MARIE W. CARTER, CHIEF COUNSEL, SBN# 070403
WENDY BRECKON, STAFF COUNSEL, SBN# 182952
Attorneys for Complainant
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
1001 I Street, 23rd Floor
P. O. Box 4025
Sacramento, CA 95814
Telephone: (916) 341-6068
Facsimile: (916) 341-6082

STATE OF CALIFORNIA

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

In the Matter of: CB TYRES RECYCLING RESOURCES, LLC FACILITY NO: 36-TI-1324 ASSESSOR PARCEL NUMBERS: 1167-121-03 AND 1167-121-04 RESPONDENT.	ADMINISTRATIVE DECISION FOR ADMINISTRATIVE PENALTIES PURSUANT TO STIPULATION OAH No.: L-2005080053 Agency No: 2005-010899-A

PROCEDURAL HISTORY

The California Integrated Waste Management Board ("CIWMB") served an Amended Administrative Complaint and Request for Hearing form on CONRAD BATHUM, INDIVIDUALLY AND AS MANAGER OF CB TYRES RECYCLING RESOURCES, LLC, Operator of CB TYRES RECYCLING RESOURCES, LLC, (CB TYRES) AND BARTON PROPERTY, LLC, Property Owner ("RESPONDENTS"), on July 29, 2005. RESPONDENTS negotiated a Stipulation For Issuance of Administrative Decision (Stipulation) with the CIWMB in lieu of litigating the case at the administrative hearing scheduled for October 28, 2005. Pursuant to the Stipulation dated October 25,

2005, entered into by the CIWMB and RESPONDENT and good cause appearing therefore, the following stipulated factual findings and conclusions of law are made, and the following Stipulated Order is issued.

STIPULATED FACTUAL FINDINGS:

1. The CIWMB has authority to inspect, permit, regulate and conduct enforcement actions against Waste Tire Facilities (WTF) within the State of California under Public Resources Code (PRC) Section 42800, et seq., and attendant regulations contained in Title 14 of the California Code of Regulations (CCR).

2. CB TYRES RECYCLING RESOURCES, LLC is responsible for the waste tires being stored at 21801 Barton Road, Unit D, Grand Terrace, San Bernardino County, California 92313. This Site is not a permitted WTF.

3. On February 13, 2003, CB Tyres was issued a Letter of Exclusion, allowing the storage of up to 50,000 waste tires in fully enclosed moveable containers without a permit as long as there were never more than 499 waste tires stored on the ground and in conformance with 14 CCR section 18420(a) (5). On February 24, 2003, Vance Tracy of the CIWMB conducted a Waste Tire Facility Inspection of CB Tyres and observed approximately 2,000 waste tires being stored on the ground and 1,000 waste tires being stored in open containers. The tires were stored in a manner that violated the standards for 14 CCR section 17351 – Fire Prevention Measures, 14 CCR 17353 – Vector Control and 14 CCR section 17354 – Storage of Waste Tires.

4. A written report of the inspection and a Letter of Violation (LOV), dated April 14, 2003, was addressed and posted by U.S. Mail by Vance Tracy of the CIWMB to Conrad Bathum, Agent for Service of Process for CB Tyres, requesting that a Corrective Action Plan be submitted to the CIWMB by May 14, 2003 and advising the operator to cease and desist from storing more than 499 waste tires on the ground or in open containers without first obtaining a minor or major waste tires storage facility permit. A courtesy copy of the letter was sent to the property owner.

5. On May 15, 2003, CB Tyres faxed a response to the April 14, 2003 LOV.

The response indicated that CB Tyres was then contracting with multiple haulers to avoid storing more than 499 waste tires on the ground overnight.

6. On June 30, 2003, 14 CCR section 18420(a) (5) was removed from regulation and replaced with 14 CCR section 17225.717 – Collection. Each entity that was previously issued a sealed container exclusion under 14 CCR section 18420 (a) (5) was notified via letter from the CIWMB that their sealed container exclusion would become null and void after June 30, 2003.

7. On January 26, 2004, Vance Tracy of CIWMB conducted another inspection of CB Tyres in conjunction with a joint California Highway Patrol and CIWMB waste tire hauler checkpoint. Mr. Tracy observed approximately 4,000 waste tires were observed to be left on the ground and in open containers from the previous operating day and in violation of the provisions of 14 CCR section 17225.717 and in violation of 30 PRC section 42834 – Unpermitted Minor Waste Tire Facility and 14 CCR section 18420(a) – Applicability and 14 section CCR 17354 – Storage.

8. On March 2, 2004, a State Observation of CB Tyres was conducted by Vance Tracy of the CIWMB. He observed approximately 3,000 waste tires left on the ground overnight from the previous operating day.

9. On March 23, 2004, another State Observation of CB Tyres was conducted by Vance Tracy of the CIWMB. He observed approximately 1,000 waste tires left on the ground after the facility had closed for the day.

10. Cease and Desist Order 2004-010728-CDO dated June 3, 2004, was issued by CIWMB to James McMinn, Agent for Service of Process for Barton Property, LLC, Property Owner and Conrad Bathum, Agent for Service of Process for CB Tyres Recycling Resources, LLC, Operator on August 3, 2004. The Cease and Desist Order ordered that Barton Property, LLC, Property Owner and CB Tyres Recycling Resources, LLC, Operator comply with the provisions of 14 CCR section 17225.717 – Collection and cease and desist from storing 499 or more waste tires on the ground and/or in open

containers without first obtaining either a minor or major Waste Tire Storage Facility Permit. This Cease and Desist Order remains in effect.

11. On November 19, 2004, Vance Tracy of the CIWMB conducted a follow up WTF Inspection of this location and determined that approximately 3,700 waste tires had been left on the ground and/or in open containers overnight from the previous operating day in violation of the provisions of 14 CCR section 17225.717 – Collection and in violation of 30 PRC section 42834 – Unpermitted Minor Waste Tire Facility and 14 CCR section 18420(a) – Applicability, as well as 14 CCR section 17354 – Storage of Waste Tires.

12. On January 12, 2005, another State Observation of CB Tyres was conducted by Vance Tracy of the CIWMB; he observed approximately 2,000 waste tires left on the ground after the facility had closed for the day.

13. On February 2, 2005, Vance Tracy of the CIWMB conducted a follow-up observation of CB Tyres and observed that greater than 500 waste tires had been stored overnight on the ground from the previous operating day in violation of 14 CCR section 17225.717 - Collection and 30 PRC section 42834 – Unpermitted Minor Waste Tire Facility, and 14 CCR section 18420(a) – Applicability.

14. On February 9, 2005, Vance Tracy of the CIWMB conducted a follow-up observation of CB Tyres and observed that approximately 2,500 – 3,000 waste tires had been stored overnight on the ground after the site closed for the day in violation of 14 CCR section 17225.717 - Collection and 30 PRC section 42834 – Unpermitted Minor Waste Tire Facility, and 14 CCR section 18420(a) – Applicability.

15. On May 2, 2005, Mr. Conrad Batham admitted that there were at least 20,000 waste tires in a tire pile at the facility. This is in violation of 14 CCR section 17225.717 – Collection, and 30 PRC section 42823 – Unpermitted Major Waste Tire Facility.

16. On June 6, 2005, Vance Tracy, CIWMB inspector, conducted a follow-up observation of CB Tyres and observed that there were at least 6,400 waste tires stored

on the ground in violation of 14 CCR section 17225.717 - Collection and 30 PRC section 42823 – Unpermitted Major Waste Tire Facility.

17. Since June 6, 2005, CB Tyres Recycling Resources, LLC states that it has made significant efforts to prevent, abate and clean up conditions posing a threat to the public health or safety or the environment, including, but not limited to, its management of the facility, its relationship with the local public entity, its method of operation, the implementation of self-imposed voluntary regulation to insure compliance with the law; and cooperation with the CIWMB.

ORDER

In consideration of the above, and for the purpose of settling the Amended Administrative Complaint, the parties stipulate to the following order:

RESPONDENT is ordered to pay an administrative penalty in favor of the CIWMB in the sum of Twelve Thousand, Five Hundred dollars ($12,500.00) for the violations set forth in the Statement of Facts in this Stipulation.

18. The effective date of this Decision is November 8, 2005.

Dated: 11.8.05

ROSARIO MARIN
Chair
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD