not the public was going to have to have proof of  
21 purchase of tires in order to get their tires recalled. And  
22 what we have attempted to do is to structure this in such a  
23 way that they do not have to produce proof of purchase, except  
24 in certain very limited circumstances, in order to facilitate  
25 it, to make sure that the public gets fair treatment from the

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1 company and that it happens as rapidly as possible.

2 SECRETARY ADAMS: Joan and I are available and just,  
3 please, when you raise your hands, if you want to ask Joan o  
4 you want to ask me, let us know as you start.

5 Yes?

6 Q: Are you convinced right now that people who have  
7 these tires on their cars should take them off and not drive  
8 their cars any further than they already have?

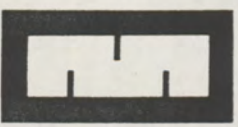
9 SECRETARY ADAMS: No, I don't think they have to do  
10 that, but I think they should go in promptly and get the re-  
11 call. They can look at the tire itself, in terms of whether  
12 or not that tire has either a separation or is in a condition  
13 that is hazardous.

14 And that is one of the things that is a part of th  
15 settlement. And, Joan, do you want to explain how that settle-  
16 ment will work in terms of the recall?

17 MISS CLAYBROOK: Well, they are going to send out  
18 notices, both personal notices for those owners for whom they  
19 have records, and also, television media print notices  
20 publicly. They will have to produce a huge number of tires.  
21 There are about seven and a half million of these tires still  
22 in service and it is going to take some time for them to pro-  
23 duce them.

24 Perhaps one of the most important things for con-  
25 sumers to do in the interim is to keep their tires properly

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1 inflated and to inspect them on a regular basis.

2 We believe that some of the tires that have gone  
3 quite a large number of miles will not be as badly -- as likely  
4 to have failures if they've gone that far, say, 35,000 miles  
5 already. But we don't know that, and so consumers should be  
6 very, very careful.

7 Q: Well, are you saying that the tires are dangerous?

8 MISS CLAYBROOK: These tires, as manufactured, have  
9 had a -- in some cases a 30-, 40-, 50 percent adjustment rate.  
10 And we can only conclude that any number of them are very,  
11 very hazardous. We don't know exactly which ones are likely  
12 to fail and under what circumstances, more likely high speed,  
13 high heat.

14 So consumers should be very careful. We're trying  
15 to effectuate this as rapidly as possible so they have the  
16 least amount of exposure.

17 Q: How long will consumers have to accomplish this--

18 SECRETARY ADAMS: Go ahead.

19 Q: -- and get the replacement tires?

20 MISS CLAYBROOK: The statute says that within 60 days  
21 after receiving notice the consumer has to bring the tire back.

22 We are working with Firestone to try and ameliorate  
23 that because of the delay in getting the notices out in the  
24 first instance. We think that, in some cases where the names  
25 of the consumers are not had by Firestone, where they don't

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1 have any record, that there ought to be a longer period of  
2 time for them to come back.

3 SECRETARY ADAMS: Yes?

4 Q: You mean that they can trade the tire in and get  
5 a new one, or will they have to pay an adjustment fee?

6 MISS CLAYBROOK: Well, there are two parts of this  
7 agreement. The first part is a recall and that is the number  
8 of tires that are covered by the statutory period. There's  
9 a three-year statute of limitations in the statute and Fire-  
10 stone has refused to recall tires other than those covered by  
11 the statute of limitations. Those owners will get a new 721  
12 Firestone Tire.

13 For owners of tires that are not covered by the  
14 statute, which is primarily early '75, '74 and '73, the company  
15 has agreed to a 50 percent adjustment. They have decided to  
16 do that on their own.

17 But what the statute requires is that these owners be  
18 notified of the problem. We asked Firestone to recall all of  
19 those tires and they refused to do that.

20 Q: Then most owners will get the 721 then?

21 MISS CLAYBROOK: All owners will get a 721, as their  
22 -- whether it's in the adjusted or whether it's in the recall.

23 For those that are subject to recall, they will get  
24 a free 721; for those that are subject to mere notification,  
25 they will get a 50 percent adjustment offer.

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Q: Miss Claybrook, two questions; from what the Secretary said earlier it sounded like you do not yet have a signed agreement with Firestone?

SECRETARY ADAMS: That is correct. The document has been signed, it is in their hands, but this document has gone back and forth. I want to be certain it's signed today. That's one of the reasons that --

MISS CLAYBROOK: By Firestone.

SECRETARY ADAMS: -- we have --

Q: The expectation is, I take it, that it will be signed?

SECRETARY ADAMS: Yes.

Q: Can you tell us a little bit more about this advertising effort you want Firestone to make, to notify people and when this is going to start?

MISS CLAYBROOK: We have come to an agreement in principle with Firestone. What we have indicated to them is that they will have to do a sufficient amount of advertising in television, prime time; radio and the print media, in order to reach the owners of the tires who should be notified.

And we have suggested that they use a standard industry assessment of how much is required to reach those owners.

Q: You've left that up to them?

MISS CLAYBROOK: No, we have not left that up to

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1 them. We are still negotiating the exact provisions of that.  
2 But that agreement in principle has been reached.

3 Q: What will the announcement have to say? Will  
4 these be in regular Firestone advertisements or will these  
5 be --

6 MISS CLAYBROOK: We will clear the content of them.

7 Q: What's been the big holdup, Mr. Secretary? Why  
8 haven't they signed it and why are they delaying this thing?

9 SECRETARY ADAMS: Well, they've argued back and  
10 forth because we have a limited statute of limitations on this.  
11 And we wanted -- our job, we feel, as a department, is to get  
12 the tires, all of them, off the road; many of which have been  
13 on the road for a number of years.

14 So, we've been negotiating about the period of time  
15 prior to the running of the statute of limitations, both as  
16 to notification of people and as to an adjustment that they  
17 would receive for the tires. There have been other technical  
18 parts of it, but these have been the main items that have been  
19 in contention. And it's gone back and forth between the  
20 lawyers. And I think that should stop.

21 We've gotten to the point now where today is the  
22 day. I want that signed and if it isn't signed, then we will  
23 proceed with the statutory items. The statutory -- the  
24 problem with that is that it can then go into protracted  
25 litigation and months and years can go by. And our job is to

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1 get the tires off the highway, not to win a lawsuit.

2 MISS CLAYBROOK: I think there's one other point  
3 that's important to make and that is that in order to draw  
4 this agreement we had to get information from Firestone. And  
5 in order to get that information from Firestone we had to  
6 sue Firestone, originally.

7 And the court decided that case in the end of August,  
8 and required that the documents get to us within 21 days,  
9 which was about the third week in September. And that's when  
10 we really first got enough information to make this judgment.

11 Q: Miss Claybrook, what about those tire owners  
12 who have already had tire failure, have already replaced them?

13 MISS CLAYBROOK: Firestone has agreed to make an  
14 adjustment for those owners, that is any owner who has a tire  
15 covered by the statutory period would be able to go back to  
16 Firestone and get a cash payment for the difference between  
17 the adjustment that they paid and the retail price of the  
18 tire. So, they will be fully reimbursed in cash.

19 I will tell you that that was not one of my primary  
20 objectives in this settlement, that was something Firestone  
21 decided to do because they're likely to get sued by the  
22 Attorneys General or District Attorneys. I was more concerned  
23 with the safety of the people who have tires that are  
24 now on the highway.

25 Q: Mr. Adams, the press release says you have an

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1 agreement --

2 SECRETARY ADAMS: Yes.

3 Q: -- as of this moment you do not have an agree-  
4 ment?

5 SECRETARY ADAMS: We do not have it signed by both  
6 sides. This agreement, as Joan mentioned, in principle --  
7 in other words, on all the items has been agreed to on both  
8 sides, but it isn't signed. And I don't want that to go on  
9 any longer because we've had this now for a couple of days  
10 and it's gone back and forth with everybody dotting "I"s and  
11 crossing "T"s. And I've been in the litigation business long  
12 enough to know that a time has to come where it has to -- it  
13 all has to end.

14 Q: Miss Claybrook, do Firestone dealers have a  
15 721 on stock now, or how quickly will they --

16 MISS CLAYBROOK: Well, I don't think they've been  
17 selling very many of them recently, so they probably have quite  
18 a supply.

19 We have also been told that they have at least a  
20 month's backlog at the factory and that they're going to be  
21 doing overtime production to get as many of these tires out  
22 as fast as possible.

23 Q: But you say there are enough tires there?

24 MISS CLAYBROOK: There are not enough tires there  
25 for this entire recall by any means; there are not.

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SECRETARY ADAMS: Not yet, but they will be in production, doing it.

Q: How long will it take to gear up to that stage?

MISS CLAYBROOK: Well, I can't tell you exactly how long it's going to take to produce something like about five and a half to 6 million tires, which is what they estimate is what will be returned under this recall -- would probably take them the better part of a year to do the whole thing.

Q: Miss Claybrook, what would your recommendation be to people who have Firestone 500 steel-belted tires on their cars now and they're having, perhaps, some kind of difficulty getting them replaced for free by the company?

MISS CLAYBROOK: I would suggest that they go and ask the dealer for their replacement tire.

Q: But if the 721 is not available --

MISS CLAYBROOK: Well, there are a lot of 721s, they are at the dealers right now. And I would suggest that people go and try to get their tires replaced.

One of the arrangements in this agreement is that we're using the date of production of the tire, primarily as the guide, so that there does not have to be proof of purchase. And people can determine the date of production of their tire by looking at the DOT tire number. And the last three digits indicate the month and year of production.

So, if it says, for example, on it, "975" as the

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1 last three digits, that means it was produced at the end of  
2 -- excuse me, it's by the week, isn't it -- it would have to  
3 be the week -- the 38th week of 1975, it would be indicated  
4 in the last three digits of the tire code number.

5 Q: What is the cutoff in '76?

6 MISS CLAYBROOK: The cutoff in '76 is May 1, 1976  
7 for the original equipment General Motors TPC tires. That's  
8 a tire identical to the 500, and for the seven-rib 500 tire,  
9 and January 1, 1977 for the five-rib 500 tire.

10 SECRETARY ADAMS: Yes?

11 Q: (Unintelligible.)

12 MISS CLAYBROOK: It was determined by adjustment  
13 rates. We looked at adjustment rates by batch, size, plant  
14 of manufacturer, for each and every one of these tires. And  
15 it was determined by the adjustment rate that the company was  
16 having with that tire, historically.

17 Q: Miss Claybrook, is this to be classified as a  
18 voluntary recall or are we going to have a negotiated recall?  
19 And the matter of civil penalties, I know, --

20 MISS CLAYBROOK: Well, I think it's a negotiated  
21 recall. The matter of civil penalties has been resolved.  
22 Firestone said that they would not settle if they had to pay  
23 a civil penalty. And we had to make a decision as to whether  
24 or not to require the \$800,000 civil penalty as a prerequisite  
25 for the settlement. And we decided that we preferred to get

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1 the tires off the highway as fast as possible.

2 Q: Miss Claybrook, I take it that there's been --  
3 to return to this advertising question -- there's been no  
4 dollar figure agreed to on how much Firestone is obligated  
5 to publicize this recall, so consumers will know what's  
6 going on.

7 MISS CLAYBROOK: I don't think the dollar figure is  
8 important because Firestone has, obviously, discounts in other  
9 things. And I don't think that the dollar figure that you re-  
10 get, if you're a volume advertiser, you pay different rates  
11 than if you're a small volume advertiser.

12 We're not concerned with the rates, we're concerned  
13 about the market penetration of the information.

14 Q: Is there a dollar figure or another figure that  
15 indicates the scope of the effort Firestone wants to make in  
16 mass media advertising?

17 MISS CLAYBROOK: No. We decided not to use dollar  
18 figures because we don't think they're revelant.

19 Q: Miss Claybrook, is the dealer obliged now to  
20 replace the tire if the customer comes in without a recall  
21 slip?

22 MISS CLAYBROOK: That is correct. There are some  
23 owners that will never get notified because Firestone does  
24 not have a record of every purchaser.

25 Q: So the owner could go in right away, today, and --

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1 MISS CLAYBROOK: That is correct.

2 Q: And the dealer is authorized?

3 MISS CLAYBROOK: The dealer is obliged, that is  
4 correct. I am now presuming, of course, that Firestone is  
5 going to sign this piece of paper this afternoon.

6 Q: Mr. Secretary, if this is going to cost Firestone  
7 well over \$200 million, do you have any concern that this kind  
8 of a penalty or whatever is going to jeopardize the company,  
9 the future of the company?

10 SECRETARY ADAMS: I don't think it will jeopardize  
11 the future of the company. Yes, I am always concerned when  
12 we have to go into a major type operation such as this, but  
13 our job is safety. And we, therefore, can't measure lives  
14 against the dollars. But the company can meet this and, yes  
15 we are always concerned as we go through any kind of safety  
16 operation but we can't measure lives against dollars.

17 Q: You said that five and a half to 6 million  
18 tires are involved in the actual return and 4 million or more  
19 tires are essentially very dangerous and remain on the road?

20 MISS CLAYBROOK: No, there were 10 million originally  
21 produced; there are about seven and a half million still in  
22 service, estimated. And we have just estimated that some  
23 smaller proportion than seven and a half million will actually  
24 be returned to the company. That's all that that means.

25 Q: Of that number how many are beyond the statute?

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1           MISS CLAYBROOK: None of those are beyond the  
2 statute. There are, I think, in original production, about  
3 six million that preceded the statute, that are manufactured,  
4 that are still on the road and about, I guess, about three-  
5 fourths of those they expect will be returned, something of  
6 that sort.

7           Q: There was testimony on the Hill questioning the  
8 721 as well -- questioning the 721's failure rate. Is it  
9 possible that some of these people that have 500s might not  
10 want 721s and what happens to them?

11           MISS CLAYBROOK: That's all the company is offering  
12 and that's all the statute requires them to offer. It's a  
13 top of the line equivalent tire that they have.

14           We do not have any knowledge that the 721 has a  
15 problem. The 500 is a new version of the 721. A large number  
16 of production and design changes were made and then they  
17 changed the name.

18           Q: I think it was the other way around, the 721 is  
19 a new version of the 500?

20           MISS CLAYBROOK: That's right, the 721 is the new  
21 version of the 500. A large number were made in the 500 and  
22 it became the 721.

23           SECRETARY ADAMS: Yes?

24           Q: During the public hearings there was a lot of  
25 conversation regarding the cooperation of dealers, many of

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1 them being independent businessmen. Can you explain how  
2 Firestone is going to notify these dealers, so that if some-  
3 one went in this afternoon, the dealer would be cooperative?

4 MISS CLAYBROOK: They have contracts with the dealers.  
5 They handle it by contract with the dealer.

6 Q: Could one of you, in a couple of paragraphs --  
7 and I mean just that -- review the problem with the tire?  
8 What was the problem?

9 MISS CLAYBROOK: We found that there was a safety  
10 performance defect with this tire. Our initial determination  
11 in July found that there were a large number of tires that  
12 were failing, in fact, on the highway. And so we found a  
13 performance defect.

14 The kinds of failures that occur is that it would  
15 become out of round, there would be bubbles, there would be  
16 tread separation. And when they were overheated or when they  
17 got to a high level of heat, on the highway, in use, they  
18 would explode or blowout and become flat.

19 Q: Did you ever find a specific defect in all the  
20 tires?

21 MISS CLAYBROOK: No, we never attempted to, we didn't  
22 think we needed to. The statute says that if we could find  
23 a safety performance defect -- we decided not to argue about  
24 glue and wire, but rather to look at the adjustment data  
25 which clearly showed that the company has known for some time



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1 that these tires are a severe problem, that there were many,  
2 many defective failures and that's all the evidence we felt  
3 we needed to get a court to decide that these should be recalled.

4 Q: Miss Claybrook, have you asked any other agencies,  
5 such as the Federal Trade Commission, to determine whether  
6 these tires were falsely or deceptively advertised at the time  
7 they were sold?

8 MISS CLAYBROOK: The Federal Trade Commission, as I  
9 understand it, doesn't need to be asked. They are already  
10 looking into it.

11 Q: Does the signing of the consent agreement pre-  
12 clude any further legal action by the Department of Trans-  
13 portation against Firestone in this case?

14 MISS CLAYBROOK: Yes, it does, that would be part  
15 of the agreement. There is one pending penalty proceeding  
16 against them, however, that we are going to pursue and they  
17 know, which is they recalled 400,000 of these tires in 1976,  
18 when they failed our standards. And we had tested a certain  
19 number of tires and those that were represented by that batch  
20 of tires were recalled, 400,000 of them. And we have held up,  
21 pending the resolution of this case, that penalty proceeding;  
22 that we will pursue.

23 Q: Have your legal advisors indicated or have they  
24 given you any idea of what the effect on liability cases may  
25 be of the Department's announcement today?

SECRETARY ADAMS: No.

Thank you all very much.

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